

By: Marchant

H.B. No. 3507

A BILL TO BE ENTITLED

AN ACT

1
2 relating to nonsubstantive additions to and corrections in enacted
3 codes, to the nonsubstantive codification or disposition of various
4 laws omitted from enacted codes, and to conforming codifications
5 enacted by the 77th Legislature to other Acts of that legislature.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 ARTICLE 1. GENERAL PROVISIONS

8 SECTION 1.001. This Act is enacted as part of the state's
9 continuing statutory revision program under Chapter 323,
10 Government Code. This Act is a revision for purposes of Section 43,
11 Article III, Texas Constitution, and has the purposes of:

12 (1) codifying without substantive change or providing
13 for other appropriate disposition of various statutes that were
14 omitted from enacted codes;

15 (2) conforming codifications enacted by the 77th
16 Legislature to other Acts of that legislature that amended the laws
17 codified or added new law to subject matter codified;

18 (3) making necessary corrections to enacted
19 codifications; and

20 (4) renumbering titles, chapters, and sections of
21 codes that duplicate title, chapter, or section numbers.

22 SECTION 1.002. (a) The repeal of a statute by this Act does
23 not affect an amendment, revision, or reenactment of the statute by
24 the 78th Legislature, Regular Session, 2003. The amendment,

1 revision, or reenactment is preserved and given effect as part of
2 the code provision that revised the statute so amended, revised, or
3 reenacted.

4 (b) If any provision of this Act conflicts with a statute
5 enacted by the 78th Legislature, Regular Session, 2003, the statute
6 controls.

7 SECTION 1.003. (a) A transition or saving provision of a law
8 codified by this Act applies to the codified law to the same extent
9 as it applied to the original law.

10 (b) The repeal of a transition or saving provision by this
11 Act does not affect the application of the provision to the codified
12 law.

13 (c) In this section, "transition provision" includes any
14 temporary provision providing for a special situation in the
15 transition period between the existing law and the establishment or
16 implementation of the new law.

17 ARTICLE 2. CHANGES RELATING TO AGRICULTURE CODE

18 SECTION 2.001. (a) The Agriculture Code is amended by
19 adding Title 9 to codify Article 1, Chapter 376, Acts of the 77th
20 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas
21 Civil Statutes), as Chapter 301, Agriculture Code, and to more
22 appropriately locate Chapter 20, Agriculture Code, as added by
23 Article 2, Chapter 376, Acts of the 77th Legislature, Regular
24 Session, 2001, as Chapter 302, Agriculture Code, to read as
25 follows:

26 TITLE 9. WEATHER AND CLIMATE

27 CHAPTER 301. WEATHER MODIFICATION AND CONTROL

1 SUBCHAPTER A. GENERAL PROVISIONS

2 Sec. 301.001. DEFINITIONS. In this chapter:

3 (1) "Executive director" means the executive director
4 of the Texas Department of Licensing and Regulation.

5 (2) "Operation" means the performance of weather
6 modification and control activities entered into for the purpose of
7 producing or attempting to produce a certain modifying effect
8 within one geographical area over one continuing time interval not
9 exceeding four years.

10 (3) "Research and development" means theoretical
11 analysis, exploration, experimentation, and the extension of
12 investigative findings and theories of a scientific or technical
13 nature into practical application for experimental and
14 demonstration purposes, including the experimental production and
15 testing of models, devices, equipment, materials, and processes.

16 (4) "Weather modification and control" means changing
17 or controlling, or attempting to change or control, by artificial
18 methods the natural development of atmospheric cloud forms or
19 precipitation forms that occur in the troposphere.

20 (5) "Weather modification and control program" means
21 the research, development, licensing, and permitting and other
22 associated activities to be administered by the Texas Department of
23 Licensing and Regulation.

24 [Sections 301.002-301.050 reserved for expansion]

25 SUBCHAPTER B. POWERS AND DUTIES OF TEXAS DEPARTMENT OF LICENSING
26 AND REGULATION

27 Sec. 301.051. RULES. The Texas Department of Licensing and

1 Regulation may adopt rules necessary to:

2 (1) exercise the powers and perform the duties under
3 this chapter;

4 (2) establish procedures and conditions for the
5 issuance of licenses and permits under this chapter; and

6 (3) establish standards and instructions to govern the
7 carrying out of research or projects in weather modification and
8 control that the Texas Department of Licensing and Regulation
9 considers necessary or desirable to minimize danger to health or
10 property.

11 Sec. 301.052. STUDIES; INVESTIGATIONS; HEARINGS. The Texas
12 Department of Licensing and Regulation may make any studies or
13 investigations, obtain any information, and hold any hearings
14 necessary or proper to administer or enforce this chapter or any
15 rules or orders issued under this chapter.

16 Sec. 301.053. ADVISORY COMMITTEES. The Texas Department of
17 Licensing and Regulation may establish advisory committees to
18 advise the Texas Department of Licensing and Regulation and to make
19 recommendations to the Texas Department of Licensing and Regulation
20 concerning legislation, policies, administration, research, and
21 other matters related to the duties, powers, or functions of the
22 Texas Department of Licensing and Regulation under this chapter.

23 Sec. 301.054. PERSONNEL. The executive director may, as
24 provided by the General Appropriations Act, appoint and fix the
25 compensation of any personnel, including specialists and
26 consultants, necessary to perform duties and functions under this
27 chapter.

1 Sec. 301.055. MATERIALS AND EQUIPMENT. The Texas
2 Department of Licensing and Regulation may acquire in the manner
3 provided by law any materials, equipment, and facilities necessary
4 to the performance of its duties and functions under this chapter.

5 Sec. 301.056. INTERSTATE COMPACTS. The executive director
6 may represent the state in matters pertaining to plans, procedures,
7 or negotiations for interstate compacts relating to weather
8 modification and control.

9 Sec. 301.057. CONTRACTS AND COOPERATIVE AGREEMENTS. (a)
10 The Texas Department of Licensing and Regulation may cooperate with
11 public or private agencies to promote the purposes of this chapter.

12 (b) The Texas Department of Licensing and Regulation may
13 enter into cooperative agreements with the United States or any of
14 its agencies, with counties and municipalities of this state, or
15 with any private or public agencies for conducting weather
16 modification or cloud-seeding operations.

17 (c) The Texas Department of Licensing and Regulation may
18 represent the state, counties, municipalities, and public and
19 private agencies in contracting with private concerns for the
20 performance of weather modification or cloud-seeding operations.

21 Sec. 301.058. PROMOTION OF RESEARCH AND DEVELOPMENT. (a)
22 In order to assist in expanding the theoretical and practical
23 knowledge of weather modification and control, the Texas Department
24 of Licensing and Regulation shall promote continuous research and
25 development in:

26 (1) the theory and development of methods of weather
27 modification and control, including processes, materials, and

1 devices related to these methods;

2 (2) the use of weather modification and control for
3 agricultural, industrial, commercial, and other purposes; and

4 (3) the protection of life and property during
5 research and operational activities.

6 (b) The Texas Department of Licensing and Regulation with
7 approval of the executive director may conduct and may contract for
8 research and development activities relating to the purposes of
9 this section.

10 Sec. 301.059. GRANTS AND GIFTS. Subject to any limitations
11 imposed by law, the Texas Department of Licensing and Regulation
12 may accept federal grants, private gifts, and donations from any
13 other source. Unless the use of the money is restricted or subject
14 to any limitations provided by law, the Texas Department of
15 Licensing and Regulation may spend the money for the administration
16 of this chapter.

17 Sec. 301.060. DISPOSITION OF LICENSE AND PERMIT FEES. The
18 Texas Department of Licensing and Regulation shall deposit all
19 license and permit fees in the state treasury.

20 [Sections 301.061-301.100 reserved for expansion]

21 SUBCHAPTER C. LICENSES AND PERMITS

22 Sec. 301.101. LICENSE AND PERMIT REQUIRED. Except as
23 provided by rule of the Texas Department of Licensing and
24 Regulation under Section 301.102, a person may not engage in
25 activities for weather modification and control:

26 (1) without a weather modification license and weather
27 modification permit issued by the department; or

1 (2) in violation of any term or condition of the
2 license or permit.

3 Sec. 301.102. EXEMPTIONS. (a) The Texas Department of
4 Licensing and Regulation by rule, to the extent it considers
5 exemptions practical, shall provide for exempting the following
6 activities from the license and permit requirements of this
7 chapter:

8 (1) research, development, and experiments conducted
9 by state and federal agencies, institutions of higher learning, and
10 bona fide nonprofit research organizations;

11 (2) laboratory research and experiments;

12 (3) activities of an emergent nature for protection
13 against fire, frost, sleet, or fog; and

14 (4) activities normally conducted for purposes other
15 than inducing, increasing, decreasing, or preventing precipitation
16 or hail.

17 (b) The Texas Department of Licensing and Regulation by rule
18 may modify or revoke an exemption.

19 Sec. 301.103. ISSUANCE OF LICENSE. (a) The Texas
20 Department of Licensing and Regulation, in accordance with the
21 rules adopted under this chapter, shall issue a weather
22 modification license to each applicant who:

23 (1) pays the license fee; and

24 (2) demonstrates, to the satisfaction of the Texas
25 Department of Licensing and Regulation, competence in the field of
26 meteorology that is reasonably necessary to engage in weather
27 modification and control activities.

1 (b) If the applicant is an organization, the competence must
2 be demonstrated by the individual or individuals who are to be in
3 control and in charge of the operation for the applicant.

4 Sec. 301.104. LICENSE FEE. The fee for an original or
5 renewal license is \$150.

6 Sec. 301.105. EXPIRATION DATE. Each original or renewal
7 license expires at the end of the state fiscal year for which it was
8 issued.

9 Sec. 301.106. RENEWAL LICENSE. At the expiration of the
10 license period, the Texas Department of Licensing and Regulation
11 shall issue a renewal license to each applicant who pays the license
12 fee and who has the qualifications necessary for issuance of an
13 original license.

14 Sec. 301.107. ISSUANCE OF PERMIT. (a) The Texas Department
15 of Licensing and Regulation, in accordance with the rules adopted
16 under this chapter and on a finding that the weather modification
17 and control operation as proposed in the permit application will
18 not significantly dissipate the clouds and prevent their natural
19 course of developing rain in the area in which the operation is to
20 be conducted to the material detriment of persons or property in
21 that area, and after approval at an election if governed by
22 Subchapter D, may issue a weather modification permit to each
23 applicant who:

- 24 (1) holds a valid weather modification license;
25 (2) pays the permit fee;
26 (3) publishes a notice of intention and submits proof
27 of publication as required by this chapter; and

1 (4) furnishes proof of financial responsibility.

2 (b) The Texas Department of Licensing and Regulation shall,
3 if requested by at least 25 persons, hold at least one public
4 hearing in the area where the operation is to be conducted prior to
5 the issuance of a permit.

6 Sec. 301.108. PERMIT FEE. The fee for each permit is \$75.

7 Sec. 301.109. SCOPE OF PERMIT. A separate permit is
8 required for each operation. If an operation is to be conducted
9 under contract, a permit is required for each separate contract.
10 The Texas Department of Licensing and Regulation may not issue a
11 permit for a contracted operation unless it covers a continuous
12 period not to exceed four years.

13 Sec. 301.110. APPLICATION AND NOTICE OF INTENTION. Before
14 undertaking any operation, a license holder must file an
15 application for a permit and have a notice of intention published as
16 required by this chapter.

17 Sec. 301.111. CONTENT OF NOTICE. In the notice of
18 intention, the applicant must include:

19 (1) the name and address of the license holder;

20 (2) the nature and object of the intended operation
21 and the person or organization on whose behalf it is to be
22 conducted;

23 (3) the area in which and the approximate time during
24 which the operation is to be conducted;

25 (4) the area that is intended to be affected by the
26 operation; and

27 (5) the materials and methods to be used in conducting

1 the operation.

2 Sec. 301.112. PUBLICATION OF NOTICE. The notice of
3 intention required under Section 301.110 must be published at least
4 once a week for three consecutive weeks in a newspaper of general
5 circulation in each county in which the operation is to be
6 conducted.

7 Sec. 301.113. PROOF OF PUBLICATION; AFFIDAVIT. The
8 applicant shall file proof of the publication, together with the
9 publishers' affidavits, with the Texas Department of Licensing and
10 Regulation during the 15-day period immediately after the date of
11 the last publication.

12 Sec. 301.114. PROOF OF FINANCIAL RESPONSIBILITY. Proof of
13 financial responsibility is made by showing to the satisfaction of
14 the Texas Department of Licensing and Regulation that the license
15 holder has the ability to respond in damages for liability that
16 might reasonably result from the operation for which the permit is
17 sought.

18 Sec. 301.115. MODIFICATION OF PERMIT. The Texas Department
19 of Licensing and Regulation may modify the terms and conditions of a
20 permit if:

21 (1) the license holder is first given notice and a
22 reasonable opportunity for a hearing on the need for a
23 modification; and

24 (2) it appears to the Texas Department of Licensing
25 and Regulation that a modification is necessary to protect the
26 health or property of any person.

27 Sec. 301.116. SCOPE OF ACTIVITY. Once a permit is issued,

1 the license holder shall confine the license holder's activities
2 substantially within the limits of time and area specified in the
3 notice of intention, except to the extent that the limits are
4 modified by the Texas Department of Licensing and Regulation. The
5 license holder shall comply with any terms and conditions of the
6 permit as originally issued or as subsequently modified by the
7 Texas Department of Licensing and Regulation.

8 Sec. 301.117. RECORDS AND REPORTS. (a) A license holder
9 shall keep a record of each operation conducted under a permit,
10 showing:

11 (1) the method employed;

12 (2) the type of equipment used;

13 (3) the kind and amount of each material used;

14 (4) the times and places the equipment is operated;

15 (5) the name and mailing address of each individual,
16 other than the license holder, who participates or assists in the
17 operation; and

18 (6) other information required by the Texas Department
19 of Licensing and Regulation.

20 (b) The Texas Department of Licensing and Regulation shall
21 require written reports for each operation, whether the operation
22 is exempt or conducted under a permit. A license holder shall
23 submit a written report at the time and in the manner required by
24 the Texas Department of Licensing and Regulation.

25 (c) All information on an operation shall be submitted to
26 the Texas Department of Licensing and Regulation before it is
27 released to the public.

1 (d) The reports and records in the custody of the Texas
2 Department of Licensing and Regulation shall be kept open for
3 public inspection.

4 [Sections 301.118-301.150 reserved for expansion]

5 SUBCHAPTER D. ELECTION FOR APPROVAL OF PERMIT THAT INCLUDES
6 AUTHORIZATION FOR HAIL SUPPRESSION

7 Sec. 301.151. DEFINITIONS. (a) In this subchapter:

8 (1) "Operational area" means that area that joins the
9 target area and is reasonably necessary to use in order to
10 effectuate the purposes over the target area without affecting the
11 land or landowners in the operational area.

12 (2) "Target area" means that area described by metes
13 and bounds or other specific bounded description set out in the
14 application for a permit.

15 (b) The Texas Department of Licensing and Regulation by rule
16 shall define hail suppression as used in this subchapter, using the
17 most current scientifically accepted technological concepts.

18 Sec. 301.152. OPERATIONAL AREA. (a) No part of an
19 operational area may be more than eight miles from the limits of the
20 target area.

21 (b) The operational area must be described by metes and
22 bounds or other specific bounded description and set out in the
23 application for a permit.

24 (c) If the application for a permit does not describe the
25 operational area, the Texas Department of Licensing and Regulation
26 may designate an area located inside and up to eight miles from the
27 limits of the target area described in the application as the

1 operational area of the permit for the purposes of this chapter.

2 Sec. 301.153. DATE OF PERMIT ISSUANCE; PERMIT AREA. A
3 permit may not be issued by the Texas Department of Licensing and
4 Regulation before the end of the 30-day period immediately
5 following the first publication of notice and then only in:

6 (1) those counties or parts of counties in the target
7 area or operational area in which the majority of the qualified
8 voters voting have approved or have not disapproved the issuance of
9 a permit if an election has been held; or

10 (2) any county or part of a county in the target area
11 or operational area if no petition for an election has been filed.

12 Sec. 301.154. ELIGIBLE VOTERS. (a) Persons eligible to
13 vote in elections held under this subchapter include qualified
14 voters in counties or parts of counties included in the target area
15 or operational area.

16 (b) If the target area or operational area for a permit
17 including authorization for hail suppression includes only part of
18 a county, an election held under this subchapter may be held only in
19 the election precincts that are included entirely within or are
20 partially included in those areas, and only those qualified voters
21 residing in an election precinct or precincts of the county
22 included in the target area or operational area are eligible to sign
23 a petition and to vote at an election under this subchapter. In
24 computing the vote, only a majority of qualified voters residing in
25 those areas and voting in the election is necessary to carry the
26 proposition in that county.

27 Sec. 301.155. APPLICATION FOR PETITION SEEKING ELECTION.

1 (a) On written request of at least 25 qualified voters residing in
2 the target area or operational area mentioned in the notice
3 requesting an election accompanied by unsigned petitions, the
4 county clerk of each county within the target area or operational
5 area shall certify and mark for identification petitions for
6 circulation.

7 (b) An application for a petition seeking an election to
8 disapprove the issuance of a permit must:

9 (1) be headed "Application for Election to Disapprove
10 a Weather Modification Permit"; and

11 (2) contain the following statement just ahead of the
12 signatures of the applicants: "It is the hope, purpose, and intent
13 of the applicants whose signatures appear on this application to
14 see disapproved the issuance of a permit for weather modification,
15 including hail suppression."

16 (c) An application for a petition seeking an election to
17 approve the issuance of a permit must:

18 (1) be headed "Application for Election to Approve a
19 Weather Modification Permit"; and

20 (2) contain the following statement just ahead of the
21 signatures of the applicants: "It is the hope, purpose, and intent
22 of the applicants whose signatures appear on this application to
23 see approved the issuance of a permit for weather modification,
24 including hail suppression."

25 Sec. 301.156. ELECTION ON PETITION. (a) On the return to
26 the county clerks of petitions signed by at least 10 percent of the
27 qualified voters residing in each county within the target area or

1 operational area in the notice requesting an election, the
2 commissioners court of each county shall call and hold an election.
3 Notice under Chapter 111, Local Government Code, of the
4 commissioners court meeting to call and hold the election is not
5 required. The date of the election shall be determined by the
6 commissioners court in accordance with this subchapter,
7 notwithstanding Sections 41.004 and 41.0041, Election Code.

8 (b) A petition under this subchapter must be filed with the
9 clerk of each county within 30 days immediately following the date
10 of the first publication of notice.

11 (c) An election under this subchapter must be held within 45
12 days after the date the petition is received to determine whether or
13 not the qualified voters in the target area or operational area
14 approve the issuance of the permit.

15 (d) Immediately on calling the election, the clerk of each
16 county within the target area or operational area shall notify the
17 executive director of the date of the election.

18 (e) Except as otherwise provided by this chapter, elections
19 must be held in accordance with the Election Code.

20 Sec. 301.157. PETITION REQUIREMENTS. (a) The petition for
21 an election under this subchapter must read substantially as
22 follows:

23 "The following qualified voters of _____ County request
24 the Commissioners Court of _____ County to call an election at
25 which the qualified voters shall be asked to vote on the proposition
26 of whether or not they approve of the issuance of a weather
27 modification permit that includes authorization for hail

1 suppression (description of area)."

2 (b) Each qualified voter signing the petition must give the
3 voter's full name and address and voter registration number.

4 Sec. 301.158. CERTIFICATION OF PETITION. (a) Within five
5 days after the date of receiving a petition under this subchapter,
6 the commissioners court shall have the county clerk of the county
7 check the names on the petition against the voter registration
8 lists of the county and certify to the commissioners court the
9 number of qualified voters signing the petition as reflected by
10 checking the county's voter registration lists. If only a part of a
11 county is included in the target area or operational area, the
12 county clerk shall also certify that those signing the petition
13 reside in an election precinct in the county totally or partially
14 included in the target area or operational area.

15 (b) On certification by the county clerk, the petition must
16 be filed with the official records of the county and be made
17 available for public inspection.

18 Sec. 301.159. DEPOSIT REQUIRED. (a) A person filing a
19 petition with the county clerk shall deposit with the county clerk
20 an amount of money estimated by the county clerk to be sufficient to
21 cover the costs of the election, to be held by the county clerk
22 until the result of the election to approve or disapprove the
23 issuance of the permit is officially announced.

24 (b) If the result of the election favors the party
25 petitioning for the election, the county clerk shall return the
26 deposit to the person filing the petition or to the person's agent
27 or attorney.

1 (c) If the result of the election does not favor the party
2 petitioning for the election, the county clerk shall pay the cost
3 and expenses of the election from the deposit and return the balance
4 of the deposit to the person filing the petition or to the person's
5 agent or attorney.

6 Sec. 301.160. FORM OF BALLOT. The ballots for an election
7 under this subchapter must be printed to provide for voting for or
8 against the proposition:

9 "The issuance of a permit providing for weather modification,
10 including authorization for hail suppression and control in
11 (description of area)."

12 Sec. 301.161. ELECTION ORDER. (a) The order calling the
13 election shall provide for:

14 (1) the time and place or places for holding the
15 election;

16 (2) the form of the ballots; and

17 (3) the presiding judge for each voting place.

18 (b) The commissioners court shall publish a copy of the
19 election order in a newspaper of general circulation in the county
20 or in the part of the county within the target area or operational
21 area at least 30 days preceding the day of the election.

22 Sec. 301.162. RESULTS OF ELECTION. (a) The presiding judge
23 of each voting place shall supervise the counting of all votes cast
24 and shall certify the results to the commissioners court not later
25 than the fifth day after the date of the election.

26 (b) A copy of the results must be filed with the county clerk
27 and is a public record.

1 (c) Not later than the fifth day after the results are
2 filed, the commissioners court shall declare the results.

3 (d) The commissioners court of each county holding an
4 election shall send certified copies of the results of the election
5 to the executive director not later than 24 hours after the results
6 are declared under Subsection (a).

7 Sec. 301.163. ISSUANCE OR DENIAL OF PERMIT FOLLOWING
8 ELECTION. (a) If a majority of the qualified voters voting in the
9 election precincts any part of which are located in the target area
10 vote against issuance of the permit, a permit may not be issued.

11 (b) If a majority of the qualified voters voting in the
12 election precincts any part of which are located within the target
13 area vote in favor of issuance of the permit, the Texas Department
14 of Licensing and Regulation may issue the permit as provided in this
15 subchapter, except that if a majority of the qualified voters
16 voting in any of the following areas vote against issuance of the
17 permit, that area is excluded from the coverage of the permit:

18 (1) an election precinct any part of which is located
19 in the operational area; or

20 (2) an election precinct located wholly within the
21 target area and contiguous with its outer boundary.

22 (c) If the Texas Department of Licensing and Regulation
23 finds that a weather modification and control operation is still
24 feasible, a permit may be issued covering areas in which no election
25 is requested or areas in which the voters give their approval as
26 provided by this subchapter.

27 (d) If a permit is denied under Subsection (a), an

1 application for a permit covering all or part of the same target
2 area or operational area that was denied may not be considered, and
3 for a period of two years following the date of the election, a
4 permit under that application may not be issued by the Texas
5 Department of Licensing and Regulation and an election may not be
6 held under this chapter.

7 Sec. 301.164. PERMIT FOR HAIL SUPPRESSION PROHIBITED
8 OUTSIDE TARGET AREA OR IN AREA EXCLUDED BY ELECTION. (a) A permit
9 may not be issued that provides for or allows the seeding of clouds
10 for hail suppression outside the target area or within those
11 counties or parts of counties located in any operational or target
12 areas that were excluded from the coverage of the permit by an
13 election under Section 301.163(a) or (b). Seeding may be done in
14 those counties or parts of counties located in the operational or
15 target area that were not excluded from the coverage of the permit
16 by an election under Section 301.163(a) or (b), provided the
17 seeding is reasonably calculated to take effect only within the
18 target area.

19 (b) This section does not prohibit the observation of cloud
20 and cloud formations.

21 Sec. 301.165. MONITOR OF PROGRAM. The Texas Department of
22 Licensing and Regulation may monitor any program under conditions
23 the Texas Department of Licensing and Regulation determines
24 advisable.

25 Sec. 301.166. PETITION IN ADJACENT COUNTY. (a) On petition
26 as provided in this subchapter, the commissioners court of any
27 county outside but adjacent to a county included in the operational

1 area of an existing or proposed permit shall call and hold an
2 election on the proposition of whether or not the qualified voters
3 of the county approve of the issuance of any permit authorizing hail
4 suppression in the county.

5 (b) If the county voters voting in the election disapprove
6 the issuance of permits authorizing hail suppression, the Texas
7 Department of Licensing and Regulation may not issue a permit
8 covering the county until the proposition has been approved at a
9 subsequent election.

10 Sec. 301.167. INCLUSION OF CERTAIN COUNTIES AND PARTS OF
11 COUNTIES. (a) If any county or part of a county has disapproved the
12 issuance of a permit at a previous election held under this
13 subchapter, that county or part of a county may not be included in
14 any permit issued by the Texas Department of Licensing and
15 Regulation until the voters of that county or part of a county have
16 participated in a subsequent election at which a permit is
17 approved.

18 (b) The applicant for a permit that includes that county or
19 part of a county has the burden of petitioning for an election and
20 depositing costs in the manner provided by this subchapter for the
21 original election to approve or disapprove a permit.

22 [Sections 301.168-301.200 reserved for expansion]

23 SUBCHAPTER E. SANCTIONS

24 Sec. 301.201. PENALTIES. A person who violates this
25 chapter is subject to Subchapters F and G, Chapter 51, Occupations
26 Code, in the same manner as a person regulated by the Texas
27 Department of Licensing and Regulation under other law is subject

1 to those subchapters.

2 Sec. 301.202. ACT OF GOD. If a person can establish that an
3 event that would otherwise be a violation of this chapter or a rule
4 adopted or order or permit issued under this chapter was caused
5 solely by an act of God, war, strike, riot, or other catastrophe,
6 the event is not a violation of this chapter or a rule, order, or
7 permit issued under this chapter.

8 Sec. 301.203. DEFENSE EXCLUDED. Unless otherwise provided
9 by this chapter, the fact that a person holds a permit issued by the
10 Texas Department of Licensing and Regulation does not relieve that
11 person from liability for the violation of this chapter or a rule
12 adopted or order or permit issued under this chapter.

13 [Sections 301.204-301.250 reserved for expansion]

14 SUBCHAPTER F. REVOCATION AND SUSPENSION OF PERMIT

15 Sec. 301.251. DEFINITION. In this subchapter, "permit
16 holder" includes each member of a partnership or association that
17 is a permit holder and, with respect to a corporation that is a
18 permit holder, each officer and the owner or owners of a majority of
19 the corporate stock, provided that the member or owner controls at
20 least 20 percent of the permit holder.

21 Sec. 301.252. GROUNDS FOR REVOCATION OR SUSPENSION OF
22 PERMIT. After notice and hearing, the Texas Department of
23 Licensing and Regulation may revoke or suspend a permit issued
24 under this chapter on any of the following grounds:

25 (1) violating any term or condition of the permit, and
26 revocation or suspension is necessary to maintain the quality of
27 water or the quality of air in the state, or to otherwise protect

1 human health and the environment consistent with the objectives of
2 the law within the jurisdiction of the Texas Department of
3 Licensing and Regulation;

4 (2) having a record of environmental violations in the
5 preceding five years at the permitted site;

6 (3) causing a discharge, release, or emission
7 contravening a pollution control standard set by the Texas
8 Department of Licensing and Regulation or contravening the intent
9 of a law within the jurisdiction of the Texas Department of
10 Licensing and Regulation;

11 (4) misrepresenting or failing to disclose fully all
12 relevant facts in obtaining the permit or misrepresenting to the
13 Texas Department of Licensing and Regulation any relevant fact at
14 any time;

15 (5) being indebted to the state for fees, payment of
16 penalties, or taxes imposed by the law within the department's
17 jurisdiction;

18 (6) failing to ensure that the management of the
19 permitted facility conforms or will conform to the law within the
20 jurisdiction of the Texas Department of Licensing and Regulation;

21 (7) abandoning the permit or operations under the
22 permit;

23 (8) the finding by the Texas Department of Licensing
24 and Regulation that a change in conditions requires elimination of
25 the discharge authorized by the permit; or

26 (9) failing to continue to possess qualifications
27 necessary for the issuance of the permit.

1 Sec. 301.253. GROUNDS FOR REVOCATION OR SUSPENSION OF
2 LICENSE. (a) This section applies to a license issued under this
3 chapter or under a rule adopted under this chapter.

4 (b) After notice and hearing, the Texas Department of
5 Licensing and Regulation may suspend or revoke a license, place on
6 probation a person whose license has been suspended, reprimand a
7 license holder, or refuse to renew or reissue a license on any of
8 the following grounds:

9 (1) having a record of environmental violations in the
10 preceding five years at a permit site;

11 (2) committing fraud or deceit in obtaining the
12 license;

13 (3) demonstrating gross negligence, incompetency, or
14 misconduct while acting as license holder;

15 (4) making an intentional misstatement or
16 misrepresentation of fact in information required to be maintained
17 or submitted to the Texas Department of Licensing and Regulation by
18 the license holder;

19 (5) failing to keep and transmit records as required
20 by a law within the jurisdiction of the Texas Department of
21 Licensing and Regulation;

22 (6) being indebted to the state for a fee, payment of a
23 penalty, or a tax imposed by a law within the jurisdiction of the
24 Texas Department of Licensing and Regulation; or

25 (7) failing to continue to possess qualifications
26 necessary for the issuance of the license.

27 Sec. 301.254. PROCEDURES FOR NOTICE AND HEARINGS. The

1 Texas Department of Licensing and Regulation by rule shall
2 establish procedures for public notice and any public hearing under
3 this subchapter.

4 Sec. 301.255. HEARINGS. A hearing under this subchapter
5 shall be conducted in accordance with the hearing rules adopted by
6 the Texas Department of Licensing and Regulation and the applicable
7 provisions of Chapter 2001, Government Code.

8 Sec. 301.256. REVOCATION OR SUSPENSION BY CONSENT. If a
9 permit holder or license holder requests or consents to the
10 revocation or suspension of the permit or license, the executive
11 director may revoke or suspend the permit or license without a
12 hearing.

13 Sec. 301.257. OTHER RELIEF. A proceeding brought by the
14 Texas Department of Licensing and Regulation under this subchapter
15 does not affect the authority of the Texas Department of Licensing
16 and Regulation to bring suit for injunctive relief or a penalty, or
17 both, under this chapter.

18 Sec. 301.258. PROBATION REQUIREMENTS. If a license
19 suspension is probated, the Texas Department of Licensing and
20 Regulation may require the license holder:

21 (1) to report regularly to the Texas Department of
22 Licensing and Regulation on matters that are the basis of the
23 probation;

24 (2) to limit activities to the areas prescribed by the
25 Texas Department of Licensing and Regulation; or

26 (3) to continue or renew professional education until
27 the registrant attains a degree of skill satisfactory to the Texas

1 Department of Licensing and Regulation in those areas that are the
2 basis of the probation.

3 [Sections 301.259-301.300 reserved for expansion]

4 SUBCHAPTER G. IMMUNITY; CERTAIN LEGAL RELATIONSHIPS

5 Sec. 301.301. IMMUNITY OF STATE. The state and its officers
6 and employees are immune from liability for all weather
7 modification and control activities conducted by private persons or
8 groups.

9 Sec. 301.302. PRIVATE LEGAL RELATIONSHIPS. (a) This
10 chapter does not affect private legal relationships, except that an
11 operation conducted under the license and permit requirements of
12 this chapter is not an ultrahazardous activity that makes the
13 participants subject to liability without fault.

14 (b) The fact that a person holds a license or permit under
15 this chapter or that the person has complied with this chapter or
16 the rules issued under this chapter is not admissible as evidence in
17 any legal proceeding brought against the person.

18 CHAPTER 302. WEATHER MODIFICATION AND CONTROL GRANT PROGRAM

19 Sec. 302.001. FINDINGS. The legislature finds that weather
20 modification and control activities may have a significant impact
21 on Texas agriculture. The legislature further finds that the
22 Department of Agriculture is the proper state agency to administer
23 grants to political subdivisions for weather modification and
24 control activities.

25 Sec. 302.002. DEFINITION. In this chapter, "weather
26 modification and control" means changing or controlling, or
27 attempting to change or control, by artificial methods the natural

1 development of atmospheric cloud forms or precipitation forms that
2 occur in the troposphere.

3 Sec. 302.003. WEATHER MODIFICATION AND CONTROL GRANT
4 PROGRAM. The department shall develop and administer a program
5 awarding matching grants to political subdivisions of this state
6 for weather modification and control.

7 Sec. 302.004. RULES. The department may adopt rules
8 necessary to administer this chapter.

9 Sec. 302.005. CONTRACTS. The department may enter into
10 contracts with public or private entities to assist the department
11 in the administration or evaluation of the weather modification and
12 control grant program or to conduct research relating to the
13 effectiveness of weather modification and control activities.

14 Sec. 302.006. FUNDING. The department may accept
15 appropriations and may solicit and accept gifts, grants, and other
16 donations from any source to administer the weather modification
17 and control grant program.

18 (b) Article 1, Chapter 376, Acts of the 77th Legislature,
19 Regular Session, 2001 (Article 165c, Vernon's Texas Civil
20 Statutes), is repealed.

21 (c) Chapter 20, Agriculture Code, as added by Article 2,
22 Chapter 376, Acts of the 77th Legislature, Regular Session, 2001,
23 is repealed.

24 ARTICLE 3. CHANGE RELATING TO ALCOHOLIC BEVERAGE CODE

25 SECTION 3.001. Section 251.11(c), Alcoholic Beverage Code,
26 as added by Chapters 1001 and 1062, Acts of the 77th Legislature,
27 Regular Session, 2001, is reenacted to read as follows:

1 (c) A petition for a local option election related to the
2 legalization of the sale of wine on the premises of a holder of a
3 winery permit must have the actual signatures, residence addresses,
4 and voter registration certificate numbers of a number of qualified
5 voters of the political subdivision equal to 25 percent of the
6 registered voters in the subdivision who voted in the most recent
7 general election.

8 ARTICLE 4. CHANGES RELATING TO BUSINESS & COMMERCE CODE

9 SECTION 4.001. (a) Section 17.46(b), Business & Commerce
10 Code, as amended by Chapters 962 and 1229, Acts of the 77th
11 Legislature, Regular Session, 2001, is reenacted and amended to
12 read as follows:

13 (b) Except as provided in Subsection (d) of this section,
14 the term "false, misleading, or deceptive acts or practices"
15 includes, but is not limited to, the following acts:

16 (1) passing off goods or services as those of another;

17 (2) causing confusion or misunderstanding as to the
18 source, sponsorship, approval, or certification of goods or
19 services;

20 (3) causing confusion or misunderstanding as to
21 affiliation, connection, or association with, or certification by,
22 another;

23 (4) using deceptive representations or designations
24 of geographic origin in connection with goods or services;

25 (5) representing that goods or services have
26 sponsorship, approval, characteristics, ingredients, uses,
27 benefits, or quantities which they do not have or that a person has

1 a sponsorship, approval, status, affiliation, or connection which
2 he does not;

3 (6) representing that goods are original or new if
4 they are deteriorated, reconditioned, reclaimed, used, or
5 secondhand;

6 (7) representing that goods or services are of a
7 particular standard, quality, or grade, or that goods are of a
8 particular style or model, if they are of another;

9 (8) disparaging the goods, services, or business of
10 another by false or misleading representation of facts;

11 (9) advertising goods or services with intent not to
12 sell them as advertised;

13 (10) advertising goods or services with intent not to
14 supply a reasonable expectable public demand, unless the
15 advertisements disclosed a limitation of quantity;

16 (11) making false or misleading statements of fact
17 concerning the reasons for, existence of, or amount of price
18 reductions;

19 (12) representing that an agreement confers or
20 involves rights, remedies, or obligations which it does not have or
21 involve, or which are prohibited by law;

22 (13) knowingly making false or misleading statements
23 of fact concerning the need for parts, replacement, or repair
24 service;

25 (14) misrepresenting the authority of a salesman,
26 representative or agent to negotiate the final terms of a consumer
27 transaction;

1 (15) basing a charge for the repair of any item in
2 whole or in part on a guaranty or warranty instead of on the value of
3 the actual repairs made or work to be performed on the item without
4 stating separately the charges for the work and the charge for the
5 warranty or guaranty, if any;

6 (16) disconnecting, turning back, or resetting the
7 odometer of any motor vehicle so as to reduce the number of miles
8 indicated on the odometer gauge;

9 (17) advertising of any sale by fraudulently
10 representing that a person is going out of business;

11 (18) advertising, selling, or distributing a card
12 which purports to be a prescription drug identification card issued
13 under Section 19A, Article 21.07-6, Insurance Code, in accordance
14 with rules adopted by the commissioner of insurance, which offers a
15 discount on the purchase of health care goods or services from a
16 third party provider, and which is not evidence of insurance
17 coverage, unless:

18 (A) the discount is authorized under an agreement
19 between the seller of the card and the provider of those goods and
20 services or the discount or card is offered to members of the
21 seller;

22 (B) the seller does not represent that the card
23 provides insurance coverage of any kind; and

24 (C) the discount is not false, misleading, or
25 deceptive;

26 (19) using or employing a chain referral sales plan in
27 connection with the sale or offer to sell of goods, merchandise, or

1 anything of value, which uses the sales technique, plan,
2 arrangement, or agreement in which the buyer or prospective buyer
3 is offered the opportunity to purchase merchandise or goods and in
4 connection with the purchase receives the seller's promise or
5 representation that the buyer shall have the right to receive
6 compensation or consideration in any form for furnishing to the
7 seller the names of other prospective buyers if receipt of the
8 compensation or consideration is contingent upon the occurrence of
9 an event subsequent to the time the buyer purchases the merchandise
10 or goods;

11 (20) representing that a guarantee or warranty confers
12 or involves rights or remedies which it does not have or involve,
13 provided, however, that nothing in this subchapter shall be
14 construed to expand the implied warranty of merchantability as
15 defined in Sections 2.314 through 2.318 and Sections 2A.212 through
16 2A.216 to involve obligations in excess of those which are
17 appropriate to the goods;

18 (21) promoting a pyramid promotional scheme, as
19 defined by Section 17.461;

20 (22) representing that work or services have been
21 performed on, or parts replaced in, goods when the work or services
22 were not performed or the parts replaced;

23 (23) filing suit founded upon a written contractual
24 obligation of and signed by the defendant to pay money arising out
25 of or based on a consumer transaction for goods, services, loans, or
26 extensions of credit intended primarily for personal, family,
27 household, or agricultural use in any county other than in the

1 county in which the defendant resides at the time of the
2 commencement of the action or in the county in which the defendant
3 in fact signed the contract; provided, however, that a violation of
4 this subsection shall not occur where it is shown by the person
5 filing such suit he neither knew or had reason to know that the
6 county in which such suit was filed was neither the county in which
7 the defendant resides at the commencement of the suit nor the county
8 in which the defendant in fact signed the contract;

9 (24) failing to disclose information concerning goods
10 or services which was known at the time of the transaction if such
11 failure to disclose such information was intended to induce the
12 consumer into a transaction into which the consumer would not have
13 entered had the information been disclosed;

14 (25) using the term "corporation," "incorporated," or
15 an abbreviation of either of those terms in the name of a business
16 entity that is not incorporated under the laws of this state or
17 another jurisdiction; [~~or~~]

18 (26) selling, offering to sell, or illegally promoting
19 an annuity contract under Chapter 22, Acts of the 57th Legislature,
20 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil
21 Statutes), with the intent that the annuity contract will be the
22 subject of a salary reduction agreement, as defined by that Act, if
23 the annuity contract is not an eligible qualified investment under
24 that Act; or

25 (27) [~~(26)~~] taking advantage of a disaster declared by
26 the governor under Chapter 418, Government Code, by:

27 (A) selling or leasing fuel, food, medicine, or

1 another necessity at an exorbitant or excessive price; or

2 (B) demanding an exorbitant or excessive price in
3 connection with the sale or lease of fuel, food, medicine, or
4 another necessity.

5 (b) Section 17.49(c), Business & Commerce Code, is amended
6 to correct a reference to read as follows:

7 (c) Nothing in this subchapter shall apply to a claim for
8 damages based on the rendering of a professional service, the
9 essence of which is the providing of advice, judgment, opinion, or
10 similar professional skill. This exemption does not apply to:

11 (1) an express misrepresentation of a material fact
12 that cannot be characterized as advice, judgment, or opinion;

13 (2) a failure to disclose information in violation of
14 Section 17.46(b)(24) [~~17.46(b)(23)~~];

15 (3) an unconscionable action or course of action that
16 cannot be characterized as advice, judgment, or opinion;

17 (4) breach of an express warranty that cannot be
18 characterized as advice, judgment, or opinion; or

19 (5) a violation of Section 17.46(b)(26).

20 SECTION 4.002. Section 35.42, Business & Commerce Code, is
21 repealed as substantively identical to Section 35.45, Business &
22 Commerce Code.

23 ARTICLE 5. CHANGES RELATING TO CODE OF CRIMINAL PROCEDURE

24 SECTION 5.0005. Article 2.13(c), Code of Criminal
25 Procedure, is amended to correct a reference to read as follows:

26 (c) It is the duty of every officer to take possession of a
27 child under Article 63.009(g) [~~62.009(g)~~].

1 SECTION 5.001. Article 12.01, Code of Criminal Procedure, as
2 amended by Chapters 12, 1479, and 1482, Acts of the 77th
3 Legislature, Regular Session, 2001, is reenacted and amended to
4 read as follows:

5 Art. 12.01. FELONIES. Except as provided in Article 12.03,
6 felony indictments may be presented within these limits, and not
7 afterward:

8 (1) no limitation:

9 (A) murder and manslaughter; [~~or~~]

10 (B) sexual assault, if during the investigation
11 of the offense biological matter is collected and subjected to
12 forensic DNA testing and the testing results show that the matter
13 does not match the victim or any other person whose identity is
14 readily ascertained; or

15 (C) [~~and~~] an offense involving leaving the
16 scene of an accident under Section 550.021, Transportation Code, if
17 the accident resulted in the death of a person;

18 (2) ten years from the date of the commission of the
19 offense:

20 (A) theft of any estate, real, personal or mixed,
21 by an executor, administrator, guardian or trustee, with intent to
22 defraud any creditor, heir, legatee, ward, distributee,
23 beneficiary or settlor of a trust interested in such estate;

24 (B) theft by a public servant of government
25 property over which he exercises control in his official capacity;

26 (C) forgery or the uttering, using or passing of
27 forged instruments;

1 (D) injury to a child, elderly individual, or
2 disabled individual punishable as a felony of the first degree
3 under Section 22.04, Penal Code; or

4 (E) sexual assault, except as provided by
5 Subdivision (1) or (5);

6 (3) seven years from the date of the commission of the
7 offense:

8 (A) misapplication of fiduciary property or
9 property of a financial institution;

10 (B) securing execution of document by deception;
11 or

12 (C) a violation under Sections 153.403(22)-(39),
13 Tax Code;

14 (4) five years from the date of the commission of the
15 offense:

16 (A) theft, burglary, robbery;

17 (B) arson;

18 (C) kidnapping;

19 (D) injury to a child, elderly individual, or
20 disabled individual that is not punishable as a felony of the first
21 degree under Section 22.04, Penal Code; or

22 (E) abandoning or endangering a child;

23 (5) ten years from the 18th birthday of the victim of
24 the offense:

25 (A) indecency with a child under Section
26 21.11(a)(1) or (2), Penal Code; or

27 (B) except as provided by Subdivision (1), sexual

1 assault under Section 22.011(a)(2), Penal Code, or aggravated
2 sexual assault under Section 22.021(a)(1)(B), Penal Code; or

3 (6) three years from the date of the commission of the
4 offense: all other felonies.

5 SECTION 5.002. Article 45.050, Code of Criminal Procedure,
6 as amended by Chapters 1297 and 1514, Acts of the 77th Legislature,
7 Regular Session, 2001, is reenacted and amended to read as follows:

8 Art. 45.050. FAILURE TO PAY FINE; CONTEMPT: JUVENILES. (a)
9 In this article, "child" has the meaning assigned by Article
10 45.058(h).

11 (b) A justice or municipal court may not order the
12 confinement of a child for:

13 (1) the failure to pay all or any part of a fine or
14 costs imposed for the conviction of an offense punishable by fine
15 only; or

16 (2) contempt of another order of a justice or
17 municipal court.

18 (c) If a child fails to obey an order of a justice or
19 municipal court under circumstances that would constitute contempt
20 of court, the justice or municipal court:

21 (1) has jurisdiction to refer the child to the
22 appropriate juvenile court for delinquent conduct for contempt of
23 the justice or municipal court order; or

24 (2) may retain jurisdiction of the case and:

25 (A) hold the child in contempt of the justice or
26 municipal court order [~~as provided by Section 54.023, Family Code~~]
27 and impose a fine not to exceed \$500; or

1 (B) order the Department of Public Safety to
2 suspend the child's driver's license or permit or, if the child does
3 not have a license or permit, to deny the issuance of a license or
4 permit to the child until the child fully complies with the orders
5 of the court.

6 (d) A court that orders suspension or denial of a driver's
7 license or permit under Subsection (c)(2)(B) shall notify the
8 Department of Public Safety on receiving proof that the child has
9 fully complied with the orders of the court.

10 SECTION 5.0025. Article 57.01(4), Code of Criminal
11 Procedure, is amended to correct a reference to read as follows:

12 (4) "Victim" means a person who was the subject of an
13 offense the commission of which leads to a reportable conviction or
14 adjudication under Chapter 62 [~~Article 6252-13c.1, Revised~~
15 ~~Statutes~~].

16 SECTION 5.003. (a) Article 62.08, Code of Criminal
17 Procedure, as amended by Chapters 211 and 932, Acts of the 77th
18 Legislature, Regular Session, 2001, is reenacted and amended to
19 read as follows:

20 Art. 62.08. CENTRAL DATABASE; PUBLIC INFORMATION. (a) The
21 department shall maintain a computerized central database
22 containing only the information required for registration under
23 this chapter.

24 (b) The information contained in the database is public
25 information, with the exception of any information:

26 (1) regarding the person's social security number,
27 driver's license number, or telephone number;

1 (2) that is required by the department under Article
2 62.02(b)(6); or

3 (3) that would identify the victim of the offense for
4 which the person is subject to registration.

5 (c) Notwithstanding Chapter 730, Transportation Code, the
6 department shall maintain in the database, and shall post on any
7 department website related to the database, any photograph of the
8 person that is available through the process for obtaining or
9 renewing a personal identification certificate or driver's license
10 under Section 521.103 or 521.272, Transportation Code. The
11 department shall update the photograph in the database and on the
12 website annually or as the photograph otherwise becomes available
13 through the renewal process for the certificate or license.

14 (d) A local law enforcement authority shall release public
15 information described under Subsection (b) to any person who
16 submits to the authority a written request for the information. The
17 authority may charge the person a fee not to exceed the amount
18 reasonably necessary to cover the administrative costs associated
19 with the authority's release of information to the person under
20 this subsection.

21 (e) [~~(d)~~] The department shall provide a licensing
22 authority with notice of any person required to register under this
23 chapter who holds or seeks a license that is issued by the
24 authority. The department shall provide the notice required by
25 this subsection as the applicable licensing information becomes
26 available through the person's registration or verification of
27 registration.

1 (f) [~~(e)~~] On the written request of a licensing authority
2 that identifies an individual and states that the individual is an
3 applicant for or a holder of a license issued by the authority, the
4 department shall release any information described by Subsection
5 (a) to the licensing authority.

6 (g) [~~(f)~~] For the purposes of Subsections (e) [~~(d)~~] and (f)
7 [~~(e)~~]:

8 (1) "License" means a license, certificate,
9 registration, permit, or other authorization that:

10 (A) is issued by a licensing authority; and

11 (B) a person must obtain to practice or engage in
12 a particular business, occupation, or profession.

13 (2) "Licensing authority" means a department,
14 commission, board, office, or other agency of the state or a
15 political subdivision of the state that issues a license.

16 (b) Article 62.02(b), Code of Criminal Procedure, is
17 amended to read as follows:

18 (b) The department shall provide the Texas Department of
19 Criminal Justice, the Texas Youth Commission, the Texas Juvenile
20 Probation Commission, and each local law enforcement authority,
21 county jail, and court with a form for registering persons required
22 by this chapter to register. The registration form shall require:

23 (1) the person's full name, each alias, date of birth,
24 sex, race, height, weight, eye color, hair color, social security
25 number, driver's license number, shoe size, and home address;

26 (2) a recent color photograph or, if possible, an
27 electronic digital image of the person and a complete set of the

1 person's fingerprints;

2 (3) the type of offense the person was convicted of,
3 the age of the victim, the date of conviction, and the punishment
4 received;

5 (4) an indication as to whether the person is
6 discharged, paroled, or released on juvenile probation, community
7 supervision, or mandatory supervision;

8 (5) an indication of each license, as defined by
9 Article 62.08(g) [~~62.08(f)~~], that is held or sought by the person;
10 and

11 (6) any other information required by the department.

12 SECTION 5.004. Article 103.013, Code of Criminal Procedure,
13 is repealed to conform to the repeal of the law from which it was
14 derived by Chapter 1279, Acts of the 77th Legislature, Regular
15 Session, 2001.

16 ARTICLE 6. CHANGES RELATING TO EDUCATION CODE

17 SECTION 6.001. Section 25.093, Education Code, as amended by
18 Chapters 1504 and 1514, Acts of the 77th Legislature, Regular
19 Session, 2001, is reenacted to read as follows:

20 Sec. 25.093. PARENT CONTRIBUTING TO TRUANCY. (a) If a
21 warning is issued as required by Section 25.095(a), the parent with
22 criminal negligence fails to require the child to attend school as
23 required by law, and the child has absences for the amount of time
24 specified under Section 25.094, the parent commits an offense.

25 (b) The attendance officer or other appropriate school
26 official shall file a complaint against the parent in a justice
27 court of any precinct in the county in which the parent resides or

1 in which the school is located or in a municipal court of the
2 municipality in which the parent resides or in which the school is
3 located.

4 (c) An offense under Subsection (a) is a Class C
5 misdemeanor. Each day the child remains out of school may
6 constitute a separate offense. Two or more offenses under
7 Subsection (a) may be consolidated and prosecuted in a single
8 action. If the court orders deferred disposition under Article
9 45.051, Code of Criminal Procedure, the court may require the
10 defendant to provide personal services to a charitable or
11 educational institution as a condition of the deferral.

12 (d) A fine collected under this section shall be deposited
13 as follows:

14 (1) one-half shall be deposited to the credit of the
15 operating fund of, as applicable:

16 (A) the school district in which the child
17 attends school;

18 (B) the open-enrollment charter school the child
19 attends; or

20 (C) the juvenile justice alternative education
21 program that the child has been ordered to attend; and

22 (2) one-half shall be deposited to the credit of:

23 (A) the general fund of the county, if the
24 complaint is filed in the county court or justice court; or

25 (B) the general fund of the municipality, if the
26 complaint is filed in municipal court.

27 (e) At the trial of any person charged with violating this

1 section, the attendance records of the child may be presented in
2 court by any authorized employee of the school district or
3 open-enrollment charter school, as applicable.

4 (f) The court in which a conviction, deferred adjudication,
5 or deferred disposition for an offense under Subsection (a) occurs
6 may order the defendant to attend a program for parents of students
7 with unexcused absences that provides instruction designed to
8 assist those parents in identifying problems that contribute to the
9 students' unexcused absences and in developing strategies for
10 resolving those problems if a program is available.

11 (g) If a parent refuses to obey a court order entered under
12 this section, the court may punish the parent for contempt of court
13 under Section 21.002, Government Code.

14 (h) It is an affirmative defense to prosecution for an
15 offense under Subsection (a) that one or more of the absences
16 required to be proven under Subsection (a) was excused by a school
17 official or should be excused by the court. The burden is on the
18 defendant to show by a preponderance of the evidence that the
19 absence has been or should be excused. A decision by the court to
20 excuse an absence for purposes of this section does not affect the
21 ability of the school district to determine whether to excuse the
22 absence for another purpose.

23 (i) In this section, "parent" includes a person standing in
24 parental relation.

25 SECTION 6.002. Section 25.095(a), Education Code, as
26 amended by Chapters 1504 and 1514, Acts of the 77th Legislature,
27 Regular Session, 2001, is reenacted to read as follows:

1 (a) A school district or open-enrollment charter school
2 shall notify a student's parent in writing at the beginning of the
3 school year that if the student is absent from school on 10 or more
4 days or parts of days within a six-month period in the same school
5 year or on three or more days or parts of days within a four-week
6 period:

7 (1) the student's parent is subject to prosecution
8 under Section 25.093; and

9 (2) the student is subject to prosecution under
10 Section 25.094 or to referral to a juvenile court in a county with a
11 population of less than 100,000 for conduct that violates that
12 section.

13 SECTION 6.003. Sections 28.025(a) and (c), Education Code,
14 as amended by Chapters 187 and 834, Acts of the 77th Legislature,
15 Regular Session, 2001, are reenacted to read as follows:

16 (a) The State Board of Education by rule shall determine
17 curriculum requirements for the minimum, recommended, and advanced
18 high school programs that are consistent with the required
19 curriculum under Section 28.002.

20 (c) A person may receive a diploma if the person is eligible
21 for a diploma under Section 28.0251. In other cases, a student may
22 graduate and receive a diploma only if:

23 (1) the student successfully completes the curriculum
24 requirements identified by the State Board of Education under
25 Subsection (a) and complies with Section 39.025(a); or

26 (2) the student successfully completes an
27 individualized education program developed under Section 29.005.

1 SECTION 6.0031. Section 29.903, Education Code, as added by
2 Chapter 451, Acts of the 77th Legislature, Regular Session, 2001,
3 is renumbered as Section 29.907, Education Code, and the heading of
4 the section is amended to read as follows:

5 Sec. 29.907 [~~29.903~~]. CELEBRATE FREEDOM WEEK.

6 SECTION 6.004. Section 31.151(a), Education Code, as
7 amended by Chapters 129 and 805, Acts of the 77th Legislature,
8 Regular Session, 2001, is reenacted and amended to read as follows:

9 (a) A publisher or manufacturer of textbooks:

10 (1) shall furnish any textbook the publisher or
11 manufacturer offers in this state, at a price that does not exceed
12 the lowest price at which the publisher offers that textbook for
13 adoption or sale to any state, public school, or school district in
14 the United States;

15 (2) shall automatically reduce the price of a textbook
16 sold for use in a school district or open-enrollment charter school
17 to the extent that the price is reduced elsewhere in the United
18 States;

19 (3) shall provide any textbook or ancillary item free
20 of charge in this state to the same extent that the publisher or
21 manufacturer provides the textbook or ancillary item free of charge
22 to any state, public school, or school district in the United
23 States;

24 (4) shall guarantee that each copy of a textbook sold
25 in this state is at least equal in quality to copies of that
26 textbook sold elsewhere in the United States and is free from
27 factual error;

1 (5) may not become associated or connected with,
2 directly or indirectly, any combination in restraint of trade in
3 textbooks or enter into any understanding or combination to control
4 prices or restrict competition in the sale of textbooks for use in
5 this state;

6 (6) shall:

7 (A) maintain a depository in this state or
8 arrange with a depository in this state to receive and fill orders
9 for textbooks, other than on-line textbooks or on-line textbook
10 components, consistent with State Board of Education rules; or

11 (B) deliver textbooks to a school district or
12 open-enrollment charter school without a delivery charge to the
13 school district, open-enrollment charter school, or state, if:

14 (i) the publisher or manufacturer does not
15 maintain or arrange with a depository in this state under Paragraph
16 [~~Subsection~~] (A) and the publisher's or manufacturer's textbooks
17 and related products are warehoused or otherwise stored less than
18 300 miles from a border of this state; or

19 (ii) the textbooks are on-line textbooks or
20 on-line textbook components;

21 (7) shall, at the time an order for textbooks is
22 acknowledged, provide to school districts or open-enrollment
23 charter schools an accurate shipping date for textbooks that are
24 back-ordered;

25 (8) shall guarantee delivery of textbooks at least 10
26 business days before the opening day of school of the year for which
27 the textbooks are ordered if the textbooks are ordered by a date

1 specified in the sales contract; and

2 (9) shall submit to the State Board of Education an
3 affidavit certifying any textbook the publisher or manufacturer
4 offers in this state to be free of factual errors at the time the
5 publisher executes the contract required by Section 31.026.

6 SECTION 6.005. (a) Section 33.002, Education Code, is
7 amended to read as follows:

8 Sec. 33.002. CERTIFIED COUNSELOR. (a) This section
9 applies only to a school district that receives funds as provided by
10 Section 42.152(i).

11 (b) A school district with 500 or more students enrolled in
12 elementary school grades shall employ a counselor certified under
13 the rules of the State Board for Educator Certification for each
14 elementary school in the district. A school district shall employ
15 at least one counselor for every 500 elementary school students in
16 the district.

17 (c) [~~(b)~~] A school district with fewer than 500 students
18 enrolled in elementary school grades shall provide guidance and
19 counseling services to elementary school students by:

20 (1) employing a part-time counselor certified under
21 the rules of the State Board for Educator Certification;

22 (2) employing a part-time teacher certified as a
23 counselor under the rules of the State Board for Educator
24 Certification; or

25 (3) entering into a shared services arrangement
26 agreement with one or more school districts to share a counselor
27 certified under the rules of the State Board for Educator

1 Certification.

2 (b) Section 33.001, Education Code, as amended by Chapters
3 1223 and 1487, Acts of the 77th Legislature, Regular Session, 2001,
4 is repealed.

5 SECTION 6.006. Section 37.004, Education Code, as amended by
6 Chapters 767 and 1225, Acts of the 77th Legislature, Regular
7 Session, 2001, is reenacted and amended to read as follows:

8 Sec. 37.004. PLACEMENT OF STUDENTS WITH DISABILITIES. (a)
9 The placement of a student with a disability who receives special
10 education services may be made only by a duly constituted
11 admission, review, and dismissal committee.

12 (b) Any disciplinary action regarding a student with a
13 disability who receives special education services that would
14 constitute a change in placement under federal law may be taken only
15 after the student's admission, review, and dismissal committee
16 conducts a manifestation determination review under 20 U.S.C.
17 Section 1415(k)(4) and its subsequent amendments. Any disciplinary
18 action regarding the student shall be determined in accordance with
19 federal law and regulations, including laws or regulations
20 requiring the provision of:

- 21 (1) functional behavioral assessments;
22 (2) positive behavioral interventions, strategies,
23 and supports; ~~and~~
24 (3) behavioral intervention plans; and
25 (4) the manifestation determination review.

26 (c) A student with a disability who receives special
27 education services may not be placed in alternative education

1 programs solely for educational purposes.

2 (d) A teacher in an alternative education program under
3 Section 37.008 who has a special education assignment must hold an
4 appropriate certificate or permit for that assignment.

5 ~~[(c) Notwithstanding any other provision of this~~
6 ~~subchapter, in a county with a juvenile justice alternative~~
7 ~~education program established under Section 37.011, the expulsion~~
8 ~~under a provision of Section 37.007 described by this subsection of~~
9 ~~a student with a disability who receives special education services~~
10 ~~must occur in accordance with this subsection and Subsection (f).~~
11 ~~The school district from which the student was expelled shall, in~~
12 ~~accordance with applicable federal law, provide the administrator~~
13 ~~of the juvenile justice alternative education program or the~~
14 ~~administrator's designee with reasonable notice of the meeting of~~
15 ~~the student's admission, review, and dismissal committee to discuss~~
16 ~~the student's expulsion. A representative of the juvenile justice~~
17 ~~alternative education program may participate in the meeting to the~~
18 ~~extent that the meeting relates to the student's placement in the~~
19 ~~program. This subsection applies only to an expulsion under:~~

20 ~~[(1) Section 37.007(b), (c), or (f); or~~

21 ~~[(2) Section 37.007(d) as a result of conduct that~~
22 ~~contains the elements of any offense listed in Section 37.007(b)(3)~~
23 ~~against any employee or volunteer in retaliation for or as a result~~
24 ~~of the person's employment or association with a school district.~~

25 ~~[(f) If, after placement of a student in a juvenile justice~~
26 ~~alternative education program under Subsection (c), the~~
27 ~~administrator of the program or the administrator's designee has~~

1 ~~concerns that the student's educational or behavioral needs cannot~~
2 ~~be met in the program, the administrator or designee shall~~
3 ~~immediately provide written notice of those concerns to the school~~
4 ~~district from which the student was expelled. The student's~~
5 ~~admission, review, and dismissal committee shall meet to reconsider~~
6 ~~the placement of the student in the program. The district shall, in~~
7 ~~accordance with applicable federal law, provide the administrator~~
8 ~~or designee with reasonable notice of the meeting, and a~~
9 ~~representative of the program may participate in the meeting to the~~
10 ~~extent that the meeting relates to the student's continued~~
11 ~~placement in the program.~~

12 ~~[(g) Subsections (e) and (f) and this subsection expire~~
13 ~~September 1, 2003.]~~

14 SECTION 6.007. Section 39.027(e), Education Code, as
15 amended by Chapters 8 and 725, Acts of the 77th Legislature, Regular
16 Session, 2001, is reenacted to read as follows:

17 (e) The commissioner shall develop an assessment system
18 that shall be used for evaluating the academic progress, including
19 reading proficiency in English, of all students of limited English
20 proficiency, as defined by Section 29.052. A student who is exempt
21 from the administration of an assessment instrument under
22 Subsection (a)(3) or (4) who achieves reading proficiency in
23 English as determined by the assessment system developed under this
24 subsection shall be administered the assessment instruments
25 described by Sections 39.023(a) and (c). The performance under the
26 assessment system developed under this subsection of students to
27 whom Subsection (a)(3) or (4) applies shall be included in the

1 academic excellence indicator system under Section 39.051, the
2 performance report under Section 39.053, and the comprehensive
3 annual report under Section 39.182.

4 SECTION 6.008. Section 42.103(e), Education Code, is
5 amended to correct cross-references to read as follows:

6 (e) The commissioner may make the adjustment authorized by
7 Subsection (d)(2) [~~(d)(3)~~] only if the district's wealth per
8 student does not exceed the equalized wealth level under Section
9 41.002. For purposes of this subsection, a district's wealth per
10 student is determined in the manner provided by Section 41.001,
11 except that the adjustment provided by Subsection (d)(2) [~~(d)(3)~~]
12 is not used in computing the number of students in weighted average
13 daily attendance.

14 SECTION 6.009. Section 42.152(r), Education Code, is
15 amended to correct a cross-reference to read as follows:

16 (r) The commissioner shall grant a one-year exemption from
17 the requirements of Subsection (q) [~~(g)~~] to a school district in
18 which the group of students who have failed to perform
19 satisfactorily in the preceding school year on an assessment
20 instrument required under Section 39.023(a), (c), or (l)
21 subsequently performs on those assessment instruments at a level
22 that meets or exceeds a level prescribed by commissioner rule. Each
23 year the commissioner, based on the most recent information
24 available, shall determine if a school district is entitled to an
25 exemption for the following school year and notify the district of
26 that determination.

27 SECTION 6.010. Section 54.060(b), Education Code, as

1 amended by Chapters 80 and 1392, Acts of the 77th Legislature,
2 Regular Session, 2001, is reenacted to read as follows:

3 (b) The foreign student tuition fee prescribed in this
4 chapter does not apply to a foreign student who is a resident of a
5 nation situated adjacent to Texas, demonstrates financial need as
6 provided by Subsection (c), and registers in:

7 (1) any general academic teaching institution or
8 component of the Texas State Technical College System located in a
9 county immediately adjacent to the nation in which the foreign
10 student resides;

11 (2) lower division courses at a community or junior
12 college having a partnership agreement pursuant to Subchapter N,
13 Chapter 51, with an upper-level university and both institutions
14 are located in the county immediately adjacent to the nation in
15 which the foreign student resides;

16 (3) Texas A&M University--Kingsville, Texas A&M
17 University--Corpus Christi, or The University of Texas at San
18 Antonio; or

19 (4) courses that are part of a graduate degree program
20 in public health and are conducted in a county immediately adjacent
21 to the nation in which the foreign student resides.

22 SECTION 6.011. Section 105.302(d), Education Code, as
23 amended by Chapters 25 and 224, Acts of the 77th Legislature,
24 Regular Session, 2001, is reenacted to read as follows:

25 (d) A member of the advisory board serves for a term of six
26 years. If reappointed, a member may serve for more than one term.

27 SECTION 6.012. (a) The Education Code is amended to codify

1 the Texas Driver and Traffic Safety Education Act (Article
2 4413(29c), Vernon's Texas Civil Statutes) by adding Title 5 to read
3 as follows:

4 TITLE 5. OTHER EDUCATION

5 CHAPTER 1001. DRIVER AND TRAFFIC SAFETY EDUCATION

6 SUBCHAPTER A. GENERAL PROVISIONS

7 Sec. 1001.001. DEFINITIONS. In this chapter:

8 (1) "Agency" means the Texas Education Agency.

9 (2) "Approved driving safety course" means a driving
10 safety course approved by the commissioner.

11 (3) "Commissioner" means the commissioner of
12 education.

13 (4) "Course provider" means an enterprise that:

14 (A) maintains a place of business or solicits
15 business in this state;

16 (B) is operated by an individual, association,
17 partnership, or corporation; and

18 (C) has received an approval for a driving safety
19 course from the commissioner or has been designated by a person who
20 has received that approval to conduct business and represent the
21 person in this state.

22 (5) "Department" means the Texas Department of Public
23 Safety.

24 (6) "Driver education" means a nonvocational course of
25 instruction that provides the knowledge and hands-on experience to
26 prepare persons for written and practical driving tests that lead
27 to authorization to operate a vehicle.

1 (7) "Driver education school" means an enterprise
2 that:

3 (A) maintains a place of business or solicits
4 business in this state; and

5 (B) is operated by an individual, association,
6 partnership, or corporation for educating and training persons at a
7 primary or branch location in driver education or driver education
8 instructor development.

9 (8) "Driver training" means:

10 (A) driver education provided by a driver
11 education school; or

12 (B) driving safety training provided by a driving
13 safety school.

14 (9) "Driver training school" means a driver education
15 school or driving safety school.

16 (10) "Driver training school employee" means a person,
17 other than an owner, who directly or indirectly receives
18 compensation from a driver training school for instructional or
19 other services rendered.

20 (11) "Driver training school owner" means:

21 (A) in the case of a driver training school owned
22 by an individual, the individual;

23 (B) in the case of a driver training school owned
24 by a partnership, all full, silent, or limited partners; or

25 (C) in the case of a driver training school owned
26 by a corporation, the corporation, its directors and officers, and
27 each shareholder owning at least 10 percent of the total of the

1 outstanding shares.

2 (12) "Driving safety course" means a course of
3 instruction intended to improve a driver's knowledge, perception,
4 and attitude about driving.

5 (13) "Driving safety school" means an enterprise that:

6 (A) maintains a place of business or solicits
7 business in this state; and

8 (B) is operated by an individual, association,
9 partnership, or corporation for educating and training persons in
10 driving safety.

11 (14) "Instructor" means an individual who holds a
12 license for the type of instruction being given.

13 (15) "Person" means an individual, firm, partnership,
14 association, corporation, or other private entity or combination of
15 persons.

16 Sec. 1001.002. EXEMPTIONS. (a) An organization is exempt
17 from this chapter if the organization:

18 (1) has 50,000 or more members;

19 (2) qualifies for a tax exemption under Section
20 501(a), Internal Revenue Code of 1986, as an organization described
21 by Section 501(c)(4) of that code; and

22 (3) conducts for its members and other individuals who
23 are at least 50 years of age a driving safety course that is not used
24 for purposes of Article 45.0511, Code of Criminal Procedure.

25 (b) A driving safety course is exempt from this chapter if
26 the course is taught without providing a uniform certificate of
27 course completion to a person who successfully completes the

1 course.

2 (c) A driver education course is exempt from this chapter,
3 other than Section 1001.055, if the course is:

4 (1) conducted by a vocational driver training school
5 operated to train or prepare a person for a field of endeavor in a
6 business, trade, technical, or industrial occupation;

7 (2) conducted by a school or training program that
8 offers only instruction of purely avocational or recreational
9 subjects as determined by the commissioner;

10 (3) sponsored by an employer to train its own
11 employees without charging tuition;

12 (4) sponsored by a recognized trade, business, or
13 professional organization with a closed membership to instruct the
14 members of the organization; or

15 (5) conducted by a school regulated and approved under
16 another law of this state.

17 Sec. 1001.003. LEGISLATIVE INTENT REGARDING SMALL
18 BUSINESSES. It is the intent of the legislature that agency rules
19 that affect driver training schools that qualify as small
20 businesses be adopted and administered so as to have the least
21 possible adverse economic effect on the schools.

22 Sec. 1001.004. COST OF ADMINISTERING CHAPTER. The cost of
23 administering this chapter shall be included in the state budget
24 allowance for the agency.

25 [Sections 1001.005-1001.050 reserved for expansion]

26 SUBCHAPTER B. POWERS AND DUTIES

27 Sec. 1001.051. JURISDICTION OVER SCHOOLS. The agency has

1 jurisdiction over and control of driver training schools regulated
2 under this chapter.

3 Sec. 1001.052. RULES. The agency shall adopt and
4 administer comprehensive rules governing driving safety courses.

5 Sec. 1001.053. POWERS AND DUTIES OF COMMISSIONER. (a) The
6 commissioner shall:

7 (1) administer the policies of this chapter;

8 (2) enforce minimum standards for driver training
9 schools under this chapter;

10 (3) adopt and enforce rules necessary to administer
11 this chapter; and

12 (4) visit a driver training school or course provider
13 and reexamine the school or course provider for compliance with
14 this chapter.

15 (b) The commissioner may designate a person knowledgeable
16 in the administration of regulating driver training schools to
17 administer this chapter.

18 (c) The commissioner may adopt rules to ensure the integrity
19 of approved driving safety courses and to enhance program quality.

20 Sec. 1001.054. RULES RESTRICTING ADVERTISING OR
21 COMPETITIVE BIDDING. (a) The commissioner may not adopt a rule
22 restricting advertising or competitive bidding by a driver training
23 school except to prohibit a false, misleading, or deceptive
24 practice.

25 (b) The commissioner may not include in rules to prohibit
26 false, misleading, or deceptive practices by a driver training
27 school a rule that restricts:

- 1 (1) the use of an advertising medium;
2 (2) the outside dimensions of a printed advertisement
3 or outdoor display;
4 (3) the duration of an advertisement; or
5 (4) advertisement under a trade name.

6 (c) The commissioner by rule may restrict advertising by a
7 branch location of a driver training school so that the location
8 adequately identifies the primary location of the school in a
9 solicitation.

10 Sec. 1001.055. DRIVER EDUCATION CERTIFICATES. (a) The
11 agency shall print and supply to each licensed or exempt driver
12 education school driver education certificates to be used for
13 certifying completion of an approved driver education course to
14 satisfy the requirements of Section 521.204(a)(2), Transportation
15 Code. The certificates must be numbered serially.

16 (b) The agency by rule shall provide for the design and
17 distribution of the certificates in a manner that, to the greatest
18 extent possible, prevents the unauthorized reproduction or misuse
19 of the certificates.

20 (c) The agency may charge a fee of not more than \$4 for each
21 certificate.

22 Sec. 1001.056. UNIFORM CERTIFICATES OF COURSE COMPLETION.

23 (a) In this section, "operator" means a person approved by a course
24 provider to conduct an approved driving safety course.

25 (b) The agency shall print and supply to each licensed
26 course provider uniform certificates of course completion. The
27 certificates must be numbered serially.

1 (c) The agency by rule shall provide for the design and
2 distribution of the certificates in a manner that, to the greatest
3 extent possible, prevents the unauthorized production or misuse of
4 the certificates.

5 (d) A certificate under this section must:

6 (1) be in a form required by the agency; and

7 (2) include an identifying number by which the agency,
8 a court, or the department may verify its authenticity with the
9 course provider.

10 (e) The agency may charge a fee of not more than \$4 for each
11 certificate. A course provider shall charge an operator a fee equal
12 to the amount of the fee paid to the agency for a certificate.

13 (f) A course provider license entitles a course provider to
14 purchase certificates for only one approved driving safety course.

15 (g) The agency shall issue duplicate certificates. The
16 commissioner by rule shall determine the amount of the fee for
17 issuance of a duplicate certificate.

18 Sec. 1001.057. ELECTRONIC TRANSMISSION OF DRIVING SAFETY
19 COURSE INFORMATION. The agency shall investigate options to
20 develop and implement procedures to electronically transmit
21 information relating to driving safety courses to municipal and
22 justice courts.

23 [Sections 1001.058-1001.100 reserved for expansion]

24 SUBCHAPTER C. CURRICULUM

25 Sec. 1001.101. DRIVER EDUCATION COURSE CURRICULUM AND
26 TEXTBOOKS. The commissioner by rule shall establish the curriculum
27 and designate the textbooks to be used in a driver education course.

1 Sec. 1001.102. ALCOHOL AWARENESS INFORMATION. (a) The
2 agency by rule shall require that information relating to alcohol
3 awareness and the effect of alcohol on the effective operation of a
4 motor vehicle be included in the curriculum of any driver education
5 course or driving safety course.

6 (b) In developing rules under this section, the agency shall
7 consult with the department.

8 Sec. 1001.103. DRUG AND ALCOHOL DRIVING AWARENESS PROGRAMS.

9 (a) In this section, "drug and alcohol driving awareness program"
10 means a course with emphasis on curricula designed to prevent or
11 deter misuse and abuse of controlled substances.

12 (b) The agency shall develop standards for a separate school
13 certification and approve curricula for drug and alcohol driving
14 awareness programs that include one or more courses. Except as
15 provided by agency rule, a program must be offered in the same
16 manner as a driving safety course.

17 (c) The standards under Subsection (b) may require a course
18 provider to evaluate procedures, projects, techniques, and
19 controls conducted as part of the program.

20 (d) In accordance with Section 461.013(b), Health and
21 Safety Code, the agency and the Texas Commission on Alcohol and Drug
22 Abuse shall enter into a memorandum of understanding for the
23 interagency approval of the required curricula.

24 (e) Notwithstanding Section 1001.056, Subchapter D, and
25 Sections 1001.213 and 1001.303, the commissioner may establish fees
26 in connection with the programs under this section. The fees must
27 be in amounts reasonable and necessary to administer the agency's

1 duties under this section.

2 Sec. 1001.104. HOSPITAL AND REHABILITATION FACILITIES. (a)
3 The agency shall enter into a memorandum of understanding with the
4 Texas Rehabilitation Commission and the department for the
5 interagency development of curricula and licensing criteria for
6 hospital and rehabilitation facilities that teach driver
7 education.

8 (b) The agency shall administer comprehensive rules
9 governing driver education courses adopted by mutual agreement
10 among the agency, the Texas Rehabilitation Commission, and the
11 department.

12 Sec. 1001.105. TEXAS DEPARTMENT OF INSURANCE. The agency
13 shall enter into a memorandum of understanding with the Texas
14 Department of Insurance for the interagency development of a
15 curriculum for driving safety courses.

16 Sec. 1001.106. INFORMATION RELATING TO RAILROAD AND HIGHWAY
17 GRADE CROSSING SAFETY. (a) A driving safety course must include
18 information on railroad and highway grade crossing safety.

19 (b) The commissioner by rule shall provide minimum
20 standards of curriculum relating to operation of vehicles at
21 railroad and highway grade crossings.

22 (c) Sections 1001.454, 1001.456, and 1001.553 do not apply
23 to a violation of this section or a rule adopted under this section.

24 (d) Sections 1001.455(a)(6), 1001.501, 1001.551, 1001.552,
25 and 1001.554 do not apply to a violation of this section.

26 Sec. 1001.107. INFORMATION RELATING TO LITTER PREVENTION.

27 (a) The commissioner by rule shall require that information

1 relating to litter prevention be included in the curriculum of each
2 driver education and driving safety course.

3 (b) In developing rules under this section, the
4 commissioner shall consult the department.

5 Sec. 1001.108. INFORMATION RELATING TO ANATOMICAL GIFTS.

6 (a) The commissioner by rule shall require that information
7 relating to anatomical gifts be included in the curriculum of each
8 driver education course and driving safety course.

9 (b) The curriculum must include information about each
10 matter listed in Section 49.001(a), Health and Safety Code.

11 (c) In developing rules under this section, the
12 commissioner shall consult with the department and the Texas
13 Department of Health.

14 [Sections 1001.109-1001.150 reserved for expansion]

15 SUBCHAPTER D. FEES

16 Sec. 1001.151. APPLICATION, LICENSE, AND REGISTRATION
17 FEES. (a) The commissioner shall collect application, license,
18 and registration fees. The fees must be in amounts sufficient to
19 cover administrative costs and are nonrefundable.

20 (b) The fee for an initial driver education school license
21 is \$1,000 plus \$850 for each branch location.

22 (c) The fee for an initial driving safety school license is
23 an appropriate amount established by the commissioner not to exceed
24 \$200.

25 (d) The fee for an initial course provider license is an
26 appropriate amount established by the commissioner not to exceed
27 \$2,000, except that the agency may waive the fee if revenue received

1 from the course provider is sufficient to cover the cost of
2 licensing the course provider.

3 (e) The annual renewal fee for a course provider, driving
4 safety school, driver education school, or branch location is an
5 appropriate amount established by the commissioner not to exceed
6 \$200, except that the agency may waive the fee if revenue generated
7 by the issuance of uniform certificates of course completion and
8 driver education certificates is sufficient to cover the cost of
9 administering this chapter and Article 45.0511, Code of Criminal
10 Procedure.

11 (f) The fee for a change of address of:

12 (1) a driver education school is \$180; and

13 (2) a driving safety school or course provider is \$50.

14 (g) The fee for a change of name of:

15 (1) a driver education school or course provider or an
16 owner of a driver education school or course provider is \$100; and

17 (2) a driving safety school or owner of a driving
18 safety school is \$50.

19 (h) The application fee for each additional driver
20 education or driving safety course at a driver training school is
21 \$25.

22 (i) The application fee for:

23 (1) each director is \$30; and

24 (2) each assistant director or administrative staff
25 member is \$15.

26 (j) Each application for approval of a driving safety course
27 that has not been evaluated by the commissioner must be accompanied

1 by a nonrefundable fee of \$9,000.

2 (k) An application for an original driver education or
3 driving safety instructor license must be accompanied by a
4 processing fee of \$50 and an annual license fee of \$25, except that
5 the commissioner may not collect the processing fee from an
6 applicant for a driver education instructor license who is
7 currently teaching a driver education course in a public school in
8 this state.

9 (1) The commissioner shall establish the amount of the fee
10 for a duplicate license.

11 Sec. 1001.152. DUTY TO REVIEW AND RECOMMEND ADJUSTMENTS IN
12 FEE AMOUNTS. The commissioner shall periodically review the
13 amounts of fees and recommend to the legislature adjustments to
14 those amounts.

15 Sec. 1001.153. COMPLAINT INVESTIGATION FEE. (a) The
16 commissioner shall establish the amount of the fee to investigate a
17 driver training school or course provider to resolve a complaint
18 against the school or course provider.

19 (b) The fee may be charged only if:

20 (1) the complaint could not have been resolved solely
21 by telephone or in writing;

22 (2) a representative of the agency visited the school
23 or course provider as a part of the complaint resolution process;
24 and

25 (3) the school or course provider was found to be at
26 fault.

27 [Sections 1001.154-1001.200 reserved for expansion]

1 SUBCHAPTER E. LICENSING OF SCHOOLS AND

2 COURSE PROVIDERS

3 Sec. 1001.201. LICENSE REQUIRED. A person may not:

4 (1) operate a school that provides a driver education
5 course unless the person holds a driver education school license;

6 (2) operate a school that provides driving safety
7 courses unless the person holds a driving safety school license; or

8 (3) operate as a course provider unless the person
9 holds a course provider license.

10 Sec. 1001.202. LOCATIONS. (a) A driver education school
11 that teaches a driver education course at one or more branch
12 locations must obtain a separate driver education school license
13 for its main business location and for each branch location. A
14 driver education school may not operate a branch location of a
15 branch location.

16 (b) A driving safety school may use multiple classroom
17 locations to teach a driving safety course if each location:

18 (1) is approved by the parent school and the agency;

19 (2) has the same name as the parent school; and

20 (3) has the same ownership as the parent school.

21 Sec. 1001.203. APPLICATION. To operate or do business in
22 this state, a driver training school must apply to the commissioner
23 for the appropriate license. The application must:

24 (1) be in writing;

25 (2) be in the form prescribed by the commissioner;

26 (3) include all required information; and

27 (4) be verified.

1 Sec. 1001.204. REQUIREMENTS FOR DRIVER EDUCATION SCHOOL
2 LICENSE. The commissioner shall approve an application for a
3 driver education school license if, on investigation of the
4 premises of the school, it is determined that the school:

5 (1) has courses, curricula, and instruction of a
6 quality, content, and length that reasonably and adequately achieve
7 the stated objective for which the courses, curricula, and
8 instruction are offered;

9 (2) has adequate space, equipment, instructional
10 material, and instructors to provide training of good quality in
11 the classroom and behind the wheel;

12 (3) has directors, instructors, and administrators
13 who have adequate educational qualifications and experience;

14 (4) provides to each student before enrollment:

15 (A) a copy of:

16 (i) the refund policy;

17 (ii) the schedule of tuition, fees, and
18 other charges; and

19 (iii) the regulations relating to absence,
20 grading policy, and rules of operation and conduct; and

21 (B) the name, mailing address, and telephone
22 number of the agency for the purpose of directing complaints to the
23 agency;

24 (5) maintains adequate records as prescribed by the
25 commissioner to show attendance and progress or grades and enforces
26 satisfactory standards relating to attendance, progress, and
27 conduct;

1 (6) on completion of training, issues each student a
2 certificate indicating the course name and satisfactory
3 completion;

4 (7) complies with all county, municipal, state, and
5 federal regulations, including fire, building, and sanitation
6 codes and assumed name registration;

7 (8) is financially sound and capable of fulfilling its
8 commitments for training;

9 (9) has administrators, directors, owners, and
10 instructors who are of good reputation and character;

11 (10) maintains and publishes as part of its student
12 enrollment contract the proper policy for the refund of the unused
13 portion of tuition, fees, and other charges if a student fails to
14 take the course or withdraws or is discontinued from the school at
15 any time before completion;

16 (11) does not use erroneous or misleading advertising,
17 either by actual statement, omission, or intimation, as determined
18 by the commissioner;

19 (12) does not use a name similar to the name of another
20 existing school or tax-supported educational institution in this
21 state, unless specifically approved in writing by the commissioner;

22 (13) submits to the agency for approval the applicable
23 course hour lengths and curriculum content for each course offered
24 by the school;

25 (14) does not owe an administrative penalty under this
26 chapter; and

27 (15) meets any additional criteria required by the

1 agency.

2 Sec. 1001.205. REQUIREMENTS FOR DRIVING SAFETY SCHOOL
3 LICENSE. The commissioner shall approve an application for a
4 driving safety school license if on investigation the agency
5 determines that the school:

6 (1) has driving safety courses, curricula, and
7 instruction of a quality, content, and length that reasonably and
8 adequately achieve the stated objective for which the course,
9 curricula, and instruction are developed by the course provider;

10 (2) has adequate space, equipment, instructional
11 material, and instructors to provide training of good quality;

12 (3) has instructors and administrators who have
13 adequate educational qualifications and experience;

14 (4) maintains adequate records as prescribed by the
15 commissioner to show attendance and progress or grades and enforces
16 satisfactory standards relating to attendance, progress, and
17 conduct;

18 (5) complies with all county, municipal, state, and
19 federal laws, including fire, building, and sanitation codes and
20 assumed name registration;

21 (6) has administrators, owners, and instructors who
22 are of good reputation and character;

23 (7) does not use erroneous or misleading advertising,
24 either by actual statement, omission, or intimation, as determined
25 by the commissioner;

26 (8) does not use a name similar to the name of another
27 existing school or tax-supported educational establishment in this

1 state, unless specifically approved in writing by the commissioner;

2 (9) maintains and uses the approved contract and
3 policies developed by the course provider;

4 (10) does not owe an administrative penalty under this
5 chapter;

6 (11) will not provide a driving safety course to a
7 person for less than \$25; and

8 (12) meets additional criteria required by the
9 commissioner.

10 Sec. 1001.206. REQUIREMENTS FOR COURSE PROVIDER LICENSE.

11 The commissioner shall approve an application for a course provider
12 license if on investigation the agency determines that:

13 (1) the course provider has an approved course that at
14 least one licensed driving safety school is willing to offer;

15 (2) the course provider has adequate educational
16 qualifications and experience;

17 (3) the course provider will:

18 (A) develop and provide to each driving safety
19 school that offers the approved course a copy of:

20 (i) the refund policy; and

21 (ii) the regulations relating to absence,
22 grading policy, and rules of operation and conduct; and

23 (B) provide to the driving safety school the
24 name, mailing address, and telephone number of the agency for the
25 purpose of directing complaints to the agency;

26 (4) a copy of the information provided to each driving
27 safety school under Subdivision (3) will be provided to each

1 student by the school before enrollment;

2 (5) not later than the 15th working day after the date
3 the person successfully completes the course, the course provider
4 will mail a uniform certificate of course completion to the person
5 indicating the course name and successful completion;

6 (6) the course provider maintains adequate records as
7 prescribed by the commissioner to show attendance and progress or
8 grades and enforces satisfactory standards relating to attendance,
9 progress, and conduct;

10 (7) the course provider complies with all county,
11 municipal, state, and federal laws, including assumed name
12 registration and other applicable requirements;

13 (8) the course provider is financially sound and
14 capable of fulfilling its commitments for training;

15 (9) the course provider is of good reputation and
16 character;

17 (10) the course provider maintains and publishes as a
18 part of its student enrollment contract the proper policy for the
19 refund of the unused portion of tuition, fees, and other charges if
20 a student fails to take the course or withdraws or is discontinued
21 from the school at any time before completion;

22 (11) the course provider does not use erroneous or
23 misleading advertising, either by actual statement, omission, or
24 intimation, as determined by the commissioner;

25 (12) the course provider does not use a name similar to
26 the name of another existing school or tax-supported educational
27 institution in this state, unless specifically approved in writing

1 by the commissioner;

2 (13) the course provider does not owe an
3 administrative penalty under this chapter; and

4 (14) the course provider meets additional criteria
5 required by the commissioner.

6 Sec. 1001.207. BOND REQUIREMENTS: DRIVER EDUCATION SCHOOL.

7 (a) Before a driver education school may be issued a license, the
8 school must file a corporate surety bond with the commissioner in
9 the amount of:

10 (1) \$10,000 for the primary location of the school;
11 and

12 (2) \$5,000 for each branch location.

13 (b) A bond issued under Subsection (a) must be:

14 (1) issued in a form approved by the commissioner;

15 (2) issued by a company authorized to do business in
16 this state;

17 (3) payable to the state to be used only for payment of
18 a refund due to a student or potential student;

19 (4) conditioned on the compliance of the school and
20 its officers, agents, and employees with this chapter and rules
21 adopted under this chapter; and

22 (5) issued for a period corresponding to the term of
23 the license.

24 (c) Posting of a bond in the amount required under
25 Subsection (a) satisfies the requirements for financial stability
26 for driver education schools under this chapter.

27 Sec. 1001.208. BOND NOT REQUIRED FOR DRIVING SAFETY SCHOOL.

1 A driving safety school is not required to post a surety bond.

2 Sec. 1001.209. BOND REQUIREMENTS: COURSE PROVIDER. (a)
3 Before a course provider may be issued a license, the course
4 provider must provide a corporate surety bond in the amount of
5 \$25,000.

6 (b) A bond issued under Subsection (a) must be:

7 (1) issued by a company authorized to do business in
8 this state;

9 (2) payable to the state to be used:

10 (A) for payment of a refund due a student of the
11 course provider's approved course;

12 (B) to cover the payment of unpaid fees or
13 penalties assessed by the agency; or

14 (C) to recover the cost of uniform certificates
15 of course completion the agency demands be returned or any cost
16 associated with the certificates;

17 (3) conditioned on the compliance of the course
18 provider and its officers, agents, and employees with this chapter
19 and rules adopted under this chapter; and

20 (4) issued for a period corresponding to the term of
21 the license.

22 Sec. 1001.210. ALTERNATE FORM OF SECURITY. Instead of the
23 bond required by Section 1001.207 or 1001.209, a driver education
24 school or course provider may provide another form of security that
25 is:

26 (A) approved by the commissioner; and

27 (B) in the amount required for a comparable bond

1 under Section 1001.207 or 1001.209.

2 Sec. 1001.211. ISSUANCE AND FORM OF LICENSE. (a) The
3 commissioner shall issue a license to an applicant for a license
4 under this subchapter if:

5 (1) the application is submitted in accordance with
6 this subchapter; and

7 (2) the applicant meets the requirements of this
8 chapter.

9 (b) A license must be in a form determined by the
10 commissioner and must show in a clear and conspicuous manner:

11 (1) the date of issuance, effective date, and term of
12 the license;

13 (2) the name and address of the driver training school
14 or course provider;

15 (3) the authority for and conditions of approval;

16 (4) the commissioner's signature; and

17 (5) any other fair and reasonable representation that
18 is consistent with this chapter and that the commissioner considers
19 necessary.

20 (c) An applicant may obtain both a driver education school
21 license and a driving safety school license.

22 Sec. 1001.212. NOTICE OF DENIAL OF LICENSE. The
23 commissioner shall provide a person whose application for a license
24 under this subchapter is denied a written statement of the reasons
25 for the denial.

26 Sec. 1001.213. LICENSE NOT TRANSFERABLE; CHANGE OF
27 OWNERSHIP. (a) A license under this subchapter may not be

1 transferred and is the property of the state.

2 (b) If a change in ownership of a driver training school or
3 course provider is proposed, a new owner shall apply for a new
4 school or course provider license at least 30 days before the date
5 of the change.

6 (c) Instead of the fees required by Section 1001.151, the
7 fee for a new driver education school or course provider license
8 under Subsection (b) is \$500, plus \$200 for each branch location,
9 if:

10 (1) the new owner is substantially similar to the
11 previous owner; and

12 (2) there is no significant change in the management
13 or control of the driver education school or course provider.

14 (d) The commissioner is not required to reinspect a school
15 or a branch location after a change of ownership.

16 Sec. 1001.214. DUPLICATE LICENSE. A duplicate license may
17 be issued to a driver training school or course provider if:

18 (1) the original license is lost or destroyed; and

19 (2) an affidavit of that fact is filed with the agency.

20 [Sections 1001.215-1001.250 reserved for expansion]

21 SUBCHAPTER F. LICENSING OF INSTRUCTORS

22 Sec. 1001.251. LICENSE REQUIRED FOR INSTRUCTOR. (a) A
23 person may not teach or provide driver education, either as an
24 individual or in a driver education school, or conduct any phase of
25 driver education, unless the person holds a driver education
26 instructor license issued by the agency.

27 (b) A person may not teach or provide driving safety

1 training, either as an individual or in a driving safety school, or
2 conduct any phase of driving safety education, unless the person
3 holds a driving safety instructor license issued by the agency.
4 This subsection does not apply to an instructor of a driving safety
5 course that does not provide a uniform certificate of course
6 completion to its graduates.

7 Sec. 1001.252. SIGNATURE AND SEAL ON LICENSE REQUIRED. A
8 license under this subchapter must be signed by the commissioner.

9 Sec. 1001.253. DRIVER EDUCATION INSTRUCTOR TRAINING. (a)
10 The commissioner shall establish standards for certification of
11 professional and paraprofessional personnel who conduct driver
12 education programs in driver education schools.

13 (b) A driver education instructor license authorizing a
14 person to teach or provide behind-the-wheel training may not be
15 issued unless the person has successfully completed six semester
16 hours of driver and traffic safety education or a program of study
17 in driver education approved by the commissioner from an approved
18 driver education school.

19 (c) A person who holds a driver education instructor license
20 authorizing behind-the-wheel training may not be approved to assist
21 a classroom instructor in the classroom phase of driver education
22 unless the person has successfully completed the three additional
23 semester hours of training required for a classroom instructor or a
24 program of study in driver education approved by the commissioner.

25 (d) Except as provided by Section 1001.254, a driver
26 education instructor license authorizing a person to teach or
27 provide classroom training may not be issued unless the person:

1 (1) has completed nine semester hours of driver and
2 traffic safety education or a program of study in driver education
3 approved by the commissioner from an approved driver education
4 school; and

5 (2) holds a teaching certificate and any additional
6 certification required to teach driver education.

7 (e) A driver education instructor who has completed the
8 educational requirements prescribed by Subsection (d)(1) may not
9 teach instructor training classes unless the instructor has
10 successfully completed a supervising instructor development
11 program consisting of at least six additional semester hours or a
12 program of study in driver education approved by the commissioner
13 that includes administering driver education programs and
14 supervising and administering traffic safety education.

15 (f) A driver education school may submit for agency approval
16 a curriculum for an instructor development program for driver
17 education instructors. The program must:

18 (1) be taught by a person who has completed a
19 supervising instructor development program under Subsection (e);
20 and

21 (2) satisfy the requirements of this section for the
22 particular program or type of training to be provided.

23 Sec. 1001.254. TEMPORARY LICENSE. (a) A temporary driver
24 education instructor license may be issued authorizing a person to
25 teach or provide classroom driver education training if the person:

26 (1) has completed the educational requirements
27 prescribed by Section 1001.253(d)(1);

1 (2) holds a Texas teaching certificate with an
2 effective date before February 1, 1986;

3 (3) meets all license requirements, other than
4 successful completion of the examination required under rules
5 adopted by the State Board for Educator Certification to revalidate
6 the teaching certificate; and

7 (4) demonstrates, in a manner prescribed by the
8 commissioner, the intention to comply with the examination
9 requirement at the first available opportunity.

10 (b) A license issued under this section is valid for six
11 months and may not be renewed.

12 Sec. 1001.255. REGULATION OF CERTAIN DRIVER EDUCATION
13 INSTRUCTORS. (a) The agency shall regulate as a driver education
14 school a driver education instructor who:

15 (1) teaches driver education courses in a county
16 having a population of 50,000 or less; and

17 (2) does not teach more than 200 students annually.

18 (b) An instructor described by Subsection (a) must submit to
19 the agency an application for an initial or renewal driver
20 education school license, together with all required documentation
21 and information.

22 (c) The commissioner may waive initial or renewal driver
23 education school license fees or the fee for a director or
24 administrative staff member.

25 (d) An instructor described by Subsection (a) is not exempt
26 from a licensing requirement or fee.

27 Sec. 1001.256. DUPLICATE LICENSE. A duplicate license may

1 be issued to a driver education instructor or driving safety
2 instructor if:

- 3 (1) the original license is lost or destroyed; and
4 (2) an affidavit of that fact is filed with the agency.

5 [Sections 1001.257-1001.300 reserved for expansion]

6 SUBCHAPTER G. LICENSE EXPIRATION AND RENEWAL

7 Sec. 1001.301. EXPIRATION OF SCHOOL OR COURSE PROVIDER
8 LICENSE. The term of a driver education school, driving safety
9 school, or course provider license may not exceed one year.

10 Sec. 1001.302. EXPIRATION OF INSTRUCTOR LICENSE. The term
11 of a driver education instructor or driving safety instructor
12 license may not exceed one year.

13 Sec. 1001.303. RENEWAL OF SCHOOL OR COURSE PROVIDER
14 LICENSE. (a) To renew the license of a driver education school,
15 driving safety school, or course provider, the school or course
16 provider must submit to the commissioner a complete application for
17 renewal at least 30 days before the expiration date of the license.

18 (b) A school or course provider that does not comply with
19 Subsection (a) must, as a condition of renewal of the person's
20 license, pay a late renewal fee. The late renewal fee is in
21 addition to the annual renewal fee. The late renewal fee must be in
22 the amount established by board rule of at least \$100, subject to
23 Subchapter D.

24 (c) The commissioner may reexamine a driver education
25 school's premises.

26 (d) The commissioner shall renew or cancel the driver
27 education school, driving safety school, or course provider

1 license.

2 Sec. 1001.304. RENEWAL OF INSTRUCTOR LICENSE. (a) An
3 application to renew a driver education instructor or driving
4 safety instructor license must include evidence of completion of
5 continuing education and be postmarked at least 30 days before the
6 expiration date of the license.

7 (b) The continuing education must be:

8 (1) in courses approved by the commissioner; and

9 (2) for the number of hours established by the
10 commissioner.

11 (c) An applicant who does not comply with Subsection (a)
12 must pay a late renewal fee of \$25.

13 [Sections 1001.305-1001.350 reserved for expansion]

14 SUBCHAPTER H. PRACTICE BY LICENSE HOLDERS

15 Sec. 1001.351. COURSE PROVIDER RESPONSIBILITIES. (a) Not
16 later than the 15th working day after the course completion date, a
17 course provider or a person at the course provider's facilities
18 shall mail a uniform certificate of course completion to a person
19 who successfully completes an approved driving safety course.

20 (b) A course provider shall electronically submit to the
21 agency in the manner established by the agency data identified by
22 the agency relating to uniform certificates of course completion.

23 (c) A course provider shall conduct driving safety
24 instructor development courses for its approved driving safety
25 courses.

26 Sec. 1001.352. FEES FOR DRIVING SAFETY COURSE. A course
27 provider shall charge each student:

1 (1) at least \$25 for a driving safety course; and

2 (2) a fee of at least \$3 for course materials and for
3 supervising and administering the course.

4 Sec. 1001.353. DRIVER TRAINING COURSE AT PUBLIC OR PRIVATE
5 SCHOOL. A driver training school may conduct a driver training
6 course at a public or private school for students of the public or
7 private school as provided by an agreement with the public or
8 private school. The course is subject to any law applicable to a
9 course conducted at the main business location of the driver
10 training school.

11 Sec. 1001.354. LOCATIONS AUTHORIZED FOR DRIVING SAFETY
12 COURSE. (a) A driving safety course may be taught at a driving
13 safety school if the school is approved by the agency.

14 (b) A driving safety school may teach an approved driving
15 safety course by an alternative method that does not require
16 students to be present in a classroom if the commissioner approves
17 the alternative method. The commissioner may approve the
18 alternative method if:

19 (1) the commissioner determines that the approved
20 driving safety course can be taught by the alternative method; and

21 (2) the alternative method includes testing and
22 security measures that are at least as secure as the measures
23 available in the usual classroom setting.

24 (c) On approval, the alternative method is considered to
25 satisfy the requirements of this chapter for a driving safety
26 course.

27 (d) A location at which a student receives supplies or

1 equipment for a course under Subsection (b) is considered a
2 classroom of the school providing the course.

3 Sec. 1001.355. WITHHOLDING CERTAIN RECORDS. A driver
4 training school may withhold a student's diploma or certificate of
5 completion until the student fulfills the student's financial
6 obligation to the school.

7 Sec. 1001.356. REQUIREMENT TO CARRY LICENSE. A driver
8 education instructor or driving safety instructor shall carry the
9 person's instructor license at all times while instructing a driver
10 education course or driving safety course.

11 Sec. 1001.357. CONTRACT WITH UNLICENSED DRIVER TRAINING
12 SCHOOL. A contract entered into with a person for a course of
13 instruction by or on behalf of a person operating an unlicensed
14 driver training school is unenforceable.

15 [Sections 1001.358-1001.400 reserved for expansion]

16 SUBCHAPTER I. REFUND POLICIES

17 Sec. 1001.401. CANCELLATION AND SETTLEMENT POLICY. As a
18 condition for obtaining a driver education school license or course
19 provider license, the school or course provider must maintain a
20 cancellation and settlement policy that provides a full refund of
21 all money paid by a student if:

22 (1) the student cancels the enrollment contract before
23 midnight of the third day, other than a Saturday, Sunday, or legal
24 holiday, after the date the enrollment contract is signed by the
25 student, unless the student successfully completes the course or
26 receives a failing grade on the course examination; or

27 (2) the enrollment of the student was procured as a

1 result of a misrepresentation in:

2 (A) advertising or promotional materials of the
3 school or course provider; or

4 (B) a representation made by an owner or employee
5 of the school or course provider.

6 Sec. 1001.402. TERMINATION POLICY. (a) As a condition for
7 obtaining a driver education school license, the school must
8 maintain a policy for the refund of the unused portion of tuition,
9 fees, and other charges if a student, after expiration of the
10 cancellation period described by Section 1001.401, does not enter
11 the course or withdraws or is discontinued from the course at any
12 time before completion.

13 (b) The policy must provide that:

14 (1) refunds are based on the period of enrollment
15 computed on the basis of course time expressed in clock hours;

16 (2) the effective date of the termination for refund
17 purposes is the earliest of:

18 (A) the last day of attendance, if the student's
19 enrollment is terminated by the school;

20 (B) the date the school receives written notice
21 from the student; or

22 (C) the 10th school day after the last day of
23 attendance;

24 (3) if tuition is collected in advance of entrance and
25 if a student does not enter the school, terminates enrollment, or
26 withdraws, the school:

27 (A) may retain not more than \$50 as an

1 administrative expense; and

2 (B) shall refund that portion of the student's
3 remaining classroom tuition and fees and behind-the-wheel tuition
4 and fees that corresponds to services the student does not receive;

5 (4) the school shall refund items of extra expense to
6 the student, including instructional supplies, books, laboratory
7 fees, service charges, rentals, deposits, and all other charges not
8 later than the 30th day after the effective date of enrollment
9 termination if:

10 (A) the extra expenses are separately stated and
11 shown in the information provided to the student before enrollment;
12 and

13 (B) the student returns to the school any school
14 property in the student's possession; and

15 (5) refunds shall be completed not later than the 30th
16 day after the effective date of enrollment termination.

17 Sec. 1001.403. REFUND FOR DISCONTINUED COURSE. On the
18 discontinuation of a course by a driver education school or a course
19 provider that prevents a student from completing the course, all
20 tuition and fees paid become refundable.

21 Sec. 1001.404. INTEREST ON REFUND. (a) If a refund is not
22 timely made, the driver education school or course provider shall
23 pay interest on the amount of the refund. Interest begins to accrue
24 on the first day after the expiration of the refund period and ends
25 on the day preceding the date the refund is made.

26 (b) The commissioner shall establish annually the rate of
27 interest for a refund at a rate sufficient to provide a deterrent to

1 the retention of student money.

2 (c) The agency may except a driver education school or
3 course provider from the payment of interest if the school or course
4 provider makes a good-faith effort to refund tuition, fees, and
5 other charges but is unable to locate the student to whom the refund
6 is owed. On request of the agency, the school or course provider
7 shall document the effort to locate a student.

8 [Sections 1001.405-1001.450 reserved for expansion]

9 SUBCHAPTER J. PROHIBITED PRACTICES AND

10 DISCIPLINARY ACTIONS

11 Sec. 1001.451. PROHIBITED PRACTICES. A person may not:

12 (1) use advertising designed to mislead or deceive a
13 prospective student;

14 (2) fail to notify the commissioner of the
15 discontinuance of the operation of a driver training school before
16 the fourth working day after the date of cessation of classes and
17 make available accurate records as required by this chapter;

18 (3) issue, sell, trade, or transfer:

19 (A) a uniform certificate of course completion or
20 driver education certificate to a person or driver training school
21 not authorized to possess the certificate;

22 (B) a uniform certificate of course completion to
23 a person who has not successfully completed an approved, six-hour
24 driving safety course; or

25 (C) a driver education certificate to a person
26 who has not successfully completed a commissioner-approved driver
27 education course;

1 (4) negotiate a promissory instrument received as
2 payment of tuition or another charge before the student completes
3 75 percent of the course, except that before that time the
4 instrument may be assigned to a purchaser who becomes subject to any
5 defense available against the school named as payee; or

6 (5) conduct any part of an approved driver education
7 course or driving safety course without having an instructor
8 physically present in appropriate proximity to the student for the
9 type of instruction being given.

10 Sec. 1001.452. COURSE OF INSTRUCTION. A driver training
11 school may not maintain, advertise, solicit for, or conduct a
12 course of instruction in this state before the later of:

13 (1) the 30th day after the date the school applies for
14 a driver training school license; or

15 (2) the date the school receives a driver training
16 school license from the commissioner.

17 Sec. 1001.453. DISTRIBUTION OF WRITTEN INFORMATION ON
18 COURSE PROVIDER. (a) A person may not distribute within 500 feet
19 of a court with jurisdiction over an offense to which Article
20 45.0511, Code of Criminal Procedure, applies written information
21 that advertises a course provider.

22 (b) A course provider loses its course provider status if
23 the course provider or the course provider's agent, employee, or
24 representative violates this section.

25 (c) This section does not apply to distribution of
26 information:

27 (1) by a court; or

1 (2) to a court to advise the court of the availability
2 of the course or to obtain approval of the course.

3 (d) Sections 1001.454, 1001.456(a), and 1001.553 do not
4 apply to a violation of this section or a rule adopted under this
5 section.

6 (e) Sections 1001.455(a)(6), 1001.501, 1001.551, 1001.552,
7 and 1001.554 do not apply to a violation of this section.

8 Sec. 1001.454. REVOCATION OF OR PLACEMENT OF CONDITIONS ON
9 SCHOOL OR COURSE PROVIDER LICENSE. (a) The commissioner may revoke
10 the license of a driver training school or course provider or may
11 place reasonable conditions on the school or course provider if the
12 commissioner has reasonable cause to believe that the school or
13 course provider has violated this chapter or a rule adopted under
14 this chapter.

15 (b) On revocation of or placement of conditions on the
16 license, the commissioner shall notify the license holder, in
17 writing, of the action and the grounds for the action.

18 (c) The commissioner may reexamine a school or course
19 provider two or more times during any year in which the commissioner
20 provides a notice relating to the school or course provider under
21 this section.

22 Sec. 1001.455. DENIAL, SUSPENSION, OR REVOCATION OF
23 INSTRUCTOR LICENSE. (a) The agency may deny an application for an
24 instructor license or suspend or revoke the license of an
25 instructor if the instructor:

26 (1) fails to meet a requirement for issuance of or
27 holding a license under this chapter;

1 (2) permits fraud or engages in fraudulent practices
2 relating to the application;

3 (3) induces or countenances fraud or fraudulent
4 practices on the part of an applicant for a driver's license or
5 permit;

6 (4) permits or engages in any other fraudulent
7 practice in an action between the applicant or license holder and
8 the public;

9 (5) fails to comply with agency rules relating to
10 driver instruction; or

11 (6) fails to comply with this chapter.

12 (b) Not later than the 10th day after the date of a denial,
13 suspension, or revocation under this section, the agency shall
14 notify the applicant or license holder of that action by certified
15 mail.

16 Sec. 1001.456. OTHER DISCIPLINARY ACTIONS. (a) If the
17 agency believes that a driver education school or instructor has
18 violated this chapter or a rule adopted under this chapter, the
19 agency may, without notice:

20 (1) order a peer review;

21 (2) suspend the enrollment of students in the school
22 or the offering of instruction by the instructor; or

23 (3) suspend the right to purchase driver education
24 certificates.

25 (b) If the agency believes that a course provider, driving
26 safety school, or driving safety instructor has violated this
27 chapter or a rule adopted under this chapter, the agency may,

1 without notice:

2 (1) order a peer review of the course provider,
3 driving safety school, or driving safety instructor;

4 (2) suspend the enrollment of students in the school
5 or the offering of instruction by the instructor; or

6 (3) suspend the right to purchase uniform certificates
7 of course completion.

8 (c) A peer review ordered under this section must be
9 conducted by a team of knowledgeable persons selected by the
10 agency. The team shall provide the agency with an objective
11 assessment of the content of the school's or course provider's
12 curriculum and its application. The school or course provider
13 shall pay the costs of the peer review.

14 (d) A suspension of enrollment under Subsection (a)(2) or
15 (b)(2) means a ruling by the commissioner that restricts a school
16 from:

17 (1) accepting enrollments or reenrollments;

18 (2) advertising;

19 (3) soliciting; or

20 (4) directly or indirectly advising prospective
21 students of its program or course offerings.

22 Sec. 1001.457. TERM OF LICENSE SUSPENSION. A license may
23 not be suspended for less than 30 days or more than one year.

24 Sec. 1001.458. SURRENDER OF LICENSE. (a) A license holder
25 whose license is suspended or revoked shall surrender the license
26 to the agency not later than the fifth day after the date of
27 suspension or revocation.

1 (b) The agency may reinstate a suspended license on full
2 compliance by the license holder with this chapter.

3 Sec. 1001.459. APPEAL AND REQUEST FOR HEARING. (a) A
4 person aggrieved by a denial, suspension, or revocation of a
5 license may appeal the action and request a hearing before the
6 commissioner.

7 (b) The request must be submitted not later than the 15th
8 day after the date the person receives notice under Section
9 1001.455. On receipt of a request for a hearing, the commissioner
10 shall set a time and place for the hearing and send notice of the
11 time and place to the aggrieved person.

12 Sec. 1001.460. HEARING. (a) The hearing on an appeal shall
13 be held not later than the 30th day after the date the request for a
14 hearing is received under Section 1001.459.

15 (b) Except as provided by Subsection (e), the commissioner
16 shall conduct the hearing and may administer oaths and issue
17 subpoenas for the attendance of witnesses and the production of
18 relevant books, papers, and documents.

19 (c) At the hearing, the aggrieved person may appear in
20 person or by counsel and present evidence. Any interested person
21 may appear and present oral or documentary evidence.

22 (d) Based on the evidence submitted at the hearing, the
23 commissioner shall take the action the commissioner considers
24 necessary in connection with the denial, suspension, or revocation
25 of the license. Not later than the 10th day after the date of the
26 hearing, the commissioner shall notify the aggrieved person by
27 certified mail of the commissioner's decision.

1 (e) The agency may contract with another entity to conduct a
2 hearing under this subchapter.

3 Sec. 1001.461. JUDICIAL REVIEW. (a) A decision under
4 Section 1001.460 may be appealed to a district court in Travis
5 County.

6 (b) Unless stayed by the court on a showing of good cause,
7 the commissioner's decision may not be superseded during appeal.

8 (c) On filing the appeal, citation shall be served on the
9 commissioner, who shall make a complete record of all proceedings
10 before the commissioner and certify a copy to the court.

11 (d) Trial is before the court and shall be based on the
12 record before the commissioner. The court shall make its decision
13 based on the record. The court shall affirm the commissioner's
14 decision if the court finds substantial evidence in the record to
15 support the decision, unless the court finds the commissioner's
16 decision to be:

17 (1) arbitrary and capricious;

18 (2) in violation of the constitution or a law of the
19 United States or this state; or

20 (3) in violation of a rule adopted by the commissioner
21 under this chapter.

22 (e) A decision of the court is subject to appeal in the
23 manner provided for civil actions generally.

24 [Sections 1001.462-1001.500 reserved for expansion]

25 SUBCHAPTER K. CLASS ACTION SUITS

26 Sec. 1001.501. AUTHORITY TO BRING CLASS ACTION. (a) A
27 person who is injured by an act taken or permitted in violation of

1 this chapter may, on behalf of the person and others similarly
2 situated, bring an action in a district court, regardless of the
3 amount in controversy, for damages, temporary or permanent
4 injunctive relief, declaratory relief, or other relief in
5 accordance with Rule 42, Texas Rules of Civil Procedure. Venue for
6 an action under this section is in Travis County.

7 (b) A person who files an action under this section shall
8 promptly notify the attorney general. The attorney general may
9 join in the action as a party plaintiff on the filing of an
10 application not later than the 30th day after the date the action is
11 filed.

12 Sec. 1001.502. NOTICE. (a) In a class action under Section
13 1001.501, the court:

14 (1) shall direct the defendant to serve the best
15 notice practicable on each member of the class; and

16 (2) may direct that individual notice be served on
17 each member of the class who can be identified through reasonable
18 efforts.

19 (b) The notice must inform each recipient that:

20 (1) the person is thought to be a member of the class;
21 and

22 (2) if the person is a member of the class, the person
23 may enter an appearance and join in the action.

24 Sec. 1001.503. JUDGMENT. (a) The court shall enter
25 judgment in the class action in a form that may be justified.

26 (b) Damages may be awarded only to a member of the class
27 joined as a party plaintiff. All other relief granted by the court

1 inures to the benefit of all members of the class.

2 (c) A prevailing plaintiff in a class action shall be
3 awarded court costs and reasonable attorney's fees. A legal aid
4 society or legal services program that represents a prevailing
5 plaintiff shall be awarded a service fee instead of attorney's
6 fees.

7 [Sections 1001.504-1001.550 reserved for expansion]

8 SUBCHAPTER L. PENALTIES AND ENFORCEMENT PROVISIONS

9 Sec. 1001.551. INJUNCTION IN GENERAL. (a) If a person
10 violates this chapter, the commissioner, through the attorney
11 general, shall apply in the state's name for an order to enjoin the
12 violation of or to enforce compliance with this chapter.

13 (b) On a finding by a court in which a verified petition is
14 filed that a person has violated this chapter, the court may issue,
15 without notice or bond, a temporary restraining order enjoining the
16 continued violation of this chapter. If after a hearing it is
17 established that the person has violated or is violating this
18 chapter, the court may issue a permanent injunction to enjoin the
19 violation of or to enforce compliance with this chapter.

20 (c) A proceeding under this section is in addition to any
21 other remedy or penalty provided by this chapter.

22 Sec. 1001.552. INJUNCTION AGAINST SCHOOL. (a) If the
23 commissioner believes that a driver training school has violated
24 this chapter, the commissioner shall apply for an injunction
25 restraining the violation.

26 (b) Venue for an action under this section is in Travis
27 County.

1 Sec. 1001.553. ADMINISTRATIVE PENALTY. (a) After an
2 opportunity for a hearing, the commissioner may impose an
3 administrative penalty on a person who violates this chapter or a
4 rule adopted under this chapter.

5 (b) The amount of the penalty may not exceed \$1,000 a day for
6 each violation.

7 (c) The attorney general, at the request of the agency, may
8 bring an action to collect the penalty.

9 (d) A penalty imposed under this section is in addition to
10 any other remedy provided by law, including injunctive relief.

11 Sec. 1001.554. GENERAL CRIMINAL PENALTY. (a) A person
12 commits an offense if the person violates this chapter.

13 (b) An offense under this section is punishable by:

14 (1) a fine of not less than \$100 or more than \$20,000;

15 (2) confinement in the county jail for a term not to
16 exceed six months; or

17 (3) both the fine and confinement.

18 Sec. 1001.555. UNAUTHORIZED TRANSFER OR POSSESSION OF
19 CERTIFICATE; OFFENSE. (a) A person commits an offense if the
20 person knowingly sells, trades, issues, or otherwise transfers, or
21 possesses with intent to sell, trade, issue, or otherwise transfer,
22 a uniform certificate of course completion or a driver education
23 certificate to an individual, firm, or corporation not authorized
24 to possess the certificate.

25 (b) The agency shall contract with the department to provide
26 undercover and investigative assistance in the enforcement of
27 Subsection (a).

1 (c) A person commits an offense if the person knowingly
2 possesses a uniform certificate of course completion or a driver
3 education certificate and is not authorized to possess the
4 certificate.

5 (d) An offense under this section is a felony punishable by
6 imprisonment in the institutional division of the Texas Department
7 of Criminal Justice for a term not to exceed five years.

8 (b) The Texas Driver and Traffic Safety Education Act
9 (Article 4413(29c), Vernon's Texas Civil Statutes) is repealed.

10 ARTICLE 7. CHANGES RELATING TO FAMILY CODE

11 SECTION 7.001. (a) Section 52.027, Family Code, as amended
12 by Chapter 1297, Acts of the 77th Legislature, Regular Session,
13 2001, and repealed by Chapter 1514, Acts of the 77th Legislature,
14 Regular Session, 2001, is repealed.

15 (b) Section 54.023(a), Family Code, is amended to correct a
16 reference to read as follows:

17 (a) If a child intentionally or knowingly fails to obey a
18 lawful order of disposition after an adjudication of guilt of an
19 offense that a justice or municipal court has jurisdiction of under
20 Article 4.11 or 4.14, Code of Criminal Procedure, the justice or
21 municipal court may:

22 (1) refer the child to the appropriate juvenile court
23 for delinquent conduct for contempt of the justice or municipal
24 court order; or

25 (2) retain jurisdiction of the case and:

26 (A) hold the child in contempt of the justice or
27 municipal court order and impose a fine not to exceed \$500;

1 (B) order the child to be held in a place of
2 nonsecure custody designated under Article 45.058, Code of Criminal
3 Procedure [~~Section 52.027~~] for a single period not to exceed six
4 hours; or

5 (C) order the Department of Public Safety to
6 suspend the driver's license or permit of the child or, if the child
7 does not have a license or permit, to deny the issuance of a license
8 or permit to the child and, if the child has a continuing obligation
9 under the court's order, require that the suspension or denial be
10 effective until the child fully discharges the obligation.

11 SECTION 7.002. (a) The changes made by this section are to
12 correct references to Section 71.01, Family Code.

13 (b) Section 85.001(3), Civil Practice and Remedies Code, is
14 amended to read as follows:

15 (3) "Family" has the meaning assigned by Section
16 71.003 [~~71.01~~], Family Code.

17 (c) Article 5.02, Code of Criminal Procedure, is amended to
18 read as follows:

19 Art. 5.02. DEFINITIONS. In this chapter, "family
20 violence," "family," "household," and "member of a household" have
21 the meanings assigned by Chapter 71 [~~Section 71.01~~], Family Code.

22 (d) Article 14.03(f), Code of Criminal Procedure, is
23 amended to read as follows:

24 (f) In this article, "family," "household," and "member of a
25 household" have the meanings assigned to those terms by Chapter 71
26 [~~Section 71.01~~], Family Code.

27 (e) Article 17.29(d), Code of Criminal Procedure, is

1 amended to read as follows:

2 (d) In this article, "family violence" has the meaning
3 assigned by Section 71.004 [~~71.01~~], Family Code.

4 (f) Article 17.291(a), Code of Criminal Procedure, is
5 amended to read as follows:

6 (a) In this article:

7 (1) "family violence" has the meaning assigned to that
8 phrase by Section 71.004 [~~71.01(b)(2)~~], Family Code; and

9 (2) "magistrate" has the meaning assigned to it by
10 Article 2.09 of this code [~~as amended by Chapters 25, 79, 916, and~~
11 ~~1068, Acts of the 71st Legislature, Regular Session, 1989~~].

12 (g) Article 38.36(b), Code of Criminal Procedure, is
13 amended to read as follows:

14 (b) In a prosecution for murder, if a defendant raises as a
15 defense a justification provided by Section 9.31, 9.32, or 9.33,
16 Penal Code, the defendant, in order to establish the defendant's
17 reasonable belief that use of force or deadly force was immediately
18 necessary, shall be permitted to offer:

19 (1) relevant evidence that the defendant had been the
20 victim of acts of family violence committed by the deceased, as
21 family violence is defined by Section 71.004 [~~71.01~~], Family Code;
22 and

23 (2) relevant expert testimony regarding the condition
24 of the mind of the defendant at the time of the offense, including
25 those relevant facts and circumstances relating to family violence
26 that are the basis of the expert's opinion.

27 (h) Article 42.013, Code of Criminal Procedure, is amended

1 to read as follows:

2 Art. 42.013. FINDING OF FAMILY VIOLENCE. In the trial of an
3 offense under Title 5, Penal Code, if the court determines that the
4 offense involved family violence, as defined by Section 71.004
5 [~~71.01~~], Family Code, the court shall make an affirmative finding
6 of that fact and enter the affirmative finding in the judgment of
7 the case.

8 (i) Sections 1(3), (4), and (6), Article 42.141, Code of
9 Criminal Procedure, are amended to read as follows:

10 (3) "Family" has the meaning assigned by Section
11 71.003 [~~71.01~~], Family Code.

12 (4) "Family violence" has the meaning assigned by
13 Section 71.004 [~~71.01~~], Family Code.

14 (6) "Household" has the meaning assigned by Section
15 71.005 [~~71.01~~], Family Code.

16 (j) Article 42.21(c), Code of Criminal Procedure, is
17 amended to read as follows:

18 (c) In this article, "family violence" has the meaning
19 assigned by Section 71.004 [~~71.01~~], Family Code.

20 (k) Article 56.11(g), Code of Criminal Procedure, is
21 amended to read as follows:

22 (g) In this article:

23 (1) "Correctional facility" has the meaning assigned
24 by Section 1.07, Penal Code.

25 (2) "Family violence" has the meaning assigned by
26 Section 71.004 [~~71.01~~], Family Code.

27 (l) Article 59.05(c), Code of Criminal Procedure, is

1 amended to read as follows:

2 (c) It is an affirmative defense to forfeiture under this
3 chapter of property belonging to the spouse of a person whose acts
4 gave rise to the seizure of community property that, because of an
5 act of family violence, as defined by Section 71.004 [~~71.01~~],
6 Family Code, the spouse was unable to prevent the act giving rise to
7 the seizure.

8 (m) Section 262.102(c), Family Code, is amended to read as
9 follows:

10 (c) If, based on the recommendation of or a request by the
11 department, the court finds that child abuse or neglect has
12 occurred and that the child requires protection from family
13 violence by a member of the child's family or household, the court
14 shall render a temporary order under Chapter 71 for the protection
15 of the child. In this subsection, "family violence" has the meaning
16 assigned by Section 71.004 [~~71.01~~].

17 (n) Section 25.2223(1), Government Code, is amended to read
18 as follows:

19 (1) The County Criminal Court No. 5 of Tarrant County shall
20 give preference to cases brought under Title 5, Penal Code,
21 involving family violence as defined by Section 71.004 [~~71.01~~],
22 Family Code, and cases brought under Sections 25.07 and 42.072,
23 Penal Code.

24 (o) Section 92.010(b), Property Code, is amended to read as
25 follows:

26 (b) A landlord may allow an occupancy rate of more than
27 three adult tenants per bedroom:

1 (1) to the extent that the landlord is required by a
2 state or federal fair housing law to allow a higher occupancy rate;
3 or

4 (2) if an adult whose occupancy causes a violation of
5 Subsection (a) is seeking temporary sanctuary from family violence,
6 as defined by Section 71.004 [~~71.01~~], Family Code, for a period that
7 does not exceed one month.

8 ARTICLE 8. CHANGES RELATING TO FINANCE CODE

9 SECTION 8.001. Section 12.107, Finance Code, as amended by
10 Chapters 412 and 699, Acts of the 77th Legislature, Regular
11 Session, 2001, is reenacted to read as follows:

12 Sec. 12.107. CONFLICT OF INTEREST. (a) In this section,
13 "Texas trade association" means a cooperative and voluntarily
14 joined association of business or professional competitors in this
15 state that:

16 (1) is primarily designed to assist its members and
17 its industry or profession in dealing with mutual business or
18 professional problems and in promoting their common interest; and

19 (2) includes business and professional competitors
20 located in this state among its members.

21 (b) A person may not be a department employee if:

22 (1) the person is an officer, employee, or paid
23 consultant of a Texas trade association in an industry regulated by
24 the department; or

25 (2) the person's spouse is an officer, manager, or paid
26 consultant of a Texas trade association in an industry regulated by
27 the department.

1 (c) A person may not act as the general counsel to the
2 department if the person is required to register as a lobbyist under
3 Chapter 305, Government Code, because of the person's activities
4 for compensation on behalf of a profession related to the operation
5 of the department.

6 (d) A department employee may not:

7 (1) purchase an asset owned by a person regulated by
8 the department in the possession of the banking commissioner or
9 other receiver for purposes of liquidation, unless the asset is
10 purchased at public auction or with the approval of the
11 receivership court;

12 (2) except as provided by Subsection (e), become
13 directly or indirectly indebted to a person regulated by the
14 department;

15 (3) except as provided by Subsection (f), become
16 directly or indirectly financially interested in a person regulated
17 by the department; or

18 (4) obtain a product or service from a person
19 regulated by the department, or an affiliate of a person regulated
20 by the department, on terms or rates that are more favorable to the
21 employee than those prevailing at the time for comparable
22 transactions with or involving other similarly situated consumers.

23 (e) Subject to Subsection (d)(4) and except as otherwise
24 provided by employment policies adopted by the banking
25 commissioner, Subsection (d)(2) does not prohibit indebtedness of:

26 (1) a clerical or administrative employee to a person
27 regulated by the department, if the employee does not exercise

1 discretionary decision-making authority with respect to the
2 person; or

3 (2) an employee of the department, other than a
4 clerical or administrative employee, if the indebtedness was
5 permissible when incurred and became prohibited indebtedness under
6 Subsection (d)(2) as a result of employment by the department or a
7 circumstance over which the employee has no control, including a
8 merger, acquisition, purchase or sale of assets, or assumption of
9 liabilities involving a regulated person, if the employee:

10 (A) repays the indebtedness; or

11 (B) does not knowingly participate in or consider
12 any matter concerning the person to whom the employee is indebted.

13 (f) Except as otherwise provided by employment policies
14 adopted by the banking commissioner, Subsection (d)(3) does not
15 prohibit a financial interest of an employee of the department
16 solely because:

17 (1) the employee owns publicly traded shares of a
18 registered investment company (mutual fund) that owns publicly
19 traded equity securities issued by a person regulated by the
20 department; or

21 (2) the spouse of or other person related to the
22 employee is employed by a person regulated by the department and
23 receives equity securities of the person through participation in
24 an employee benefit plan, including an employee stock option,
25 bonus, or ownership plan, if:

26 (A) the sole purpose of the plan is to compensate
27 employees with an ownership interest in the person for services

1 rendered; and

2 (B) the employee does not knowingly participate
3 in or consider any matter concerning the person until the spouse or
4 other related person no longer owns equity securities issued by the
5 person.

6 (g) The banking commissioner may adopt employment policies
7 relating to this section, including policies to:

8 (1) require employees to notify the department of
9 possible conflicts of interest;

10 (2) specify the manner or extent of required recusal;

11 (3) define the circumstances under which adverse
12 employment action may be taken; and

13 (4) impose more restrictive requirements on senior
14 officers of the department for whom recusal is not viable or
15 consistent with the prudent exercise of the department's
16 responsibilities.

17 (h) The finance commission may adopt rules to administer
18 this section, including rules to:

19 (1) codify employment policies of the banking
20 commissioner adopted under Subsection (g);

21 (2) define or further define terms used by this
22 section; and

23 (3) establish limits, requirements, or exemptions
24 other than those specified by this section, except that an exempted
25 employee must be recused from participation in or consideration of
26 all regulatory matters specifically concerning the person to whom
27 the exempted indebtedness is owed or the financial interest

1 relates.

2 (i) Before the 11th day after the date on which an employee
3 begins employment with the department, the employee shall read the
4 conflict-of-interest statutes, rules, and policies applicable to
5 employees of the department and sign a notarized affidavit stating
6 that the employee has read those statutes, rules, and policies.

7 SECTION 8.002. (a) Section 152.102, Finance Code, as
8 amended by Chapters 867 and 1012, Acts of the 77th Legislature,
9 Regular Session, 2001, is reenacted to read as follows:

10 Sec. 152.102. RULES. The commission may adopt rules
11 necessary to enforce and administer this chapter, including rules
12 to:

13 (1) implement and clarify this chapter;

14 (2) establish fees for applications, licenses,
15 notices, and examinations to defray the cost of administering this
16 chapter;

17 (3) create additional exemptions or reduced
18 requirements applicable to specific circumstances, if the
19 exemption or reduction is in the public interest and subject to
20 appropriate requirements or conditions;

21 (4) identify additional permissible investments
22 subject to appropriate investment limits; and

23 (5) protect the interests of check purchasers.

24 (b) Section 152.103, Finance Code, as amended by Chapters
25 867 and 1012, Acts of the 77th Legislature, Regular Session, 2001,
26 is reenacted to read as follows:

27 Sec. 152.103. EXAMINATIONS. (a) The commissioner shall

1 examine each license holder annually, on a periodic basis as
2 required by any rules adopted under this chapter, or more often as
3 the commissioner considers necessary to efficiently enforce this
4 chapter and other applicable law.

5 (b) The commissioner, in the exercise of discretion and as
6 necessary for the efficient enforcement of this chapter or other
7 applicable law, may:

8 (1) examine a license holder at its primary place of
9 business;

10 (2) examine off-site documents that the license holder
11 furnishes to the department; and

12 (3) defer a required examination for not more than six
13 months.

14 (c) Information in a report of an examination under this
15 section is confidential and may be disclosed only under the
16 circumstances provided by Section 152.105.

17 (d) Disclosure of information to the commissioner under an
18 examination request does not waive or otherwise affect or diminish
19 a privilege to which the information is otherwise subject.

20 (c) Section 152.202(b), Finance Code, as amended by
21 Chapters 867 and 1012, Acts of the 77th Legislature, Regular
22 Session, 2001, is reenacted to read as follows:

23 (b) A person who meets the requirements of Subsection (a)(5)
24 is subject to:

25 (1) all provisions of this chapter other than the
26 license requirement of Section 152.201 to the extent the person
27 engages in the business of selling checks; and

1 (2) rules adopted under this chapter to administer and
2 carry out that subsection, including rules to:

3 (A) define a term used in that subsection; and

4 (B) establish limits or requirements on the
5 bonding and net worth of the person and the person's activities
6 relating to the sale of checks other than those specified by that
7 subsection.

8 SECTION 8.003. Section 154.406(a), Finance Code, as amended
9 by Chapters 699 and 867, Acts of the 77th Legislature, Regular
10 Session, 2001, is reenacted to read as follows:

11 (a) After notice and opportunity for hearing, the
12 commissioner may impose an administrative penalty on a person who:

13 (1) violates this chapter or a final order of the
14 commissioner or rule of the commission and does not correct the
15 violation before the 31st day after the date the person receives
16 written notice of the violation from the department; or

17 (2) engages in a pattern of violations, as determined
18 by the commissioner.

19 ARTICLE 9. CHANGES RELATING TO

20 GOVERNMENT CODE

21 SECTION 9.001. (a) Section 23.101(a), Government Code, is
22 amended to correct cross-references to read as follows:

23 (a) The trial courts of this state shall regularly and
24 frequently set hearings and trials of pending matters, giving
25 preference to hearings and trials of the following:

26 (1) temporary injunctions;

27 (2) criminal actions, with the following actions given

1 preference over other criminal actions:

2 (A) criminal actions against defendants who are
3 detained in jail pending trial;

4 (B) criminal actions involving a charge that a
5 person committed an act of family violence, as defined by Section
6 71.004 [~~71.01~~], Family Code; and

7 (C) an offense under:

8 (i) Section 21.11, Penal Code;

9 (ii) Chapter 22, Penal Code, if the victim
10 of the alleged offense is younger than 17 years of age;

11 (iii) Section 25.02, Penal Code, if the
12 victim of the alleged offense is younger than 17 years of age; or

13 (iv) Section 25.06, Penal Code;

14 (3) election contests and suits under the Election
15 Code;

16 (4) orders for the protection of the family under
17 Subtitle B, Title 4 [~~Section 3.581, 71.11, or 71.12~~], Family Code;

18 (5) appeals of final rulings and decisions of the
19 Texas Workers' Compensation Commission and claims under the Federal
20 Employers' Liability Act and the Jones Act; and

21 (6) appeals of final orders of the commissioner of the
22 General Land Office under Section 51.3021, Natural Resources Code.

23 (b) Section 25.2223(1), Government Code, is amended to
24 correct a cross-reference to read as follows:

25 (1) The County Criminal Court No. 5 of Tarrant County shall
26 give preference to cases brought under Title 5, Penal Code,
27 involving family violence as defined by Section 71.004 [~~71.01~~],

1 Family Code, and cases brought under Sections 25.07 and 42.072,
2 Penal Code.

3 (c) Section 41.110, Government Code, is amended to correct a
4 cross-reference to read as follows:

5 Sec. 41.110. TRAINING RELATED TO FAMILY VIOLENCE. The
6 court of criminal appeals shall adopt rules regarding the training
7 of prosecuting attorneys relating to cases involving a charge that
8 a person committed an act of family violence as defined by Section
9 71.004 [~~71.01~~], Family Code.

10 SECTION 9.002. Section 25.0022, Government Code, as amended
11 by Chapters 65, 440, 468, and 820, Acts of the 77th Legislature,
12 Regular Session, 2001, is reenacted and amended to read as follows:

13 Sec. 25.0022. ADMINISTRATION OF STATUTORY PROBATE COURTS.

14 (a) "Statutory probate court" has the meaning assigned by Section
15 3, Texas Probate Code.

16 (b) The judges of the statutory probate courts shall elect
17 from their number a presiding judge of the statutory probate
18 courts. The presiding judge serves a four-year term from the date
19 of qualification as the presiding judge.

20 (c) The presiding judge may perform the acts necessary to
21 carry out this section and to improve the management of the
22 statutory probate courts and the administration of justice.

23 (d) The presiding judge shall:

24 (1) ensure the promulgation of local rules of
25 administration in accordance with policies and guidelines set by
26 the supreme court;

27 (2) advise local statutory probate court judges on

1 case flow management practices and auxiliary court services;

2 (3) perform a duty of a local administrative statutory
3 probate court judge if the local administrative judge does not
4 perform that duty;

5 (4) appoint an assistant presiding judge of the
6 statutory probate courts;

7 (5) call and preside over annual meetings of the
8 judges of the statutory probate courts at a time and place in the
9 state as designated by the presiding judge;

10 (6) call and convene other meetings of the judges of
11 the statutory probate courts as considered necessary by the
12 presiding judge to promote the orderly and efficient administration
13 of justice in the statutory probate courts;

14 (7) study available statistics reflecting the
15 condition of the dockets of the probate courts in the state to
16 determine the need for the assignment of judges under this section;
17 and

18 (8) compare local rules of court to achieve uniformity
19 of rules to the extent practical and consistent with local
20 conditions.

21 (e) In addition to all other compensation, expenses, and
22 perquisites authorized by law, the presiding judge shall be paid
23 for performing the duties of a presiding judge an annual salary
24 equal to the maximum salary authorized by Section 74.051(b) for a
25 presiding judge of an administrative judicial region. The
26 presiding judge is entitled to receive reasonable expenses incurred
27 in administering those duties. The salary and expenses are paid by

1 the counties that have statutory probate courts, apportioned
2 according to the number of statutory probate courts in the county.

3 (f) Each county pays annually to the presiding judge, from
4 fees collected pursuant to Section 118.052(2)(A)(vi), Local
5 Government Code, the amount of the salary apportioned to it as
6 provided by this section and the other expenses authorized by this
7 section. The presiding judge shall place each county's payment of
8 salary and other expenses in an administrative fund, from which the
9 salary and other expenses are paid. The salary shall be paid in
10 equal monthly installments.

11 (g) The assistant presiding judge may assign probate judges
12 as provided by this section and perform the office of presiding
13 judge:

14 (1) on the death or resignation of the presiding judge
15 and until a successor presiding judge is elected; or

16 (2) when the presiding judge is unable to perform the
17 duties of the office because of absence, disqualification,
18 disabling illness, or other incapacity.

19 (h) A judge or a former or retired judge of a statutory
20 probate court may be assigned to hold court in a statutory probate
21 court, county court, or any statutory court exercising probate
22 jurisdiction when:

23 (1) a statutory probate judge requests assignment of
24 another judge to the judge's court;

25 (2) a statutory probate judge is absent, disabled, or
26 disqualified for any reason;

27 (3) a statutory probate judge is present or is trying

1 cases as authorized by the constitution and laws of this state and
2 the condition of the court's docket makes it necessary to appoint an
3 additional judge;

4 (4) the office of a statutory probate judge is vacant;

5 (5) the presiding judge of an administrative judicial
6 district requests the assignment of a statutory probate judge to
7 hear a probate matter in a county court or statutory county court;

8 (6) a motion to recuse the judge of a statutory probate
9 court has been filed;

10 (7) a county court judge requests the assignment of a
11 statutory probate judge to hear a probate matter in the county
12 court; or

13 (8) a local administrative statutory probate court
14 judge requests the assignment of a statutory probate judge to hear a
15 matter in a statutory probate court.

16 (i) A judge assigned under this section has the
17 jurisdiction, powers, and duties given by Sections 5, 5A, 5B, 606,
18 607, and 608, Texas Probate Code, to statutory probate court judges
19 by general law.

20 (j) ~~[To be eligible for assignment under this section a~~
21 ~~former or retired judge of a statutory probate court must:~~

22 ~~[(1) not have been removed from office; and~~

23 ~~[(2) certify under oath to the presiding judge, on a~~
24 ~~form prescribed by the state board of regional judges, that the~~
25 ~~judge did not resign from office after having received notice that~~
26 ~~formal proceedings by the State Commission on Judicial Conduct had~~
27 ~~been instituted as provided by Section 33.022 and before the final~~

1 ~~disposition of the proceedings.~~

2 ~~[(k)]~~ Except as otherwise provided by this section, the
3 salary, compensation, and expenses of a judge assigned under this
4 section are paid in accordance with state law.

5 (k) ~~[(l)]~~ The daily compensation of a former or retired
6 judge for purposes of this section is set at an amount equal to the
7 daily compensation of a judge of a statutory probate court in the
8 county in which the former or retired judge is assigned. A former
9 or retired judge assigned to a county that does not have a statutory
10 probate court shall be paid an amount equal to the daily
11 compensation of a judge of a statutory probate court in the county
12 where the assigned judge was last elected.

13 (l) ~~[(m)]~~ An assigned judge is entitled to receive
14 reasonable and necessary expenses for travel, lodging, and food.
15 The assigned judge shall furnish the presiding judge, for
16 certification, an accounting of those expenses with a statement of
17 the number of days the judge served.

18 (m) ~~[(n)]~~ ~~A judge assigned under this section has the~~
19 ~~jurisdiction, powers, and duties given by Sections 5, 5A, 5B, 606,~~
20 ~~607, and 608, Texas Probate Code, to statutory probate court judges~~
21 ~~by general law.~~

22 ~~[(n)]~~ The presiding judge shall certify to the county judge
23 in the county in which the assigned judge served:

24 (1) the expenses approved under Subsection (l) ~~[(m)]~~;
25 and

26 (2) a determination of the assigned judge's salary.

27 (n) ~~[(o)]~~ A judge who has jurisdiction over a suit pending

1 in one county may, unless a party objects, conduct any of the
2 judicial proceedings except the trial on the merits in a different
3 county.

4 (o) The county in which the assigned judge served shall pay
5 out of the general fund of the county:

6 (1) expenses certified under Subsection (m) [~~(n)~~] to
7 the assigned judge; and

8 (2) the salary certified under Subsection (m) [~~(n)~~] to
9 the county in which the assigned judge serves, or, if the assigned
10 judge is a former or retired judge, to the assigned judge.

11 [~~(p) Except as otherwise provided by this section, the~~
12 ~~salary, compensation, and expenses of a judge assigned under this~~
13 ~~section are paid in accordance with state law.]~~

14 (p) In addition to all compensation and expenses authorized
15 by this section and other law, a judge who is assigned to a court
16 outside the county of the judge's residence is entitled to receive
17 \$25 for each day or fraction of a day served. The county in which
18 the judge served shall pay the additional compensation from the
19 county's general fund on certification by the presiding judge.

20 [~~(q) The daily compensation of a former or retired judge for~~
21 ~~purposes of this section is set at an amount equal to the daily~~
22 ~~compensation of a judge of a statutory probate court in the county~~
23 ~~in which the former or retired judge is assigned. A former or~~
24 ~~retired judge assigned to a county that does not have a statutory~~
25 ~~probate court shall be paid an amount equal to the daily~~
26 ~~compensation of a judge of a statutory probate court in the county~~
27 ~~where the assigned judge was last elected.]~~

1 (q) When required to attend an annual or special meeting
2 prescribed by this section, a judge is entitled to receive, in
3 addition to all other compensation allowed by law, actual and
4 necessary travel expenses incurred going to and returning from the
5 place of the meeting and actual and necessary expenses while
6 attending the meeting. On certification by the presiding judge,
7 the judge's county of residence shall pay the expenses from the
8 county's general fund.

9 ~~[(r) An assigned judge is entitled to receive reasonable and
10 necessary expenses for travel, lodging, and food. The assigned
11 judge shall furnish the presiding judge, for certification, an
12 accounting of those expenses with a statement of the number of days
13 the judge served.]~~

14 (r) Chapter 74 and Subchapter I, Chapter 75, do not apply to
15 the assignment under this section of statutory probate court
16 judges.

17 ~~[(s) The presiding judge shall certify to the county judge in
18 the county in which the assigned judge served:~~

19 ~~[(1) the expenses approved under Subsection (r); and~~

20 ~~[(2) a determination of the assigned judge's salary.]~~

21 (s) The presiding judge may appoint any special or standing
22 committees of statutory probate court judges necessary or desirable
23 for court management and administration.

24 (t) ~~[The county in which the assigned judge served shall pay
25 out of the general fund of the county:~~

26 ~~[(1) expenses certified under Subsection (s) to the
27 assigned judge; and~~

1 ~~[(2) the salary certified under Subsection (s) to the~~
2 ~~county in which the assigned judge serves, or, if the assigned judge~~
3 ~~is a former or retired judge, to the assigned judge.~~

4 ~~[(u) In addition to all compensation and expenses authorized~~
5 ~~by this section and other law, a judge who is assigned to a court~~
6 ~~outside the county of the judge's residence is entitled to receive~~
7 ~~\$25 for each day or fraction of a day served. The county in which~~
8 ~~the judge served shall pay the additional compensation from the~~
9 ~~county's general fund on certification by the presiding judge.~~

10 ~~[(v) When required to attend an annual or special meeting~~
11 ~~prescribed by this section, a judge is entitled to receive, in~~
12 ~~addition to all other compensation allowed by law, actual and~~
13 ~~necessary travel expenses incurred going to and returning from the~~
14 ~~place of the meeting and actual and necessary expenses while~~
15 ~~attending the meeting. On certification by the presiding judge,~~
16 ~~the judge's county of residence shall pay the expenses from the~~
17 ~~county's general fund.~~

18 ~~[(w) The presiding judge may perform the acts necessary to~~
19 ~~carry out the provisions of this section and to improve the~~
20 ~~management of the statutory probate courts and the administration~~
21 ~~of justice.~~

22 ~~[(x) Chapter 74 and Subchapter I, Chapter 75, do not apply to~~
23 ~~the assignment under this section of statutory probate court~~
24 ~~judges.~~

25 ~~[(y)]~~ To be eligible for assignment under this section a
26 former or retired judge of a statutory probate court must:

- 27 (1) not have been removed from office; and

1 (2) certify under oath to the presiding judge, on a
2 form prescribed by the state board of regional judges, that the
3 judge did not resign from office after having received notice that
4 formal proceedings by the State Commission on Judicial Conduct had
5 been instituted as provided in Section 33.022 and before the final
6 disposition of the proceedings.

7 (u) [~~(y)~~] In addition to the eligibility requirements under
8 Subsection (t) [~~(x)~~], to be eligible for assignment under this
9 section in the judge's county of residence, a former or retired
10 judge of a statutory probate court must certify to the presiding
11 judge a willingness not to:

12 (1) appear and plead as an attorney in any court in the
13 judge's county of residence for a period of two years; and

14 (2) accept appointment as a guardian ad litem,
15 guardian of the estate of an incapacitated person, or guardian of
16 the person of an incapacitated person in any court in the judge's
17 county of residence for a period of two years.

18 SECTION 9.0025. Section 25.0023(a), Government Code, is
19 amended to correct a cross-reference to read as follows:

20 (a) The commissioners court shall set the annual salary of
21 each judge of a statutory probate court at an amount that is at
22 least equal to the total annual salary received by a district judge
23 in the county. A district judge's or statutory probate court
24 judge's total annual salary includes contributions and supplements
25 paid by the state or a county, other than contributions received as
26 compensation under Section 25.0022(e) [~~25.0022(c)~~].

27 SECTION 9.003. Section 25.2293(b), Government Code, as

1 amended by Chapter 677, Acts of the 77th Legislature, Regular
2 Session, 2001, and Sections 25.0862(c), (d), and (e), Government
3 Code, as amended by Chapter 904, Acts of the 77th Legislature,
4 Regular Session, 2001, are repealed to conform to Chapter 635, Acts
5 of the 77th Legislature, Regular Session, 2001.

6 SECTION 9.004. Section 403.302(e), Government Code, is
7 amended to correct a reference to read as follows:

8 (e) The total dollar amount deducted in each year as
9 required by Subsection (d)(4) [~~(d)(3)~~] in a reinvestment zone
10 created after January 1, 1999, may not exceed the captured
11 appraised value estimated for that year as required by Section
12 311.011(c)(8), Tax Code, in the reinvestment zone financing plan
13 approved under Section 311.011(d), Tax Code, before September 1,
14 1999. The number of years for which the total dollar amount may be
15 deducted under Subsection (d)(4) [~~(d)(3)~~] shall for any zone,
16 including those created on or before January 1, 1999, be limited to
17 the duration of the zone as specified as required by Section
18 311.011(c)(9), Tax Code, in the reinvestment zone financing plan
19 approved under Section 311.011(d), Tax Code, before September 1,
20 1999. The total dollar amount deducted under Subsection (d)(4)
21 [~~(d)(3)~~] for any zone, including those created on or before January
22 1, 1999, may not be increased by any reinvestment zone financing
23 plan amendments that occur after August 31, 1999. The total dollar
24 amount deducted under Subsection (d)(4) [~~(d)(3)~~] for any zone,
25 including those created on or before January 1, 1999, may not be
26 increased by a change made after August 31, 1999, in the portion of
27 the tax increment retained by the school district.

1 SECTION 9.0045. Section 411.112, Government Code, is
2 amended to correct a cross-reference to read as follows:

3 Sec. 411.112. ACCESS TO CRIMINAL HISTORY RECORD
4 INFORMATION: COMMISSION ON LAW ENFORCEMENT OFFICER STANDARDS AND
5 EDUCATION. The Commission on Law Enforcement Officer Standards and
6 Education is entitled to obtain from the department criminal
7 history record information maintained by the department that
8 relates to a person who is:

9 (1) an applicant for a license under Chapter 1701,
10 Occupations Code [~~415~~]; or

11 (2) the holder of a license under that chapter.

12 SECTION 9.005. (a) Subtitle E, Title 4, Government Code, is
13 amended to codify Article 9102, Revised Statutes, by adding Chapter
14 469 to read as follows:

15 CHAPTER 469. ELIMINATION OF ARCHITECTURAL BARRIERS

16 SUBCHAPTER A. GENERAL PROVISIONS

17 Sec. 469.001. SCOPE OF CHAPTER; PUBLIC POLICY. (a) The
18 intent of this chapter is to ensure that each building and facility
19 subject to this chapter is accessible to and functional for persons
20 with disabilities without causing the loss of function, space, or
21 facilities.

22 (b) This chapter relates to nonambulatory and
23 semiambulatory disabilities, sight disabilities, hearing
24 disabilities, disabilities of coordination, and aging.

25 (c) This chapter is intended to further the policy of this
26 state to encourage and promote the rehabilitation of persons with
27 disabilities and to eliminate, to the extent possible, unnecessary

1 barriers encountered by persons with disabilities whose ability to
2 engage in gainful occupations or to achieve maximum personal
3 independence is needlessly restricted.

4 Sec. 469.002. DEFINITIONS. In this chapter:

5 (1) "Architect" means a person registered as an
6 architect under Chapter 1051, Occupations Code.

7 (2) "Commission" means the Texas Commission of
8 Licensing and Regulation.

9 (3) "Department" means the Texas Department of
10 Licensing and Regulation.

11 (4) "Disability" means, with respect to an individual,
12 a physical or mental impairment that substantially limits one or
13 more major life activities.

14 (5) "Engineer" means a person licensed as an engineer
15 under Chapter 1001, Occupations Code.

16 (6) "Executive director" means the executive director
17 of the department.

18 (7) "Interior designer" means a person registered as
19 an interior designer under Chapter 1053, Occupations Code.

20 (8) "Landscape architect" means a person registered as
21 a landscape architect under Chapter 1052, Occupations Code.

22 Sec. 469.003. APPLICABILITY OF STANDARDS. (a) The
23 standards adopted under this chapter apply to:

24 (1) a building or facility used by the public that is
25 constructed, renovated, or modified, in whole or in part, on or
26 after January 1, 1970, using funds from the state or a county,
27 municipality, or other political subdivision of the state;

1 (2) a building or facility described by this
2 subsection or Subsection (b) that is constructed on a temporary or
3 emergency basis;

4 (3) a building leased for use or occupied, in whole or
5 in part, by the state under a lease or rental agreement entered into
6 on or after January 1, 1972;

7 (4) a privately funded building or facility that is
8 defined as a "public accommodation" by Section 301, Americans with
9 Disabilities Act of 1990 (42 U.S.C. Section 12181), and its
10 subsequent amendments, and that is constructed, renovated, or
11 modified on or after January 1, 1992; and

12 (5) a privately funded building or facility that is
13 defined as a "commercial facility" by Section 301, Americans with
14 Disabilities Act of 1990 (42 U.S.C. Section 12181), and its
15 subsequent amendments, and that is constructed, renovated, or
16 modified on or after September 1, 1993.

17 (b) To the extent there is not a conflict with federal law
18 and it is not beyond the state's regulatory power, the standards
19 adopted under this chapter apply to a building or facility
20 constructed in this state or leased or rented for use by the state
21 using federal money.

22 (c) The standards adopted under this chapter do not apply to
23 a place used primarily for religious rituals within a building or
24 facility of a religious organization.

25 [Sections 469.004-469.050 reserved for expansion]

26 SUBCHAPTER B. ADMINISTRATION AND ENFORCEMENT

27 Sec. 469.051. ADMINISTRATION AND ENFORCEMENT; ASSISTANCE

1 OF OTHER AGENCIES. (a) The commission shall administer and enforce
2 this chapter. The appropriate state rehabilitation agencies and the
3 Governor's Committee on People with Disabilities shall assist the
4 commission in the administration and enforcement of this chapter.

5 (b) In enforcing this chapter, the commission is entitled to
6 the assistance of all appropriate elective or appointive state
7 officials.

8 (c) The commission has all necessary powers to require
9 compliance with the rules adopted under this chapter.

10 Sec. 469.052. ADOPTION OF STANDARDS AND SPECIFICATIONS;
11 RULEMAKING. (a) The commission shall adopt standards,
12 specifications, and other rules under this chapter that are
13 consistent with standards, specifications, and other rules adopted
14 under federal law.

15 (b) The standards and specifications adopted by the
16 commission under this chapter must be consistent in effect with the
17 standards and specifications adopted by the American National
18 Standards Institute or that entity's federally recognized
19 successor in function.

20 (c) The department shall publish the standards and
21 specifications in a readily accessible form for use by interested
22 parties.

23 Sec. 469.053. ADVISORY COMMITTEE; REVIEW OF AND COMMENT ON
24 RULES. (a) The commission shall appoint an advisory committee for
25 the architectural barriers program. The committee shall consist of
26 building professionals and persons with disabilities who are
27 familiar with architectural barrier problems and solutions. The

1 committee shall consist of at least eight members. A majority of
2 the members of the committee must be persons with disabilities.

3 (b) A committee member serves at the will of the commission.

4 (c) A committee member may not receive compensation for
5 service on the committee but is entitled to reimbursement for
6 actual and necessary expenses incurred in performing functions as a
7 member.

8 (d) The committee shall elect a committee member as
9 presiding officer.

10 (e) The committee shall meet at least twice each calendar
11 year at the call of the presiding officer or the commissioner.

12 (f) The committee periodically shall review the rules
13 relating to the architectural barriers program and recommend
14 changes in the rules to the commission and commissioner.

15 (g) The commission must submit all proposed changes to any
16 rule or procedure that relates to the architectural barriers
17 program to the committee for review and comment before adopting or
18 implementing the new or amended rule or procedure.

19 Sec. 469.054. FEES IN GENERAL. (a) The commission shall
20 adopt fees in accordance with Section 51.202, Occupations Code, for
21 performing the commission's functions under this chapter.

22 (b) The owner of a building or facility is responsible for
23 paying a fee charged by the commission for performing a function
24 under this chapter related to the building or facility.

25 (c) The commission may charge a fee for:

26 (1) the review of the plans or specifications of a
27 building or facility;

1 (2) the inspection of a building or facility; and

2 (3) the processing of an application for a variance
3 from accessibility standards for a building or facility.

4 Sec. 469.055. CONTRACT TO PERFORM REVIEW AND INSPECTION.

5 The commission may contract with other state agencies and political
6 subdivisions to perform the commission's review and inspection
7 functions.

8 Sec. 469.056. INTERAGENCY CONTRACTS. A state agency that
9 extends direct services to persons with disabilities may enter into
10 an interagency contract with the department to provide additional
11 funding required to ensure that the service objectives and
12 responsibilities of the agency are achieved through the
13 administration of this chapter.

14 Sec. 469.057. DUTY TO INFORM ABOUT LAW. (a) The department
15 periodically shall inform professional organizations and others,
16 including persons with disabilities, architects, engineers, and
17 other building professionals, of this chapter and its application.

18 (b) Information about the architectural barriers program
19 disseminated by the department must include:

20 (1) the type of buildings and leases subject to this
21 chapter;

22 (2) the procedures for submitting plans and
23 specifications for review;

24 (3) complaint procedures; and

25 (4) the address and telephone number of the
26 department's program under this chapter.

27 (c) The department may enter into cooperative agreements to

1 integrate information about the architectural barriers program
2 with information produced or distributed by other public entities
3 or by private entities.

4 Sec. 469.058. ADMINISTRATIVE PENALTY. (a) The commission
5 may impose an administrative penalty under Subchapter F, Chapter
6 51, Occupations Code, on a building owner for a violation of this
7 chapter or a rule adopted under this chapter.

8 (b) Each day that a violation is not corrected is a separate
9 violation.

10 (c) Before the commission may impose an administrative
11 penalty for a violation described by Subsection (a), the commission
12 must notify a person responsible for the building and allow the
13 person 90 days to bring the building into compliance. The
14 commission may extend the 90-day period if circumstances justify
15 the extension.

16 [Sections 469.059-469.100 reserved for expansion]

17 SUBCHAPTER C. REVIEW AND APPROVAL REQUIRED FOR CERTAIN
18 PLANS AND SPECIFICATIONS

19 Sec. 469.101. SUBMISSION FOR REVIEW AND APPROVAL REQUIRED.

20 All plans and specifications for the construction of or for the
21 substantial renovation or modification of a building or facility
22 must be submitted to the department for review and approval if:

23 (1) the building or facility is subject to this
24 chapter; and

25 (2) the estimated construction cost is at least
26 \$50,000.

27 Sec. 469.102. PROCEDURE FOR SUBMITTING PLANS AND

1 SPECIFICATIONS. (a) The architect, interior designer, landscape
2 architect, or engineer who has overall responsibility for the
3 design of a constructed or reconstructed building or facility shall
4 submit the plans and specifications required under Section 469.101.

5 (b) The person shall submit the plans and specifications not
6 later than the fifth day after the date the person issues the plans
7 and specifications. If plans and specifications are issued on more
8 than one date, the person shall submit the plans and specifications
9 not later than the fifth day after each date the plans and
10 specifications are issued. In computing time under this
11 subsection, a Saturday, Sunday, or legal holiday is not included.

12 (c) The owner of the building or facility may not allow an
13 application to be filed with a local governmental entity for a
14 building construction permit related to the plans and
15 specifications or allow construction, renovation, or modification
16 of the building or facility to begin before the date the plans and
17 specifications are submitted to the department. On application to
18 a local governmental entity for a building construction permit, the
19 owner shall submit to the entity proof that the plans and
20 specifications have been submitted to the department under this
21 chapter.

22 (d) A public official of a political subdivision who is
23 legally authorized to issue building construction permits may not
24 accept an application for a building construction permit for a
25 building or facility subject to Section 469.101 unless the official
26 verifies that the building or facility has been registered with the
27 department as provided by rule.

1 Sec. 469.103. MODIFICATION OF APPROVED PLANS AND
2 SPECIFICATIONS. Approved plans and specifications to which any
3 substantial modification is made shall be resubmitted to the
4 department for review and approval.

5 Sec. 469.104. FAILURE TO SUBMIT PLANS AND SPECIFICATIONS.
6 The commission shall report to the Texas Board of Architectural
7 Examiners, the Texas Board of Professional Engineers, or another
8 appropriate licensing authority the failure of any architect,
9 interior designer, landscape architect, or engineer to submit or
10 resubmit in a timely manner plans and specifications to the
11 department as required by this subchapter.

12 Sec. 469.105. INSPECTION OF BUILDING OR FACILITY. (a) The
13 owner of a building or facility described by Section 469.101 is
14 responsible for having the building or facility inspected for
15 compliance with the standards and specifications adopted by the
16 commission under this chapter not later than the first anniversary
17 of the date the construction or substantial renovation or
18 modification of the building or facility is completed.

19 (b) The inspection must be performed by:

20 (1) the department;

21 (2) an entity with which the commission contracts
22 under Section 469.055; or

23 (3) a person who holds a certificate of registration
24 under Subchapter E.

25 Sec. 469.106. BUILDINGS AND FACILITIES USED TO PROVIDE
26 DIRECT SERVICES TO PERSONS WITH MOBILITY IMPAIRMENTS; STATE LEASES.

27 (a) Notwithstanding any other provision of this chapter, the

1 commission shall require complete compliance with the standards and
2 specifications adopted by the commission under this chapter that
3 apply specifically to a building or facility occupied by a state
4 agency involved in extending direct services to persons with
5 mobility impairments. Those standards and specifications also
6 apply to a building or facility occupied by the Texas
7 Rehabilitation Commission.

8 (b) The department and the Texas Building and Procurement
9 Commission shall ensure compliance with the standards and
10 specifications described by Subsection (a) for a building or
11 facility described by Subsection (a) and leased for an annual
12 amount of more than \$12,000 or built by or for the state.

13 (c) Before a building or facility to be leased by the state
14 for an annual amount of more than \$12,000 is occupied in whole or in
15 part by the state, a person described by Section 469.105(b) must
16 perform an on-site inspection of the building or facility to
17 determine whether it complies with all accessibility standards and
18 specifications adopted under this chapter.

19 (d) If an inspection under Subsection (c) determines that a
20 building or facility does not comply with all applicable standards
21 and specifications, the leasing agency or the Texas Building and
22 Procurement Commission, as applicable, shall cancel the lease
23 unless the lessor brings the building or facility into compliance
24 not later than:

25 (1) the 60th day after the date the person performing
26 the inspection delivers the results of the inspection to the lessor
27 or the lessor's agent; or

1 (2) a later date established by the commission if
2 circumstances justify a later date.

3 Sec. 469.107. REVIEW OF PLANS AND SPECIFICATIONS FOR
4 STRUCTURES NOT SUBJECT TO CHAPTER. The commission may:

5 (1) review plans and specifications and make
6 inspections of a structure not otherwise subject to this chapter;
7 and

8 (2) issue a certification that a structure not
9 otherwise subject to this chapter is free of architectural barriers
10 and in compliance with this chapter.

11 [Sections 469.108-469.150 reserved for expansion]

12 SUBCHAPTER D. WAIVER OR MODIFICATION OF
13 ACCESSIBILITY STANDARDS

14 Sec. 469.151. WAIVER OR MODIFICATION PERMITTED. (a) The
15 commission may waive or modify accessibility standards adopted
16 under this chapter if:

17 (1) the commission considers the application of the
18 standards to be irrelevant to the nature, use, or function of a
19 building or facility subject to this chapter; or

20 (2) the owner of the building or facility for which a
21 request for a waiver or modification is made, or the owner's
22 designated agent, presents proof to the commission that compliance
23 with a specific standard is impractical.

24 (b) If a request is made for waiver or modification of an
25 accessibility standard with respect to a building described by
26 Section 469.003(a)(3) or a building or facility leased or rented
27 for use by the state through the use of federal money, the owner of

1 the building or facility, or the owner's designated agent, must
2 present to the commission the proof required by Subsection (a)(2).

3 Sec. 469.152. WAIVER OR MODIFICATION PROHIBITED. The
4 commission may not waive or modify a standard or specification if:

5 (1) the waiver or modification would significantly
6 impair the acquisition of goods and services by persons with
7 disabilities or substantially reduce the potential for employment
8 of persons with disabilities;

9 (2) the commission knows that the waiver or
10 modification would result in a violation of the Americans with
11 Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) and its
12 subsequent amendments; or

13 (3) the proof presented to the commission under
14 Section 469.151(a)(2) is not adequate.

15 Sec. 469.153. MAINTENANCE OF CERTAIN INFORMATION. All
16 evidence supporting a waiver or modification determination by the
17 commission is a matter of public record and shall be made part of
18 the file system maintained by the department.

19 [Sections 469.154-469.200 reserved for expansion]

20 SUBCHAPTER E. REGISTRATION TO PERFORM

21 REVIEWS OR INSPECTIONS

22 Sec. 469.201. CERTIFICATE OF REGISTRATION REQUIRED. (a) A
23 person may not perform a review or inspection function of the
24 commission on behalf of the owner of a building or facility unless
25 the person holds a certificate of registration issued under this
26 subchapter.

27 (b) This section does not apply to an employee of:

- 1 (1) the department; or
2 (2) an entity with which the commission contracts
3 under Section 469.055.

4 Sec. 469.202. FEES RELATED TO CERTIFICATE OF REGISTRATION.

5 The commission may charge a fee for:

- 6 (1) an application for a certificate of registration;
7 (2) an examination for a certificate of registration;
8 (3) an educational course required for eligibility for
9 a certificate of registration;
10 (4) issuance of an original certificate of
11 registration;
12 (5) a continuing education course required to renew a
13 certificate of registration; and
14 (6) renewal of a certificate of registration.

15 Sec. 469.203. APPLICATION AND ELIGIBILITY. (a) An
16 applicant for a certificate of registration must file with the
17 commission an application on a form prescribed by the executive
18 director.

19 (b) To be eligible for a certificate of registration, an
20 applicant must satisfy any requirements adopted by the executive
21 director by rule, including education and examination
22 requirements.

23 (c) The executive director may recognize, prepare, or
24 administer educational courses required for obtaining a
25 certificate of registration.

26 Sec. 469.204. EXAMINATION. (a) The executive director may
27 administer separate examinations for applicants for certificates

1 of registration to perform review functions, inspection functions,
2 or both review and inspection functions.

3 (b) The executive director shall notify each examinee of the
4 results of the examination not later than the 30th day after the
5 examination date.

6 Sec. 469.205. ISSUANCE OF CERTIFICATE. (a) The executive
7 director shall issue an appropriate certificate of registration to
8 an applicant who meets the requirements for a certificate.

9 (b) The executive director may issue a certificate of
10 registration to perform review functions of the commission,
11 inspection functions of the commission, or both review and
12 inspection functions.

13 Sec. 469.206. CERTIFICATE TERM. The executive director by
14 rule shall specify the term of a certificate of registration.

15 Sec. 469.207. CONTINUING EDUCATION. (a) The executive
16 director by rule may require certificate holders to attend
17 continuing education courses specified by the executive director.

18 (b) The executive director may recognize, prepare, or
19 administer continuing education courses.

20 Sec. 469.208. PERFORMANCE OF REVIEWS AND INSPECTIONS. (a)
21 A certificate holder shall perform a review or inspection function
22 of the commission in a competent and professional manner and in
23 compliance with:

24 (1) standards and specifications adopted by the
25 commission under this chapter; and

26 (2) rules adopted by the executive director under this
27 chapter.

1 (b) A certificate holder may not engage in false or
2 misleading advertising in connection with the performance of review
3 or inspection functions of the commission.

4 (b) Article 9102, Revised Statutes, is repealed.

5 SECTION 9.006. (a) Section 487.051, Government Code, is
6 amended to conform to Section 1, Chapter 435, Acts of the 77th
7 Legislature, Regular Session, 2001, to read as follows:

8 Sec. 487.051. POWERS AND DUTIES. The office shall:

9 (1) develop a rural policy for the state in
10 consultation with local leaders representing all facets of rural
11 community life, academic and industry experts, and state elected
12 and appointed officials with interests in rural communities;

13 (2) work with other state agencies and officials to
14 improve the results and the cost-effectiveness of state programs
15 affecting rural communities through coordination of efforts;

16 (3) develop programs to improve the leadership
17 capacity of rural community leaders;

18 (4) monitor developments that have a substantial
19 effect on rural Texas communities, especially actions of state
20 government, and compile an annual report describing and evaluating
21 the condition of rural communities;

22 (5) administer the federal community development
23 block grant nonentitlement program;

24 (6) administer programs supporting rural health care
25 as provided by Subchapters D-H;

26 (7) perform research to determine the most beneficial
27 and cost-effective ways to improve the welfare of rural

1 communities;

2 (8) ensure that the office qualifies as the state's
3 office of rural health for the purpose of receiving grants from the
4 Office of Rural Health Policy of the United States Department of
5 Health and Human Services under 42 U.S.C. Section 254r; ~~and~~

6 (9) manage the state's Medicare rural hospital
7 flexibility program under 42 U.S.C. Section 1395i-4; and

8 (10) seek state and federal money available for
9 economic development in rural areas for programs under this
10 chapter.

11 (b) Section 106.026(b), Health and Safety Code, as added by
12 Chapter 1221, Acts of the 77th Legislature, Regular Session, 2001,
13 is redesignated as Section 487.056(b), Government Code, and Section
14 487.056, Government Code, is amended to read as follows:

15 Sec. 487.056. REPORT TO LEGISLATURE. (a) Not later than
16 January 1 of each odd-numbered year, the office shall submit a
17 biennial report to the legislature regarding the activities of the
18 office, the activities of the Rural Foundation, and any findings
19 and recommendations relating to rural issues.

20 (b) The office ~~[center]~~ shall obtain information from each
21 county about indigent health care provided in the county and
22 information from each university, medical school, rural community,
23 or rural health care provider that has performed a study relating to
24 rural health care during the biennium. The office ~~[center]~~ shall
25 include the information obtained under this subsection in the
26 office's ~~[center's]~~ report to the legislature.

27 (c) Subchapter H, Chapter 106, Health and Safety Code, as

1 added by Chapter 831, Acts of the 77th Legislature, Regular
2 Session, 2001, is redesignated as Subchapter K, Chapter 487,
3 Government Code, and amended to read as follows:

4 SUBCHAPTER K [~~H~~]. COMMUNITY HEALTHCARE AWARENESS AND
5 MENTORING PROGRAM FOR STUDENTS

6 Sec. 487.451 [~~106.251~~]. DEFINITIONS. In this subchapter:

7 (1) "Health care professional" means:

- 8 (A) an advanced nurse practitioner;
- 9 (B) a dentist;
- 10 (C) a dental hygienist;
- 11 (D) a laboratory technician;
- 12 (E) a licensed vocational nurse;
- 13 (F) a licensed professional counselor;
- 14 (G) a medical radiological technologist;
- 15 (H) an occupational therapist;
- 16 (I) a pharmacist;
- 17 (J) a physical therapist;
- 18 (K) a physician;
- 19 (L) a physician assistant;
- 20 (M) a psychologist;
- 21 (N) a registered nurse;
- 22 (O) a social worker;
- 23 (P) a speech-language pathologist;
- 24 (Q) a veterinarian;
- 25 (R) a chiropractor; and
- 26 (S) another appropriate health care professional

27 identified by the executive committee.

1 (2) "Program" means the community healthcare
2 awareness and mentoring program for students established under this
3 subchapter.

4 (3) "Underserved urban area" means an urban area of
5 this state with a medically underserved population, as determined
6 in accordance with criteria adopted by the board by rule,
7 considering relevant demographic, geographic, and environmental
8 factors.

9 Sec. 487.452 [~~106.252~~]. COMMUNITY HEALTHCARE AWARENESS AND
10 MENTORING PROGRAM FOR STUDENTS. (a) The executive committee shall
11 establish a community healthcare awareness and mentoring program
12 for students to:

13 (1) identify high school students in rural and
14 underserved urban areas who are interested in serving those areas
15 as health care professionals;

16 (2) identify health care professionals in rural and
17 underserved urban areas to act as positive role models, mentors, or
18 reference resources for the interested high school students;

19 (3) introduce interested high school students to the
20 spectrum of professional health care careers through activities
21 such as health care camps and shadowing of health care
22 professionals;

23 (4) encourage a continued interest in service as
24 health care professionals in rural and underserved urban areas by
25 providing mentors and community resources for students
26 participating in training or educational programs to become health
27 care professionals; and

1 (5) provide continuing community-based support for
2 students during the period the students are attending training or
3 educational programs to become health care professionals,
4 including summer job opportunities and opportunities to mentor high
5 school students in the community.

6 (b) In connection with the program, the office [~~center~~]
7 shall establish and maintain an updated medical resource library
8 that contains information relating to medical careers. The office
9 [~~center~~] shall make the library available to school counselors,
10 students, and parents of students.

11 Sec. 487.453 [~~106.253~~]. ADMINISTRATION. (a) The office
12 [~~center~~] shall administer or contract for the administration of the
13 program.

14 (b) The office [~~center~~] may solicit and accept gifts,
15 grants, donations, and contributions to support the program.

16 (c) The office [~~center~~] may administer the program in
17 cooperation with other public and private entities.

18 (d) The office [~~center~~] shall coordinate the program with
19 similar programs, including programs relating to workforce
20 development, scholarships for education, and employment of
21 students, that are administered by other agencies, such as the
22 Texas Workforce Commission and local workforce development boards.

23 Sec. 487.454 [~~106.254~~]. GRANTS; ELIGIBILITY. (a) Subject
24 to available funds, the executive committee shall develop and
25 implement, as a component of the program, a grant program to support
26 employment opportunities in rural and underserved urban areas in
27 this state for students participating in training or educational

1 programs to become health care professionals.

2 (b) In awarding grants under the program, the executive
3 committee shall give first priority to grants to training or
4 educational programs that provide internships to students.

5 (c) To be eligible to receive a grant under the grant
6 program, a person must:

7 (1) apply for the grant on a form adopted by the
8 executive committee;

9 (2) be enrolled or intend to be enrolled in a training
10 or educational program to become a health care professional;

11 (3) commit to practice or work, after licensure as a
12 health care professional, for at least one year as a health care
13 professional in a rural or underserved urban area in this state; and

14 (4) comply fully with any practice or requirements
15 associated with any scholarship, loan, or other similar benefit
16 received by the student.

17 (d) As a condition of receiving a grant under the program
18 the student must agree to repay the amount of the grant, plus a
19 penalty in an amount established by rule of the executive committee
20 not to exceed two times the amount of the grant, if the student
21 becomes licensed as a health care professional and fails to
22 practice or work for at least one year as a health care professional
23 in a rural or underserved urban area in this state.

24 (d) Subchapter H, Chapter 106, Health and Safety Code, as
25 added by Chapter 1112, Acts of the 77th Legislature, Regular
26 Session, 2001, is redesignated as Subchapter L, Chapter 487,
27 Government Code, and amended to read as follows:

1 SUBCHAPTER L [~~H~~]. RURAL PHYSICIAN RECRUITMENT PROGRAM

2 Sec. 487.501 [~~106.251~~]. DEFINITIONS. In this subchapter:

3 (1) "Rural community" means a rural area as defined by
4 the office [~~center~~].

5 (2) "Medical school" has the meaning assigned by
6 Section 61.501, Education Code.

7 Sec. 487.502 [~~106.252~~]. GIFTS AND GRANTS. The office
8 [~~center~~] may accept gifts, grants, and donations to support the
9 rural physician recruitment program.

10 Sec. 487.503 [~~106.253~~]. RURAL PHYSICIAN RECRUITMENT
11 PROGRAM. (a) The office [~~center~~] shall establish a process in
12 consultation with the Texas Higher Education Coordinating Board for
13 selecting a Texas medical school to recruit students from rural
14 communities and encourage them to return to rural communities to
15 practice medicine.

16 (b) The Texas medical school selected by the office [~~center~~]
17 shall:

18 (1) encourage high school and college students from
19 rural communities to pursue a career in medicine;

20 (2) develop a screening process to identify rural
21 students most likely to pursue a career in medicine;

22 (3) establish a rural medicine curriculum;

23 (4) establish a mentoring program for rural students;

24 (5) provide rural students with information about
25 financial aid resources available for postsecondary education; and

26 (6) establish a rural practice incentive program.

27 (e) Subchapter H, Chapter 106, Health and Safety Code, as

1 added by Chapter 435, Acts of the 77th Legislature, Regular
2 Session, 2001, is redesignated as Subchapter M, Chapter 487,
3 Government Code, and amended to read as follows:

4 SUBCHAPTER M [~~H~~]. RURAL COMMUNITIES HEALTH
5 CARE INVESTMENT PROGRAM

6 Sec. 487.551 [~~106.301~~]. DEFINITIONS. In this subchapter:

7 (1) "Health professional" means a person other than a
8 physician who holds a license, certificate, registration, permit,
9 or other form of authorization required by law or a state agency
10 rule that must be obtained by an individual to practice in a health
11 care profession.

12 (2) "Medically underserved community" means a
13 community that:

14 (A) is located in a county with a population of
15 50,000 or less;

16 (B) has been designated under state or federal
17 law as:

18 (i) a health professional shortage area; or

19 (ii) a medically underserved area; or

20 (C) has been designated as a medically
21 underserved community by the office [~~center~~].

22 Sec. 487.552 [~~106.302~~]. ADVISORY PANEL. The office [~~center~~]
23 shall appoint an advisory panel to assist in the office's [~~center's~~]
24 duties under this subchapter. The advisory panel must consist of at
25 least:

26 (1) one representative from the Texas Higher Education
27 Coordinating Board;

1 (2) one representative from the institutions of higher
2 education having degree programs for the health professions
3 participating in the programs under this subchapter;

4 (3) one representative from a hospital in a medically
5 underserved community;

6 (4) one physician practicing in a medically
7 underserved community;

8 (5) one health professional, other than a physician,
9 practicing in a medically underserved community; and

10 (6) one public representative who resides in a
11 medically underserved community.

12 Sec. 487.553 [~~106.303~~]. LOAN REIMBURSEMENT PROGRAM. The
13 executive committee shall establish a program in the office
14 [~~center~~] to assist communities in recruiting health professionals
15 to practice in medically underserved communities by providing loan
16 reimbursement for health professionals who serve in those
17 communities.

18 Sec. 487.554 [~~106.304~~]. STIPEND PROGRAM. (a) The executive
19 committee shall establish a program in the office [~~center~~] to
20 assist communities in recruiting health professionals to practice
21 in medically underserved communities by providing a stipend to
22 health professionals who agree to serve in those communities.

23 (b) A stipend awarded under this section shall be paid in
24 periodic installments.

25 (c) A health professional who participates in the program
26 established under this section must establish an office and
27 residency in the medically underserved area before receiving any

1 portion of the stipend.

2 Sec. 487.555 [~~106.305~~]. CONTRACT REQUIRED. (a) A health
3 professional may receive assistance under this subchapter only if
4 the health professional signs a contract agreeing to provide health
5 care services in a medically underserved community.

6 (b) A student in a degree program preparing to become a
7 health professional may contract with the office [~~center~~] for the
8 loan reimbursement program under Section 487.553 [~~106.303~~] before
9 obtaining the license required to become a health professional.

10 (c) The office [~~center~~] may contract with a health
11 professional for part-time services under the stipend program
12 established under Section 487.554 [~~106.304~~].

13 (d) A health professional who participates in any loan
14 reimbursement program is not eligible for a stipend under Section
15 487.554 [~~106.304~~].

16 (e) A contract under this section must provide that a health
17 professional who does not provide the required services to the
18 community or provides those services for less than the required
19 time is personally liable to the state for:

20 (1) the total amount of assistance the health
21 professional received from the office [~~center~~] and the medically
22 underserved community;

23 (2) interest on the amount under Subdivision (1) at a
24 rate set by the executive committee;

25 (3) the state's reasonable expenses incurred in
26 obtaining payment, including reasonable attorney's fees; and

27 (4) a penalty as established by the executive

1 committee by rule to help ensure compliance with the contract.

2 (f) Amounts recovered under Subsection (e) shall be
3 deposited in the permanent endowment fund for the rural communities
4 health care investment program under Section 487.558 [~~106.308~~].

5 Sec. 487.556 [~~106.306~~]. POWERS AND DUTIES OF OFFICE
6 [~~CENTER~~]. (a) The executive committee shall adopt rules necessary
7 for the administration of this subchapter, including guidelines
8 for:

9 (1) developing contracts under which loan
10 reimbursement or stipend recipients provide services to qualifying
11 communities;

12 (2) identifying the duties of the state, state agency,
13 loan reimbursement or stipend recipient, and medically underserved
14 community under the loan reimbursement or stipend contract;

15 (3) determining a rate of interest to be charged under
16 Section 487.555(e)(2) [~~106.305(e)(2)~~];

17 (4) ensuring that a loan reimbursement or stipend
18 recipient provides access to health services to participants in
19 government-funded health benefits programs in qualifying
20 communities;

21 (5) encouraging the use of telecommunications or
22 telemedicine, as appropriate;

23 (6) prioritizing the provision of loan reimbursements
24 and stipends to health professionals who are not eligible for any
25 other state loan forgiveness, loan repayment, or stipend program;

26 (7) prioritizing the provision of loan reimbursements
27 and stipends to health professionals who are graduates of health

1 professional degree programs in this state;

2 (8) encouraging a medically underserved community
3 served by a loan reimbursement or stipend recipient to contribute
4 to the cost of the loan reimbursement or stipend when making a
5 contribution is feasible; and

6 (9) requiring a medically underserved community
7 served by a loan reimbursement or stipend recipient to assist the
8 office [~~center~~] in contracting with the loan reimbursement or
9 stipend recipient who will serve that community.

10 (b) The executive committee by rule may designate areas of
11 the state as medically underserved communities.

12 (c) The executive committee shall make reasonable efforts
13 to contract with health professionals from a variety of different
14 health professions.

15 Sec. 487.557 [~~106.307~~]. USE OF TELECOMMUNICATION AND
16 TELEMEDICINE. A health professional who participates in a program
17 under this subchapter may not use telecommunication technology,
18 including telemedicine, as the sole or primary method of providing
19 services and may not use telecommunication technology as a
20 substitute for providing health care services in person. A health
21 professional who participates in a program under this subchapter
22 may use telecommunication technology only to supplement or enhance
23 the health care services provided by the health professional.

24 Sec. 487.558 [~~106.308~~]. PERMANENT ENDOWMENT FUND. (a) The
25 permanent endowment fund for the rural communities health care
26 investment program is a special fund in the treasury outside the
27 general revenue fund.

1 (b) The fund is composed of:

2 (1) money transferred to the fund at the direction of
3 the legislature;

4 (2) gifts and grants contributed to the fund;

5 (3) the returns received from investment of money in
6 the fund; and

7 (4) amounts recovered under Section 487.555(e)
8 [~~106.305(e)~~].

9 Sec. 487.559 [~~106.309~~]. ADMINISTRATION AND USE OF FUND.

10 (a) The office [~~center~~] may administer the permanent endowment
11 fund for the rural communities health care investment program. If
12 the office [~~center~~] elects not to administer the fund, the
13 comptroller shall administer the fund.

14 (b) The administrator of the fund shall invest the fund in a
15 manner intended to preserve the purchasing power of the fund's
16 assets and the fund's annual distributions. The administrator may
17 acquire, exchange, sell, supervise, manage, or retain, through
18 procedures and subject to restrictions the administrator considers
19 appropriate, any kind of investment of the fund's assets that
20 prudent investors, exercising reasonable care, skill, and caution,
21 would acquire or retain in light of the purposes, terms,
22 distribution requirements, and other circumstances of the fund then
23 prevailing, taking into consideration the investment of all the
24 assets of the fund rather than a single investment.

25 (c) The comptroller or the office [~~center~~] may solicit and
26 accept gifts and grants to the fund.

27 (d) Annual distributions for the fund shall be determined by

1 the investment and distribution policy adopted by the administrator
2 of the fund for the fund's assets.

3 (e) Except as provided by Subsection (f), money in the fund
4 may not be used for any purpose.

5 (f) The amount available for distribution from the fund,
6 including any gift or grant, may be appropriated only for providing
7 stipends and loan reimbursement under the programs authorized by
8 this subchapter and to pay the expenses of managing the fund. The
9 expenditure of a gift or grant is subject to any limitation or
10 requirement placed on the gift or grant by the donor or granting
11 entity.

12 (g) Sections 403.095 and 404.071, Government Code, do not
13 apply to the fund. Section 404.094(d), Government Code, applies to
14 the fund.

15 Sec. 487.560 [~~106.310~~]. REPORTING REQUIREMENT. The office
16 [~~center~~] shall provide a report on the permanent endowment fund for
17 the rural communities health care investment program to the
18 Legislative Budget Board not later than November 1 of each year. The
19 report must include the total amount of money the office [~~center~~]
20 received from the fund, the purpose for which the money was used,
21 and any additional information that may be requested by the
22 Legislative Budget Board.

23 (f) Section 38.011(j), Education Code, as added by Chapter
24 1418, Acts of the 76th Legislature, Regular Session, 1999, as
25 amended by Chapter 1424, Acts of the 77th Legislature, Regular
26 Session, 2001, and as amended and redesignated as Section
27 38.060(a), Education Code, by Chapter 1420, Acts of the 77th

1 Legislature, Regular Session, 2001, is reenacted to read as
2 follows:

3 (a) This section applies only to a school-based health
4 center serving an area that:

5 (1) is located in a county with a population not
6 greater than 50,000; or

7 (2) has been designated under state or federal law as:

8 (A) a health professional shortage area;

9 (B) a medically underserved area; or

10 (C) a medically underserved community by the
11 Office of Rural Community Affairs.

12 (g) Section 61.0899, Education Code, is amended to read as
13 follows:

14 Sec. 61.0899. ASSISTANCE IN CERTAIN RURAL HEALTH CARE LOAN
15 REIMBURSEMENT AND STIPEND PROGRAMS. The board shall, in cooperation
16 with the Office of Rural Community Affairs [~~Center for Rural Health~~
17 ~~Initiatives~~] and the office's [~~center's~~] advisory panel established
18 under Section 487.552 [~~106.302~~], Government [~~Health and Safety~~]
19 Code, ensure that the board seeks to obtain the maximum amount of
20 funds from any source, including federal funds, to support programs
21 to provide student loan reimbursement or stipends for graduates of
22 degree programs in this state who practice or agree to practice in a
23 medically underserved community.

24 (h) Section 110.001, Health and Safety Code, as added by
25 Chapter 1221, Acts of the 77th Legislature, Regular Session, 2001,
26 is amended to read as follows:

27 Sec. 110.001. CREATION OF FOUNDATION. (a) The Office of

1 Rural Community Affairs [~~Center for Rural Health Initiatives~~] shall
2 establish the Rural Foundation as a nonprofit corporation that
3 complies with the Texas Non-Profit Corporation Act (Article
4 1396-1.01 et seq., Vernon's Texas Civil Statutes), except as
5 otherwise provided by this chapter, and qualifies as an
6 organization exempt from federal income tax under Section
7 501(c)(3), Internal Revenue Code of 1986, as amended.

8 (b) The Office of Rural Community Affairs [~~Center for Rural~~
9 ~~Health Initiatives~~] shall ensure that the Rural Foundation operates
10 independently of any state agency or political subdivision of the
11 state.

12 (i) Section 110.002(c), Health and Safety Code, as added by
13 Chapter 1221, Acts of the 77th Legislature, Regular Session, 2001,
14 is amended to read as follows:

15 (c) The Rural Foundation shall develop and implement
16 policies and procedures that clearly separate the responsibilities
17 and activities of the foundation from the Office of Rural Community
18 Affairs [~~Center for Rural Health Initiatives~~].

19 (j) Section 110.003(a), Health and Safety Code, as added by
20 Chapter 1221, Acts of the 77th Legislature, Regular Session, 2001,
21 is amended to read as follows:

22 (a) The Rural Foundation is governed by a board of five
23 directors appointed by the executive committee of the Office of
24 Rural Community Affairs [~~Center for Rural Health Initiatives~~] from
25 individuals recommended by the executive director of the Office of
26 Rural Community Affairs [~~Center for Rural Health Initiatives~~].

27 (k) Section 110.005(c), Health and Safety Code, as added by

1 Chapter 1221, Acts of the 77th Legislature, Regular Session, 2001,
2 is amended to read as follows:

3 (c) If the executive director of the Office of Rural
4 Community Affairs [~~Center for Rural Health Initiatives~~] has
5 knowledge that a potential ground for removal exists, the executive
6 director shall notify the presiding officer of the board of
7 directors of the Rural Foundation of the potential ground. The
8 presiding officer shall then notify the governor and the attorney
9 general that a potential ground for removal exists. If the
10 potential ground for removal involves the presiding officer, the
11 executive director shall notify the next highest ranking officer of
12 the board of directors, who shall then notify the governor and the
13 attorney general that a potential ground for removal exists.

14 (1) Section 110.010, Health and Safety Code, as added by
15 Chapter 1221, Acts of the 77th Legislature, Regular Session, 2001,
16 is amended to read as follows:

17 Sec. 110.010. MEMORANDUM OF UNDERSTANDING. The Rural
18 Foundation and the Office of Rural Community Affairs [~~Center for~~
19 ~~Rural Health Initiatives~~] shall enter into a memorandum of
20 understanding that:

21 (1) requires the board of directors and staff of the
22 foundation to report to the executive director and executive
23 committee of the Office of Rural Community Affairs [~~Center for~~
24 ~~Rural Health Initiatives~~];

25 (2) allows the Office of Rural Community Affairs
26 [~~Center for Rural Health Initiatives~~] to provide staff functions to
27 the foundation;

1 (3) allows the Office of Rural Community Affairs
2 [~~Center for Rural Health Initiatives~~] to expend funds on the
3 foundation; and

4 (4) outlines the financial contributions to be made to
5 the foundation from funds obtained from grants and other sources.

6 (m) Section 110.011(a), Health and Safety Code, as added by
7 Chapter 1221, Acts of the 77th Legislature, Regular Session, 2001,
8 is amended to read as follows:

9 (a) The Rural Foundation shall maintain financial records
10 and reports independently from those of the Office of Rural
11 Community Affairs [~~Center for Rural Health Initiatives~~].

12 (n) Section 110.012, Health and Safety Code, as added by
13 Chapter 1221, Acts of the 77th Legislature, Regular Session, 2001,
14 is amended to read as follows:

15 Sec. 110.012. REPORT TO OFFICE OF RURAL COMMUNITY AFFAIRS
16 [~~CENTER FOR RURAL HEALTH INITIATIVES~~]. Not later than the 60th day
17 after the last day of the fiscal year, the Rural Foundation shall
18 submit to the Office of Rural Community Affairs [~~Center for Rural~~
19 ~~Health Initiatives~~] a report itemizing all income and expenditures
20 and describing all activities of the foundation during the
21 preceding fiscal year.

22 (o) Section 155.1025(a), Occupations Code, is amended to
23 read as follows:

24 (a) The board shall adopt rules for expediting any
25 application for a license under this subtitle made by a person who
26 is licensed to practice medicine in another state or country and who
27 submits an affidavit with the application stating that:

1 (1) the applicant intends to practice in a rural
2 community, as determined by the Office of Rural Community Affairs
3 [~~Center for Rural Health Initiatives~~]; or

4 (2) the applicant intends to:

5 (A) accept employment with an entity located in a
6 medically underserved area or health professional shortage area,
7 designated by the United States Department of Health and Human
8 Services, and affiliated with or participating in a public
9 university-sponsored graduate medical education program;

10 (B) serve on the faculty of the public
11 university-sponsored graduate medical education program; and

12 (C) engage in the practice of medicine and
13 teaching in a specialty field of medicine that is necessary to
14 obtain or maintain the accreditation of the public
15 university-sponsored graduate medical education program by the
16 Accreditation Council for Graduate Medical Education.

17 (p) The following provisions are repealed:

18 (1) Section 106.025(a), Health and Safety Code, as
19 amended by Section 1, Chapter 435, Acts of the 77th Legislature,
20 Regular Session, 2001;

21 (2) Section 106.029, Health and Safety Code, as added
22 by Section 1, Chapter 1113, Acts of the 77th Legislature, Regular
23 Session, 2001; and

24 (3) Section 106.043(b), Health and Safety Code, as
25 amended by Section 10, Chapter 874, Acts of the 77th Legislature,
26 Regular Session, 2001.

27 SECTION 9.007. Section 501.011, Government Code, is

1 repealed to conform to Section 24.02, Chapter 876, Acts of the 74th
2 Legislature, Regular Session, 1995.

3 SECTION 9.008. (a) Chapter 511, Government Code, is
4 amended to conform to Section 1, Chapter 20, Acts of the 71st
5 Legislature, Regular Session, 1989, by adding Section 511.0097 to
6 read as follows:

7 Sec. 511.0097. FIRE SPRINKLER HEAD INSPECTION. (a) On the
8 request of a sheriff, the commission shall inspect a facility to
9 determine whether there are areas in the facility in which fire
10 sprinkler heads should not be placed as a fire prevention measure.
11 In making a decision under this section, the commission shall
12 consider:

13 (1) the numbers and types of inmates having access to
14 the area;

15 (2) the likelihood that an inmate will attempt to
16 vandalize the fire sprinkler system or commit suicide by hanging
17 from a sprinkler head; and

18 (3) the suitability of other types of fire prevention
19 and smoke dispersal devices available for use in the area.

20 (b) If the commission determines that fire sprinkler heads
21 should not be placed in a particular area within a facility, neither
22 a county fire marshal nor a municipal officer charged with
23 enforcing ordinances related to fire safety may require the sheriff
24 to install sprinkler heads in that area.

25 (b) Section 1, Chapter 20, Acts of the 71st Legislature,
26 Regular Session, 1989, is repealed.

27 SECTION 9.009. Section 531.001(4), Government Code, as

1 amended by Chapters 53, 957, and 1420, Acts of the 77th Legislature,
2 Regular Session, 2001, is reenacted and amended to read as follows:

3 (4) "Health and human services agencies" includes the:

4 (A) Interagency Council on Early Childhood
5 Intervention;

6 (B) Texas Department on Aging;

7 (C) Texas Commission on Alcohol and Drug Abuse;

8 (D) Texas Commission for the Blind;

9 (E) Texas Commission for the Deaf and Hard of
10 Hearing;

11 (F) Texas Department of Health;

12 (G) Texas Department of Human Services;

13 (H) Texas Department of Mental Health and Mental
14 Retardation;

15 (I) Texas Rehabilitation Commission;

16 (J) Department of Protective and Regulatory
17 Services; and

18 (K) Texas Health Care Information Council.

19 SECTION 9.010. Section 531.151(2), Government Code, is
20 amended to correct a reference to read as follows:

21 (2) "Community resource coordination group" means a
22 coordination group established under the memorandum of
23 understanding adopted under Section 531.055 [~~264.003, Family~~
24 ~~Code~~].

25 SECTION 9.011. Section 531.0245(b)(2), Government Code, is
26 amended to correct a reference to read as follows:

27 (2) "Permanency planning" has the meaning assigned by

1 Section 531.151 [~~242.801, Health and Safety Code~~].

2 SECTION 9.012. Section 551.001(3), Government Code, as
3 amended by Chapters 633 and 1004, Acts of the 77th Legislature,
4 Regular Session, 2001, is reenacted and amended to read as follows:

5 (3) "Governmental body" means:

6 (A) a board, commission, department, committee,
7 or agency within the executive or legislative branch of state
8 government that is directed by one or more elected or appointed
9 members;

10 (B) a county commissioners court in the state;

11 (C) a municipal governing body in the state;

12 (D) a deliberative body that has rulemaking or
13 quasi-judicial power and that is classified as a department,
14 agency, or political subdivision of a county or municipality;

15 (E) a school district board of trustees;

16 (F) a county board of school trustees;

17 (G) a county board of education;

18 (H) the governing board of a special district
19 created by law;

20 (I) a local workforce development board created
21 under Section 2308.253; [~~and~~]

22 (J) a nonprofit corporation that is eligible to
23 receive funds under the federal community services block grant
24 program and that is authorized by this state to serve a geographic
25 area of the state; and

26 (K) [~~(J)~~] a nonprofit corporation organized
27 under Chapter 67, Water Code, that provides a water supply or

1 wastewater service, or both, and is exempt from ad valorem taxation
2 under Section 11.30, Tax Code.

3 SECTION 9.013. Section 552.136, Government Code, as added
4 by Chapter 545, Acts of the 77th Legislature, Regular Session,
5 2001, is repealed as duplicative of Section 552.137, Government
6 Code.

7 SECTION 9.014. Section 552.003(1), Government Code, as
8 amended by Chapters 633 and 1004, Acts of the 77th Legislature,
9 Regular Session, 2001, is reenacted and amended to read as follows:

10 (1) "Governmental body":

11 (A) means:

12 (i) a board, commission, department,
13 committee, institution, agency, or office that is within or is
14 created by the executive or legislative branch of state government
15 and that is directed by one or more elected or appointed members;

16 (ii) a county commissioners court in the
17 state;

18 (iii) a municipal governing body in the
19 state;

20 (iv) a deliberative body that has
21 rulemaking or quasi-judicial power and that is classified as a
22 department, agency, or political subdivision of a county or
23 municipality;

24 (v) a school district board of trustees;

25 (vi) a county board of school trustees;

26 (vii) a county board of education;

27 (viii) the governing board of a special

1 district;

2 (ix) the governing body of a nonprofit
3 corporation organized under Chapter 67, Water Code, that provides a
4 water supply or wastewater service, or both, and is exempt from ad
5 valorem taxation under Section 11.30, Tax Code;

6 (x) [~~(ix)~~] a local workforce development
7 board created under Section 2308.253;

8 [~~(x) the part, section, or portion of an~~
9 ~~organization, corporation, commission, committee, institution, or~~
10 ~~agency that spends or that is supported in whole or in part by~~
11 ~~public funds; and]~~

12 (xi) a nonprofit corporation that is
13 eligible to receive funds under the federal community services
14 block grant program and that is authorized by this state to serve a
15 geographic area of the state; and

16 (xii) the part, section, or portion of an
17 organization, corporation, commission, committee, institution, or
18 agency that spends or that is supported in whole or in part by
19 public funds; and

20 (B) does not include the judiciary.

21 SECTION 9.015. Section 602.002, Government Code, as amended
22 by Chapters 514 and 986, Acts of the 77th Legislature, Regular
23 Session, 2001, is reenacted and amended to read as follows:

24 Sec. 602.002. OATH MADE IN TEXAS. An oath made in this
25 state may be administered and a certificate of the fact given by:

26 (1) a judge or a clerk of a municipal court, in a
27 matter pertaining to a duty of the court;

1 (2) a judge, retired judge, senior judge, clerk, or
2 commissioner of a court of record;

3 (3) a justice of the peace or a clerk of a justice
4 court;

5 (4) a notary public;

6 (5) a member of a board or commission created by a law
7 of this state, in a matter pertaining to a duty of the board or
8 commission;

9 (6) a person employed by the Texas Ethics Commission
10 who has a duty related to a report required by Title 15, Election
11 Code, in a matter pertaining to that duty;

12 (7) a county tax assessor-collector or an employee of
13 the county tax assessor-collector if the oath relates to a document
14 that is required or authorized to be filed in the office of the
15 county tax assessor-collector;

16 (8) the secretary of state;

17 (9) an employee of a personal bond office if the oath
18 is required or authorized by Article 17.04, Code of Criminal
19 Procedure;

20 (10) the lieutenant governor;

21 (11) the speaker of the house of representatives;

22 (12) the governor;

23 (13) a legislator or retired legislator;

24 (14) the attorney general;

25 (15) the secretary or clerk of a municipality in a
26 matter pertaining to the official business of the municipality; or

27 (16) [~~(15)~~] a peace officer described by Article 2.12,

1 Code of Criminal Procedure, if:

2 (A) the oath is administered when the officer is
3 engaged in the performance of the officer's duties; and

4 (B) the administration of the oath relates to the
5 officer's duties.

6 SECTION 9.016. Section 822.201(b), Government Code, as
7 amended by Chapters 118, 834, and 1301, Acts of the 77th
8 Legislature, Regular Session, 2001, is reenacted and amended to
9 read as follows:

10 (b) "Salary and wages" as used in Subsection (a) means:

11 (1) normal periodic payments of money for service the
12 right to which accrues on a regular basis in proportion to the
13 service performed;

14 (2) amounts by which the member's salary is reduced
15 under a salary reduction agreement authorized by Chapter 610;

16 (3) amounts that would otherwise qualify as salary and
17 wages under Subdivision (1) but are not received directly by the
18 member pursuant to a good faith, voluntary written salary reduction
19 agreement in order to finance payments to a deferred compensation
20 or tax sheltered annuity program specifically authorized by state
21 law or to finance benefit options under a cafeteria plan qualifying
22 under Section 125 of the Internal Revenue Code of 1986, if:

23 (A) the program or benefit options are made
24 available to all employees of the employer; and

25 (B) the benefit options in the cafeteria plan are
26 limited to one or more options that provide deferred compensation,
27 group health and disability insurance, group term life insurance,

1 dependent care assistance programs, or group legal services plans;

2 (4) performance pay awarded to an employee by a school
3 district as part of a total compensation plan approved by the board
4 of trustees of the district and meeting the requirements of
5 Subsection (e);

6 (5) the benefit replacement pay a person earns under
7 Subchapter H, Chapter 659, as added by Chapter 417, Acts of the 74th
8 Legislature, 1995, except as provided by Subsection (c);

9 (6) stipends paid to teachers in accordance with
10 Section 21.410, 21.411, or 21.412, Education Code;

11 (7) amounts by which the member's salary is reduced or
12 that are deducted from the member's salary as authorized by
13 Subchapter J, Chapter 659; and

14 (8) a merit salary increase made under Section 51.962,
15 Education Code.

16 SECTION 9.017. Section 824.602(a), Government Code, as
17 amended by Chapters 567 and 1229, Acts of the 77th Legislature,
18 Regular Session, 2001, is reenacted and amended to read as follows:

19 (a) Subject to Section 825.506, the retirement system may
20 not, under Section 824.601, withhold a monthly benefit payment if
21 the retiree is employed in a Texas public educational institution:

22 (1) as a substitute only with pay not more than the
23 daily rate of substitute pay established by the employer and, if the
24 retiree is a disability retiree, the employment has not exceeded a
25 total of 90 days in the school year;

26 (2) in a position, other than as a substitute, on no
27 more than a one-half time basis for the month;

1 (3) in one or more positions on as much as a full-time
2 basis, if the work occurs in not more than six months of a school
3 year that begins after the retiree's effective date of retirement;

4 (4) in a position, other than as a substitute, on no
5 more than a one-half time basis for no more than 90 days in the
6 school year, if the retiree is a disability retiree;

7 (5) in a position as a classroom teacher on as much as
8 a full-time basis, if the retiree has retired under Section
9 824.202(a), is certified under Subchapter B, Chapter 21, Education
10 Code, to teach the subjects assigned, is teaching in an acute
11 shortage area as determined by the board of trustees of a school
12 district as provided by Subsection (m), and has been separated from
13 service with all public schools for at least 12 months; ~~[or]~~

14 (6) in a position as a principal, including as an
15 assistant principal, on as much as a full-time basis, if the retiree
16 has retired under Section 824.202(a) without reduction for
17 retirement at an early age, is certified under Subchapter B,
18 Chapter 21, Education Code, to serve as a principal, and has been
19 separated from service with all public schools for at least 12
20 months; or ~~[or]~~

21 (7) ~~[(6)]~~ as a bus driver for a school district on as
22 much as a full-time basis, if the retiree has retired under Section
23 824.202(a).

24 SECTION 9.018. Section 1372.0321, Government Code, as added
25 by Chapters 1367 and 1420, Acts of the 77th Legislature, Regular
26 Session, 2001, is reenacted to read as follows:

27 Sec. 1372.0321. PRIORITIES FOR RESERVATIONS AMONG ISSUERS

1 OF QUALIFIED RESIDENTIAL RENTAL PROJECT ISSUES. (a) In granting
2 reservations to issuers of qualified residential rental project
3 issues, the board shall:

4 (1) give first priority to:

5 (A) projects in which 100 percent of the
6 residential units in the projects are under the restriction that
7 the maximum allowable rents are an amount equal to 30 percent of 50
8 percent of the area median family income minus an allowance for
9 utility costs authorized under the federal low-income housing tax
10 credit program; and

11 (B) on or after June 1, projects that are located
12 in counties, metropolitan statistical areas, or primary
13 metropolitan statistical areas with area median family incomes at
14 or below the statewide median family income established by the
15 United States Department of Housing and Urban Development;

16 (2) give second priority to projects in which 100
17 percent of the residential units in the projects are under the
18 restriction that the maximum allowable rents are an amount equal to
19 30 percent of 60 percent of the area median family income minus an
20 allowance for utility costs authorized under the federal low-income
21 housing tax credit program; and

22 (3) give third priority to any other qualified
23 residential rental project.

24 (b) The board may not reserve a portion of the state ceiling
25 for a first or second priority project described by Subsection (a)
26 unless the board receives evidence that an application has been
27 filed with the Texas Department of Housing and Community Affairs

1 for the low-income housing tax credit that is available for
2 multifamily transactions that are at least 51 percent financed by
3 tax-exempt private activity bonds.

4 SECTION 9.0185. The heading of Subchapter D, Chapter 1508,
5 Government Code, is amended to read as follows:

6 SUBCHAPTER D. BONDS FOR PARKS AND RECREATIONAL FACILITIES IN
7 MUNICIPALITIES WITH POPULATION OF 1.9 [~~1.2~~] MILLION OR MORE

8 SECTION 9.019. Section 2054.003, Government Code, as
9 amended by Chapters 1272 and 1422, Acts of the 77th Legislature,
10 Regular Session, 2001, is reenacted and amended to correct a
11 reference to read as follows:

12 Sec. 2054.003. DEFINITIONS. In this chapter:

13 (1) "Application" means a separately identifiable and
14 interrelated set of information resources technologies that allows
15 a state agency to manipulate information resources to support
16 specifically defined objectives.

17 (2) "Board" means the governing board of the
18 Department of Information Resources.

19 (3) "Data processing" means information technology
20 equipment and related services designed for the automated storage,
21 manipulation, and retrieval of data by electronic or mechanical
22 means. The term includes:

23 (A) central processing units, front-end
24 processing units, miniprocessors, microprocessors, and related
25 peripheral equipment such as data storage devices, document
26 scanners, data entry equipment, terminal controllers, data
27 terminal equipment, computer-based word processing systems other

1 than memory typewriters, and equipment and systems for computer
2 networks;

3 (B) all related services, including feasibility
4 studies, systems design, software development, and time-sharing
5 services, provided by state employees or others; and

6 (C) the programs and routines used to employ and
7 control the capabilities of data processing hardware, including
8 operating systems, compilers, assemblers, utilities, library
9 routines, maintenance routines, applications, and computer
10 networking programs.

11 (4) "Department" means the Department of Information
12 Resources.

13 (5) "Electronic government project" means the use of
14 information technology to improve the access to and delivery of a
15 government service, including a project that uses the Internet as a
16 primary tool for the delivery of a government service or
17 performance of a governmental function.

18 (6) "Executive director" means the executive director
19 of the Department of Information Resources.

20 (7) "Information resources" means the procedures,
21 equipment, and software that are employed, designed, built,
22 operated, and maintained to collect, record, process, store,
23 retrieve, display, and transmit information, and associated
24 personnel including consultants and contractors.

25 (8) "Information resources technologies" means data
26 processing and telecommunications hardware, software, services,
27 supplies, personnel, facility resources, maintenance, and

1 training.

2 (9) "Local government" means a county, municipality,
3 special district, school district, junior college district, or
4 other political subdivision of the state.

5 (10) "Major information resources project" means:

6 (A) any information resources technology project
7 identified in a state agency's biennial operating plan whose
8 development costs exceed \$1 million and that:

9 (i) requires one year or longer to reach
10 operations status;

11 (ii) involves more than one state agency;

12 or

13 (iii) substantially alters work methods of
14 state agency personnel or the delivery of services to clients; and

15 (B) any information resources technology project
16 designated by the legislature in the General Appropriations Act as
17 a major information resources project.

18 (11) "Program management office" means the Electronic
19 Government Program Management Office created by the department
20 under Chapter 2055 to manage projects.

21 (12) "Project" means a program to provide information
22 resources technologies support to functions within or among
23 elements of a state agency, that ideally is characterized by
24 well-defined parameters, specific objectives, common benefits,
25 planned activities, a scheduled completion date, and an established
26 budget with a specified source of funding.

27 (13) "State agency" means a department, commission,

1 board, office, council, authority, or other agency in the executive
2 or judicial branch of state government that is created by the
3 constitution or a statute of this state, including a university
4 system or institution of higher education as defined by Section
5 61.003, Education Code.

6 (14) "Telecommunications" means any transmission,
7 emission, or reception of signs, signals, writings, images, or
8 sounds of intelligence of any nature by wire, radio, optical, or
9 other electromagnetic systems. The term includes all facilities
10 and equipment performing those functions that are owned, leased, or
11 used by state agencies and branches of state government.

12 (15) "TexasOnline" means the electronic government
13 project or its successor project implemented under Subchapter I
14 [~~Section 2054.062 or its successor statute~~].

15 SECTION 9.0195. (a) This section amends Chapter 2165,
16 Government Code, to more accurately reflect the law from which the
17 chapter was derived.

18 (b) Section 2165.001, Government Code, is amended to read as
19 follows:

20 Sec. 2165.001. CUSTODIANSHIP OF STATE PROPERTY. (a) The
21 commission:

22 (1) has charge and control of all public [~~state~~]
23 buildings, grounds, and property;

24 (2) is the custodian of all state personal property;
25 and

26 (3) is responsible for the proper care and protection
27 of state property from damage, intrusion, or improper use.

1 (b) The commission may:

2 (1) allocate space in a public [~~state~~] building to the
3 departments of state government for uses authorized by law; and

4 (2) make repairs to a public [~~state~~] building
5 necessary to accommodate uses of the space in the building.

6 (c) Section 2165.002, Government Code, is amended to read as
7 follows:

8 Sec. 2165.002. EXCEPTIONS TO COMMISSION CHARGE AND CONTROL.
9 The provisions of Section 2165.001 relating to charge and control
10 of public [~~state~~] buildings and grounds do not apply to buildings
11 and grounds of:

12 (1) an institution of higher education, as defined by
13 Section 61.003, Education Code;

14 (2) a state agency to which control has been
15 specifically committed by law; and

16 (3) a state agency:

17 (A) that has demonstrated ability and competence
18 to maintain and control its buildings and grounds; and

19 (B) to which the commission delegates that
20 authority.

21 (d) Section 2165.051(a), Government Code, is amended to
22 read as follows:

23 (a) The commission shall frequently and at regular
24 intervals inspect all public [~~state~~] buildings and property to
25 remain constantly informed of the condition of the buildings and
26 property.

27 (e) Section 2165.054, Government Code, is amended to read as

1 follows:

2 Sec. 2165.054. PLANS OF PUBLIC [~~STATE~~] BUILDINGS. The
3 commission shall prepare and keep in its offices a copy of the plans
4 of each public [~~state~~] building under its charge, and plans of each
5 building's improvements, showing the exact location of all
6 electrical wiring and all water, gas, and sewage pipes.

7 SECTION 9.020. (a) Section 2175.001(1), Government Code, as
8 amended by Chapters 1004 and 1422, Acts of the 77th Legislature,
9 Regular Session, 2001, is reenacted to read as follows:

10 (1) "Assistance organization" means:

11 (A) a nonprofit organization that provides
12 educational, health, or human services or assistance to homeless
13 individuals;

14 (B) a nonprofit food bank that solicits,
15 warehouses, and redistributes edible but unmarketable food to an
16 agency that feeds needy families and individuals;

17 (C) Texas Partners of the Americas, a registered
18 agency with the Advisory Committee on Voluntary Foreign Aid, with
19 the approval of the Partners of the Alliance office of the Agency
20 for International Development;

21 (D) a group, including a faith-based group, that
22 enters into a financial or nonfinancial agreement with a health or
23 human services agency to provide services to that agency's clients;

24 (E) a local workforce development board created
25 under Section 2308.253;

26 (F) a nonprofit organization approved by the
27 Supreme Court of Texas that provides free legal services for

1 low-income households in civil matters; and

2 (G) the Texas Boll Weevil Eradication
3 Foundation, Inc., or an entity designated by the commissioner of
4 agriculture as the foundation's successor entity under Section
5 74.1011, Agriculture Code.

6 (b) Subchapter C, Chapter 2175, Government Code, as amended
7 by Chapters 816, 1272, and 1422, Acts of the 77th Legislature,
8 Regular Session, 2001, is reenacted to read as follows:

9 SUBCHAPTER C. DIRECT TRANSFER OR OTHER DISPOSITION
10 OF SURPLUS OR SALVAGE PROPERTY BY STATE AGENCY

11 Sec. 2175.121. APPLICABILITY. This subchapter applies only
12 to surplus or salvage property to which Subchapter D does not apply.

13 Sec. 2175.122. STATE AGENCY NOTICE TO COMMISSION AND
14 COMPTROLLER. A state agency that determines it has surplus or
15 salvage property shall inform the commission and the comptroller of
16 the property's kind, number, location, condition, original cost or
17 value, and date of acquisition.

18 Sec. 2175.123. DETERMINING METHOD OF DISPOSAL. (a) Based
19 on the condition of the property, a state agency shall determine
20 whether the property is:

21 (1) surplus property that should be offered for
22 transfer under Section 2175.125 or sold to the public; or

23 (2) salvage property.

24 (b) The state agency shall inform the commission and the
25 comptroller of its determination.

26 Sec. 2175.124. COMMISSION NOTICE TO OTHER ENTITIES. After
27 a determination that a state agency has surplus property, the

1 commission shall inform other state agencies, political
2 subdivisions, and assistance organizations of the comptroller's
3 website that lists surplus property that is available for sale.

4 Sec. 2175.1245. ADVERTISING ON COMPTROLLER WEBSITE. Not
5 later than the second day after the date the comptroller receives
6 notice from a state agency that the agency has surplus property, the
7 comptroller shall advertise the property's kind, number, location,
8 and condition on the comptroller's website.

9 Sec. 2175.125. DIRECT TRANSFER. During the 10 business
10 days after the date the property is posted on the comptroller's
11 website, a state agency, political subdivision, or assistance
12 organization may coordinate directly with the reporting state
13 agency for a transfer of the property at a price established by the
14 reporting agency.

15 Sec. 2175.126. NOTICE OF TRANSFER TO COMPTROLLER;
16 ADJUSTMENT OF APPROPRIATIONS AND PROPERTY ACCOUNTING RECORDS;
17 REMOVAL FROM WEBSITE. (a) If property is transferred to a state
18 agency, the participating agencies shall report the transaction to
19 the comptroller.

20 (b) On receiving notice under this section, the comptroller
21 shall, if necessary:

22 (1) debit and credit the proper appropriations; and

23 (2) adjust state property accounting records.

24 (c) Not later than the second day after the date the
25 comptroller receives notice under Subsection (a), the comptroller
26 shall remove the property from the list of surplus property for sale
27 on the comptroller's website.

1 Sec. 2175.127. PRIORITY FOR TRANSFER TO STATE AGENCY.
2 During the 10 business days after the date the property is posted on
3 the comptroller's website, a transfer to a state agency has
4 priority over any other transfer under rules adopted by the
5 commission.

6 Sec. 2175.128. DISPOSITION OF DATA PROCESSING EQUIPMENT.

7 (a) If a disposition of a state agency's surplus or salvage data
8 processing equipment is not made under Section 2175.125 or
9 2175.184, the state agency shall transfer the equipment to a school
10 district or open-enrollment charter school in this state under
11 Subchapter C, Chapter 32, Education Code, or to the Texas
12 Department of Criminal Justice. The state agency may not collect a
13 fee or other reimbursement from the district, the school, or the
14 Texas Department of Criminal Justice for the surplus or salvage
15 data processing equipment.

16 (b) If a disposition of the surplus or salvage data
17 processing equipment of a state eleemosynary institution or an
18 institution or agency of higher education is not made under other
19 law, the institution or agency shall transfer the equipment to a
20 school district or open-enrollment charter school in this state
21 under Subchapter C, Chapter 32, Education Code, or to the Texas
22 Department of Criminal Justice. The institution or agency may not
23 collect a fee or other reimbursement from the district, the school,
24 or the Texas Department of Criminal Justice for the surplus or
25 salvage data processing equipment.

26 Sec. 2175.129. DISPOSITION BY COMPETITIVE BIDDING,
27 AUCTION, OR DIRECT SALE. (a) If a disposition of a state agency's

1 surplus property is not made under Section 2175.125, the commission
2 shall:

3 (1) sell the property by competitive bid, auction, or
4 direct sale to the public, including a sale using an Internet
5 auction site; or

6 (2) delegate to the state agency authority to sell the
7 property by competitive bid, auction, or direct sale to the public,
8 including a sale using an Internet auction site.

9 (b) The commission or a state agency to which authority is
10 delegated under Subsection (a)(2) or under Section 2175.065 shall
11 determine which method of sale shall be used based on the method
12 that is most advantageous to the state under the circumstances. The
13 commission shall adopt rules establishing guidelines for making
14 that determination.

15 (c) In using an Internet auction site to sell surplus
16 property under this section, the commission or state agency shall
17 post the property on the site for at least 10 days.

18 Sec. 2175.130. DISPOSITION BY DIRECT SALE TO PUBLIC. (a)
19 If the commission or a state agency to which authority is delegated
20 under Section 2175.129(a)(2) or 2175.065 determines that selling
21 the property by competitive bid or auction, including a sale using
22 an Internet auction site, would not maximize the resale value of the
23 property to the state, the commission or agency may sell surplus or
24 salvage property directly to the public.

25 (b) The commission, in cooperation with the state agency
26 that declared the property as surplus, or a state agency to which
27 authority is delegated under Section 2175.129(a)(2) or 2175.065

1 shall set a fixed price for the property.

2 Sec. 2175.131. PURCHASER'S FEE. (a) The commission or a
3 state agency disposing of property by a method other than direct
4 transfer under this subchapter shall collect a fee from the
5 purchaser.

6 (b) The commission or state agency shall set the fee at an
7 amount that is:

8 (1) sufficient to recover costs associated with the
9 sale; and

10 (2) at least two percent but not more than 12 percent
11 of sale proceeds.

12 Sec. 2175.132. ADVERTISEMENT OF SALE. If the value of an
13 item or a lot of property to be sold is estimated to be more than
14 \$5,000, the commission or the state agency authorized to sell the
15 property shall advertise the sale at least once in at least one
16 newspaper of general circulation in the vicinity in which the
17 property is located.

18 Sec. 2175.133. REPORTING SALE; PROPERTY ACCOUNTING
19 ADJUSTMENT. (a) On the sale by the commission of surplus or
20 salvage property, the commission shall report the property sold and
21 the sale price to the state agency that declared the property as
22 surplus or salvage.

23 (b) A state agency for which surplus or salvage property is
24 sold or that sells surplus or salvage property under authority of
25 the commission shall report the sale and amount of sale proceeds to
26 the comptroller.

27 (c) If property reported under this section is on the state

1 property accounting system, the comptroller shall remove the
2 property from the property accounting records.

3 Sec. 2175.134. PROCEEDS OF SALE. (a) Proceeds from the
4 sale of surplus or salvage property, less the cost of advertising
5 the sale, the cost of selling the surplus or salvage property,
6 including the cost of auctioneer services, and the amount of the fee
7 collected under Section 2175.131, shall be deposited to the credit
8 of the appropriate appropriation item of the state agency for which
9 the sale was made.

10 (b) The portion of sale proceeds equal to the cost of
11 advertising the sale and the cost of selling the surplus or salvage
12 property, including the cost of auctioneer services, shall be
13 deposited in the state treasury to the credit of the appropriation
14 item of the commission or other state agency from which the costs
15 were paid.

16 Sec. 2175.135. PURCHASER'S TITLE. A purchaser of surplus
17 property at a sale conducted under Section 2175.129 or 2175.130
18 obtains good title to the property if the purchaser has in good
19 faith complied with:

- 20 (1) the conditions of the sale; and
21 (2) applicable commission rules.

22 (c) The heading of Subchapter D, Chapter 2175, Government
23 Code, as amended by Chapter 816, Acts of the 77th Legislature,
24 Regular Session, 2001, is amended to read as follows:

25 SUBCHAPTER E [~~D~~]. DESTRUCTION OF SURPLUS OR SALVAGE PROPERTY

26 (d) The heading of Subchapter E, Chapter 2175, Government
27 Code, as amended by Chapter 816, Acts of the 77th Legislature,

1 Regular Session, 2001, is amended to read as follows:

2 SUBCHAPTER F [~~F~~]. EXCEPTIONS

3 (e) The heading of Subchapter F, Chapter 2175, Government
4 Code, as amended by Chapter 816, Acts of the 77th Legislature,
5 Regular Session, 2001, is amended to read as follows:

6 SUBCHAPTER G [~~F~~]. FEDERAL SURPLUS PROPERTY

7 (f) Section 32.102(a), Education Code, is amended to
8 correct a cross-reference to read as follows:

9 (a) As provided by this subchapter, a school district or
10 open-enrollment charter school may transfer to a student enrolled
11 in the district or school:

12 (1) any data processing equipment donated to the
13 district or school, including equipment donated by:

14 (A) a private donor; or

15 (B) a state eleemosynary institution or a state
16 agency under Section 2175.128 [~~2175.126~~], Government Code;

17 (2) any equipment purchased by the district or school,
18 to the extent consistent with Section 32.105; and

19 (3) any surplus or salvage equipment owned by the
20 district or school.

21 (g) Section 403.271(a), Government Code, is amended to
22 correct a cross-reference to read as follows:

23 (a) This subchapter applies to:

24 (1) all personal property belonging to the state; and

25 (2) real and personal property acquired by or
26 otherwise under the jurisdiction of the state under 40 U.S.C.
27 Section 483c, 484(j), or 484(k), and Subchapter G [~~F~~], Chapter

1 2175.

2 (h) Section 2155.084(c), Government Code, is amended to
3 correct a cross-reference to read as follows:

4 (c) In negotiating purchases of goods from the federal
5 government under this section or under Subchapter G [~~F~~], Chapter
6 2175, the commission or the governing body of the institution of
7 higher education may waive the requirement of a bidder's bond and
8 performance bond that otherwise would be required.

9 (i) Section 2175.302, Government Code, is amended to
10 correct a cross-reference to read as follows:

11 Sec. 2175.302. EXCEPTION FOR ELEEMOSYNARY INSTITUTIONS.
12 Except as provided by Section 2175.128(b) [~~2175.126(b)~~], this
13 chapter does not apply to the disposition of surplus or salvage
14 property by a state eleemosynary institution.

15 SECTION 9.021. Section 2260.007, Government Code, as added
16 by Chapters 1158, 1272, and 1422, Acts of the 77th Legislature,
17 Regular Session, 2001, is reenacted to read as follows:

18 Sec. 2260.007. LEGISLATIVE AUTHORITY RETAINED;
19 INTERPRETATION OF CHAPTER. (a) Notwithstanding Section 2260.005,
20 the legislature retains the authority to deny or grant a waiver of
21 immunity to suit against a unit of state government by statute,
22 resolution, or any other means the legislature may determine
23 appropriate.

24 (b) This chapter does not and may not be interpreted to:

25 (1) divest the legislature of the authority to grant
26 permission to sue a unit of state government on the terms,
27 conditions, and procedures that the legislature may specify in the

1 measure granting the permission;

2 (2) require that the legislature, in granting or
3 denying permission to sue a unit of state government, comply with
4 this chapter; or

5 (3) limit in any way the effect of a legislative grant
6 of permission to sue a unit of state government unless the grant
7 itself provides that this chapter may have that effect.

8 SECTION 9.022. (a) Chapter 3101, Government Code, is
9 amended to codify Article 6139k, Revised Statutes, as added by
10 Chapter 31, Acts of the 77th Legislature, Regular Session, 2001, by
11 adding Section 3101.012 to read as follows:

12 Sec. 3101.012. TEJANO MUSIC HALL OF FAME. The Tejano Music
13 Hall of Fame Museum in Alice is the official Texas Tejano Music Hall
14 of Fame.

15 (b) Article 6139k, Revised Statutes, as added by Chapter 31,
16 Acts of the 77th Legislature, Regular Session, 2001, is repealed.

17 SECTION 9.023. (a) Subtitle A, Title 11, Government Code,
18 is amended to codify Article 6144i, Revised Statutes, by adding
19 Chapter 3103 to read as follows:

20 CHAPTER 3103. STATE OF TEXAS ANNIVERSARY REMEMBRANCE DAY MEDAL

21 Sec. 3103.001. DEFINITIONS. In this chapter:

22 (1) "Committee" means the State of Texas Anniversary
23 Remembrance Day Medal Committee.

24 (2) "Medal" means the State of Texas Anniversary
25 Remembrance Day Medal.

26 Sec. 3103.002. CRITERIA FOR AWARDING MEDAL. The medal
27 shall be awarded to a resident of this state who:

1 (1) in an exemplary fashion, has displayed a
2 commitment to the pioneer service principles of duty, honor, faith,
3 and devotion to country and family; and

4 (2) through public service, has made outstanding
5 contributions in pioneering the development, growth, and progress
6 of this state.

7 Sec. 3103.003. AWARDS COMMITTEE. (a) The committee
8 consists of seven members appointed by the governor with the advice
9 and consent of the senate.

10 (b) Committee members serve staggered six-year terms, with
11 the terms of two or three members expiring on January 31 of each
12 odd-numbered year.

13 (c) A vacancy on the committee shall be filled for the
14 unexpired term in the same manner as other appointments to the
15 committee.

16 (d) The governor shall appoint the presiding officer to
17 serve in that capacity for one year.

18 (e) Members of the committee serve without pay.

19 Sec. 3103.004. RECOMMENDATIONS FOR MEDAL. (a) A person may
20 submit to the committee a letter recommending for the medal a person
21 in public service if the person submitting the letter:

22 (1) has personal knowledge of outstanding
23 contributions the recommended person has made in pioneering the
24 development, growth, and progress of this state; and

25 (2) believes that those contributions merit awarding
26 the medal.

27 (b) The letter of recommendation:

1 (1) must describe the outstanding contributions on
2 which the recommendation is based; and

3 (2) may include statements, affidavits, records,
4 photographs, or other material to support and amplify stated facts.

5 Sec. 3103.005. AWARDING MEDAL. (a) The committee shall
6 review and may approve the recommendations submitted under Section
7 3103.004.

8 (b) The committee may award not more than five medals in a
9 calendar year, except as provided by Section 3103.006 and except
10 that, in exceptional circumstances, the legislature by concurrent
11 resolution may authorize the governor to award one or more
12 additional medals.

13 Sec. 3103.006. AWARDING MEDAL FOR PRIOR SERVICE. The
14 committee may award not more than 10 medals for achievement
15 attained or service provided before September 1, 2001.

16 Sec. 3103.007. PRESENTATION OF MEDAL. The governor shall
17 present the medal to a recipient in an appropriate ceremony.

18 Sec. 3103.008. DESIGN AND MANUFACTURE. (a) The medal must
19 display the bust of James Pinckney Henderson with the words "State
20 of Texas Anniversary Remembrance Day Medal" engraved in a circle.

21 (b) The governor shall approve the design and authorize the
22 casting of the medal in any manner considered appropriate.

23 (c) The medal shall be suspended from a ribbon of red,
24 white, and blue and worn around the recipient's neck.

25 Sec. 3103.009. FUNDING. The STAR Day Foundation shall
26 provide for funding the medal through pledges, gifts, donations, or
27 endowments from private sources on the foundation's behalf.

(b) Article 6144i, Revised Statutes, is repealed.

SECTION 9.024. (a) Subtitle A, Title 11, Government Code, is amended to codify Article 6139k, Revised Statutes, as added by Chapter 1412, Acts of the 77th Legislature, Regular Session, 2001, by adding Chapter 3104 to read as follows:

CHAPTER 3104. POET LAUREATE, STATE MUSICIAN, AND STATE ARTISTS

Sec. 3104.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Commission on the Arts.

(2) "Committee" means the Texas Poet Laureate, State Musician, and State Artist Committee.

Sec. 3104.002. DESIGNATING POET LAUREATE, STATE MUSICIAN, AND STATE ARTISTS. (a) The committee shall designate:

(1) a Texas poet laureate;

(2) a Texas state musician;

(3) a Texas state artist for two-dimensional media;

and

(4) a Texas state artist for three-dimensional media.

(b) The committee shall choose the poet laureate, state musician, and state artists from a list of persons submitted by the commission.

Sec. 3104.003. COMMITTEE. (a) The committee consists of seven members as follows:

(1) one member appointed by the governor;

(2) three members appointed by the lieutenant governor; and

1 (3) three members appointed by the speaker of the
2 house of representatives.

3 (b) One member appointed by the speaker of the house of
4 representatives must be the chair of the house committee that has
5 primary jurisdiction over arts and cultural matters. That member
6 serves on the committee as an additional duty of the chairmanship.

7 (c) A member of the committee who is not a member of the
8 legislature serves a two-year term that expires on October 1 of each
9 odd-numbered year.

10 (d) The committee shall select a presiding officer from
11 among its members.

12 Sec. 3104.004. RECOMMENDATIONS FROM COMMISSION. (a) The
13 commission shall solicit nominations from the arts and cultural
14 community for the poet laureate, state musician, and state artists.
15 The commission shall use the commission's Texas Cultural & Arts
16 Network, the media, public meetings, newsletters, the Writer's
17 League of Texas, and other appropriate methods to distribute
18 information about the nomination process.

19 (b) The commission may receive submissions from poets,
20 musicians, and artists who have been nominated.

21 (c) The commission may assemble a group of artists,
22 musicians, writers, scholars, and other appropriate experts in the
23 fields of literature, music, and visual arts to:

24 (1) review the submissions from the nominated poets,
25 musicians, and artists; and

26 (2) provide advice and recommendations to the
27 commission on who should be considered for designation as poet

1 laureate, state musician, and state artists.

2 (d) For each category specified under Section 3104.002(a),
3 the commission shall submit to the committee a list of not more than
4 10 persons who are worthy of being designated for that category.

5 Sec. 3104.005. DESIGNATION CEREMONY. The governor and
6 members of the committee shall honor the persons designated as poet
7 laureate, state musician, and state artists in a ceremony at the
8 Capitol.

9 Sec. 3104.006. DURATION OF DESIGNATION. A person
10 designated as the poet laureate, the state musician, or a state
11 artist retains the designation for one year from the date of the
12 designation ceremony.

13 Sec. 3104.007. PAY AND EMOLUMENTS PROHIBITED. A person
14 designated as the poet laureate, the state musician, or a state
15 artist does not receive any pay or emolument based on that
16 designation.

17 (b) Article 6139k, Revised Statutes, as added by Chapter
18 1412, Acts of the 77th Legislature, Regular Session, 2001, is
19 repealed.

20 ARTICLE 10. CHANGES RELATING TO HEALTH AND SAFETY CODE

21 SECTION 10.001. (a) Section 105.006, Health and Safety
22 Code, is amended to conform to Chapter 872, Acts of the 72nd
23 Legislature, Regular Session, 1991, to read as follows:

24 Sec. 105.006. ASSISTANCE OF OTHER STATE AGENCIES. The
25 Texas Higher Education Coordinating Board or the department may
26 require the assistance of other state agencies or institutions of
27 higher education for the development of, or the collection of data

1 for, any report.

2 (b) Chapter 872, Acts of the 72nd Legislature, Regular
3 Session, 1991, is repealed.

4 SECTION 10.002. Section 242.071, Health and Safety Code, as
5 amended by Chapters 619 and 1284, Acts of the 77th Legislature,
6 Regular Session, 2001, is reenacted to read as follows:

7 Sec. 242.071. AMELIORATION OF VIOLATION. (a) In lieu of
8 demanding payment of an administrative penalty assessed under
9 Section 242.066, the commissioner may, in accordance with this
10 section, allow the person to use, under the supervision of the
11 department, any portion of the penalty to ameliorate the violation
12 or to improve services, other than administrative services, in the
13 institution affected by the violation.

14 (b) The department shall offer amelioration to a person for
15 a charged violation if the department determines that the violation
16 does not constitute immediate jeopardy to the health and safety of
17 an institution resident.

18 (c) The department may not offer amelioration to a person
19 if:

20 (1) the person has been charged with a violation which
21 is subject to correction under Section 242.0665; or

22 (2) the department determines that the charged
23 violation constitutes immediate jeopardy to the health and safety
24 of an institution resident.

25 (d) The department shall offer amelioration to a person
26 under this section not later than the 10th day after the date the
27 person receives from the department a final notification of

1 assessment of administrative penalty that is sent to the person
2 after an informal dispute resolution process but before an
3 administrative hearing under Section 242.068.

4 (e) A person to whom amelioration has been offered must file
5 a plan for amelioration not later than the 45th day after the date
6 the person receives the offer of amelioration from the department.
7 In submitting the plan, the person must agree to waive the person's
8 right to an administrative hearing under Section 242.068 if the
9 department approves the plan.

10 (f) At a minimum, a plan for amelioration must:

11 (1) propose changes to the management or operation of
12 the institution that will improve services to or quality of care of
13 residents of the institution;

14 (2) identify, through measurable outcomes, the ways in
15 which and the extent to which the proposed changes will improve
16 services to or quality of care of residents of the institution;

17 (3) establish clear goals to be achieved through the
18 proposed changes;

19 (4) establish a timeline for implementing the proposed
20 changes; and

21 (5) identify specific actions necessary to implement
22 the proposed changes.

23 (g) A plan for amelioration may include proposed changes to:

24 (1) improve staff recruitment and retention;

25 (2) offer or improve dental services for residents;

26 and

27 (3) improve the overall quality of life for residents.

1 (h) The department may require that an amelioration plan
2 propose changes that would result in conditions that exceed the
3 requirements of this chapter or the rules adopted under this
4 chapter.

5 (i) The department shall approve or deny an amelioration
6 plan not later than the 45th day after the date the department
7 receives the plan. On approval of a person's plan, the department
8 shall deny a pending request for a hearing submitted by the person
9 under Section 242.067(d).

10 (j) The department may not offer amelioration to a person:

11 (1) more than three times in a two-year period; or

12 (2) more than one time in a two-year period for the
13 same or similar violation.

14 (k) In this section, "immediate jeopardy to health and
15 safety" means a situation in which immediate corrective action is
16 necessary because the institution's noncompliance with one or more
17 requirements has caused, or is likely to cause, serious injury,
18 harm, impairment, or death to a resident receiving care in the
19 institution.

20 SECTION 10.003. Section 242.0975(c), Health and Safety
21 Code, as added by Chapters 723 and 1248, Acts of the 77th
22 Legislature, Regular Session, 2001, is reenacted to read as
23 follows:

24 (c) The department shall set the fee on the basis of the
25 number of beds in assisted living facilities required to pay the fee
26 and in an amount necessary to provide not more than \$500,000 in the
27 assisted living facility trust fund.

1 SECTION 10.004. Section 242.501(a), Health and Safety Code,
2 as amended by Chapters 919 and 1224, Acts of the 77th Legislature,
3 Regular Session, 2001, is reenacted and amended to read as follows:

4 (a) The department by rule shall adopt a statement of the
5 rights of a resident. The statement must be consistent with Chapter
6 102, Human Resources Code, but shall reflect the unique
7 circumstances of a resident at an institution. At a minimum, the
8 statement of the rights of a resident must address the resident's
9 constitutional, civil, and legal rights and the resident's right:

10 (1) to be free from abuse and exploitation;

11 (2) to safe, decent, and clean conditions;

12 (3) to be treated with courtesy, consideration, and
13 respect;

14 (4) to not be subjected to discrimination based on
15 age, race, religion, sex, nationality, or disability and to
16 practice the resident's own religious beliefs;

17 (5) to place in the resident's room an electronic
18 monitoring device that is owned and operated by the resident or
19 provided by the resident's guardian or legal representative;

20 (6) to privacy, including privacy during visits and
21 telephone calls;

22 (7) to complain about the institution and to organize
23 or participate in any program that presents residents' concerns to
24 the administrator of the institution;

25 (8) to have information about the resident in the
26 possession of the institution maintained as confidential;

27 (9) to retain the services of a physician the resident

1 chooses, at the resident's own expense or through a health care
2 plan, and to have a physician explain to the resident, in language
3 that the resident understands, the resident's complete medical
4 condition, the recommended treatment, and the expected results of
5 the treatment, including reasonably expected effects, side
6 effects, and risks associated with psychoactive medications;

7 (10) to participate in developing a plan of care, to
8 refuse treatment, and to refuse to participate in experimental
9 research;

10 (11) to a written statement or admission agreement
11 describing the services provided by the institution and the related
12 charges;

13 (12) to manage the resident's own finances or to
14 delegate that responsibility to another person;

15 (13) to access money and property that the resident
16 has deposited with the institution and to an accounting of the
17 resident's money and property that are deposited with the
18 institution and of all financial transactions made with or on
19 behalf of the resident;

20 (14) to keep and use personal property, secure from
21 theft or loss;

22 (15) to not be relocated within the institution,
23 except in accordance with standards adopted by the department under
24 Section 242.403;

25 (16) to receive visitors;

26 (17) to receive unopened mail and to receive
27 assistance in reading or writing correspondence;

1 (18) to participate in activities inside and outside
2 the institution;

3 (19) to wear the resident's own clothes;

4 (20) to discharge himself or herself from the
5 institution unless the resident is an adjudicated mental
6 incompetent;

7 (21) to not be discharged from the institution except
8 as provided in the standards adopted by the department under
9 Section 242.403; ~~and~~

10 (22) to be free from any physical or chemical
11 restraints imposed for the purposes of discipline or convenience,
12 and not required to treat the resident's medical symptoms; and

13 (23) ~~[(22)]~~ to receive information about prescribed
14 psychoactive medication from the person prescribing the medication
15 or that person's designee, to have any psychoactive medications
16 prescribed and administered in a responsible manner, as mandated by
17 Section 242.505, and to refuse to consent to the prescription of
18 psychoactive medications.

19 SECTION 10.005. Section 242.801, Health and Safety Code, as
20 amended by Chapter 114, Acts of the 77th Legislature, Regular
21 Session, 2001, is repealed to conform to the repeal of Subchapter O,
22 Chapter 242, Health and Safety Code, by Chapter 590, Acts of the
23 77th Legislature, Regular Session, 2001.

24 SECTION 10.006. Section 366.076, Health and Safety Code, as
25 amended by Chapter 965, Acts of the 77th Legislature, Regular
26 Session, 2001, is repealed as duplicative of Section 37.006(b),
27 Water Code.

1 SECTION 10.007. Section 371.043(b), Health and Safety Code,
2 is repealed to conform to the repeal of Section 371.043 by Chapter
3 1072, Acts of the 75th Legislature, Regular Session, 1997.

4 SECTION 10.008. (a) Section 382.037, Health and Safety
5 Code, as amended and renumbered as Section 382.202 of the Health and
6 Safety Code by Chapter 1075, Acts of the 77th Legislature, Regular
7 Session, 2001, and as amended by Chapter 965, Acts of the 77th
8 Legislature, Regular Session, 2001, is reenacted as Section
9 382.202, Health and Safety Code, and amended to read as follows:

10 Sec. 382.202. VEHICLE EMISSIONS INSPECTION AND MAINTENANCE
11 PROGRAM. (a) The commission by resolution may request the Public
12 Safety Commission to establish a vehicle emissions inspection and
13 maintenance program under Subchapter F, Chapter 548,
14 Transportation Code, in accordance with this section and rules
15 adopted under this section. The commission by rule may establish,
16 implement, and administer a program requiring emissions-related
17 inspections of motor vehicles to be performed at inspection
18 facilities consistent with the requirements of the federal Clean
19 Air Act (42 U.S.C. Section 7401 et seq.) and its subsequent
20 amendments.

21 (b) The commission by rule may require emissions-related
22 inspection and maintenance of land vehicles, including testing
23 exhaust emissions, examining emission control devices and systems,
24 verifying compliance with applicable standards, and other
25 requirements as provided by federal law or regulation.

26 (c) If the program is established under this section, the
27 commission:

1 (1) shall adopt vehicle emissions inspection and
2 maintenance requirements for certain areas as required by federal
3 law or regulation; and

4 (2) shall adopt vehicle emissions inspection and
5 maintenance requirements for counties not subject to a specific
6 federal requirement in response to a formal request by resolutions
7 adopted by the county and the most populous municipality within the
8 county according to the most recent federal decennial census.

9 (d) On adoption of a resolution by the commission and after
10 proper notice, the Department of Public Safety of the State of Texas
11 shall implement a system that requires, as a condition of obtaining
12 a safety inspection certificate issued under Subchapter C, Chapter
13 548, Transportation Code, in a county that is included in a vehicle
14 emissions inspection and maintenance program under Subchapter F of
15 that chapter, that the vehicle, unless the vehicle is not covered by
16 the system, be annually or biennially inspected under the vehicle
17 emissions inspection and maintenance program as required by the
18 state's air quality state implementation plan. The Department of
19 Public Safety shall implement such a system when it is required by
20 any provision of federal or state law, including any provision of
21 the state's air quality state implementation plan.

22 (e) The commission may assess fees for vehicle
23 emissions-related inspections performed at inspection or
24 reinspection facilities authorized and licensed by the commission
25 in amounts reasonably necessary to recover the costs of developing,
26 administering, evaluating, and enforcing the vehicle emissions
27 inspection and maintenance program. If the program relies on

1 privately operated or contractor-operated inspection or
2 reinspection stations, an appropriate portion of the fee as
3 determined by commission rule may be retained by the station owner,
4 contractor, or operator to recover the cost of performing the
5 inspections and provide for a reasonable margin of profit. Any
6 portion of the fee collected by the commission is a Clean Air Act
7 fee under Section 382.0622.

8 (f) The commission:

9 (1) shall, no less frequently than biennially, review
10 the fee established under Subsection (e); and

11 (2) may use part of the fee collected under Subsection
12 (e) to provide incentives, including financial incentives, for
13 participation in the testing network to ensure availability of an
14 adequate number of testing stations.

15 (g) The commission shall:

16 (1) use part of the fee collected under Subsection (e)
17 to fund low-income vehicle repair assistance, retrofit, and
18 accelerated vehicle retirement programs created under Section
19 382.209; and

20 (2) to the extent practicable, distribute available
21 funding created under Subsection (e) to participating counties in
22 reasonable proportion to the amount of fees collected under
23 Subsection (e) in those counties or in the regions in which those
24 counties are located.

25 (h) Regardless of whether different tests are used for
26 different vehicles as determined under Section 382.205, the
27 commission may:

1 (1) set fees assessed under Subsection (e) at the same
2 rate for each vehicle in a county or region; and

3 (2) set different fees for different counties or
4 regions.

5 (i) The commission shall examine the efficacy of annually
6 inspecting diesel vehicles for compliance with applicable federal
7 emission standards, compliance with an opacity or other
8 emissions-related standard established by commission rule, or both
9 and shall implement that inspection program if the commission
10 determines the program would minimize emissions. For purposes of
11 this subsection, a diesel engine not used in a vehicle registered
12 for use on public highways is not a diesel vehicle.

13 (j) The commission may not establish, before January 1,
14 2004, vehicle fuel content standards to provide for vehicle fuel
15 content for clean motor vehicle fuels for any area of the state that
16 are more stringent or restrictive than those standards promulgated
17 by the United States Environmental Protection Agency applicable to
18 that area except as provided in Subsection (o) unless the fuel is
19 specifically authorized by the legislature.

20 (k) The commission by rule may establish classes of vehicles
21 that are exempt from vehicle emissions inspections and by rule may
22 establish procedures to allow and review petitions for the
23 exemption of individual vehicles, according to criteria
24 established by commission rule. Rules adopted by the commission
25 under this subsection must be consistent with federal law. The
26 commission by rule may establish fees to recover the costs of
27 administering this subsection. Fees collected under this

1 subsection shall be deposited to the credit of the clean air
2 account, an account in the general revenue fund, and may be used
3 only for the purposes of this section.

4 (1) Except as provided by this subsection, a person who
5 sells or transfers ownership of a motor vehicle for which a vehicle
6 emissions inspection certificate has been issued is not liable for
7 the cost of emission control system repairs that are required for
8 the vehicle subsequently to receive an emissions inspection
9 certificate. This subsection does not apply to repairs that are
10 required because emission control equipment or devices on the
11 vehicle were removed or tampered with before the sale or transfer of
12 the vehicle.

13 (m) The commission may conduct audits to determine
14 compliance with this section.

15 (n) The commission may suspend the emissions inspection
16 program as it applies to pre-1996 vehicles in an affected county if:

17 (1) the department certifies that the number of
18 pre-1996 vehicles in the county subject to the program is 20 percent
19 or less of the number of those vehicles that were in the county on
20 September 1, 2001; and

21 (2) an alternative testing methodology that meets or
22 exceeds United States Environmental Protection Agency requirements
23 is available.

24 (o) The commission may not require the distribution of Texas
25 low-emission diesel as described in revisions to the State
26 Implementation Plan for the control of ozone air pollution prior to
27 February 1, 2005.

1 (p) The commission may consider, as an alternative method of
2 compliance with Subsection (o), fuels to achieve equivalent
3 emissions reductions.

4 (b) Section 382.019(a), Health and Safety Code, is amended
5 to correct a cross-reference to read as follows:

6 (a) Except as provided by Section 382.202(j) [~~382.037(g)~~],
7 or another provision of this chapter, the commission by rule may
8 provide requirements concerning the particular method to be used to
9 control and reduce emissions from engines used to propel land
10 vehicles.

11 (c) Section 382.208(a), Health and Safety Code, is amended
12 to correct a cross-reference to read as follows:

13 (a) Except as provided by Section 382.202(j) [~~382.037(g)~~]
14 or another provision of this chapter, the commission shall
15 coordinate with federal, state, and local transportation planning
16 agencies to develop and implement transportation programs and other
17 measures necessary to demonstrate and maintain attainment of
18 national ambient air quality standards and to protect the public
19 from exposure to hazardous air contaminants from motor vehicles.

20 (d) Section 548.405(i), Transportation Code, is amended to
21 correct a cross-reference to read as follows:

22 (i) The department shall develop, by September 1, 2002, a
23 penalty schedule consisting of suspensions and revocations based on
24 the severity and frequency of offenses committed in the emissions
25 testing of motor vehicles under Section 382.202 [~~Chapter 382.037~~],
26 Health and Safety Code, and Chapter 548, Subchapter F, of this code
27 [~~Transportation Code~~].

1 SECTION 10.009. Section 775.013(a), Health and Safety Code,
2 as amended by Chapters 886 and 1333, Acts of the 77th Legislature,
3 Regular Session, 2001, is reenacted and amended to read as follows:

4 (a) The petition prescribed by Section 775.011 or 775.012
5 must show:

6 (1) that the district is to be created and is to
7 operate under Article III, Section 48-e, Texas Constitution;

8 (2) the name of the proposed district;

9 (3) the proposed district's boundaries as designated
10 by metes and bounds or other sufficient legal description;

11 (4) the services that the proposed district will
12 provide;

13 (5) that the creation of the proposed district
14 complies with Sections 775.020 and 775.0205; ~~[and]~~

15 (6) the mailing address of each petitioner; and

16 (7) ~~[(6)]~~ the name of each municipality whose consent
17 must be obtained under Section 775.014.

18 SECTION 10.010. Chapter 916, Acts of the 62nd Legislature,
19 Regular Session, 1971 (Article 4477-1a, Vernon's Texas Civil
20 Statutes), is repealed to conform to the former repeal of that law
21 by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991.

22 SECTION 10.011. Section 10, Chapter 372, Acts of the 71st
23 Legislature, Regular Session, 1989, is repealed as an executed
24 temporary provision.

25 ARTICLE 10A. INSURANCE CODE UPDATE

26 PART 1. CHANGES RELATING TO TITLE 2, INSURANCE CODE

27 SECTION 10A.001. Section 36.152(d), Insurance Code, is

1 amended to conform more closely to the source law from which it was
2 derived to read as follows:

3 (d) The [~~Subject to Section 36.102(d), the~~] commissioner
4 must personally sign and issue the subpoena.

5 SECTION 10A.002. Section 38.254, Insurance Code, is amended
6 by adding a section heading to read as follows:

7 Sec. 38.254. UTILIZATION AND COST DATA TO COMMISSIONER.

8 PART 2. CHANGES RELATING TO TITLE 6, INSURANCE CODE

9 SECTION 10A.201. Section 802.003, Insurance Code, is
10 amended to more accurately reflect the source law from which it was
11 derived to read as follows:

12 Sec. 802.003. FILING DATE OF ANNUAL STATEMENT DELIVERED BY
13 POSTAL SERVICE. Except as otherwise specifically provided, for an
14 annual statement that is required to be filed in the offices of the
15 commissioner and that is delivered by the United States Postal
16 Service to the offices of the commissioner after the date on which
17 the annual statement is required to be filed, the date of filing is
18 the date of:

19 (1) [~~the date of~~] the postal service postmark stamped
20 on the cover in which the document is mailed; or

21 (2) any other evidence of mailing authorized by the
22 postal service reflected on the cover in which the document is
23 mailed.

24 SECTION 10A.202. (a) Section 823.154(c), Insurance Code,
25 is amended to conform to Section 1, Chapter 241, Acts of the 77th
26 Legislature, Regular Session, 2001, to read as follows:

27 (c) A statement filed under this section must be filed not

1 later than the 60th day before the proposed effective date of the
2 acquisition or change of control and is subject to public
3 inspection at the office of the commissioner.

4 (b) Section 1, Chapter 241, Acts of the 77th Legislature,
5 Regular Session, 2001, is repealed.

6 SECTION 10A.203. (a) Section 823.157, Insurance Code, is
7 amended to conform to Section 2, Chapter 241, Acts of the 77th
8 Legislature, Regular Session, 2001, to read as follows:

9 Sec. 823.157. APPROVAL OF ACQUISITION OF CONTROL. (a) The
10 commissioner shall approve or deny an acquisition or change of
11 control for which a statement is filed under Section 823.154 not
12 later than the 60th day after the date the statement required by
13 that section is filed. The 60-day period may be waived by the person
14 filing the statement and the domestic insurer. On the request of
15 either the person filing the statement or the domestic insurer, the
16 commissioner shall hold [~~unless, after~~] a hearing on a denial.

17 (b) In considering whether to approve or deny, the
18 commissioner shall consider whether [~~finds that~~]:

19 (1) immediately on the acquisition or change of
20 control the domestic insurer would not be able to satisfy the
21 requirements for the issuance of a new certificate of authority to
22 write the line or lines of insurance for which the insurer holds a
23 certificate of authority;

24 (2) the effect of the acquisition or change of control
25 would be substantially to lessen competition in a line or
26 subclassification lines of insurance in this state or tend to
27 create a monopoly in a line or subclassification lines of insurance

1 in this state;

2 (3) the financial condition of the acquiring person
3 may jeopardize the financial stability of the domestic insurer or
4 prejudice the interest of the domestic insurer's policyholders;

5 (4) the acquiring person has a plan or proposal to
6 liquidate the domestic insurer or cause the insurer to declare
7 dividends or make distributions, sell any of its assets,
8 consolidate or merge with any person, make a material change in its
9 business or corporate structure or management, or enter into a
10 material agreement, arrangement, or transaction of any kind with
11 any person, and that the plan or proposal is unfair, prejudicial,
12 hazardous, or unreasonable to the insurer's policyholders and not
13 in the public interest;

14 (5) due to a lack of competence, trustworthiness,
15 experience, and integrity of the persons who would control the
16 operation of the domestic insurer, the [~~merger or~~] acquisition or
17 change of control would not be in the interest of the insurer's
18 policyholders and the public; or

19 (6) the [~~merger or~~] acquisition or change of control
20 would violate the law of this or another state or the United States.

21 (b) Section 823.158, Insurance Code, is repealed to conform
22 to Section 2, Chapter 241, Acts of the 77th Legislature, Regular
23 Session, 2001.

24 (c) Section 823.159(a), Insurance Code, is amended to
25 conform to Section 2, Chapter 241, Acts of the 77th Legislature,
26 Regular Session, 2001, to read as follows:

27 (a) A hearing under Section 823.152, 823.157, or 823.160

1 shall be held not later than the 60th [~~45th~~] day after the date of
2 the denial [~~the statement is filed under Section 823.154~~].

3 (d) Section 823.159(d), Insurance Code, is amended to more
4 closely conform to the source law from which it was derived to read
5 as follows:

6 (d) The acquiring person has the burden of providing
7 sufficient competent evidence for the commissioner to make the
8 findings required under Section 823.157 [~~823.158~~].

9 (e) Section 2, Chapter 241, Acts of the 77th Legislature,
10 Regular Session, 2001, is repealed.

11 SECTION 10A.204. (a) Section 843.002(24), Insurance Code,
12 is amended to conform to Section 4, Chapter 719, Acts of the 77th
13 Legislature, Regular Session, 2001, to read as follows:

14 (24) "Provider" means:

15 (A) a person, other than a physician, who is
16 licensed or otherwise authorized to provide a health care service
17 in this state, including:

18 (i) a chiropractor, registered nurse,
19 pharmacist, optometrist, [~~or~~] registered optician, or
20 acupuncturist; or

21 (ii) a pharmacy, hospital, or other
22 institution or organization;

23 (B) a person who is wholly owned or controlled by
24 a provider or by a group of providers who are licensed or otherwise
25 authorized to provide the same health care service; or

26 (C) a person who is wholly owned or controlled by
27 one or more hospitals and physicians, including a

1 physician-hospital organization.

2 (b) Section 4, Chapter 719, Acts of the 77th Legislature,
3 Regular Session, 2001, is repealed.

4 SECTION 10A.205. Section 843.002, Insurance Code, is
5 amended to conform to Sections 1 and 6, Chapter 550, Acts of the
6 77th Legislature, Regular Session, 2001, by adding Subdivisions
7 (30) and (31) to read as follows:

8 (30) "Delegated entity" means an entity, other than a
9 health maintenance organization authorized to engage in business
10 under this chapter, that by itself, or through subcontracts with
11 one or more entities, undertakes to arrange for or provide medical
12 care or health care to an enrollee in exchange for a predetermined
13 payment on a prospective basis and that accepts responsibility for
14 performing on behalf of the health maintenance organization a
15 function regulated by this chapter or Chapter 20A. The term does
16 not include:

17 (A) an individual physician; or

18 (B) a group of employed physicians, practicing
19 medicine under one federal tax identification number, whose total
20 claims paid to providers not employed by the group constitute less
21 than 20 percent of the group's total collected revenue computed on a
22 calendar year basis.

23 (31) "Limited provider network" means a subnetwork
24 within a health maintenance organization delivery network in which
25 contractual relationships exist between physicians, certain
26 providers, independent physician associations, or physician groups
27 that limits an enrollee's access to physicians and providers to

1 those physicians and providers in the subnetwork.

2 SECTION 10A.206. (a) Section 843.201, Insurance Code, is
3 amended to conform to Section 2, Chapter 550, Acts of the 77th
4 Legislature, Regular Session, 2001, by amending Subsection (a) and
5 adding Subsection (c) to read as follows:

6 (a) A health maintenance organization shall provide an
7 accurate written description of health care plan terms, including
8 an explanation of, and a description of the restrictions or
9 limitations related to, a limited provider network or delegated
10 entities [~~network~~] within a health care plan, to allow a current or
11 prospective group contract holder or current or prospective
12 enrollee to make comparisons and informed decisions before
13 selecting among health care plans. The written description must:

14 (1) be in a readable and understandable format
15 prescribed by the commissioner; and

16 (2) include:

17 (A) a telephone number a person may call to
18 obtain more information; and

19 (B) a current list of physicians and providers,
20 including a delineation of any limited provider network or
21 delegated entity [~~network~~].

22 (c) If an enrollee designates a primary care physician who
23 practices in a limited provider network or delegated entity, not
24 later than the 30th day after the date of the enrollee's enrollment,
25 the health maintenance organization shall provide the information
26 required under this section to the enrollee with the enrollee's
27 identification card or in a mailing separate from other

1 information.

2 (b) Section 2, Chapter 550, Acts of the 77th Legislature,
3 Regular Session, 2001, is repealed.

4 SECTION 10A.207. (a) Sections 843.260(a), (b), and (d),
5 Insurance Code, are amended to conform to Section 3, Chapter 550,
6 Acts of the 77th Legislature, Regular Session, 2001, to read as
7 follows:

8 (a) A health maintenance organization shall maintain a
9 complaint and appeal log regarding each complaint. The log must
10 identify those complaints relating to limited provider networks and
11 delegated entities.

12 (b) A health maintenance organization shall maintain a
13 record of and documentation on each complaint, complaint
14 proceeding, and action taken on each [a] complaint, including a
15 complaint relating to a limited provider network or delegated
16 entity, until the third anniversary of the date the complaint was
17 received.

18 (d) The department, during any investigation of a health
19 maintenance organization, may review documentation maintained
20 under Subsection (b), including original documentation, regarding
21 a complaint and action taken on the complaint.

22 (b) Section 3, Chapter 550, Acts of the 77th Legislature,
23 Regular Session, 2001, is repealed.

24 SECTION 10A.208. (a) Subchapter I, Chapter 843, Insurance
25 Code, is amended to conform to Section 14(o), Texas Health
26 Maintenance Organization Act (Article 20A.14, Vernon's Texas
27 Insurance Code), as added by Section 8, Chapter 812, Acts of the

1 77th Legislature, Regular Session, 2001, by adding Section 843.3045
2 to read as follows:

3 Sec. 843.3045. NURSE FIRST ASSISTANT. A health maintenance
4 organization may not refuse to contract with a nurse first
5 assistant, as defined by Section 301.1525, Occupations Code, to be
6 included in the provider's network or refuse to reimburse the nurse
7 first assistant for a covered service that a physician has
8 requested the nurse first assistant to perform.

9 (b) Section 14(o), Texas Health Maintenance Organization
10 Act (Article 20A.14, Vernon's Texas Insurance Code), as added by
11 Section 8, Chapter 812, Acts of the 77th Legislature, Regular
12 Session, 2001, is repealed.

13 SECTION 10A.209. (a) Subchapter I, Chapter 843, Insurance
14 Code, is amended to conform to Section 18D, Texas Health
15 Maintenance Organization Act (Article 20A.18D, Vernon's Texas
16 Insurance Code), as added by Section 2, Chapter 993, Acts of the
17 77th Legislature, Regular Session, 2001, by adding Section 843.320
18 to read as follows:

19 Sec. 843.320. USE OF HOSPITALIST. (a) In this section,
20 "hospitalist" means a physician who:

21 (1) serves as physician of record at a hospital for a
22 hospitalized patient of another physician; and

23 (2) returns the care of the patient to that other
24 physician at the end of the patient's hospitalization.

25 (b) A contract between a health maintenance organization
26 and a physician may not require the physician to use a hospitalist
27 for a hospitalized patient.

1 (b) Section 18D, Texas Health Maintenance Organization Act
2 (Article 20A.18D, Vernon's Texas Insurance Code), as added by
3 Section 2, Chapter 993, Acts of the 77th Legislature, Regular
4 Session, 2001, is repealed.

5 SECTION 10A.210. Section 843.342(b), Insurance Code, is
6 amended to conform more closely to the source law from which it was
7 derived to read as follows:

8 (b) In addition to any other penalty or remedy authorized by
9 this code or another insurance law of this state, a health
10 maintenance organization that violates Section 843.338 or 843.340
11 is subject to an administrative penalty under Chapter 84. The
12 administrative penalty imposed under that chapter may not exceed
13 \$1,000 for each day the claim remains unpaid in violation of Section
14 843.338 or 843.340.

15 SECTION 10A.211. (a) Section 845.002, Insurance Code, is
16 amended to conform to Section 2, Chapter 759, Acts of the 77th
17 Legislature, Regular Session, 2001, to read as follows:

18 Sec. 845.002. DEFINITIONS. In this chapter:

19 (1) "Board" means the board of directors of the
20 system.

21 (2) "Enrollee" means an individual who:

22 (A) resides in a rural area; and

23 (B) is entitled to receive health care services
24 through a health care plan sponsored by, arranged for, or provided
25 by the system.

26 (3) "Health care services" has the meaning assigned by
27 Section 843.002.

1 (4) "Health care provider" means a physician,
2 facility, practitioner, or other person or organization who, under
3 a license or grant of authority issued by this state, provides care
4 or supplies to individuals under a health benefit plan. The term
5 does not include a hospital provider.

6 (5) "Hospital provider" means a county hospital,
7 county hospital authority, hospital district, municipal hospital,
8 or municipal hospital authority.

9 (6) [~~(5)~~] "Local health care provider" means:

10 (A) a person licensed, registered, or certified
11 as a health care practitioner in this state who resides or practices
12 in a rural area in which the person provides health care services;
13 or

14 (B) a general or specialty hospital that is not a
15 hospital provider under this chapter.

16 (7) [~~(6)~~] "Participating hospital provider" means a
17 hospital provider that participates in the system.

18 (8) [~~(7)~~] "Person" means an individual, professional
19 association, professional corporation, partnership, limited
20 liability corporation, limited liability partnership, or nonprofit
21 corporation, including a nonprofit corporation certified under
22 Section 162.001, Occupations Code.

23 (9) [~~(8)~~] "Rural area" means:

24 (A) a county with a population of 50,000 or less;
25 (B) an area that is not delineated as an
26 urbanized area by the United States Bureau of the Census; or

27 (C) any other area designated as rural by a rule

1 adopted by the commissioner, subject to Section 845.003.

2 (10) [~~(9)~~] "System" means the statewide rural health
3 care system established under this chapter.

4 (11) [~~(10)~~] "Territorial jurisdiction" means the
5 geographical area in which a participating hospital provider is
6 obligated by law to provide health care services.

7 (b) Section 845.003, Insurance Code, is amended to conform
8 to Section 2, Chapter 759, Acts of the 77th Legislature, Regular
9 Session, 2001, to read as follows:

10 Sec. 845.003. RURAL AREA DESIGNATION. In determining
11 whether to designate an area as a rural area under this chapter, the
12 commissioner shall consider any area that is delineated as an
13 urbanized area by the United States Bureau of the Census and:

14 (1) is contiguous with and not more than 10 miles away
15 from a rural area described by Section 845.002(9)(A)
16 [~~845.002(8)(A)~~] or (B);

17 (2) is sparsely populated, compared to areas within a
18 10-mile radius that are delineated as urbanized areas by the United
19 States Bureau of the Census;

20 (3) has not increased in population in any single
21 calendar year in the seven years before the commissioner makes the
22 designation; and

23 (4) in which emergency or primary care services:

24 (A) are limited or unavailable in accordance with
25 network access standards imposed by the commissioner [~~under~~
26 ~~Chapters 20A and 843~~]; and

27 (B) would be made materially more accessible by

1 allowing access to care in a contiguous area that is otherwise
2 eligible to participate in the system.

3 (c) Section 2, Chapter 759, Acts of the 77th Legislature,
4 Regular Session, 2001, is repealed.

5 SECTION 10A.212. (a) Sections 845.051 and 845.053,
6 Insurance Code, are amended to conform to Sections 3, 4, and 8,
7 Chapter 759, Acts of the 77th Legislature, Regular Session, 2001,
8 to read as follows:

9 Sec. 845.051. STATEWIDE RURAL HEALTH CARE SYSTEM. The
10 commissioner shall designate a single organization as the statewide
11 rural health care system. The system is authorized to sponsor, [to]
12 arrange for the provision of, or provide health care services to
13 enrollees in programs in rural areas. The programs are not subject
14 to:

15 (1) a law requiring the coverage or the offer of
16 coverage for services by a particular health care provider under:

17 (A) Chapter 62, Health and Safety Code;

18 (B) Chapter 32, Human Resources Code;

19 (C) a state-, county-, or local
20 government-sponsored indigent care initiative; or

21 (D) a federal Medicare Plus Choice program; or

22 (2) Article 3.51-6 under a state-, county-, or local
23 government-sponsored uninsured or indigent care initiative [who
24 reside in rural areas].

25 Sec. 845.053. REQUIREMENTS APPLICABLE TO CERTAIN PLANS
26 [APPLICATION OF TEXAS HEALTH MAINTENANCE ORGANIZATION ACT]. (a)
27 Except as [otherwise] provided by Subsection (b) [this section], if

1 the system seeks to sponsor, arrange for the provision of, or
2 provide [~~arranges for or provides~~] health care services to
3 enrollees in exchange for a predetermined payment per enrollee on a
4 prepaid basis, the system must comply with:

5 (1) all requirements under this code imposed on health
6 plans, including health maintenance organizations; and

7 (2) any additional requirements the commissioner
8 determines are necessary to ensure enrollee access to health care
9 providers and health care services [~~obtain a certificate of~~
10 ~~authority under Chapter 843 and meet each requirement imposed by~~
11 ~~that chapter~~].

12 (b) The system is not required to comply with requirements
13 described by Subdivision (a)(1) [~~commissioner by rule may provide~~
14 ~~exceptions to the application to the system of provisions of~~
15 ~~Chapter 20A or 843~~] that relate to mileage, distance, [~~and~~] network
16 adequacy, and scope of coverage that the commissioner determines
17 are not applicable to the system.

18 [~~(c) The system may fulfill the reserve requirements under~~
19 ~~Chapter 843 by purchasing reinsurance from insurance companies~~
20 ~~approved for that purpose by the commissioner.~~]

21 (b) Sections 3, 4, and 8, Chapter 759, Acts of the 77th
22 Legislature, Regular Session, 2001, are repealed.

23 SECTION 10A.213. (a) Sections 845.101(b), (c), and (d),
24 Insurance Code, are amended to conform to Section 5, Chapter 759,
25 Acts of the 77th Legislature, Regular Session, 2001, to read as
26 follows:

27 (b) The participating hospital providers shall elect, by a

1 majority vote of the governing bodies of the participating hospital
2 providers, six members [~~who represent the participating hospital~~
3 ~~providers~~].

4 (c) Twelve members shall be appointed according to the
5 system's bylaws, including [~~The governor shall appoint~~]:

6 (1) six members who reside in the territorial
7 jurisdictions of the participating hospital providers, including:

8 (A) two members who represent employers;

9 (B) two members who represent [~~are~~] local
10 government officials; and

11 (C) two members who represent [~~are~~] consumers of
12 health care services; and

13 (2) six members who are licensed physicians who reside
14 and practice in the territorial jurisdictions of the participating
15 hospital providers, including at least three members who perform
16 the general practice of medicine as their professional practice.

17 (d) Appointments [~~The governor shall make appointments~~] to
18 the board under Subsection (c) shall be made in a manner that
19 provides representation for the territorial jurisdictions of all
20 participating hospital providers.

21 (b) Section 5, Chapter 759, Acts of the 77th Legislature,
22 Regular Session, 2001, is repealed.

23 SECTION 10A.214. (a) Section 845.108(a), Insurance Code, is
24 amended to conform to Section 6, Chapter 759, Acts of the 77th
25 Legislature, Regular Session, 2001, to read as follows:

26 (a) The board may, by majority vote:

27 (1) contract for administrative, management, or

1 support services; [~~or~~]

2 (2) hire an executive director; [~~or~~]

3 (3) contract with a consultant, an attorney, or other
4 professional; [~~or~~]

5 (4) retain other staff as necessary to perform the
6 duties of the system.

7 (b) Section 6, Chapter 759, Acts of the 77th Legislature,
8 Regular Session, 2001, is repealed.

9 SECTION 10A.215. (a) Subchapter D, Chapter 845, Insurance
10 Code, is amended by adding Section 845.155 to conform to Section 7,
11 Chapter 759, Acts of the 77th Legislature, Regular Session, 2001,
12 to read as follows:

13 Sec. 845.155. USE OF SYSTEM AS PILOT PROGRAM, DEMONSTRATION
14 PROJECT, OR STUDY. The commissioner of health and human services
15 may use the system for:

16 (1) a voluntary pilot or demonstration program that:

17 (A) evaluates the use of an insured model for
18 beneficiaries of a medical assistance program in a rural area not
19 currently included in an existing Medicaid managed care pilot
20 program area; and

21 (B) incorporates the principles of prevention
22 and disease management; and

23 (2) a study of the use of promotoras as defined by
24 Section 48.001, Health and Safety Code.

25 (b) Section 7, Chapter 759, Acts of the 77th Legislature,
26 Regular Session, 2001, is repealed.

27 SECTION 10A.216. (a) Chapter 845, Insurance Code, is

1 amended by adding Subchapter E to more accurately reflect the
2 source law from which it was derived and to conform to Section 1,
3 Chapter 759, Acts of the 77th Legislature, Regular Session, 2001,
4 to read as follows:

5 SUBCHAPTER E. GOALS OF SYSTEM

6 Sec. 845.201. RURAL HEALTH CARE DELIVERY SYSTEM. (a) The
7 system is designed to protect and enhance the rural health care
8 delivery system by:

9 (1) establishing a statewide rural health care
10 network;

11 (2) supporting funding to rural communities;

12 (3) enabling administrative simplification for the
13 benefit of rural providers that participate in various health care
14 plans; and

15 (4) ensuring the inclusion of consumer-oriented
16 attributes considered important to a successful health care
17 organization.

18 (b) The attributes described by Subsection (a)(4) include:

19 (1) consideration of patient rights;

20 (2) preservation of patient rights;

21 (3) preservation of the provider-patient
22 relationship;

23 (4) emphasis on prevention and wellness;

24 (5) an appropriate credentialing and peer review
25 program; and

26 (6) emphasis on quality improvement and disease
27 management.

1 Sec. 845.202. PATIENT RIGHTS POLICIES. It is intended that
2 the system incorporate patient-focused considerations that
3 include:

- 4 (1) open communication;
5 (2) informed consent;
6 (3) protection of confidentiality and privacy;
7 (4) full disclosure of program policies and procedures
8 to patients and providers;
9 (5) coverage of emergency care;
10 (6) disclosure of compensation arrangements with
11 providers; and
12 (7) efficient appeal of coverage decisions.

13 Sec. 845.203. PATIENT-PHYSICIAN RELATIONSHIP. It is
14 intended that the system preserve significant traditional and
15 ethical relationships between a patient and the patient's health
16 care provider by ensuring that:

- 17 (1) medical management does not intrude on the
18 delivery of quality patient care;
19 (2) the process of making health care decisions
20 remains a matter between a patient and the patient's health care
21 provider; and
22 (3) nothing in the system will place a health care
23 provider in an adverse relationship with a patient.

24 Sec. 845.204. PUBLIC HEALTH AND PREVENTION. It is intended
25 that the system use incentives to promote healthy communities and
26 individuals by using a public health model that focuses on health
27 promotion, illness prevention, patient self-care education, and

1 incentives that encourage positive health behavior.

2 Sec. 845.205. CREDENTIALS AND PEER REVIEW. To ensure that
3 enrollees will receive quality health care, it is intended that the
4 system focus on processes for obtaining credentials and performing
5 peer review that take into consideration the unique nature of rural
6 communities and that track processes required under federal and
7 state law. It is intended that local physicians and hospitals
8 retain responsibility for these processes. These processes are not
9 intended to exclude otherwise qualified practitioners from
10 participating in the system.

11 Sec. 845.206. QUALITY IMPROVEMENT AND MANAGEMENT. It is
12 intended that the system use standard guidelines established by the
13 National Committee on Quality Assurance and other recognized
14 accrediting organizations to:

15 (1) ensure that the program achieves the objectives of
16 providing quality patient care; and

17 (2) emphasize establishing benchmarks to measure
18 program outcomes that will be made available to the public through
19 proper reporting procedures.

20 (b) Chapter 845, Insurance Code, is amended to conform to
21 the addition of Subchapter E to that chapter by this section by
22 amending Sections 845.004 and 845.104, Insurance Code, to read as
23 follows:

24 Sec. 845.004. RULES. The commissioner shall adopt rules as
25 necessary to implement this subchapter and Subchapters B, C, and D
26 [~~chapter~~].

27 Sec. 845.104. BOARD DUTIES. The board shall:

1 (1) administer the system;

2 (2) adopt policies and procedures for the system that
3 are consistent with the purposes of this subchapter and Subchapters
4 A, B, and D [~~chapter~~]; and

5 (3) adopt rules for the holding of regular and special
6 meetings.

7 (c) Section 1, Chapter 759, Acts of the 77th Legislature,
8 Regular Session, 2001, is repealed.

9 SECTION 10A.217. (a) Section 846.258(b), Insurance Code, is
10 amended to conform to Section 6, Chapter 1027, Acts of the 77th
11 Legislature, Regular Session, 2001, to read as follows:

12 (b) Coverage of a newborn child of a participating employee
13 under this section ends on the 32nd day after the date of the
14 child's birth unless:

15 (1) [~~dependent~~] children are eligible for coverage
16 under the multiple employer welfare arrangement's plan document;
17 and

18 (2) not later than the 31st day after the date of
19 birth, the arrangement receives:

20 (A) notice of the birth; and

21 (B) any required additional premium.

22 (b) Section 846.259(a), Insurance Code, is amended to
23 conform to Section 6, Chapter 1027, Acts of the 77th Legislature,
24 Regular Session, 2001, to read as follows:

25 (a) This section applies only if [~~dependent~~] children are
26 eligible for coverage under the terms of a multiple employer
27 welfare arrangement's plan document.

1 (c) Subchapter F, Chapter 846, Insurance Code, is amended to
2 conform to Section 6, Chapter 1027, Acts of the 77th Legislature,
3 Regular Session, 2001, by adding Section 846.260 to read as
4 follows:

5 Sec. 846.260. LIMITING AGE APPLICABLE TO UNMARRIED CHILD.
6 If children are eligible for coverage under the terms of a multiple
7 employer welfare arrangement's plan document, any limiting age
8 applicable to an unmarried child of an enrollee is 25 years of age.

9 (d) Section 6, Chapter 1027, Acts of the 77th Legislature,
10 Regular Session, 2001, is repealed.

11 SECTION 10A.218. Section 862.053(a), Insurance Code, is
12 amended to more closely conform to the source law from which it was
13 derived to read as follows:

14 (a) A fire insurance policy, in case of a total loss by fire
15 of property insured, shall be held and considered to be a liquidated
16 demand against the company for the full amount of such ~~[the]~~ policy.
17 This subsection does not apply to personal property.

18 SECTION 10A.219. (a) Section 884.310, Insurance Code, is
19 amended to conform to Section 7.11, Chapter 703, Acts of the 77th
20 Legislature, Regular Session, 2001, to read as follows:

21 Sec. 884.310. AGENT. Each agent of a stipulated premium
22 company must be licensed under Subchapter A, Chapter 21 ~~[Article~~
23 ~~21.07]~~.

24 (b) Section 7.11, Chapter 703, Acts of the 77th Legislature,
25 Regular Session, 2001, is repealed.

26 SECTION 10A.220. (a) Section 885.351, Insurance Code, is
27 amended to conform to Section 7.05, Chapter 703, Acts of the 77th

1 Legislature, Regular Session, 2001, to read as follows:

2 Sec. 885.351. AGENTS. (a) A fraternal benefit society may
3 appoint an agent licensed by the department under Article 21.07-1
4 [~~Chapter 213, Acts of the 54th Legislature, Regular Session, 1955~~
5 ~~(Article 21.07-1, Vernon's Texas Insurance Code),~~] to sell benefits
6 listed under Section 885.301(a) to society members.

7 (b) Except as provided by Section 885.352, a [A] person may
8 not solicit or procure benefit contracts for a fraternal benefit
9 society unless the person is licensed as a general life, accident,
10 and health [an] agent under Article 21.07-1 [~~Chapter 213, Acts of~~
11 ~~the 54th Legislature, Regular Session, 1955 (Article 21.07-1,~~
12 ~~Vernon's Texas Insurance Code)~~].

13 (c) The licensing and regulation of agents for fraternal
14 benefit societies is subject to Subchapter A, Chapter 21, and other
15 laws regulating those agents.

16 (b) Section 885.352(c), Insurance Code, is amended to
17 conform to Section 7.05, Chapter 703, Acts of the 77th Legislature,
18 Regular Session, 2001, to read as follows:

19 (c) A person to whom this section applies may not solicit or
20 procure on behalf of a fraternal benefit society an
21 interest-sensitive life insurance contract that exceeds \$35,000 of
22 coverage on an individual life unless the person holds the
23 designation of fraternal insurance [~~benefit~~] counselor.

24 (c) Section 7.05, Chapter 703, Acts of the 77th Legislature,
25 Regular Session, 2001, is repealed.

26 SECTION 10A.221. (a) Section 911.251, Insurance Code, is
27 amended to conform to Section 7.06, Chapter 703, Acts of the 77th

1 Legislature, Regular Session, 2001, to read as follows:

2 Sec. 911.251. LICENSING AND APPOINTMENT OF CERTAIN AGENTS.

3 (a) An individual or firm may not solicit, write, sign, execute, or
4 deliver insurance policies, bind insurance risks, collect
5 premiums, or otherwise act on behalf of a farm mutual insurance
6 company in the capacity of an insurance [~~a local recording~~] agent in
7 the solicitation or sale of crop insurance unless the individual or
8 firm holds a license issued under Subchapter A, Chapter 21 [~~is~~
9 ~~licensed under Article 21.14~~].

10 (b) A farm mutual insurance company may not appoint and act
11 through an agent [~~who qualifies for a license as an agricultural~~
12 ~~insurance agent~~] under Article 21.14-2.

13 (b) Section 7.06, Chapter 703, Acts of the 77th Legislature,
14 Regular Session, 2001, is repealed.

15 SECTION 10A.222. (a) Section 912.251, Insurance Code, is
16 amended to conform to Section 7.07, Chapter 703, Acts of the 77th
17 Legislature, Regular Session, 2001, to read as follows:

18 Sec. 912.251. LICENSING AND APPOINTMENT OF AGENTS. An
19 agent [~~or solicitor~~] for a county mutual insurance company must be
20 licensed and appointed as provided by Subchapter A, Chapter 21
21 [~~Article 21.07 or 21.14~~].

22 (b) Section 7.07, Chapter 703, Acts of the 77th Legislature,
23 Regular Session, 2001, is repealed.

24 SECTION 10A.223. Sections 912.252 and 912.253, Insurance
25 Code, are repealed to conform to the repeal of the source law from
26 which they were derived, Section 15, Article 17.25, Insurance Code,
27 by Section 8.01(2), Chapter 703, Acts of the 77th Legislature,

1 Regular Session, 2001.

2 SECTION 10A.224. (a) Subchapter A, Chapter 961, Insurance
3 Code, is amended to conform to the enactment of Article 23.23A,
4 Insurance Code, by Section 7.12, Chapter 703, Acts of the 77th
5 Legislature, Regular Session, 2001, by adding Section 961.005 to
6 read as follows:

7 Sec. 961.005. AGENTS. The licensing and regulation of an
8 agent authorized to solicit prepaid legal services contracts for a
9 nonprofit legal services corporation is subject to Subchapter A,
10 Chapter 21.

11 (b) Article 23.23A, Insurance Code, as added by Section
12 7.12, Chapter 703, Acts of the 77th Legislature, Regular Session,
13 2001, is repealed.

14 SECTION 10A.225. Subchapter H, Chapter 961, Insurance Code,
15 is repealed to conform to the repeal of Article 23.23, Insurance
16 Code, the source law from which it was derived, by Section 8.01(19),
17 Chapter 703, Acts of the 77th Legislature, Regular Session, 2001.

18 SECTION 10A.226. (a) Section 981.009, Insurance Code, is
19 amended to conform to Section 6.05, Chapter 703, Acts of the 77th
20 Legislature, Regular Session, 2001, to read as follows:

21 Sec. 981.009. RULES. The commissioner may adopt rules to
22 implement [~~enforce~~] this chapter or satisfy requirements under
23 federal law or regulations.

24 (b) Section 981.218, Insurance Code, is amended to conform
25 to Section 6.05, Chapter 703, Acts of the 77th Legislature, Regular
26 Session, 2001, to read as follows:

27 Sec. 981.218. DEPARTMENT MONITORING OF SURPLUS LINES

1 AGENTS. The commissioner [~~department~~] shall monitor the activities
2 of surplus lines agents as necessary to protect the public
3 interest.

4 (c) Section 6.05, Chapter 703, Acts of the 77th Legislature,
5 Regular Session, 2001, is repealed.

6 SECTION 10A.227. (a) Section 981.203, Insurance Code, is
7 amended to conform to Sections 6.01, 6.04, 6.06, and 6.07, Chapter
8 703, Acts of the 77th Legislature, Regular Session, 2001, to read as
9 follows:

10 Sec. 981.203. QUALIFICATIONS FOR SURPLUS LINES LICENSE[~~+~~
11 ~~LICENSE TERM~~]. (a) The department may issue a surplus lines
12 license to an applicant who the department determines complies with
13 Subsection (b) and is:

14 (1) an individual [~~agent resident in this state~~] who:

15 (A) has passed an examination under Article
16 21.01-1 and department rules; and

17 (B) holds a current license as:

18 (i) a general property and casualty agent
19 [~~is~~] authorized under Article 21.14; or

20 (ii) [~~(B) is~~] a managing general agent; or

21 (2) a corporation, limited liability company, or
22 partnership that:

23 (A) has at least one officer or director or at
24 least one active partner who has passed the required surplus lines
25 license examination;

26 (B) holds a current license as:

27 (i) a general property and casualty agent

1 authorized under Article 21.14; or

2 (ii) a managing general agent; and

3 (C) conducts insurance activities under this
4 chapter only through an individual licensed under this section [~~a~~
5 ~~nonresident insurance agent authorized under Article 21.11 who is~~
6 ~~granted a surplus lines license for the limited purpose of acting on~~
7 ~~behalf of a purchasing group operating in this state in the~~
8 ~~placement of liability insurance for a risk located in this state].~~

9 (b) The agent must:

10 (1) pay an application fee as determined by the
11 department [~~set by the commissioner in an amount not to exceed \$50~~];

12 (2) submit a properly completed license application
13 [~~on a form approved by the commissioner~~]; and

14 (3) [~~pass an examination under Section 981.205; and~~
15 (4)] provide proof of financial responsibility under
16 Section 981.206.

17 [~~(c) Unless the commissioner adopts a system for staggered~~
18 ~~renewal of licenses under Article 21.01-2:~~

19 [~~(1) a surplus lines license, other than an initial~~
20 ~~license, is valid for a two-year term that expires on December 31,~~
21 ~~and~~

22 [~~(2) the term of an initial license expires on~~
23 ~~December 31 of the year following the year in which the license is~~
24 ~~issued.]~~

25 (b) Subchapter E, Chapter 981, Insurance Code, is amended to
26 conform to Section 6.08, Chapter 703, Acts of the 77th Legislature,
27 Regular Session, 2001, by adding Section 981.221 to read as

1 follows:

2 Sec. 981.221. SUSPENSION OR REVOCATION OF LICENSE. If a
3 license holder does not maintain the qualifications necessary to
4 obtain the license, the department may revoke or suspend the
5 license or deny the renewal of that license in accordance with
6 Article 21.01-2.

7 (c) Subchapter E, Chapter 981, Insurance Code, is amended to
8 conform to Section 6.07, Chapter 703, Acts of the 77th Legislature,
9 Regular Session, 2001, by adding Section 981.222 to read as
10 follows:

11 Sec. 981.222. APPLICABILITY OF OTHER LAW. In addition to
12 the requirements of this chapter, the administration and regulation
13 of a surplus lines agent's license is governed by Subchapter A,
14 Chapter 21, except that Article 21.07 does not apply to a license
15 issued under this subchapter.

16 (d) Section 981.205, Insurance Code, is repealed to conform
17 to the repeal of Sections 4(b)(3) and (h), Article 1.14-2,
18 Insurance Code, the source law from which Section 981.205 was
19 derived, by Sections 6.06 and 8.01(1), Chapter 703, Acts of the 77th
20 Legislature, Regular Session, 2001.

21 (e) Section 981.208, Insurance Code, is repealed to conform
22 to Sections 6.07 and 6.08, Chapter 703, Acts of the 77th
23 Legislature, Regular Session, 2001.

24 (f) Sections 6.01, 6.04, 6.06, 6.07, and 6.08, Chapter 703,
25 Acts of the 77th Legislature, Regular Session, 2001, are repealed.

26 SECTION 10A.228. (a) Section 981.206, Insurance Code, is
27 amended to conform to Section 6.02, Chapter 703, Acts of the 77th

1 Legislature, Regular Session, 2001, to read as follows:

2 Sec. 981.206. FINANCIAL RESPONSIBILITY. A surplus lines
3 agent must provide proof to the department of[+]

4 [~~(1)~~] financial responsibility [~~solvency and a~~
5 ~~demonstrated capacity regarding responsibility to insureds under~~
6 ~~surplus lines insurance policies; or~~

7 [~~(2) an adequate bond and surety~~] regarding
8 transactions with insureds under surplus lines insurance policies,
9 as required [~~provided~~] by reasonable rules of the commissioner.

10 (b) Section 6.02, Chapter 703, Acts of the 77th Legislature,
11 Regular Session, 2001, is repealed.

12 SECTION 10A.229. Section 981.207, Insurance Code, is
13 repealed to conform to the repeal of Section 4(f), Article 1.14-2,
14 Insurance Code, the source law from which Section 981.207 was
15 derived, by Section 8.01(1), Chapter 703, Acts of the 77th
16 Legislature, Regular Session, 2001.

17 SECTION 10A.230. Section 981.209, Insurance Code, is
18 repealed to conform to the repeal of Section 4(g), Article 1.14-2,
19 Insurance Code, the source law from which Section 981.209 was
20 derived, by Section 8.01(1), Chapter 703, Acts of the 77th
21 Legislature, Regular Session, 2001.

22 SECTION 10A.231. (a) Section 981.215(a), Insurance Code, is
23 amended to conform to Section 6.09, Chapter 703, Acts of the 77th
24 Legislature, Regular Session, 2001, to read as follows:

25 (a) A surplus lines agent shall maintain [~~keep in the~~
26 ~~agent's office in this state~~] a complete record of each surplus
27 lines contract obtained by the agent, including any of the

1 following, if applicable:

2 (1) a copy of the daily report;

3 (2) the amount of the insurance and risks insured
4 against;

5 (3) a brief general description of the property
6 insured and the location of that property;

7 (4) the gross premium charged;

8 (5) the return premium paid;

9 (6) the rate of premium charged on the different items
10 of property;

11 (7) the contract terms, including the effective date;

12 (8) the insured's name and post office address;

13 (9) the insurer's name and home office address;

14 (10) the amount collected from the insured; and

15 (11) any other information required by the department
16 [~~commissioner~~].

17 (b) Section 6.09, Chapter 703, Acts of the 77th Legislature,
18 Regular Session, 2001, is repealed.

19 SECTION 10A.232. (a) Section 981.220(b), Insurance Code, is
20 amended to conform to Section 6.03, Chapter 703, Acts of the 77th
21 Legislature, Regular Session, 2001, to read as follows:

22 (b) A surplus lines license granted to a managing general
23 agent who is not also licensed under Article 21.14 is limited to the
24 acceptance of business originating through a licensed general
25 property and casualty [~~local recording~~] agent. The license does
26 not authorize the agent to engage in business directly with the
27 insurance applicant.

1 (b) Section 6.03, Chapter 703, Acts of the 77th Legislature,
2 Regular Session, 2001, is repealed.

3 SECTION 10A.233. (a) Section 984.002, Insurance Code, is
4 amended to conform to Section 7.04, Chapter 703, Acts of the 77th
5 Legislature, Regular Session, 2001, to read as follows:

6 Sec. 984.002. AUTHORIZED AGENT REQUIRED. [~~(a)~~] A Mexican
7 casualty insurance company may engage in the business of insurance
8 in this state only through an agent [~~a resident agent in this state~~
9 ~~who:~~

10 [~~(1) has the company's written authorization to engage~~
11 ~~in the business of insurance for the company; and~~

12 [~~(2) is~~] licensed by the department under Article
13 21.09 or 21.14.

14 [~~(b) The agent's license must specifically authorize the~~
15 ~~agent to write for Mexican casualty insurance companies insurance~~
16 ~~coverage authorized by this chapter.]~~

17 (b) Section 7.04, Chapter 703, Acts of the 77th Legislature,
18 Regular Session, 2001, is repealed.

19 PART 3. CHANGES RELATING TO TITLE 7, INSURANCE CODE

20 SECTION 10A.301. (a) Section 1108.053, Insurance Code, is
21 amended to conform to Section 75, Chapter 1023, Acts of the 77th
22 Legislature, Regular Session, 2001, to read as follows:

23 Sec. 1108.053. EXCEPTIONS TO EXEMPTIONS. The exemptions
24 provided by Section 1108.051 do not apply to:

25 (1) a premium payment made in fraud of a creditor,
26 subject to the applicable statute of limitations for recovering the
27 payment; [~~or~~]

1 (2) a debt of the insured or beneficiary secured by a
2 pledge of the insurance policy or the proceeds of the policy; or

3 (3) a child support lien or levy under Chapter 157,
4 Family Code.

5 (b) Section 75, Chapter 1023, Acts of the 77th Legislature,
6 Regular Session, 2001, is repealed.

7 SECTION 10A.302. Section 1111.052, Insurance Code, is
8 amended to more closely conform to the law from which it was derived
9 to read as follows:

10 Sec. 1111.052. AUTHORITY TO PAY ACCELERATED TERM LIFE
11 BENEFITS. An insurer may pay an accelerated benefit under an
12 individual or group term life insurance policy or certificate if:

13 (1) the insurer has received a written medical
14 opinion, satisfactory to the insurer, that the insured has:

15 (A) a terminal illness;

16 (B) a long-term care illness; or

17 (C) an illness or physical condition that is
18 likely to cause permanent disability or premature death, including:

19 (i) acquired immune deficiency syndrome
20 (AIDS);

21 (ii) a malignant tumor;

22 (iii) a condition that requires an organ
23 transplant; or

24 (iv) a coronary artery disease that results
25 in acute infarction [~~infraction~~] or requires surgery; and

26 (2) the amount of the accelerated benefit is deducted
27 from:

1 (A) the amount of the death benefit payable under
2 the policy or certificate; and

3 (B) any amount the insured would otherwise be
4 entitled to convert to an individual contract.

5 SECTION 10A.303. (a) The heading for Subchapter D, Chapter
6 1152, Insurance Code, is amended to conform to Section 7.02,
7 Chapter 703, Acts of the 77th Legislature, Regular Session, 2001,
8 to read as follows:

9 SUBCHAPTER D. VARIABLE CONTRACT AGENTS [~~AGENT'S LICENSE~~]

10 (b) Section 1152.151, Insurance Code, is amended to conform
11 to Section 7.02, Chapter 703, Acts of the 77th Legislature, Regular
12 Session, 2001, to read as follows:

13 Sec. 1152.151. [~~VARIABLE CONTRACT~~] AGENT'S LICENSE
14 REQUIRED[~~, CRITERIA FOR ISSUANCE~~]. (a) A person may not sell or
15 offer for sale in this state a variable contract, or act to
16 negotiate, make, or consummate a variable contract for another,
17 unless the department has licensed the person under Article 21.07-1
18 as a general life, accident, and health [~~variable contract~~] agent.

19 (b) The licensing and regulation of a person acting as a
20 variable contract agent is subject to the same provisions
21 applicable to the licensing and regulation of other agents under
22 Subchapter A, Chapter 21 [~~department may not issue the license~~
23 ~~unless the department is satisfied, after examination, that the~~
24 ~~person is qualified to act as a variable contract agent because of~~
25 ~~the person's training, knowledge, ability, and character~~].

26 (c) Sections 1152.152, 1152.153, 1152.154, 1152.155,
27 1152.156, 1152.157, 1152.158, 1152.159, and 1152.160, Insurance

1 Code, are repealed to conform to Section 7.02, Chapter 703, Acts of
2 the 77th Legislature, Regular Session, 2001.

3 (d) Section 7.02, Chapter 703, Acts of the 77th Legislature,
4 Regular Session, 2001, is repealed.

5 SECTION 10A.304. (a) Sections 1153.103 and 1153.104,
6 Insurance Code, are amended to conform to Section 2, Chapter 1318,
7 Acts of the 77th Legislature, Regular Session, 2001, to read as
8 follows:

9 Sec. 1153.103. PRESUMPTIVE PREMIUM RATE. (a) After notice
10 and a hearing, the commissioner by rule may adopt [~~promulgate~~] a
11 presumptive premium rate for various classes of business and terms
12 of coverage. An insurer that does not file a different rate under
13 Section 1153.105 or 1153.106 shall file the presumptive rate
14 adopted by the commissioner.

15 (b) Except as provided by this chapter, any hearing
16 conducted or order adopting a presumptive rate under this
17 subchapter shall be held [~~The commissioner shall hold a hearing~~
18 ~~required under Subsection (a)~~] in accordance with the rulemaking
19 [~~contested case~~] provisions of Chapter 2001, Government Code.

20 (c) In the commissioner's order adopting a presumptive
21 rate, the commissioner shall set forth findings and conclusions on
22 all material issues presented at the hearing.

23 (d) In determining the presumptive premium rate, the
24 commissioner shall consider any relevant data, including
25 reasonable acquisition costs, loss ratios, administrative
26 expenses, reserves, loss settlement expenses, the type or class of
27 business, the duration of various credit transactions, and

1 reasonable and adequate profits to the insurers.

2 (e) [~~(d)~~] In determining the presumptive premium rate, the
 3 commissioner may not set or limit the amount of compensation
 4 actually paid by a company to an agent but may request from an
 5 insurer or agent any relevant data relating to the presumptive
 6 premium rate, including information relating to compensation paid
 7 for the sale of credit insurance, expenses, losses, and profits. An
 8 insurer or agent shall provide the requested information to the
 9 commissioner in a timely manner.

10 (f) [~~(e)~~] The commissioner may not adopt [~~promulgate~~] a
 11 presumptive premium rate that is unjust, unreasonable, inadequate,
 12 confiscatory, or excessive to the insureds, the insurers, or the
 13 agents.

14 [~~(f) It is a rebuttable presumption that the presumptive~~
 15 ~~premium rate is just, reasonable, adequate, and not excessive.]~~

16 Sec. 1153.104. APPEAL OF PRESUMPTIVE RATE. Any person who
 17 is aggrieved by any action of the commissioner taken in the setting
 18 of a presumptive rate may [~~appeal the action, in accordance with~~
 19 ~~Subchapter D, Chapter 36~~], not later than the 30th day after the
 20 date the commissioner adopts a presumptive rate order, file a
 21 petition for judicial review in a district court in Travis County
 22 [~~took the action~~]. Judicial review under this section is governed
 23 by Subchapter B, Chapter 2001, Government Code.

24 (b) Subchapter C, Chapter 1153, Insurance Code, is amended
 25 to conform to Section 2, Chapter 1318, Acts of the 77th Legislature,
 26 Regular Session, 2001, by adding Sections 1153.105, 1153.106, and
 27 1153.107 to read as follows:

1 Sec. 1153.105. RATE WITHIN CERTAIN PERCENTAGES OF
2 PRESUMPTIVE RATE. (a) An insurer electing to deviate from the
3 presumptive rate shall file with the commissioner the insurer's
4 proposed rate for credit life and credit accident and health
5 insurance.

6 (b) On filing the rate with the commissioner, the insurer
7 may use the filed rate until the insurer elects to file a different
8 rate.

9 (c) Except as provided by Section 1153.106, an insurer may
10 not use a rate that is more than 30 percent higher or more than 30
11 percent lower than the presumptive rate.

12 (d) Except as provided by this subchapter, a rate that
13 complies with this section is valid and in compliance with the
14 requirements of this subchapter and other applicable law.

15 Sec. 1153.106. RATE OUTSIDE CERTAIN PERCENTAGES OF
16 PRESUMPTIVE RATE. (a) An insurer may file with the commissioner a
17 proposed rate for credit life and credit accident and health
18 insurance that is more than 30 percent higher or more than 30
19 percent lower than the presumptive rate adopted by the commissioner
20 under this subchapter.

21 (b) The commissioner may disapprove a rate filed under this
22 section on the ground that the rate is not actuarially justified.

23 (c) A rate filed under this section is considered approved
24 and the insurer may use the rate if the rate is not disapproved by
25 the commissioner before the 60th day after the date the insurer
26 filed the rate.

27 (d) A hearing under this section is a contested case hearing

1 conducted under Chapter 2001, Government Code. Judicial review of
2 any action of the commissioner under this section is governed by
3 Subchapter D, Chapter 36.

4 Sec. 1153.107. RATE STANDARD. (a) A rate filed under this
5 subchapter is not excessive unless the rate is unreasonably high
6 for the coverage provided and a reasonable degree of competition
7 does not exist with respect to the classification to which the rate
8 is applicable.

9 (b) A rate filed under this subchapter is not inadequate
10 unless the rate is insufficient to sustain projected losses and
11 expenses or the rate substantially impairs, or is likely to
12 substantially impair, competition with respect to the sale of the
13 product.

14 PART 4. CHANGES RELATING TO SUBTITLE H, TITLE 8, INSURANCE CODE

15 SECTION 10A.401. (a) Section 1551.004(a), Insurance Code,
16 is amended to conform to Section 27, Chapter 1231, Acts of the 77th
17 Legislature, Regular Session, 2001, to read as follows:

18 (a) In this chapter, "dependent" with respect to an
19 individual eligible to participate in the group benefits program
20 under Section 1551.101 or 1551.102 means the individual's:

21 (1) spouse;

22 (2) unmarried child younger than 25 years of age;

23 (3) child of any age who the board of trustees
24 determines lives with or has the child's care provided by the
25 individual on a regular basis if:

26 (A) the child is mentally retarded or physically
27 incapacitated to the extent that the child is dependent on the

1 individual for care or support, as determined by the board of
2 trustees;

3 (B) the child's coverage under this chapter has
4 not lapsed; and

5 (C) the child is at least 25 years old and was
6 enrolled as a participant in the health benefits coverage under the
7 group benefits program on the date of the child's 25th birthday; and

8 (4) child of any age who is unmarried, for purposes of
9 health benefit coverage under this chapter, on expiration of the
10 child's continuation coverage under the Consolidated Omnibus
11 Budget Reconciliation Act of 1985 (Pub. L. No. 99-272) and its
12 subsequent amendments.

13 (b) Section 1551.102(a), Insurance Code, is amended to
14 conform to Section 27, Chapter 1231, Acts of the 77th Legislature,
15 Regular Session, 2001, to read as follows:

16 (a) An individual who has at least 10 [~~three~~] years of
17 service for which the individual was eligible to participate in the
18 group benefits program under Section 1551.101 or who has at least
19 five years of membership and five years of military service
20 credited in the Employees Retirement System of Texas and who
21 retires in a manner described by this section is eligible to
22 participate as an annuitant in the group benefits program.

23 (c) Section 27, Chapter 1231, Acts of the 77th Legislature,
24 Regular Session, 2001, is repealed.

25 SECTION 10A.402. Section 1551.007, Insurance Code, is
26 amended to conform more closely to the source law from which it was
27 derived to read as follows:

1 Sec. 1551.007. DEFINITION OF CARRIER. In this chapter,
2 "carrier" means:

3 (1) an insurance company that is authorized by the
4 department under this code or another insurance law of this state to
5 provide any of the types of insurance coverages, benefits, or
6 services provided for in this chapter and that:

7 (A) has a surplus of \$1 million;

8 (B) has a successful operating history; and

9 (C) has had successful experience, as determined
10 by the department, in providing and servicing any of the types of
11 group coverage provided for in this chapter;

12 (2) a corporation operating under Chapter 842 or 843
13 that provides any of the types of coverage, benefits, or services
14 provided for in this chapter and that:

15 (A) has a successful operating history; and

16 (B) has had successful experience, as determined
17 by the department, in providing and servicing any of the types of
18 group coverage provided for in this chapter; or

19 (3) any combination of carriers described by
20 Subdivisions (1) and (2) on terms the board of trustees prescribes.

21 SECTION 10A.403. (a) Subchapter A, Chapter 1551, Insurance
22 Code, is amended to conform to Section 32, Chapter 1231, Acts of the
23 77th Legislature, Regular Session, 2001, by adding Section 1551.014
24 to read as follows:

25 Sec. 1551.014. EXCLUSIVE REMEDIES. The remedies provided
26 under this chapter are the exclusive remedies available to an
27 employee, participant, annuitant, or dependent.

1 (b) Section 32, Chapter 1231, Acts of the 77th Legislature,
2 Regular Session, 2001, is repealed.

3 SECTION 10A.404. (a) Section 1551.063(e), Insurance Code,
4 is amended to conform to Section 31, Chapter 1231, Acts of the 77th
5 Legislature, Regular Session, 2001, to read as follows:

6 (e) The records of a participant may become part of the
7 public record of an administrative or judicial proceeding related
8 to a contested case under this chapter unless the records are closed
9 to public access by a protective order issued under applicable law.
10 If a participant's records have become part of the public record of
11 a proceeding and the records are not the subject of a protective
12 order, the participant is considered to have waived the privacy of
13 the participant's records.

14 (b) Subchapter B, Chapter 1551, Insurance Code, is amended
15 to conform to Section 31, Chapter 1231, Acts of the 77th
16 Legislature, Regular Session, 2001, by adding Section 1551.065 to
17 read as follows:

18 Sec. 1551.065. DISCLOSURE OF SOCIAL SECURITY NUMBER. The
19 board of trustees may require an individual to disclose the
20 individual's social security number as the board considers
21 necessary to properly administer this chapter and any coverage,
22 service, or benefit authorized by this chapter or as otherwise
23 required by state or federal law.

24 (c) Section 31, Chapter 1231, Acts of the 77th Legislature,
25 Regular Session, 2001, is repealed.

26 SECTION 10A.405. (a) Subchapter B, Chapter 1551, Insurance
27 Code, is amended to conform to Section 34, Chapter 1231, Acts of the

1 77th Legislature, Regular Session, 2001, by adding Section 1551.066
2 to read as follows:

3 Sec. 1551.066. INFORMATION RELATING TO MISCONDUCT. (a)

4 This section applies to:

5 (1) the Employees Retirement System of Texas;

6 (2) a carrier or other insurance company or health
7 maintenance organization;

8 (3) an administering firm or other insurance support
9 organization that provides information or services to the group
10 benefits program or the Employees Retirement System of Texas;

11 (4) an agent or third-party administrator authorized
12 under this chapter or licensed under this code;

13 (5) a regulatory authority or department; and

14 (6) a board member, executive director, employee,
15 auditor, or actuary of an entity described by this section.

16 (b) A person may collect from, furnish to, or exchange with
17 another person information, including medical records or other
18 confidential information, to the extent the person considers
19 necessary to detect or to impose a sanction for a criminal act, a
20 misrepresentation, or nondisclosure that is related to an attempt
21 to obtain coverage, payment, reimbursement, or a benefit under this
22 chapter.

23 (c) A person who acts under Subsection (b) is immune from
24 suit and criminal or civil liability unless the person acts with
25 malice or intent to defraud.

26 (b) Section 34, Chapter 1231, Acts of the 77th Legislature,
27 Regular Session, 2001, is repealed.

1 SECTION 10A.406. (a) Section 1551.055, Insurance Code, is
2 amended to conform to Section 28, Chapter 1231, Acts of the 77th
3 Legislature, Regular Session, 2001, to read as follows:

4 Sec. 1551.055. GENERAL POWERS OF BOARD OF TRUSTEES
5 REGARDING COVERAGE PLANS. The board of trustees may:

6 (1) prepare specifications for a coverage provided
7 under this chapter;

8 (2) prescribe the time and conditions under which an
9 employee, annuitant, or dependent [~~individual~~] is eligible for a
10 coverage provided under this chapter;

11 (3) determine the methods and procedures of claims
12 administration;

13 (4) determine the amount of payroll deductions and
14 reductions applicable to employees and annuitants and establish
15 procedures to implement those deductions and reductions;

16 (5) establish procedures for the board of trustees to
17 decide contested cases arising from a coverage provided under this
18 chapter;

19 (6) study, on an ongoing basis, the operation of all
20 coverages provided under this chapter, including gross and net
21 costs, administration costs, benefits, utilization of benefits,
22 and claims administration;

23 (7) administer the employees life, accident, and
24 health insurance and benefits fund;

25 (8) provide the beginning and ending dates of
26 coverages of participants under all benefit plans;

27 (9) develop basic group coverage plans applicable to

1 all individuals eligible to participate in the group benefits
2 program under Sections 1551.101 and 1551.102;

3 (10) provide for optional group coverage plans in
4 addition to the basic group coverage plans;

5 (11) provide, as the board of trustees determines is
6 appropriate, either additional statewide optional coverage plans
7 or individual agency coverage plans;

8 (12) develop health benefit plans that permit access
9 to high-quality, cost-effective health care;

10 (13) design, implement, and monitor health benefit
11 plan features intended to discourage excessive utilization,
12 promote efficiency, and contain costs;

13 (14) develop and refine, on an ongoing basis, a health
14 benefit strategy consistent with evolving benefit delivery
15 systems; ~~and~~

16 (15) develop a funding strategy that efficiently uses
17 employer contributions to achieve the purposes of this chapter and
18 that is reasonable and ensures participants a fair choice among
19 health benefit plans as provided by Section 1551.302; and

20 (16) appoint an advisory committee for the group
21 benefits program under the terms provided by Section 815.509,
22 Government Code.

23 (b) Section 28, Chapter 1231, Acts of the 77th Legislature,
24 Regular Session, 2001, is repealed.

25 SECTION 10A.407. (a) Section 1551.205, Insurance Code, is
26 amended to conform to Section 30, Chapter 1231, Acts of the 77th
27 Legislature, Regular Session, 2001, to read as follows:

1 Sec. 1551.205. LIMITATIONS. The board of trustees may not
2 contract for or provide a coverage plan that:

3 (1) excludes or limits coverage or services for
4 acquired immune deficiency syndrome, as defined by the Centers for
5 Disease Control and Prevention of the United States Public Health
6 Service, or human immunodeficiency virus infection; or

7 (2) provides coverage for serious mental illness that
8 is less extensive than the minimum coverage [~~provided~~] for serious
9 mental [~~any physical~~] illness required by Section 3, Article
10 3.51-14.

11 (b) Section 30, Chapter 1231, Acts of the 77th Legislature,
12 Regular Session, 2001, is repealed.

13 SECTION 10A.408. (a) Section 1551.206, Insurance Code, is
14 amended to conform to Section 35, Chapter 1231, Acts of the 77th
15 Legislature, Regular Session, 2001, by adding Subsection (e) to
16 read as follows:

17 (e) The board of trustees may adopt rules for the use of a
18 debit card or other similar technology for claims administration
19 under this section.

20 (b) Section 35, Chapter 1231, Acts of the 77th Legislature,
21 Regular Session, 2001, is repealed.

22 SECTION 10A.409. (a) The heading of Subchapter H, Chapter
23 1551, Insurance Code, is amended to conform to Section 33, Chapter
24 1231, Acts of the 77th Legislature, Regular Session, 2001, to read
25 as follows:

26 SUBCHAPTER H. SANCTIONS [~~EXPULSION~~] AND ADJUDICATION OF CLAIMS

27 (b) Section 1551.351, Insurance Code, is amended to conform

1 to Section 33, Chapter 1231, Acts of the 77th Legislature, Regular
2 Session, 2001, to read as follows:

3 Sec. 1551.351. ADMINISTRATIVE PROCESS AND SANCTIONS FOR
4 PROGRAM VIOLATIONS [~~EXPULSION~~]. (a) The Employees Retirement
5 System of Texas may impose one or more sanctions described by this
6 section against any employee, [~~After notice and hearing as provided~~
7 ~~by this section, the board of trustees may expel from participation~~
8 ~~in the group benefits program a]~~ participant, annuitant, or
9 dependent who:

10 (1) submits a materially false [~~fraudulent~~] claim or
11 application for coverage under a group coverage plan offered under
12 the group benefits program; [~~or~~]

13 (2) defrauds or attempts to defraud a group coverage
14 plan offered under the group benefits program;

15 (3) obtains or induces the extension of coverage under
16 any program provided under this chapter by a materially negligent
17 or intentional misrepresentation, a failure to disclose material
18 information, or fraud; or

19 (4) induces the extension of coverage under any
20 program provided under this chapter by supplying false information
21 on an application for coverage or in related documentation or in any
22 communication.

23 (b) On receipt of a complaint or on its own motion, if the
24 Employees Retirement System of Texas determines that an employee,
25 participant, annuitant, or dependent has engaged in conduct [~~board~~
26 ~~of trustees may call and hold a hearing to determine whether a~~
27 ~~participant acted in a manner]~~ described by Subsection (a), the

1 retirement system may:

2 (1) expel from the program the employee, participant,
3 annuitant, or dependent;

4 (2) impose limitations on the person's participation
5 in the program;

6 (3) rescind any coverage obtained or extended as a
7 result of the conduct under Subsection (a);

8 (4) deny a claim arising from coverage; or

9 (5) require the person to reimburse the employees
10 life, accident, and health insurance and benefits fund for any
11 benefit obtained as a result of the conduct.

12 (c) An expulsion under Subsection (b) may be permanent or
13 for a specified period. A rescission of coverage under Subsection
14 (b) may be from the date of inception of the coverage or from the
15 date of the prohibited conduct.

16 (d) A person may appeal a determination made under
17 Subsection (a) or (b) only to the board of trustees. A proceeding
18 under this subsection [section] is a contested case under Chapter
19 2001, Government Code. This subchapter applies to an appeal to the
20 board of trustees under this subsection. The appellant has the
21 burden of proof and any sanction imposed is stayed during an appeal
22 under this subsection. If a person fails to make a timely appeal,
23 any sanction relates back to the date of the Employees Retirement
24 System of Texas' determination. An appeal of a decision of the
25 board of trustees under this subsection is under the substantial
26 evidence rule. [~~(d) At the conclusion of the hearing, if the~~

27 board of trustees determines that the participant acted in a manner

1 ~~described by Subsection (a), the board shall expel the participant~~
2 ~~from participation in the group benefits program.]~~

3 (e) An employee, [A] participant, annuitant, or dependent
4 expelled from the group benefits program may not participate in a
5 coverage plan offered by the program for the [a] period determined
6 by the Employees Retirement System of Texas ~~[board of trustees, not~~
7 ~~to exceed five years, beginning on the date the expulsion takes~~
8 ~~effect].~~

9 ~~[(f) An appeal of a determination by the board of trustees~~
10 ~~under this section is under the substantial evidence rule.]~~

11 (c) Section 33, Chapter 1231, Acts of the 77th Legislature,
12 Regular Session, 2001, is repealed.

13 SECTION 10A.410. Section 1551.353, Insurance Code, is
14 repealed to conform to the repeal of the source law from which it
15 was derived, Section 4B(a-1), Texas Employees Uniform Group
16 Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance
17 Code), by Section 44(5), Chapter 1231, Acts of the 77th
18 Legislature, Regular Session, 2001.

19 SECTION 10A.411. (a) Section 1551.356, Insurance Code, is
20 amended to conform to Section 29, Chapter 1231, Acts of the 77th
21 Legislature, Regular Session, 2001, to read as follows:

22 Sec. 1551.356. STANDING. A person has standing to appeal a
23 determination of the executive director under this subchapter only
24 if the person is:

25 (1) an employee, participant, annuitant, or covered
26 dependent ~~[individual]~~ participating in the group benefits
27 program; or

1 (2) after the death of an employee, [a] participant,
2 annuitant, or covered dependent, the person's [~~participant's~~]
3 estate, personal representative, heir at law, or designated
4 beneficiary.

5 (b) Section 29, Chapter 1231, Acts of the 77th Legislature,
6 Regular Session, 2001, is repealed.

7 SECTION 10A.412. (a) Subchapter J, Chapter 1551, Insurance
8 Code, is repealed to conform to the repeal of the source law from
9 which it was derived, Section 18, Texas Employees Uniform Group
10 Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance
11 Code), by Section 44(6), Chapter 1231, Acts of the 77th
12 Legislature, Regular Session, 2001.

13 (b) Section 1551.201(b), Insurance Code, is amended to
14 conform to Section 44(6), Chapter 1231, Acts of the 77th
15 Legislature, Regular Session, 2001, to read as follows:

16 (b) The group coverage plans may, in the board of trustees'
17 discretion, include:

- 18 (1) life coverage;
- 19 (2) accidental death and dismemberment coverage;
- 20 (3) health benefit coverage, including coverage for:
- 21 (A) hospital care and benefits;
- 22 (B) surgical care and treatment;
- 23 (C) medical care and treatment;
- 24 (D) dental care;
- 25 (E) obstetrical benefits;
- 26 (F) prescribed drugs, medicines, and prosthetic
27 devices; and

1 (G) supplemental benefits, supplies, and
2 services in accordance with this chapter;

3 (4) coverage providing protection against either
4 long-term or short-term loss of salary; and

5 (5) any other group coverage that the board of
6 trustees, in consultation with the [~~group benefits~~] advisory
7 committee [~~created under Subchapter J~~], considers advisable.

8 SECTION 10A.413. (a) Section 1575.001, Insurance Code, is
9 amended to conform to Section 3.02, Chapter 1187, Acts of the 77th
10 Legislature, Regular Session, 2001, to read as follows:

11 Sec. 1575.001. SHORT TITLE. This chapter may be cited as
12 the Texas Public School Retired Employees Group Benefits Act.

13 (b) Section 3.02, Chapter 1187, Acts of the 77th
14 Legislature, Regular Session, 2001, is repealed.

15 SECTION 10A.414. (a) Section 1575.002, Insurance Code, is
16 amended by repealing Subdivision (2) and amending Subdivisions (1),
17 (3), (4), and (7) to conform to Section 3.03, Chapter 1187, Acts of
18 the 77th Legislature, Regular Session, 2001, and to conform more
19 closely to the source law from which the section was derived to read
20 as follows:

21 (1) "Active employee" means an employee as defined by
22 Section 821.001, Government Code, who:

23 (A) is a member of the Teacher Retirement System
24 of Texas [~~system~~]; and

25 (B) is not entitled to coverage under a plan
26 provided under Chapter 1551 or 1601.

27 (3) "Carrier" means an insurance company or hospital

1 service corporation authorized by the department under this code or
2 another insurance law of this state to provide any of the insurance
3 coverages, benefits, or services provided by this chapter.

4 (4) "Fund" means the retired [~~Texas public~~] school
5 employees group insurance fund.

6 (7) "Trustee" [~~"System"~~] means the Teacher Retirement
7 System of Texas.

8 (b) Section 1575.003(1), Insurance Code, is amended to
9 conform to Section 3.03, Chapter 1187, Acts of the 77th
10 Legislature, Regular Session, 2001, and to conform more closely to
11 the source law from which the subdivision was derived to read as
12 follows:

13 (1) "Dependent" means:

14 (A) the spouse of a retiree [~~or active employee~~];

15 (B) an unmarried child of a retiree[~~, active~~
16 ~~employee,~~] or deceased active member [~~employee~~] if the child is
17 younger than 25 years of age, including:

18 (i) an adopted child;

19 (ii) a foster child, stepchild, or other
20 child who is in a regular parent-child relationship; or

21 (iii) a recognized natural child;

22 (C) a retiree's [~~or active employee's~~] recognized
23 natural child, adopted child, foster child, stepchild, or other
24 child who[~~, without regard to the age of the child, if the child~~] is
25 in a regular parent-child relationship and who[~~,~~] lives with or has
26 his or her [~~the child's~~] care provided by the retiree[~~, active~~
27 ~~employee,~~] or surviving spouse on a regular basis regardless of the

1 child's age, if the child~~[, and]~~ is mentally retarded or physically
2 incapacitated to an extent that the child is dependent on the
3 retiree~~[, active employee,]~~ or surviving spouse for care or
4 support, as determined by the trustee ~~[board of trustees]~~; or

5 (D) a deceased active member's ~~[employee's]~~
6 recognized natural child, adopted child, foster child, stepchild,
7 or other child who is in a regular parent-child relationship,
8 without regard to the age of the child, if, while the active member
9 ~~[employee]~~ was alive, the child:

10 (i) lived with or had the child's care
11 provided by the active member ~~[employee]~~ on a regular basis; and

12 (ii) was mentally retarded or physically
13 incapacitated to an extent that the child was dependent on the
14 active member ~~[employee]~~ or surviving spouse for care or support,
15 as determined by the trustee ~~[board of trustees]~~.

16 (c) Sections 1575.003(2) and (3), Insurance Code, are
17 amended to conform more closely to the source law from which the
18 subdivisions were derived to read as follows:

19 (2) "Surviving dependent child" means:

20 (A) the dependent child of a deceased retiree who
21 has survived the deceased retiree and the deceased retiree's
22 spouse; or

23 (B) the dependent child of a deceased active
24 member ~~[employee]~~ who has survived the deceased member ~~[employee]~~
25 and the deceased member's ~~[employee's]~~ spouse if the deceased
26 member ~~[employee]~~:

27 (i) had contributions made to the group

1 program at the last place of employment of the deceased member
2 [~~employee~~] in public education in this state;

3 (ii) had 10 or more years of service credit
4 in the Teacher Retirement System of Texas [~~system~~]; and

5 (iii) died on or after September 1, 1986.

6 (3) "Surviving spouse" means:

7 (A) the surviving spouse of a deceased retiree;

8 or

9 (B) the surviving spouse of a deceased active
10 member [~~employee~~]:

11 (i) for whom contributions have been made
12 to the group program at the last place of employment of the deceased
13 member [~~employee~~] in public education in this state;

14 (ii) who had 10 or more years of service
15 credit in the Teacher Retirement System of Texas [~~system~~]; and

16 (iii) who died on or after September 1,
17 1986.

18 (d) Section 3.03, Chapter 1187, Acts of the 77th
19 Legislature, Regular Session, 2001, is repealed.

20 SECTION 10A.415. Section 1575.004, Insurance Code, is
21 amended to conform more closely to the source law from which it was
22 derived to read as follows:

23 Sec. 1575.004. DEFINITION OF RETIREE. In this chapter,
24 "retiree" means:

25 (1) an individual who:

26 (A) has taken a service retirement under the
27 Teacher Retirement System of Texas [~~system~~] with at least 10 years

1 of service credit in the system for actual service in public schools
2 in this state; and

3 (B) is not eligible for coverage under a plan
4 provided under Chapter 1551 or 1601; or

5 (2) an individual who:

6 (A) has taken a disability retirement under the
7 Teacher Retirement System of Texas [~~system~~]; and

8 (B) is entitled to receive monthly benefits from
9 the Teacher Retirement System of Texas [~~system~~].

10 SECTION 10A.416. (a) Section 1575.005, Insurance Code, is
11 amended to conform to Section 3.07, Chapter 1187, Acts of the 77th
12 Legislature, Regular Session, 2001, and to conform more closely to
13 the source law from which the section was derived to read as
14 follows:

15 Sec. 1575.005. ISSUANCE OF CERTIFICATE OF COVERAGE. At the
16 time and in the circumstances specified by the trustee [~~board of~~
17 ~~trustees~~], a carrier shall issue to each retiree, surviving spouse,
18 or surviving dependent child[, ~~or active employee of a~~
19 ~~participating school district~~] covered under this chapter a
20 certificate of coverage that:

21 (1) states the benefits to which the person is
22 entitled;

23 (2) states to whom the benefits are payable;

24 (3) states to whom a claim must be submitted; and

25 (4) summarizes the provisions of the coverage
26 principally affecting the person.

27 (b) Section 3.07, Chapter 1187, Acts of the 77th

1 Legislature, Regular Session, 2001, is repealed.

2 SECTION 10A.417. Section 1575.006(b), Insurance Code, is
3 amended to conform more closely to the source law from which it was
4 derived to read as follows:

5 (b) The items listed in Subsection (a) may not be assigned
6 except for direct payment to benefit providers as authorized by the
7 trustee [~~board of trustees~~] by contract, rule, or otherwise.

8 SECTION 10A.418. (a) Section 1575.008, Insurance Code, is
9 repealed to conform to the repeal of Section 21, Article 3.50-4,
10 Insurance Code, the source law from which that section was derived,
11 by Section 3.20, Chapter 1187, Acts of the 77th Legislature,
12 Regular Session, 2001.

13 (b) Subchapter R, Chapter 1575, Insurance Code, is repealed
14 to conform to the repeal of Sections 7A and 20, Article 3.50-4,
15 Insurance Code, the source law from which that subchapter was
16 derived, by Section 3.20, Chapter 1187, Acts of the 77th
17 Legislature, Regular Session, 2001.

18 SECTION 10A.419. Section 1575.051, Insurance Code, is
19 amended to conform more closely to the source law from which it was
20 derived to read as follows:

21 Sec. 1575.051. ADMINISTRATION OF GROUP PROGRAM. The
22 trustee [~~board of trustees~~] shall take the actions it considers
23 necessary to devise, implement, and administer the group program.

24 SECTION 10A.420. (a) Section 1575.052, Insurance Code, is
25 amended to conform to Section 3.05, Chapter 1187, Acts of the 77th
26 Legislature, Regular Session, 2001, and to conform more closely to
27 the source law from which the section was derived to read as

1 follows:

2 Sec. 1575.052. AUTHORITY TO ADOPT RULES AND PROCEDURES;
3 OTHER AUTHORITY. (a) The trustee [~~board of trustees~~] may adopt
4 rules, plans, procedures, and orders reasonably necessary to
5 implement this chapter, including:

6 (1) minimum benefit and financing standards for group
7 coverage for retirees, dependents, surviving spouses, and
8 surviving dependent children[~~, and active employees of~~
9 ~~participating school districts~~];

10 (2) basic and optional group coverage for retirees,
11 dependents, surviving spouses, and surviving dependent children[~~,~~
12 ~~and active employees of participating school districts~~];

13 (3) procedures for contributions and deductions;

14 (4) periods for enrollment and selection of optional
15 coverage and procedures for enrolling and exercising options under
16 the group program;

17 (5) procedures for claims administration;

18 (6) procedures to administer the fund; and

19 (7) a timetable for:

20 (A) developing minimum benefit and financial
21 standards for group coverage;

22 (B) establishing group plans; and

23 (C) taking bids and awarding contracts for group
24 plans.

25 (b) The trustee [~~board of trustees~~] may:

26 (1) study the operation of all group coverage provided
27 under this chapter; and

1 (2) contract for advice and counsel in implementing
2 and administering the group program with an independent and
3 experienced group insurance consultant or actuary [~~who does not~~
4 ~~receive a commission from any insurance company~~].

5 (b) Section 3.05, Chapter 1187, Acts of the 77th
6 Legislature, Regular Session, 2001, is repealed.

7 SECTION 10A.421. Sections 1575.053, 1575.054, and 1575.055,
8 Insurance Code, are amended to conform more closely to the source
9 law from which the sections were derived to read as follows:

10 Sec. 1575.053. PERSONNEL. (a) The trustee [~~board of~~
11 ~~trustees~~] may employ persons to assist the trustee [~~board~~] in
12 implementing this chapter.

13 (b) The trustee [~~board of trustees~~] shall prescribe the
14 duties and compensation of each employee [~~of the board~~].

15 Sec. 1575.054. BUDGET. Expenses incurred in developing and
16 administering the group program shall be paid as provided by a
17 budget adopted by the trustee [~~board of trustees~~].

18 Sec. 1575.055. DEPARTMENT ASSISTANCE. The department
19 shall, as requested by the trustee [~~board of trustees~~], assist the
20 trustee [~~board~~] in implementing and administering this chapter.

21 SECTION 10A.422. (a) Subchapter B, Chapter 1575, Insurance
22 Code, is amended to conform to Section 3A, Article 3.50-4,
23 Insurance Code, as added by Section 3.01, Chapter 1187, Acts of the
24 77th Legislature, Regular Session, 2001, by adding Section 1575.056
25 to read as follows:

26 Sec. 1575.056. TRANSFER OF RECORDS RELATING TO ACTIVE
27 EMPLOYEE PROGRAM. The trustee shall transfer from the program all

1 records relating to active employees participating in the program
2 established under Chapter 1579 not later than the date on which the
3 program established under Chapter 1579 is implemented.

4 (b) Section 3A, Article 3.50-4, Insurance Code, as added by
5 Section 3.01, Chapter 1187, Acts of the 77th Legislature, Regular
6 Session, 2001, is repealed.

7 SECTION 10A.423. Sections 1575.101, 1575.102, 1575.103, and
8 1575.104, Insurance Code, are amended to conform more closely to
9 the source law from which the sections were derived to read as
10 follows:

11 Sec. 1575.101. SYSTEM AS GROUP PLAN HOLDER. The Teacher
12 Retirement System of Texas [~~system~~] is the group plan holder of a
13 plan established under this chapter.

14 Sec. 1575.102. SELF-INSURED PLANS. The trustee [~~board of~~
15 ~~trustees~~] may self-insure any plan established under this chapter.

16 Sec. 1575.103. PLANS MAY VARY ACCORDING TO MEDICARE
17 COVERAGE. For retirees and surviving spouses who are covered by
18 Medicare, the trustee [~~board of trustees~~] may provide one or more
19 plans that are different from the plans provided for retirees and
20 surviving spouses who are not covered by Medicare.

21 Sec. 1575.104. TERMS OF CONTRACT. A contract for group
22 coverage awarded by the trustee [~~board of trustees~~] must meet the
23 minimum benefit and financial standards adopted by the trustee
24 [~~board~~].

25 SECTION 10A.424. (a) Section 1575.106, Insurance Code, is
26 amended to conform to Section 3.06, Chapter 1187, Acts of the 77th
27 Legislature, Regular Session, 2001, to read as follows:

1 Sec. 1575.106. COMPETITIVE BIDDING REQUIREMENTS; RULE. (a)
2 A contract to provide group benefits under this chapter may be
3 awarded only through competitive bidding under rules adopted by the
4 trustee [~~board of trustees~~].

5 (b) [~~The rules:~~
6 ~~(1) must require that a prospective bidder provide,~~
7 ~~for each area consisting of a county and all adjacent counties,~~
8 ~~information on the number and types of qualified providers willing~~
9 ~~to participate in the plan for which the bid is made; and~~

10 ~~(2) may provide criteria for determining whether a~~
11 ~~provider is qualified.~~

12 ~~(c) The board of trustees may not require a bidder to~~
13 ~~demonstrate a minimum standard of provider participation.~~

14 ~~(d)~~ The trustee [~~board of trustees~~] shall submit for
15 competitive bidding at least every six years each contract for
16 coverage under this chapter.

17 (b) Section 1575.107, Insurance Code, is amended to conform
18 to Section 3.06, Chapter 1187, Acts of the 77th Legislature,
19 Regular Session, 2001, and to conform more closely to the source law
20 from which the section was derived to read as follows:

21 Sec. 1575.107. CONTRACT AWARD; CONSIDERATIONS. (a) In
22 awarding a contract to provide group benefits under this chapter,
23 the trustee [~~board of trustees~~] is not required to select the lowest
24 bid and[+]

25 ~~(1) shall consider information obtained under~~
26 ~~Section 1575.106; and~~

27 ~~(2)~~ may consider any relevant criteria, including

1 the bidder's:

2 (1) [~~(A)~~] ability to service contracts;

3 (2) [~~(B)~~] past experiences; and

4 (3) [~~(C)~~] financial stability.

5 (b) If the trustee [~~board of trustees~~] awards a contract to
6 a bidder whose bid deviates from that advertised, the trustee
7 [~~board~~] shall record the deviation and fully justify the reason for
8 the deviation in the minutes of the next [~~board~~] meeting of the
9 trustee.

10 (c) Section 3.06, Chapter 1187, Acts of the 77th
11 Legislature, Regular Session, 2001, is repealed.

12 SECTION 10A.425. Sections 1575.108, 1575.109, and 1575.151,
13 Insurance Code, are amended to conform more closely to the source
14 law from which the sections were derived to read as follows:

15 Sec. 1575.108. USE OF PRIVATE ENTITIES. The trustee [~~board~~
16 ~~of trustees~~] may engage a private entity to collect contributions
17 from or to settle claims in connection with a plan established by
18 the trustee [~~board~~] under this chapter.

19 Sec. 1575.109. USE OF HEALTH CARE PROVIDER. To provide
20 benefits to participants in the group program, the trustee [~~board~~
21 ~~of trustees~~] may contract directly with a health care provider,
22 including a health maintenance organization, a preferred provider
23 organization, a carrier, an administrator, and any other qualified
24 vendor.

25 Sec. 1575.151. TYPES OF COVERAGES. The trustee [~~board of~~
26 ~~trustees~~] may include in a plan any coverage it considers
27 advisable, including:

- 1 (1) life insurance;
- 2 (2) accidental death and dismemberment coverage;
- 3 (3) coverage for:
- 4 (A) hospital care and benefits;
- 5 (B) surgical care and treatment;
- 6 (C) medical care and treatment;
- 7 (D) dental care;
- 8 (E) eye care;
- 9 (F) obstetrical benefits;
- 10 (G) long-term care;
- 11 (H) prescribed drugs, medicines, and prosthetic
- 12 devices; and
- 13 (I) supplemental benefits, supplies, and
- 14 services in accordance with this chapter; and
- 15 (4) protection against loss of salary.

16 SECTION 10A.426. (a) Section 1575.153, Insurance Code, is

17 amended to conform to Section 3.10, Chapter 1187, Acts of the 77th

18 Legislature, Regular Session, 2001, and to conform more closely to

19 the source law from which the section was derived to read as

20 follows:

21 Sec. 1575.153. AUTOMATIC BASIC COVERAGE. A retiree [~~or~~

22 ~~active employee of a participating school district]~~ who applies for

23 coverage during an enrollment period may not be denied coverage in a

24 basic plan provided under this chapter unless the trustee [~~board of~~

25 ~~trustees~~] finds under Subchapter K that the individual defrauded or

26 attempted to defraud the group program.

27 (b) Section 3.10, Chapter 1187, Acts of the 77th

1 Legislature, Regular Session, 2001, is repealed.

2 SECTION 10A.427. Sections 1575.154 and 1575.155, Insurance
3 Code, are amended to conform more closely to the source law from
4 which the sections were derived to read as follows:

5 Sec. 1575.154. ENROLLMENT IN BASIC PLAN BY RETIREES
6 REQUIRED. A retiree must be enrolled in a basic plan offered under
7 the group program unless:

8 (1) the retiree rejects enrollment in the group
9 program in writing on a form provided by the trustee [~~board of~~
10 ~~trustees~~]; or

11 (2) the trustee [~~board of trustees~~] finds under
12 Subchapter K that the retiree defrauded or attempted to defraud the
13 group program.

14 Sec. 1575.155. COVERAGE FOR DEPENDENTS OF RETIREE. (a) A
15 retiree participating in the group program is entitled to secure
16 for the retiree's dependents group coverage provided for the
17 retiree under this chapter, as determined by the trustee [~~board of~~
18 ~~trustees~~].

19 (b) The additional contribution payments for the dependent
20 coverage shall be deducted from the annuity payments to the retiree
21 in the manner and form determined by the trustee [~~board of~~
22 ~~trustees~~].

23 SECTION 10A.428. Section 1575.156(b), Insurance Code, is
24 amended to conform more closely to the source law from which it was
25 derived to read as follows:

26 (b) A surviving spouse must provide payment of applicable
27 contributions in the manner established by Section 1575.205 and by

1 the trustee [~~board of trustees~~].

2 SECTION 10A.429. Section 1575.157(b), Insurance Code, is
3 amended to conform more closely to the source law from which it was
4 derived to read as follows:

5 (b) The applicable contributions must be provided in the
6 manner established by Section 1575.205 and by the trustee [~~board of~~
7 ~~trustees~~].

8 SECTION 10A.430. Section 1575.158(a), Insurance Code, is
9 amended to conform more closely to the source law from which it was
10 derived to read as follows:

11 (a) The trustee [~~board of trustees~~] may, in addition to
12 providing a basic plan, contract for and make available an optional
13 group health benefit plan for retirees, dependents, surviving
14 spouses, or surviving dependent children.

15 SECTION 10A.431. (a) Section 1575.160, Insurance Code, is
16 amended to conform to Section 3.09, Chapter 1187, Acts of the 77th
17 Legislature, Regular Session, 2001, and to conform more closely to
18 the source law from which the section was derived to read as
19 follows:

20 Sec. 1575.160. GROUP LIFE OR ACCIDENTAL DEATH AND
21 DISMEMBERMENT INSURANCE: PAYMENT OF CLAIM. The amount of group
22 life insurance or group accidental death and dismemberment
23 insurance covering a retiree, [~~active employee,~~] dependent,
24 surviving spouse, or surviving dependent child on the date of death
25 shall be paid, on the establishment of a valid claim, only to:

26 (1) the beneficiary designated by the person in a
27 signed and witnessed document received before death in the office

1 of the trustee [~~system~~]; or

2 (2) a person in the order prescribed by Section
3 824.103(b), Government Code, if a beneficiary is not properly
4 designated or a beneficiary does not exist.

5 (b) Section 3.09, Chapter 1187, Acts of the 77th
6 Legislature, Regular Session, 2001, is repealed.

7 SECTION 10A.432. Section 1575.201, Insurance Code, is
8 amended to conform more closely to the source law from which it was
9 derived to read as follows:

10 Sec. 1575.201. ADDITIONAL STATE CONTRIBUTIONS. The state
11 through the trustee [~~system~~] shall contribute from money in the
12 fund the total cost of the basic plan covering each participating
13 retiree.

14 SECTION 10A.433. Sections 1575.203(b) and (c), Insurance
15 Code, are amended to conform more closely to the source law from
16 which the subsections were derived to read as follows:

17 (b) The employer of an active employee shall monthly:

18 (1) deduct the employee's contribution from the
19 employee's salary and remit the contribution to the trustee
20 [~~system~~] in the manner required by the trustee [~~board of trustees~~];
21 or

22 (2) assume and pay the total contributions due from
23 its active employees.

24 (c) Contributions to the fund deducted from the salary of an
25 active employee are included in annual compensation for purposes of
26 the Teacher Retirement System of Texas [~~system~~].

27 SECTION 10A.434. Section 1575.205, Insurance Code, is

1 amended to conform more closely to the source law from which it was
2 derived to read as follows:

3 Sec. 1575.205. PARTICIPANT CONTRIBUTION FOR OPTIONAL PLAN.

4 (a) A retiree, surviving spouse, or surviving dependent child who
5 elects an optional plan shall pay a monthly contribution to cover
6 the cost of the plan. The trustee [~~board of trustees~~] shall adopt
7 rules for the collection of additional contributions.

8 (b) As a condition of electing coverage under an optional
9 plan, a retiree or surviving spouse must, in writing, authorize the
10 trustee [~~board of trustees~~] to deduct the amount of the
11 contribution from the person's monthly annuity payment.

12 (c) The trustee [~~board of trustees~~] may spend a part of the
13 money received for the group program to offset a part of the costs
14 for optional coverage paid by retirees if the expenditure does not
15 reduce the period the group program is projected to remain
16 financially solvent by more than one year in a biennium.

17 SECTION 10A.435. (a) Section 1575.207, Insurance Code, is
18 amended to conform to Section 24, Chapter 1229, Acts of the 77th
19 Legislature, Regular Session, 2001, and to conform more closely to
20 the source law from which the section was derived to read as
21 follows:

22 Sec. 1575.207. INTEREST ASSESSED ON LATE PAYMENT OF
23 DEPOSITS BY EMPLOYING SCHOOL DISTRICTS. (a) An employing school
24 district that does not remit to the trustee [~~board of trustees~~] all
25 contributions required by this subchapter before the seventh [~~11th~~]
26 day after the last day of the month shall pay to the fund:

27 (1) the contributions; and

1 (2) interest on the unpaid amounts at the annual rate
2 of six percent compounded monthly.

3 (b) On request, the trustee may grant a waiver of the
4 deadline imposed by this section based on an employing district's
5 financial or technological resources.

6 (b) Section 24, Chapter 1229, Acts of the 77th Legislature,
7 Regular Session, 2001, is repealed.

8 SECTION 10A.436. Sections 1575.208 and 1575.209, Insurance
9 Code, are amended to conform more closely to the source law from
10 which the sections were derived to read as follows:

11 Sec. 1575.208. CERTIFICATION OF AMOUNT NECESSARY TO PAY
12 STATE CONTRIBUTIONS. Not later than October 31 preceding each
13 regular session of the legislature, the trustee [~~board of trustees~~]
14 shall certify the amount necessary to pay the state contributions
15 to the fund to:

16 (1) the Legislative Budget Board; and

17 (2) the budget division of the governor's office.

18 Sec. 1575.209. CERTIFICATION OF AMOUNT OF STATE
19 CONTRIBUTIONS. Not later than August 31 of each year, the trustee
20 [~~board of trustees~~] shall certify to the comptroller the estimated
21 amount of state contributions to be received by the fund for the
22 next fiscal year under the appropriations authorized by this
23 chapter.

24 SECTION 10A.437. Section 1575.210(a), Insurance Code, is
25 amended to conform more closely to the source law from which it was
26 derived to read as follows:

27 (a) Contributions allocated and appropriated under this

1 subchapter for a state fiscal year shall be:

2 (1) paid from the general revenue fund in equal
3 monthly installments;

4 (2) based on the estimated amount certified by the
5 trustee [~~board of trustees~~] to the comptroller for that year; and

6 (3) subject to any express limitations specified in
7 the Act making the appropriation.

8 SECTION 10A.438. Sections 1575.252, 1575.253, 1575.254, and
9 1575.255, Insurance Code, are amended to conform more closely to
10 the source law from which the sections were derived to read as
11 follows:

12 Sec. 1575.252. APPLICATION BY EMPLOYER FOR MONEY TO PAY
13 STATE CONTRIBUTIONS. An employer who applies for money provided by
14 the United States or a privately sponsored source shall:

15 (1) if any of the money will pay part or all of an
16 active employee's salary, also apply for any legally available
17 money to pay state contributions required by Subchapter E; and

18 (2) immediately send any money received for state
19 contributions as a result of the application to the trustee
20 [~~system~~] for deposit in the general revenue fund.

21 Sec. 1575.253. MONTHLY CERTIFICATION. An employer shall
22 monthly certify to the trustee [~~board of trustees~~] in a form
23 prescribed by the trustee [~~board~~]:

24 (1) the total amount of salary paid from federal funds
25 and private grants; and

26 (2) the total amount of state contributions provided
27 by the funds and grants.

1 Sec. 1575.254. MONTHLY MAINTENANCE OF INFORMATION. An
2 employer shall monthly maintain:

3 (1) the name of each employee whose salary is paid
4 wholly or partly from a grant;

5 (2) the source of the grant;

6 (3) the amount of the employee's salary paid from the
7 grant;

8 (4) the amount of the money provided by the grant for
9 state contributions for the employee; and

10 (5) any other information the trustee [~~board of~~
11 ~~trustees~~] determines is necessary to enforce this subchapter.

12 Sec. 1575.255. PROOF OF COMPLIANCE. The trustee [~~board of~~
13 ~~trustees~~] may:

14 (1) require an employer to report an application for
15 federal or private money;

16 (2) require evidence that the application includes a
17 request for funds available to pay state contributions for active
18 employees; and

19 (3) examine the records of an employer to determine
20 compliance with this subchapter and rules adopted under this
21 subchapter.

22 SECTION 10A.439. Section 1575.257(b), Insurance Code, is
23 amended to conform more closely to the source law from which it was
24 derived to read as follows:

25 (b) The trustee [~~board of trustees~~] shall report an alleged
26 noncompliance with this subchapter to the attorney general, the
27 Legislative Budget Board, the comptroller, and the governor.

1 SECTION 10A.440. (a) Section 1575.301, Insurance Code, is
2 amended to conform to Section 3.11, Chapter 1187, Acts of the 77th
3 Legislature, Regular Session, 2001, and to conform more closely to
4 the source law from which the section was derived to read as
5 follows:

6 Sec. 1575.301. FUND; ADMINISTRATION. (a) The retired
7 [~~Texas public~~] school employees group insurance fund is a trust
8 fund with the comptroller, who is custodian of the fund.

9 (b) The trustee [~~board of trustees~~] shall administer the
10 fund.

11 (b) The heading to Subchapter G, Chapter 1575, Insurance
12 Code, is amended to conform to Section 3.11, Chapter 1187, Acts of
13 the 77th Legislature, Regular Session, 2001, to read as follows:

14 SUBCHAPTER G. RETIRED [~~TEXAS PUBLIC~~] SCHOOL EMPLOYEES
15 GROUP INSURANCE FUND

16 (c) Section 3.11, Chapter 1187, Acts of the 77th
17 Legislature, Regular Session, 2001, is repealed.

18 SECTION 10A.441. Sections 1575.303, 1575.304, 1575.305, and
19 1575.306, Insurance Code, are amended to conform more closely to
20 the source law from which the sections were derived to read as
21 follows:

22 Sec. 1575.303. PAYMENTS FROM FUND. (a) The following
23 shall, without state fiscal year limitation, be paid from the fund:

24 (1) the appropriate premiums to a carrier providing
25 group coverage under a plan under this chapter;

26 (2) claims for benefits under the group coverage; and

27 (3) money spent by the trustee [~~board of trustees~~] to

1 administer the group program.

2 (b) The appropriate portion of the contributions to the fund
3 to provide for incurred but unreported claim reserves and
4 contingency reserves, as determined by the trustee [~~board of~~
5 ~~trustees~~], shall be retained in the fund.

6 Sec. 1575.304. TRANSFER OF CERTAIN CONTRIBUTIONS. The
7 trustee [~~board of trustees~~] shall transfer into the fund the
8 amounts deducted from annuities for contributions.

9 Sec. 1575.305. INVESTMENT OF FUND. The trustee [~~board of~~
10 ~~trustees~~] may invest money in the fund in the manner provided by
11 Subchapter D, Chapter 825, Government Code, for assets of the
12 Teacher Retirement System of Texas [~~system~~].

13 Sec. 1575.306. EMPLOYEE CONTRIBUTIONS PROPERTY OF FUND ON
14 RECEIPT; NO REFUND. A contribution from an active employee:

15 (1) is the property of the fund on receipt by the
16 trustee [~~system~~]; and

17 (2) may not be refunded to the active employee under
18 any circumstances, including termination of employment.

19 SECTION 10A.442. Sections 1575.351(1) and (3), Insurance
20 Code, are amended to conform more closely to the source law from
21 which the subdivisions were derived to read as follows:

22 (1) "Credentialing committee" means a credentialing
23 committee created by the trustee [~~board of trustees~~] under Section
24 1575.354.

25 (3) "Network" means the coordinated care network
26 implemented and administered [~~established~~] by the trustee [~~board of~~
27 ~~trustees~~] under this subchapter.

1 SECTION 10A.443. Sections 1575.352, 1575.353, and 1575.354,
2 Insurance Code, are amended to conform more closely to the source
3 law from which the sections were derived to read as follows:

4 Sec. 1575.352. IMPLEMENTATION AND ADMINISTRATION. The
5 trustee [~~board of trustees~~] may implement and administer a
6 coordinated care network for the group program.

7 Sec. 1575.353. CONTRACTS WITH HEALTH CARE PROVIDERS AND
8 OTHERS. As the trustee [~~board of trustees~~] determines is necessary
9 to implement and administer the network, the trustee [~~board~~] may
10 contract with a health care provider or other individuals or
11 entities.

12 Sec. 1575.354. CREDENTIALING COMMITTEES. The trustee
13 [~~board of trustees~~] may establish credentialing committees to
14 evaluate the qualifications of health care providers to participate
15 in the network.

16 SECTION 10A.444. Section 1575.355(a), Insurance Code, is
17 amended to conform more closely to the source law from which it was
18 derived to read as follows:

19 (a) The following are not liable for damages arising from an
20 act or omission of a health care provider participating in the
21 network:

22 (1) the trustee [~~system~~] and its officers and
23 employees, including the board of trustees of the trustee;

24 (2) the group program;

25 (3) the fund; and

26 (4) a member of an advisory committee to the trustee
27 [~~board of trustees~~].

1 SECTION 10A.445. Section 1575.356, Insurance Code, is
2 amended to conform more closely to the source law from which it was
3 derived to read as follows:

4 Sec. 1575.356. IMMUNITY FROM LIABILITY ARISING FROM
5 EVALUATION OF QUALIFICATIONS OR CARE. The following are not liable
6 for damages arising from an act, including a statement,
7 determination, report of an act, or recommendation, committed
8 without malice in the course of the evaluation of the
9 qualifications of a health care provider or of the patient care
10 provided by a health care provider participating in the network:

11 (1) the trustee [~~system~~] and its officers and
12 employees, including the board of trustees;

13 (2) the group program;

14 (3) the fund;

15 (4) a member of an advisory committee to the trustee
16 [~~board of trustees~~]; and

17 (5) a member of a credentialing committee.

18 SECTION 10A.446. Section 1575.363(a), Insurance Code, is
19 amended to conform more closely to the source law from which it was
20 derived to read as follows:

21 (a) Any of the following persons named as a defendant in any
22 civil action filed as a result of participation in the
23 credentialing process may use, including in the person's own
24 defense, otherwise confidential information obtained for
25 legitimate internal business and professional purposes:

26 (1) the trustee [~~system~~] and its officers and
27 employees, including the board of trustees;

- 1 (2) a credentialing committee;
- 2 (3) a person participating in a credentialing review;
- 3 (4) a health care provider;
- 4 (5) the group program; and
- 5 (6) a member of an advisory committee.

6 SECTION 10A.447. Section 1575.402(a), Insurance Code, is
7 amended to conform more closely to the source law from which it was
8 derived to read as follows:

9 (a) The Retirees Advisory Committee is composed of the
10 following nine members appointed by the trustee [~~board of~~
11 ~~trustees~~]:

- 12 (1) one member who is an active school administrator;
- 13 (2) one member who is a retired school administrator;
- 14 (3) two members who are active teachers;
- 15 (4) three members who are retired teachers;
- 16 (5) one member who is an active member of the auxiliary
17 personnel of a school district; and
- 18 (6) one member who is a retired member of the auxiliary
19 personnel of a school district.

20 SECTION 10A.448. Section 1575.404, Insurance Code, is
21 amended to conform more closely to the source law from which it was
22 derived to read as follows:

23 Sec. 1575.404. VACANCY. The trustee [~~board of trustees~~]
24 shall fill a vacancy on the committee by appointing a person who
25 meets the qualifications applicable to the vacated position.

26 SECTION 10A.449. Section 1575.405(a), Insurance Code, is
27 amended to conform more closely to the source law from which it was

1 derived to read as follows:

2 (a) The committee shall meet:

3 (1) at least twice each year; and

4 (2) at the call of the trustee [~~board of trustees~~].

5 SECTION 10A.450. Sections 1575.406 and 1575.407, Insurance
6 Code, are amended to conform more closely to the source law from
7 which the sections were derived to read as follows:

8 Sec. 1575.406. DUTIES. The committee shall:

9 (1) hold public hearings on group coverage;

10 (2) recommend to the trustee [~~board of trustees~~]
11 minimum standards and features of a plan under the group program
12 that the committee considers appropriate; and

13 (3) recommend to the trustee [~~board of trustees~~]
14 desirable changes in rules and legislation affecting the group
15 program.

16 Sec. 1575.407. PROCEDURAL RULES. The trustee [~~board of~~
17 ~~trustees~~] shall adopt procedural rules for the committee to follow
18 in implementing its powers and duties under this subchapter.

19 SECTION 10A.451. Sections 1575.451(b), (c), and (d),
20 Insurance Code, are amended to conform more closely to the source
21 law from which the subsections were derived to read as follows:

22 (b) Group coverage purchased under this chapter must
23 provide for an accounting to the trustee [~~board of trustees~~] by each
24 carrier providing the coverage.

25 (c) The accounting must be submitted:

26 (1) not later than the 90th day after the last day of
27 each plan year; and

1 (2) on a form approved by the trustee [~~board of~~
2 ~~trustees~~].

3 (d) Each carrier shall prepare any other report that the
4 trustee [~~board of trustees~~] considers necessary.

5 SECTION 10A.452. Sections 1575.452, 1575.453, and 1575.454,
6 Insurance Code, are amended to conform more closely to the source
7 law from which the sections were derived to read as follows:

8 Sec. 1575.452. ANNUAL REPORT. Not later than the 180th day
9 after the last day of each state fiscal year, the trustee [~~board of~~
10 ~~trustees~~] shall submit a written report to the department
11 concerning the group coverages provided to and the benefits and
12 services being received by individuals covered under this chapter.

13 Sec. 1575.453. STUDY AND REPORT BY TRUSTEE [~~BOARD OF~~
14 ~~TRUSTEES~~]. (a) The trustee [~~board of trustees~~] shall study the
15 operation and administration of this chapter, including:

16 (1) conducting surveys and preparing reports on
17 financing group coverages and health benefit plans available to
18 participants; and

19 (2) studying the experience and projected cost of
20 coverage.

21 (b) The trustee [~~board of trustees~~] shall report to the
22 legislature at each regular session on the operation and
23 administration of this chapter.

24 Sec. 1575.454. REPORTS BY AND EXAMINATION OF CARRIER. Each
25 contract entered into under this chapter between the trustee [~~board~~
26 ~~of trustees~~] and a carrier must require the carrier to:

27 (1) furnish to the trustee [~~board~~] in a timely manner

1 reasonable reports that the trustee [~~board~~] determines are
2 necessary to implement this chapter; and

3 (2) permit the trustee [~~board~~] and the state auditor
4 to examine records of the carrier as necessary to implement this
5 chapter.

6 SECTION 10A.453. (a) Section 1575.456, Insurance Code, is
7 amended to conform to Section 3.13, Chapter 1187, Acts of the 77th
8 Legislature, Regular Session, 2001, and to conform more closely to
9 the source law from which the section was derived to read as
10 follows:

11 Sec. 1575.456. CONFIDENTIALITY OF RECORDS. (a) Section
12 825.507, Government Code, concerning confidentiality and
13 disclosure of records applies to [~~information in~~] records in the
14 custody of the Teacher Retirement System of Texas or in the custody
15 of an administrator, carrier, agent, attorney, consultant, or
16 governmental body acting in cooperation with or on behalf of the
17 system relating to a retiree, active employee, annuitant, or
18 beneficiary under the group program.

19 (b) The Teacher Retirement System of Texas [~~system~~] may
20 disclose to a health or benefit provider information in the records
21 of an individual that the system determines is necessary to
22 administer the group program.

23 (b) Section 3.13, Chapter 1187, Acts of the 77th
24 Legislature, Regular Session, 2001, is repealed.

25 SECTION 10A.454. (a) Section 1575.501, Insurance Code, is
26 amended to conform to Section 3.12, Chapter 1187, Acts of the 77th
27 Legislature, Regular Session, 2001, and to conform more closely to

1 the source law from which the section was derived to read as
2 follows:

3 Sec. 1575.501. EXPULSION FOR FRAUD. After notice and
4 hearing as provided by this subchapter, the trustee [~~board of~~
5 ~~trustees~~] may expel from participation in the group program a
6 retiree, [~~active employee~~] dependent, surviving spouse, or
7 surviving dependent child who:

8 (1) submits a fraudulent claim or application for
9 coverage under the group program; or

10 (2) defrauds or attempts to defraud a health benefit
11 plan offered under the group program.

12 (b) Section 3.12, Chapter 1187, Acts of the 77th
13 Legislature, Regular Session, 2001, is repealed.

14 SECTION 10A.455. Sections 1575.502, 1575.504, 1575.505, and
15 1575.506, Insurance Code, are amended to conform more closely to
16 the source law from which the sections were derived to read as
17 follows:

18 Sec. 1575.502. HEARING. On receipt of a complaint or on its
19 own motion, the trustee [~~board of trustees~~] may call and hold a
20 hearing to determine whether an individual has acted in the manner
21 described by Section 1575.501.

22 Sec. 1575.504. EXPULSION AT CONCLUSION OF HEARING. At the
23 conclusion of the hearing under Section 1575.502, if the trustee
24 [~~board of trustees~~] determines that the individual acted in the
25 manner described by Section 1575.501, the trustee [~~board~~] shall
26 expel the individual from participation in the group program.

27 Sec. 1575.505. EFFECT OF EXPULSION. An individual expelled

1 from participation in the group program may not be covered by a
2 health benefit plan offered under the group program for a period
3 determined by the trustee [~~board of trustees~~], not to exceed five
4 years, beginning on the date the expulsion takes effect.

5 Sec. 1575.506. APPEAL. An appeal of a determination by the
6 trustee [~~board of trustees~~] under this subchapter is under the
7 substantial evidence rule.

8 SECTION 10A.456. Sections 3.04, 3.08, 3.14, and 3.15,
9 Chapter 1187, Acts of the 77th Legislature, Regular Session, 2001,
10 are repealed.

11 SECTION 10A.457. Section 1576.001(2), Insurance Code, is
12 amended to conform more closely to the source law from which it was
13 derived to read as follows:

14 (2) "Trustee" [~~"Board of trustees"~~] means [~~the board~~
15 ~~of trustees of~~] the Teacher Retirement System of Texas.

16 SECTION 10A.458. Sections 1576.002, 1576.003, and 1576.006,
17 Insurance Code, are amended to conform more closely to the source
18 law from which the sections were derived to read as follows:

19 Sec. 1576.002. ESTABLISHMENT OF PROGRAM. (a) The trustee
20 [~~board of trustees~~] may establish a group long-term care insurance
21 program to provide long-term care insurance coverage for:

22 (1) an active employee or retiree;

23 (2) the spouse of an active employee or retiree,
24 including a surviving spouse;

25 (3) a parent or grandparent of an active employee or
26 retiree; and

27 (4) a parent of the spouse of an employee or retiree,

1 including a parent of a surviving spouse.

2 (b) The trustee [~~board of trustees~~] may not implement a
3 group long-term care insurance program unless any cost or
4 administrative burden associated with the development of,
5 implementation of, or communications about the program is
6 incidental.

7 Sec. 1576.003. ADMINISTERING FIRM. The trustee [~~board of~~
8 ~~trustees~~] may select an administering firm to administer the group
9 long-term care insurance program under contract with the trustee
10 [~~board~~].

11 Sec. 1576.006. RULES. The trustee [~~board of trustees~~] may
12 adopt rules as necessary to implement this chapter, including rules
13 specifying the coverage to be offered under the group long-term
14 care insurance program.

15 SECTION 10A.459. (a) Chapter 1576, Insurance Code, is
16 amended to conform to Section 25, Chapter 1229, Acts of the 77th
17 Legislature, Regular Session, 2001, by adding Section 1576.007 to
18 read as follows:

19 Sec. 1576.007. EXEMPTION FROM STATE TAXES AND FEES. A
20 premium or contribution on a policy, insurance contract, or
21 agreement authorized under this chapter is not subject to any state
22 tax, regulatory fee, or surcharge, including a premium or
23 maintenance tax or fee.

24 (b) Section 25, Chapter 1229, Acts of the 77th Legislature,
25 Regular Session, 2001, is repealed.

26 SECTION 10A.460. Sections 1577.001 and 1577.002, Insurance
27 Code, are amended to conform more closely to the source law from

1 which the sections were derived to read as follows:

2 Sec. 1577.001. DEFINITIONS. In this chapter:

3 (1) "Trustee" [~~"Board of trustees"~~] means the [~~board~~
4 ~~of trustees of the~~] Teacher Retirement System of Texas.

5 (2) "Employee" means an individual who:

6 (A) is a participating member of the Teacher
7 Retirement System of Texas [~~system~~]; and

8 (B) does not participate in a group insurance
9 program provided under Chapter 1551 or 1601.

10 (3) "Retiree" means:

11 (A) an individual who:

12 (i) has taken a service retirement under
13 the system with at least 10 years of service credit in the Teacher
14 Retirement System of Texas [~~system~~] for service in public schools
15 in this state; and

16 (ii) is not eligible to participate in a
17 group insurance program provided under Chapter 1551 or 1601; or

18 (B) an individual who:

19 (i) has taken a disability retirement under
20 the system and is entitled to receive an annuity from the Teacher
21 Retirement System of Texas [~~system~~] based on the individual's
22 service; and

23 (ii) is not eligible to participate in a
24 group insurance program provided under Chapter 1551 or 1601.

25 [~~(4) "System" means the Teacher Retirement System of~~
26 ~~Texas.~~]

27 Sec. 1577.002. RULES. The trustee [~~board of trustees~~] may

1 adopt rules necessary to administer this chapter.

2 SECTION 10A.461. (a) Subchapter A, Chapter 1577, Insurance
3 Code, is amended to conform to Section 26, Chapter 1229, Acts of the
4 77th Legislature, Regular Session, 2001, by adding Section 1577.003
5 to read as follows:

6 Sec. 1577.003. EXEMPTION FROM STATE TAXES AND FEES. A
7 premium or contribution on a policy, insurance contract, or
8 agreement authorized under this chapter is not subject to any state
9 tax, regulatory fee, or surcharge, including a premium or
10 maintenance tax or fee.

11 (b) Section 26, Chapter 1229, Acts of the 77th Legislature,
12 Regular Session, 2001, is repealed.

13 SECTION 10A.462. Section 1577.051, Insurance Code, is
14 amended to conform more closely to the source law from which it was
15 derived to read as follows:

16 Sec. 1577.051. OPTIONAL PERMANENT LIFE INSURANCE. The
17 trustee [~~board of trustees~~] shall offer employees and retirees
18 optional permanent life insurance coverage.

19 SECTION 10A.463. Section 1577.052(a), Insurance Code, is
20 amended to conform more closely to the source law from which it was
21 derived to read as follows:

22 (a) The trustee [~~board of trustees~~] shall offer employees
23 and retirees optional long-term care insurance coverage.

24 SECTION 10A.464. Sections 1577.053, 1577.054, 1577.055,
25 1577.101, Insurance Code, are amended to conform more closely to
26 the source law from which the sections were derived to read as
27 follows:

1 Sec. 1577.053. OPTIONAL DISABILITY INSURANCE. The trustee
2 [~~board of trustees~~] shall offer employees optional insurance
3 coverage against short-term or long-term loss of salary because of
4 disability.

5 Sec. 1577.054. AVAILABILITY OF COVERAGE. The trustee
6 [~~board of trustees~~] shall offer the insurance coverages provided
7 under this chapter to:

- 8 (1) employees through their employers; and
9 (2) retirees through the trustee's [~~board's~~]
10 administration of the Teacher Retirement System of Texas [~~system~~].

11 Sec. 1577.055. OPEN ENROLLMENT PERIODS. Insurance
12 coverages provided under this chapter shall be made available
13 periodically during open enrollment periods as determined by the
14 trustee [~~board of trustees~~].

15 Sec. 1577.101. CONTRACTS TO PROVIDE COVERAGES. The trustee
16 [~~board of trustees~~] shall contract with one or more carriers
17 authorized to provide the applicable type of insurance to provide
18 each type of coverage required by Subchapter B.

19 SECTION 10A.465. Section 1577.102(a), Insurance Code, is
20 amended to conform more closely to the source law from which it was
21 derived to read as follows:

22 (a) A contract to provide benefits under this chapter may be
23 awarded only through competitive bidding under rules adopted by the
24 trustee [~~board of trustees~~].

25 SECTION 10A.466. Section 1577.103, Insurance Code, is
26 amended to conform more closely to the source law from which it was
27 derived to read as follows:

1 Sec. 1577.103. CONTRACT AWARD; CONSIDERATIONS. (a) In
2 awarding a contract under this chapter, the trustee [~~board of~~
3 ~~trustees~~] is not required to select the lowest bid and may consider
4 any relevant criteria, including a bidder's:

- 5 (1) ability to service contracts;
- 6 (2) past experiences; and
- 7 (3) financial stability.

8 (b) If the trustee [~~board of trustees~~] awards a contract to
9 a bidder whose bid deviates from that advertised, the trustee
10 [~~board~~] shall record the deviation and fully justify the reason for
11 the deviation in the minutes of the next [~~board~~] meeting of the
12 trustee.

13 SECTION 10A.467. Section 1577.104(a), Insurance Code, is
14 amended to conform more closely to the source law from which it was
15 derived to read as follows:

16 (a) The trustee [~~board of trustees~~] shall adopt rules for
17 the selection of contractors under this chapter.

18 SECTION 10A.468. Section 1577.152(a), Insurance Code, is
19 amended to conform more closely to the source law from which it was
20 derived to read as follows:

21 (a) An employee participating in a plan of insurance
22 coverage provided under this chapter shall pay premiums by payroll
23 deduction remitted by the employee's employer at the times and in
24 the manner determined by the trustee [~~board of trustees~~].

25 SECTION 10A.469. Section 1577.202(b), Insurance Code, is
26 amended to conform more closely to the source law from which it was
27 derived to read as follows:

1 (b) The trustee [~~board of trustees~~] shall administer the
2 fund on behalf of the participants in the plans of insurance
3 coverage provided under this chapter.

4 SECTION 10A.470. Section 1577.205, Insurance Code, is
5 amended to conform more closely to the source law from which it was
6 derived to read as follows:

7 Sec. 1577.205. INVESTMENT OF FUND. The trustee [~~board of~~
8 ~~trustees~~] may invest the fund in the manner provided by Section
9 67(a)(3), Article XVI, Texas Constitution.

10 SECTION 10A.471. (a) Subtitle H, Title 8, Insurance Code,
11 is amended to conform to the enactment of Articles 3.50-7, 3.50-8,
12 and 3.50-9, Insurance Code, by Sections 1.01, 1.02, and 1.03,
13 Chapter 1187, Acts of the 77th Legislature, Regular Session, 2001,
14 by adding Chapters 1579, 1580, and 1581 to read as follows:

15 CHAPTER 1579. TEXAS SCHOOL EMPLOYEES UNIFORM GROUP HEALTH COVERAGE

16 SUBCHAPTER A. GENERAL PROVISIONS

17 Sec. 1579.001. SHORT TITLE. This chapter may be cited as
18 the Texas School Employees Uniform Group Health Coverage Act.

19 Sec. 1579.002. GENERAL DEFINITIONS. In this chapter:

20 (1) "Administering firm" means any entity designated
21 by the trustee to administer any coverages, services, benefits, or
22 requirements under this chapter and the trustee's rules adopted
23 under this chapter.

24 (2) "Trustee" means the Teacher Retirement System of
25 Texas.

26 (3) "Charter school" means an open-enrollment charter
27 school established under Subchapter D, Chapter 12, Education Code.

1 (4) "Health coverage plan" means any group policy or
2 contract, hospital service agreement, health maintenance
3 organization agreement, preferred provider arrangement, or any
4 similar group arrangement or any combination of those policies,
5 contracts, agreements, or arrangements that provides for, pays for,
6 or reimburses expenses for health care services.

7 (5) "Participating entity" means an entity
8 participating in the uniform group coverage program established
9 under this chapter. The term includes:

10 (A) a school district;

11 (B) another educational district whose employees
12 are members of the Teacher Retirement System of Texas;

13 (C) a regional education service center; and

14 (D) a charter school that meets the requirements
15 of Section 1579.154.

16 (6) "Program" means the uniform group coverage program
17 established under this chapter.

18 (7) "Regional education service center" means a
19 regional education service center established under Chapter 8,
20 Education Code.

21 Sec. 1579.003. DEFINITION OF EMPLOYEE. In this chapter,
22 "employee" means a participating member of the Teacher Retirement
23 System of Texas who is employed by a participating entity and who is
24 not receiving coverage from a program under Chapter 1551, 1575, or
25 1601. The term does not include an individual performing personal
26 services as an independent contractor.

27 Sec. 1579.004. DEFINITION OF DEPENDENT. In this chapter,

1 "dependent" means:

2 (1) a spouse of a full-time employee or part-time
3 employee;

4 (2) an unmarried child of a full-time or part-time
5 employee if the child is younger than 25 years of age, including:

6 (A) an adopted child;

7 (B) a foster child, stepchild, or other child who
8 is in a regular parent-child relationship; and

9 (C) a recognized natural child;

10 (3) a full-time or part-time employee's recognized
11 natural child, adopted child, foster child, stepchild, or other
12 child who is in a regular parent-child relationship and who lives
13 with or has his or her care provided by the employee or the
14 surviving spouse on a regular basis, regardless of the child's age,
15 if the child is mentally retarded or physically incapacitated to an
16 extent that the child is dependent on the employee or surviving
17 spouse for care or support, as determined by the board of trustees;
18 and

19 (4) notwithstanding any other provision of this code,
20 any other dependent of a full-time or part-time employee specified
21 by rules adopted by the board of trustees.

22 [Sections 1579.005-1579.050 reserved for expansion]

23 SUBCHAPTER B. ADMINISTRATION

24 Sec. 1579.051. ADMINISTRATION OF GROUP PROGRAM. The
25 Teacher Retirement System of Texas, as trustee, shall implement and
26 administer the uniform group coverage program described by this
27 chapter.

1 Sec. 1579.052. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY.

2 (a) The trustee may adopt rules relating to the program as
3 considered necessary by the trustee.

4 (b) The trustee may adopt rules to administer the program,
5 including rules relating to adjudication of claims and expelling
6 participants from the program for cause.

7 (c) The trustee may contract with an independent and
8 experienced group insurance consultant or actuary for advice and
9 counsel in implementing and administering the program.

10 (d) The trustee may enter into interagency contracts with
11 any agency of the state, including the Employees Retirement System
12 of Texas and the department, for the purpose of assistance in
13 implementing the program.

14 Sec. 1579.053. PERSONNEL. The trustee may hire and
15 compensate employees as necessary to implement the program.

16 Sec. 1579.054. COMPETITIVE BIDDING REQUIREMENTS; RULES. A
17 contract to provide group health coverage under this chapter may be
18 awarded only through competitive bidding under rules adopted by the
19 trustee.

20 Sec. 1579.055. CONTRACT AWARD; CONSIDERATIONS. (a) In
21 awarding a contract to provide group benefits under this chapter,
22 the trustee is not required to select the lowest bid and may
23 consider also any relevant criteria, including the bidder's:

24 (1) ability to service contracts;

25 (2) past experiences; and

26 (3) financial stability.

27 (b) If the trustee awards a contract to a bidder whose bid

1 deviates from that advertised, the trustee shall record the
2 deviation and fully justify the reason for the deviation in the
3 minutes of the next board meeting.

4 [Sections 1579.056-1579.100 reserved for expansion]

5 SUBCHAPTER C. COVERAGES

6 Sec. 1579.101. PLANS OF GROUP COVERAGES. (a) The trustee
7 by rule shall establish plans of group coverages for employees
8 participating in the program and their dependents.

9 (b) The plans must include at least two tiers of group
10 coverage, with coverage at different levels in each tier, ranging
11 from the catastrophic care coverage plan to the primary care
12 coverage plan. Each tier must contain a health coverage plan.

13 (c) The trustee by rule shall define the requirements of
14 each coverage plan and tier of coverage.

15 (d) Comparable coverage plans of each tier of coverage
16 established must be offered to employees of all participating
17 entities.

18 Sec. 1579.102. CATASTROPHIC CARE COVERAGE PLAN. The
19 coverage provided under the catastrophic care coverage plan shall
20 be prescribed by the trustee by rule and must provide coverage at
21 least as extensive as the coverage provided under the TRS-Care 2
22 plan operated under Chapter 1575.

23 Sec. 1579.103. PRIMARY CARE COVERAGE PLAN. The coverage
24 provided under the primary care coverage plan must be comparable in
25 scope and, to the greatest extent possible, in cost to the coverage
26 provided under Chapter 1551.

27 Sec. 1579.104. OPTIONAL COVERAGES. The trustee may offer

1 optional coverages to employees participating in the program. The
2 trustee by rule may define the types of optional coverages offered
3 under this section.

4 Sec. 1579.105. PREEXISTING CONDITION LIMITATION. During
5 the initial period of eligibility, coverage provided under the
6 program may not be made subject to a preexisting condition
7 limitation.

8 [Sections 1579.106-1579.150 reserved for expansion]

9 SUBCHAPTER D. PARTICIPATING ENTITIES

10 Sec. 1579.151. REQUIRED PARTICIPATION OF SCHOOL DISTRICTS
11 WITH 500 OR FEWER EMPLOYEES. (a) Each school district with 500 or
12 fewer employees and each regional education service center is
13 required to participate in the program.

14 (b) Notwithstanding Subsection (a), a school district
15 otherwise subject to Subsection (a) that, on January 1, 2001, was
16 individually self-funded for the provision of health coverage to
17 its employees may elect not to participate in the program.

18 (c) An educational district described by Section
19 1579.002(5)(B) that, on January 1, 2001, had 500 or fewer employees
20 may elect not to participate in the program.

21 (d) Notwithstanding Subsection (a), a school district
22 otherwise subject to Subsection (a) that is a party to a contract
23 for the provision of insurance coverage to the employees of the
24 district that is in effect on September 1, 2002, is not required to
25 participate in the program until the expiration of the contract
26 period. A school district subject to this subsection shall notify
27 the trustee in the manner prescribed by the trustee. This

1 subsection expires March 1, 2004.

2 Sec. 1579.152. PARTICIPATION OF OTHER SCHOOL DISTRICTS.
3 Effective September 1, 2005, a school district with more than 500
4 employees may elect to participate in the program. A school
5 district that elects to participate under this section shall apply
6 for participation in the manner prescribed by the trustee by rule.

7 Sec. 1579.1525. PARTICIPATION OF OTHER SCHOOL DISTRICTS
8 BEFORE SEPTEMBER 1, 2005. Notwithstanding Section 1579.152, a
9 school district with more than 500 employees may elect to
10 participate in the program before September 1, 2005, if the trustee
11 determines that participation by districts in that category would
12 be administratively feasible and cost-effective. This section
13 expires September 1, 2005.

14 Sec. 1579.153. PARTICIPATION BY CERTAIN RISK POOLS. (a) In
15 determining the number of employees of a school district for
16 purposes of Sections 1579.151 and 1579.152, school districts that,
17 on January 1, 2001, were members of a risk pool established under
18 the authority of Chapter 172, Local Government Code, as provided by
19 Section 22.004, Education Code, may elect to be treated as a single
20 unit. A school district shall elect whether to be considered as a
21 member of a risk pool under this section by notifying the trustee
22 not later than September 1, 2001.

23 (b) A risk pool in existence on January 1, 2001, that, as of
24 that date, provided group health coverage to 500 or fewer school
25 district employees may elect to participate in the program.

26 (c) A school district with 500 or fewer employees that is a
27 member of a risk pool described by Subsection (a) that provides

1 group health coverage to more than 500 school district employees
2 must elect, not later than September 1, 2001, whether to be treated
3 as a school district with 500 or fewer employees or as part of a unit
4 with more than 500 employees. The school district must notify the
5 trustee of the election, in the manner prescribed by the trustee,
6 not later than September 1, 2001.

7 (d) For purposes of this section, participation in the
8 program by school districts covered by a risk pool is limited to
9 school districts covered by the risk pool as of January 1, 2001.

10 Sec. 1579.154. PARTICIPATION BY CHARTER SCHOOLS;
11 ELIGIBILITY. (a) A charter school is eligible to participate in
12 the program if the school agrees:

13 (1) that all records of the school relating to
14 participation in the program are open to inspection by the trustee,
15 the administering firm, the commissioner of education, or a
16 designee of any of those entities; and

17 (2) to have the school's accounts relating to
18 participation in the program annually audited by a certified public
19 accountant at the school's expense.

20 (b) A charter school must notify the trustee of the school's
21 intent to participate in the program in the manner and within the
22 time required by rules adopted by the trustee.

23 [Sections 1579.155-1579.200 reserved for expansion]

24 SUBCHAPTER E. PARTICIPATION BY EMPLOYEE

25 Sec. 1579.201. DEFINITION. In this subchapter, "full-time
26 employee" and "part-time employee" have the meanings assigned by
27 rules adopted by the trustee.

1 Sec. 1579.202. ELIGIBLE EMPLOYEES. (a) Except as provided
2 by Section 1579.204, participation in the program is limited to
3 employees of participating entities who are full-time employees and
4 to part-time employees who are participating members in the Teacher
5 Retirement System of Texas.

6 (b) An employee described by Subsection (a) who applies for
7 coverage during an open enrollment period prescribed by the trustee
8 is automatically covered by the catastrophic care coverage plan
9 unless the employee:

10 (1) specifically waives coverage under this chapter;

11 (2) selects a higher tier coverage plan; or

12 (3) is expelled from the program.

13 Sec. 1579.203. SELECTION OF COVERAGE. (a) A participating
14 employee may select coverage in any coverage plan offered by the
15 trustee.

16 (b) The employee is not required to continue participation
17 in the coverage plan initially selected and may select a higher or
18 lower tier coverage plan than the plan initially selected by the
19 employee in the manner provided by rules adopted by the trustee.

20 (c) If the combined contributions received from the state
21 and the employing participating entity under Subchapter F exceed
22 the cost of a coverage plan selected by the employee, the employee
23 may use the excess amount of contributions to obtain coverage under
24 a higher tier coverage plan or to pay all or part of the cost of
25 coverage for the employee's dependents.

26 (d) A married couple, both of whom are eligible for coverage
27 under the program, may pool the amount of contributions to which the

1 couple are entitled under the program to obtain coverage for
2 themselves and dependent coverage.

3 Sec. 1579.204. CERTAIN PART-TIME EMPLOYEES. A part-time
4 employee of a participating entity who is not a participating
5 member in the Teacher Retirement System of Texas is eligible to
6 participate in the program only if the employee pays all of the
7 premiums and other costs associated with the health coverage plan
8 selected by the employee.

9 Sec. 1579.205. PAYMENT BY PARTICIPATING ENTITY.
10 Notwithstanding Section 1579.204, a participating entity may pay
11 any portion of what otherwise would be the employee share of
12 premiums and other costs associated with the coverage selected by
13 the employee.

14 [Sections 1579.206-1579.250 reserved for expansion]

15 SUBCHAPTER F. CONTRIBUTIONS

16 Sec. 1579.251. STATE ASSISTANCE. (a) The state shall
17 assist employees of participating school districts and charter
18 schools in the purchase of group health coverage under this chapter
19 by providing for each covered employee the amount of \$900 each state
20 fiscal year or a greater amount as provided by the General
21 Appropriations Act. The state contribution shall be distributed
22 through the school finance formulas under Chapters 41 and 42,
23 Education Code, and used by school districts and charter schools as
24 provided by Sections 42.2514 and 42.260, Education Code.

25 (b) The state shall assist employees of participating
26 regional education service centers and educational districts
27 described by Section 1579.002(5)(B) in the purchase of group health

1 coverage under this chapter by providing to the employing service
2 center or educational district, for each covered employee, the
3 amount of \$900 each state fiscal year or a greater amount as
4 provided by the General Appropriations Act.

5 Sec. 1579.252. CONTRIBUTION BY PARTICIPATING ENTITIES. A
6 participating entity shall make contributions for the program as
7 provided by Chapter 1581.

8 Sec. 1579.253. CONTRIBUTION BY EMPLOYEE. (a) An employee
9 covered by the program shall pay that portion of the cost of
10 coverage selected by the employee that exceeds the amount of the
11 state contribution under Section 1579.251 and the participating
12 entity contribution under Section 1579.252.

13 (b) The employee may pay the employee's contribution under
14 this subsection from the amount distributed to the employee under
15 Chapter 1580.

16 (c) Notwithstanding Subsection (a), a participating entity
17 may pay any portion of what otherwise would be the employee share of
18 premiums and other costs associated with the coverage selected by
19 the employee.

20 [Sections 1579.254-1579.300 reserved for expansion]

21 SUBCHAPTER G. TEXAS SCHOOL EMPLOYEES

22 UNIFORM GROUP COVERAGE TRUST FUND

23 Sec. 1579.301. FUND; ADMINISTRATION. The Texas school
24 employees uniform group coverage trust fund is a trust fund with the
25 comptroller.

26 Sec. 1579.302. COMPOSITION OF FUND. The fund is composed
27 of:

1 (1) all contributions made to the fund under this
2 chapter from employees, participating entities, and the state;

3 (2) contributions made by employees or participating
4 entities for optional coverages;

5 (3) investment income;

6 (4) any additional amounts appropriated by the
7 legislature for contingency reserves, administrative expenses, or
8 other expenses; and

9 (5) any other money required or authorized to be paid
10 into the fund.

11 Sec. 1579.303. PAYMENTS FROM FUND. The trustee may use
12 amounts in the fund only to provide group coverages under this
13 chapter and to pay the expenses of administering the program.

14 Sec. 1579.304. INVESTMENT OF FUND. The trustee may invest
15 assets of the fund in the manner provided by Section 67(a)(3),
16 Article XVI, Texas Constitution.

17 CHAPTER 1580. ACTIVE EMPLOYEE HEALTH COVERAGE

18 OR COMPENSATION SUPPLEMENTATION

19 SUBCHAPTER A. GENERAL PROVISIONS

20 Sec. 1580.001. DEFINITIONS. In this chapter:

21 (1) "Cafeteria plan" means a plan as defined and
22 authorized by Section 125, Internal Revenue Code of 1986, and its
23 subsequent amendments.

24 (2) "Employee" means a participating member of the
25 Teacher Retirement System of Texas who:

26 (A) is employed by a school district, other
27 educational district whose employees are members of the Teacher

1 Retirement System of Texas, participating charter school, or
2 regional education service center; and

3 (B) is not a retiree covered under the program
4 established under Chapter 1575.

5 (3) "Participating charter school" means an
6 open-enrollment charter school established under Subchapter D,
7 Chapter 12, Education Code, that participates in the program
8 established under Chapter 1579.

9 (4) "Regional education service center" means a
10 regional education service center established under Chapter 8,
11 Education Code.

12 (5) "Trustee" means the Teacher Retirement System of
13 Texas.

14 Sec. 1580.002. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY.

15 (a) The trustee may adopt rules to implement this chapter.

16 (b) The trustee may enter into interagency contracts with
17 any agency of this state for the purpose of assistance in
18 implementing this chapter.

19 [Sections 1580.003-1580.050 reserved for expansion]

20 SUBCHAPTER B. DISTRIBUTION OF STATE FUNDS BY TRUSTEE

21 Sec. 1580.051. DISTRIBUTION BY TRUSTEE. Each year, the
22 trustee shall deliver to each school district, including a school
23 district that is ineligible for state aid under Chapter 42,
24 Education Code, each other educational district that is a member of
25 the Teacher Retirement System of Texas, each participating charter
26 school, and each regional education service center state funds in
27 an amount, as determined by the trustee, equal to the product of the

1 number of active employees employed by the district, school, or
2 service center multiplied by \$1,000 or a greater amount as provided
3 by the General Appropriations Act for purposes of this chapter.

4 Sec. 1580.052. EQUAL INSTALLMENTS. The trustee shall
5 distribute funds under this chapter in equal monthly installments.

6 Sec. 1580.053. FUNDS HELD IN TRUST. All funds received by a
7 school district, other educational district, participating charter
8 school, or regional education service center under this chapter are
9 held in trust for the benefit of the active employees on whose
10 behalf the district, school, or service center received the funds.

11 Sec. 1580.054. RECOVERY OF DISTRIBUTIONS. The trustee is
12 entitled to recover from a school district, other educational
13 district, participating charter school, or regional education
14 service center any amount distributed under this chapter to which
15 the district, school, or service center was not entitled.

16 Sec. 1580.055. DETERMINATION OF TRUSTEE FINAL. A
17 determination by the trustee under this subchapter is final and may
18 not be appealed.

19 [Sections 1580.056-1580.100 reserved for expansion]

20 SUBCHAPTER C. EMPLOYEE ELECTION

21 Sec. 1580.101. EMPLOYEE COVERED BY CAFETERIA PLAN. (a) If
22 an active employee is covered by a cafeteria plan of a school
23 district, other educational district, participating charter
24 school, or regional education service center, the state
25 contribution under this chapter shall be deposited in the cafeteria
26 plan, and the employee may elect among the options provided by the
27 cafeteria plan.

1 (b) A cafeteria plan receiving state contributions under
2 this chapter may include a medical savings account option and must
3 include, at a minimum, the following options:

4 (1) a health care reimbursement account;

5 (2) a benefit or coverage other than that provided
6 under Chapter 1579, or any employee coverage or dependent coverage
7 available under Chapter 1579 but not otherwise fully funded by the
8 state or the employer contributions, any of which must be a
9 "qualified benefit" under Section 125, Internal Revenue Code of
10 1986, and its subsequent amendments;

11 (3) an option for the employee to receive the state
12 contribution as supplemental compensation; or

13 (4) an option to divide the state contribution among
14 two or more of the other options provided under this subsection.

15 Sec. 1580.102. EMPLOYEE NOT COVERED BY CAFETERIA PLAN. If
16 an active employee is not covered by a cafeteria plan of a school
17 district, other educational district, participating charter
18 school, or regional education service center, the state
19 contribution under this chapter shall be paid to the active
20 employee as supplemental compensation.

21 Sec. 1580.103. SUPPLEMENTAL COMPENSATION. Supplemental
22 compensation under this subchapter must be in addition to the rate
23 of compensation that:

24 (1) the school district, other educational district,
25 participating charter school, or regional education service center
26 paid the employee in the preceding school year; or

27 (2) the district, school, or service center would have

1 paid the employee in the preceding school year if the employee had
2 been employed by the district, school, or service center in the same
3 capacity in the preceding school year.

4 Sec. 1580.104. TIME FOR ELECTION. For each state fiscal
5 year, an election under this subchapter must be made before the
6 later of:

7 (1) August 1 of the preceding state fiscal year; or

8 (2) the 31st day after the date the employee is hired.

9 Sec. 1580.105. WRITTEN EXPLANATION; ELECTION FORM. (a)
10 The trustee shall prescribe and distribute to each school district,
11 other educational district, participating charter school, and
12 regional education service center:

13 (1) a model explanation written in English and Spanish
14 of the options active employees may elect under this section and the
15 effect of electing each option; and

16 (2) an election form to be completed by active
17 employees.

18 (b) Each state fiscal year, a school district, other
19 educational district, participating charter school, or regional
20 education service center shall prepare and distribute to each
21 active employee a written explanation in English and Spanish, as
22 appropriate, of the options the employee may elect under this
23 section. The explanation must be based on the model explanation
24 prepared by the trustee under Subsection (a) and must reflect all
25 available health coverage options available to the employee. The
26 explanation must be distributed to an employee before the later of:

27 (1) July 1 of the preceding state fiscal year; or

1 (2) the fifth day after the date the employee is hired.

2 (c) The written explanation under Subsection (b) must be
3 accompanied by a copy of the election form prescribed under
4 Subsection (a)(2).

5 Sec. 1580.106. RETURN OF UNENCUMBERED FUNDS. Any
6 unencumbered funds that are returned to the school district from
7 accounts established under Section 1580.101 may be used only to
8 provide employee compensation, benefits, or both.

9 [Sections 1580.107-1580.150 reserved for expansion]

10 SUBCHAPTER D. MEDICAL SAVINGS ACCOUNT

11 Sec. 1580.151. DEFINITION. In this subchapter, "qualified
12 health care expense" means an expense paid by an employee for
13 medical care, as defined by Section 213(d), Internal Revenue Code
14 of 1986, and its subsequent amendments, for the employee or the
15 employee's dependents, as defined by Section 152, Internal Revenue
16 Code of 1986, and its subsequent amendments.

17 Sec. 1580.152. RULES. The trustee, by rule, shall specify
18 the requirements for a medical savings account established under
19 this chapter.

20 Sec. 1580.153. QUALIFICATION OF ACCOUNT. (a) The trustee
21 shall request in writing a ruling or opinion from the Internal
22 Revenue Service as to whether the medical savings accounts
23 established under this chapter and the state rules governing those
24 accounts qualify the accounts for appropriate federal tax
25 exemptions.

26 (b) Based on the response of the Internal Revenue Service
27 under Subsection (a), the trustee shall:

1 (1) modify the rules, plans, and procedures adopted
2 under this section as necessary to ensure the qualification of
3 those accounts for appropriate federal tax exemptions; and

4 (2) certify the information regarding federal tax
5 qualifications to the comptroller.

6 Sec. 1580.154. EMPLOYEE ELECTION. An employee who elects
7 under Section 1580.101 to have state funds distributed under this
8 chapter placed in a medical savings account may use the money in
9 that account only for a qualified health care expense.

10 CHAPTER 1581. EMPLOYER EXPENDITURES

11 FOR SCHOOL EMPLOYEE HEALTH COVERAGE PLANS

12 SUBCHAPTER A. GENERAL PROVISIONS

13 Sec. 1581.001. DEFINITIONS. In this chapter:

14 (1) "Participating employee" means an employee of a
15 school district, other educational district whose employees are
16 members of the Teacher Retirement System of Texas, participating
17 charter school, or regional education service center who
18 participates in a group health coverage plan provided by or through
19 the district, school, or service center.

20 (2) "Participating charter school" means an
21 open-enrollment charter school established under Subchapter D,
22 Chapter 12, Education Code, that participates in the uniform group
23 coverage program established under Chapter 1579.

24 (3) "Regional education service center" means a
25 regional education service center established under Chapter 8,
26 Education Code.

27 [Sections 1581.002-1581.050 reserved for expansion]

1 SUBCHAPTER B. MAINTENANCE OF EFFORT; MINIMUM EFFORT

2 Sec. 1581.051. MAINTENANCE OF EFFORT FOR 2000-2001 SCHOOL
3 YEAR. (a) Subject to Sections 1581.052 and 1581.053, and except as
4 provided by Section 1581.054, a school district, other educational
5 district whose employees are members of the Teacher Retirement
6 System of Texas, participating charter school, or regional
7 education service center that, for the 2000-2001 school year, paid
8 amounts to share with employees the cost of coverage under a group
9 health coverage plan shall, for each fiscal year, use to provide
10 health coverage an amount for each participating employee at least
11 equal to the amount computed as provided by this section.

12 (b) The school district, other educational district,
13 participating charter school, or regional education service center
14 shall divide the amount that the district, school, or service
15 center paid during the 2000-2001 school year for the prior group
16 health coverage plan by the total number of full-time employees of
17 the district, school, or service center in the 2000-2001 school
18 year and multiply the result by the number of full-time employees of
19 the district, school, or service center in the fiscal year for which
20 the computation is made. If, for the 2000-2001 school year, a
21 school district, other educational district, participating charter
22 school, or regional education service center provided group health
23 coverage to its employees through a self-funded insurance plan, the
24 amount the district, school, or service center paid during that
25 school year for the plan includes only the amount of regular
26 contributions made by the district, school, or service center to
27 the plan.

1 (c) Amounts used as required by this section shall be
2 deposited, as applicable, in a fund described by Section
3 1581.052(b).

4 Sec. 1581.052. REQUIRED MINIMUM EFFORT. (a) A school
5 district, other educational district, participating charter
6 school, or regional education service center shall, for each fiscal
7 year, use to provide health coverage an amount equal to the number
8 of participating employees of the district, school, or service
9 center multiplied by \$1,800.

10 (b) Amounts used as required by this section shall be
11 deposited, as applicable, in:

12 (1) the Texas school employees uniform group coverage
13 trust fund established under Subchapter G, Chapter 1579; or

14 (2) another fund established for the payment of
15 employee health coverage that meets requirements for those funds
16 prescribed by the Texas Education Agency.

17 Sec. 1581.053. USE OF STATE FUNDS. (a) To comply with
18 Section 1581.052, a school district or participating charter school
19 may use state funds received under Chapter 42, Education Code,
20 other than funds that may be used under that chapter only for a
21 specific purpose.

22 (b) Notwithstanding Subsection (a), amounts a district or
23 school is required to use to pay contributions under a group health
24 coverage plan for district or school employees under Section
25 42.2514 or 42.260, Education Code, other than amounts described by
26 Section 42.260(c)(2)(B), are not used in computing whether the
27 district or school complies with Section 1581.052.

1 Sec. 1581.054. EXCESS OF MAINTENANCE OF EFFORT. If the
2 amount a school district, other educational district, or
3 participating charter school is required to use to provide health
4 coverage under Section 1581.051 for a fiscal year exceeds the
5 amount necessary for the district or school to comply with Section
6 1581.052(a) for that year, the district or school may use the excess
7 only to provide employee compensation at a rate greater than the
8 rate of compensation that the district or school paid an employee in
9 the 2000-2001 school year, benefits, or both.

10 [Sections 1581.055-1581.100 reserved for expansion]

11 SUBCHAPTER C. STATE ASSISTANCE FOR MEETING MINIMUM EFFORT

12 Sec. 1581.101. STATE FISCAL YEARS AFTER AUGUST 31, 2001.
13 For any state fiscal year beginning with the fiscal year ending
14 August 31, 2003, except as provided by Section 1581.102, a school
15 district that imposes maintenance and operations taxes at the
16 maximum rate permitted under Section 45.003(d), Education Code, is
17 entitled to state funds in an amount equal to the difference, if
18 any, between:

19 (1) an amount equal to the number of participating
20 employees of the district multiplied by \$1,800; and

21 (2) if the following amount is less than the amount
22 specified by Subdivision (1), the sum of:

23 (A) the amount the district is required to use to
24 provide health coverage under Section 1581.051 for that fiscal
25 year; and

26 (B) the difference, if any, between:

27 (i) the amount determined under Section

1 42.2514(b)(2), Education Code; and

2 (ii) the amount determined under Section
3 42.2514(b)(1), Education Code, if that amount is less than the
4 amount specified by Subparagraph (i).

5 Sec. 1581.1015. CERTAIN FISCAL YEARS. (a) For the state
6 fiscal year beginning September 1, 2002, a school district or
7 participating charter school is entitled to state funds in an
8 amount equal to the difference, if any, between:

9 (1) an amount equal to the number of participating
10 employees of the district or school multiplied by \$1,800; and

11 (2) if the following amount is less than the amount
12 specified by Subdivision (1), the sum of:

13 (A) the amount the district or school is required
14 to use to provide health coverage under Section 1581.051 for that
15 fiscal year; and

16 (B) the difference, if any, between:

17 (i) the amount determined under Section
18 42.2514(b)(2), Education Code; and

19 (ii) the amount determined under Section
20 42.2514(b)(1), Education Code, if that amount is less than the
21 amount specified by Subparagraph (i).

22 (b) For the state fiscal year beginning September 1, 2003, a
23 school district or participating charter school is entitled to
24 state funds in an amount equal to the difference, if any, between:

25 (1) an amount equal to the number of participating
26 employees of the district or school multiplied by \$1,500; and

27 (2) if the following amount is less than the amount

1 specified by Subdivision (1), the sum of:

2 (A) the amount the district or school is required
3 to use to provide health coverage under Section 1581.051 for that
4 fiscal year; and

5 (B) the difference, if any, between:

6 (i) the amount determined under Section
7 42.2514(b)(2), Education Code; and

8 (ii) the amount determined under Section
9 42.2514(b)(1), Education Code, if that amount is less than the
10 amount specified by Subparagraph (i).

11 (c) For the state fiscal year beginning September 1, 2004, a
12 school district or participating charter school is entitled to
13 state funds in an amount equal to the difference, if any, between:

14 (1) an amount equal to the number of participating
15 employees of the district or school multiplied by \$1,200; and

16 (2) if the following amount is less than the amount
17 specified by Subdivision (1), the sum of:

18 (A) the amount the district or school is required
19 to use to provide health coverage under Section 1581.051 for that
20 fiscal year; and

21 (B) the difference, if any, between:

22 (i) the amount determined under Section
23 42.2514(b)(2), Education Code; and

24 (ii) the amount determined under Section
25 42.2514(b)(1), Education Code, if that amount is less than the
26 amount specified by Subparagraph (i).

27 (d) For the state fiscal year beginning September 1, 2005, a

1 school district or participating charter school is entitled to
2 state funds in an amount equal to the difference, if any, between:

3 (1) an amount equal to the number of participating
4 employees of the district or school multiplied by \$900; and

5 (2) if the following amount is less than the amount
6 specified by Subdivision (1), the sum of:

7 (A) the amount the district or school is required
8 to use to provide health coverage under Section 1581.051 for that
9 fiscal year; and

10 (B) the difference, if any, between:

11 (i) the amount determined under Section
12 42.2514(b)(2), Education Code; and

13 (ii) the amount determined under Section
14 42.2514(b)(1), Education Code, if that amount is less than the
15 amount specified by Subparagraph (i).

16 (e) For the state fiscal year beginning September 1, 2006, a
17 school district or participating charter school is entitled to
18 state funds in an amount equal to the difference, if any, between:

19 (1) an amount equal to the number of participating
20 employees of the district or school multiplied by \$600; and

21 (2) if the following amount is less than the amount
22 specified by Subdivision (1), the sum of:

23 (A) the amount the district or school is required
24 to use to provide health coverage under Section 1581.051 for that
25 fiscal year; and

26 (B) the difference, if any, between:

27 (i) the amount determined under Section

1 42.2514(b)(2), Education Code; and

2 (ii) the amount determined under Section
3 42.2514(b)(1), Education Code, if that amount is less than the
4 amount specified by Subparagraph (i).

5 (f) For the state fiscal year beginning September 1, 2007, a
6 school district or participating charter school is entitled to
7 state funds in an amount equal to the difference, if any, between:

8 (1) an amount equal to the number of participating
9 employees of the district or school multiplied by \$300; and

10 (2) if the following amount is less than the amount
11 specified by Subdivision (1), the sum of:

12 (A) the amount the district or school is required
13 to use to provide health coverage under Section 1581.051 for that
14 fiscal year; and

15 (B) the difference, if any, between:

16 (i) the amount determined under Section
17 42.2514(b)(2), Education Code; and

18 (ii) the amount determined under Section
19 42.2514(b)(1), Education Code, if that amount is less than the
20 amount specified by Subparagraph (i).

21 (g) A school district that receives state funds under
22 Section 1581.101 for a state fiscal year is not entitled to state
23 funds under Subsection (a), (b), (c), (d), (e), or (f).

24 (h) This section expires September 1, 2008.

25 Sec. 1581.102. MAXIMUM AMOUNT OF STATE FUNDS. For any state
26 fiscal year, the amount of state funds a school district receives
27 under Section 1581.101 may not exceed the amount of state funds the

1 district received under this subchapter for the year preceding the
2 year in which the district first receives funds under Section
3 1581.101.

4 Sec. 1581.103. DISTRIBUTION OF FUNDS. (a) The Teacher
5 Retirement System of Texas shall distribute state funds to school
6 districts and participating charter schools under this subchapter
7 in equal monthly installments. State funds received under this
8 subchapter shall be deposited in a fund described by Section
9 1581.052(b).

10 (b) The Texas Education Agency shall provide to the
11 retirement system information necessary for the retirement system
12 to determine a district's or school's eligibility for state funds
13 under this subchapter. The Teacher Retirement System of Texas may
14 enter into interagency contracts with any agency of this state for
15 the purpose of assistance in distributing funds under this chapter.

16 Sec. 1581.104. RECOVERY OF DISTRIBUTIONS. The Teacher
17 Retirement System of Texas is entitled to recover from a school
18 district or participating charter school any amount distributed
19 under this subchapter to which the district or school was not
20 entitled.

21 Sec. 1581.105. DETERMINATION OF TEACHER RETIREMENT SYSTEM
22 OF TEXAS FINAL. A determination by the Teacher Retirement System of
23 Texas under this subchapter is final and may not be appealed.

24 [Sections 1581.106-1581.700 reserved for expansion]

25 SUBCHAPTER O. ADDITIONAL SUPPORT FOR CERTAIN

26 SCHOOL DISTRICTS

27 Sec. 1581.701. APPLICABILITY OF SUBCHAPTER. This

1 subchapter applies only to a school district that:

2 (1) pays taxes under Section 3111(a), Internal Revenue
3 Code of 1986, and its subsequent amendments, for employees covered
4 by the social security retirement program; and

5 (2) covered all employees under that program before
6 January 1, 2001.

7 Sec. 1581.702. ADDITIONAL SUPPORT. The state shall provide
8 additional support for a school district to which this section
9 applies in an amount computed by multiplying the total amount of
10 supplemental compensation received by district employees under
11 Chapter 1580 by 0.062.

12 Sec. 1581.703. AUTHORITY TO ADOPT RULES. The Teacher
13 Retirement System of Texas may adopt rules as necessary to
14 implement this subchapter.

15 Sec. 1581.704. EXPIRATION. This subchapter expires
16 September 1, 2008.

17 (b) Articles 3.50-7, 3.50-8, and 3.50-9, Insurance Code, as
18 added by Sections 1.01, 1.02, and 1.03, Chapter 1187, Acts of the
19 77th Legislature, Regular Session, 2001, are repealed.

20 PART 5. CHANGES RELATING TO REFERENCES TO THE INSURANCE CODE

21 SECTION 10A.501. Subchapter F, Chapter 38, Insurance Code,
22 as added by Chapter 1284, Acts of the 77th Legislature, Regular
23 Session, 2001, is relettered as Subchapter G, Chapter 38, Insurance
24 Code, and Sections 38.251 and 38.252, Insurance Code, as added by
25 that Act, are renumbered as Sections 38.301 and 38.302,
26 respectively.

27 SECTION 10A.502. Section 13.303, Agriculture Code, is

1 amended to read as follows:

2 Sec. 13.303. GENERAL REQUIREMENTS FOR LICENSE ISSUANCE OR
3 RENEWAL. Before a license is issued or renewed by the department
4 under this subchapter:

5 (1) the person applying for the license or renewal of
6 the license shall provide the department proof of completion of a
7 department-approved academic, trade, or professional course of
8 instruction required by the department's rules;

9 (2) the person shall file with the department an
10 insurance policy or other proof of insurance evidencing that the
11 applicant has a completed operations liability insurance policy
12 issued by an insurance company authorized to do business in this
13 state or by a surplus lines insurer that meets the requirements of
14 Chapter 981 [~~Article 1.14-2~~], Insurance Code, and rules adopted by
15 the commissioner of insurance [~~State Board of Insurance~~] in an
16 amount set by the department and based on the type of licensed
17 activities to be provided; and

18 (3) the department, to verify compliance with trade
19 practices, rules of the department, and this chapter, may conduct
20 an inspection of the applicant's:

21 (A) facilities;

22 (B) inspecting and testing equipment and
23 procedures;

24 (C) repair and calibration equipment and
25 procedures; and

26 (D) transportation equipment.

27 SECTION 10A.503. Section 13.353, Agriculture Code, is

1 amended to read as follows:

2 Sec. 13.353. GENERAL REQUIREMENTS FOR LICENSE ISSUANCE OR
3 RENEWAL. Before a license is issued or renewed by the department
4 under this subchapter:

5 (1) the person applying for the license or renewal of
6 the license shall provide the department proof of completion of a
7 department-approved academic, trade, or professional course of
8 instruction required by the department's rules;

9 (2) the person shall file with the department an
10 insurance policy or other proof of insurance evidencing that the
11 applicant has a completed operations liability insurance policy
12 issued by an insurance company authorized to do business in this
13 state or by a surplus lines insurer that meets the requirements of
14 Chapter 981 [~~Article 1.14-2~~], Insurance Code, and rules adopted by
15 the commissioner of insurance [~~State Board of Insurance~~] in an
16 amount set by the department and based on the type of licensed
17 activities to be provided; and

18 (3) the department, to verify compliance with trade
19 practices, rules of the department, and this chapter, may conduct
20 an inspection of the applicant's:

21 (A) facilities;

22 (B) inspecting and testing equipment and
23 procedures;

24 (C) repair and calibration equipment and
25 procedures; and

26 (D) transportation equipment.

27 SECTION 10A.504. Section 13.402, Agriculture Code, is

1 amended to read as follows:

2 Sec. 13.402. GENERAL REQUIREMENTS FOR LICENSE ISSUANCE OR
3 RENEWAL. Before a license is issued or renewed by the department
4 under this subchapter:

5 (1) the person applying for the license or renewal of
6 the license shall provide the department proof of completion of a
7 department-approved academic, trade, or professional course of
8 instruction required by the department's rules;

9 (2) the person shall file with the department an
10 insurance policy or other proof of insurance evidencing that the
11 applicant has a completed operations liability insurance policy
12 issued by an insurance company authorized to do business in this
13 state or by a surplus lines insurer that meets the requirements of
14 Chapter 981 [~~Article 1.14-2~~], Insurance Code, and rules adopted by
15 the commissioner of insurance in an amount set by the department and
16 based on the type of licensed activities to be provided; and

17 (3) the department, to verify compliance with trade
18 practices, rules of the department, and this chapter, may conduct
19 an inspection of the applicant's:

20 (A) facilities;

21 (B) inspecting and testing equipment and
22 procedures;

23 (C) repair and calibration equipment and
24 procedures; and

25 (D) transportation equipment.

26 SECTION 10A.505. Section 14.041(a), Agriculture Code, is
27 amended to read as follows:

1 (a) Except as provided by Subsection (c), an applicant for a
2 license must file or have on file with the department a certificate
3 of insurance evidencing that:

4 (1) the applicant has an effective policy of insurance
5 issued by an insurance company authorized to do business in this
6 state or, with the approval of the department, by an eligible
7 surplus lines insurer that meets the requirements of Chapter 981
8 [~~Article 1.14-2~~], Insurance Code, and rules adopted by the
9 commissioner of insurance under that chapter [~~article~~]; and

10 (2) the policy insures, in the name of the applicant,
11 all grain that is or may be in the public grain warehouse for its
12 full market value against loss by or due to water or other fluid,
13 malicious mischief, vandalism, theft, intentional waste or
14 destruction, smoke, fire, internal explosion, lightning, hail,
15 windstorm, hurricane, or tornado.

16 SECTION 10A.506. Section 36.03, Business & Commerce Code, is
17 amended to read as follows:

18 Sec. 36.03. EXCLUSION OF INSURANCE COMPANIES. The
19 provisions of this chapter shall not apply to any insurance company
20 as described [~~defined~~] in Subchapter A, Chapter 805, [~~Article 1.29~~
21 ~~of the~~] Insurance Code, which is authorized to do business in this
22 state except as such code shall specifically provide.

23 SECTION 10A.507. Section 84.007(e), Civil Practice and
24 Remedies Code, is amended to read as follows:

25 (e) Sections 84.005 and 84.006 of this chapter do not apply
26 to a health care provider as defined in the Medical Liability and
27 Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas

1 Civil Statutes), unless the provider is a federally funded migrant
 2 or community health center under the Public Health Service Act (42
 3 U.S.C.A. Sections 254(b) and (c)) or is a nonprofit health
 4 maintenance organization created and operated by a community center
 5 under Section 534.101, Health and Safety Code, or unless the
 6 provider usually provides discounted services at or below costs
 7 based on the ability of the beneficiary to pay. Acceptance of
 8 Medicare or Medicaid payments will not disqualify a health care
 9 provider under this section. In no event shall Sections 84.005 and
 10 84.006 of this chapter apply to a general hospital or special
 11 hospital as defined in Chapter 241, Health and Safety Code, or a
 12 facility or institution licensed under Subtitle C, Title 7, Health
 13 and Safety Code, or Chapter 242, Health and Safety Code, or to any
 14 health maintenance organization created and operating under
 15 Chapter 843, Insurance Code [~~the Texas Health Maintenance~~
 16 ~~Organization Act (Chapter 20A, Vernon's Texas Insurance Code)~~],
 17 except for a nonprofit health maintenance organization created
 18 under Section 534.101, Health and Safety Code.

19 SECTION 10A.508. Section 88.001(7), Civil Practice and
 20 Remedies Code, is amended to read as follows:

21 (7) "Health maintenance organization" means an
 22 organization licensed under Chapter 843, Insurance Code [~~the Texas~~
 23 ~~Health Maintenance Organization Act (Chapter 20A, Vernon's Texas~~
 24 ~~Insurance Code)~~].

25 SECTION 10A.509. Section 88.003(a), Civil Practice and
 26 Remedies Code, is amended to read as follows:

27 (a) A person may not maintain a cause of action under this

1 chapter against a health insurance carrier, health maintenance
2 organization, or other managed care entity that is required to
3 comply with or otherwise complies with the utilization review
4 requirements of Article 21.58A, Insurance Code, or Chapter 843,
5 Insurance Code [~~the Texas Health Maintenance Organization Act~~
6 ~~(Chapter 20A, Vernon's Texas Insurance Code)~~], unless the affected
7 insured or enrollee or the insured's or enrollee's representative:

8 (1) has exhausted the appeals and review applicable
9 under the utilization review requirements; or

10 (2) before instituting the action:

11 (A) gives written notice of the claim as provided
12 by Subsection (b); and

13 (B) agrees to submit the claim to a review by an
14 independent review organization under Article 21.58A, Insurance
15 Code, as required by Subsections (c) and (d).

16 SECTION 10A.510. Section 19.009(g), Education Code, is
17 amended to read as follows:

18 (g) The employees of the district are eligible for workers'
19 compensation benefits under Chapter 501, Labor Code, and for
20 [~~uniform~~] group [~~insurance~~] benefits under Chapter 1551, Insurance
21 Code [~~the Texas Employees Uniform Group Insurance Benefits Act~~
22 ~~(Article 3.50-2, Vernon's Texas Insurance Code)~~].

23 SECTION 10A.511. Sections 22.004(b), (e), (f), and (g),
24 Education Code, are amended to read as follows:

25 (b) A district that does not participate in the program
26 described by Subsection (a) shall make available to its employees
27 group health coverage provided by a risk pool established by one or

1 more school districts under Chapter 172, Local Government Code, or
2 under a policy of insurance or group contract issued by an insurer,
3 a company subject to Chapter 842 [~~20~~], Insurance Code, or a health
4 maintenance organization under Chapter 843, Insurance Code [~~the~~
5 ~~Texas Health Maintenance Organization Act (Chapter 20A, Vernon's~~
6 ~~Texas Insurance Code)~~]. The coverage must meet the substantive
7 coverage requirements of Article 3.51-6, Insurance Code, and any
8 other law applicable to group health insurance policies or
9 contracts issued in this state. The coverage must include major
10 medical treatment but may exclude experimental procedures. In this
11 subsection, "major medical treatment" means a medical, surgical, or
12 diagnostic procedure for illness or injury. The coverage may
13 include managed care or preventive care and must be comparable to
14 the basic health coverage provided under Chapter 1551, Insurance
15 Code [~~the Texas Employees Uniform Group Insurance Benefits Act~~
16 ~~(Article 3.50-2, Vernon's Texas Insurance Code)~~]. The board of
17 trustees of the Teacher Retirement System of Texas shall adopt
18 rules to determine whether a school district's group health
19 coverage is comparable to the basic health coverage specified by
20 this subsection. The rules must provide for consideration of the
21 following factors concerning the district's coverage in
22 determining whether the district's coverage is comparable to the
23 basic health coverage specified by this subsection:

24 (1) the deductible amount for service provided inside
25 and outside of the network;

26 (2) the coinsurance percentages for service provided
27 inside and outside of the network;

1 (3) the maximum amount of coinsurance payments a
2 covered person is required to pay;

3 (4) the amount of the copayment for an office visit;

4 (5) the schedule of benefits and the scope of
5 coverage;

6 (6) the lifetime maximum benefit amount; and

7 (7) verification that the coverage is issued by a
8 provider licensed to do business in this state by the Texas
9 Department of Insurance or is provided by a risk pool authorized
10 under Chapter 172, Local Government Code, or that a district is
11 capable of covering the assumed liabilities in the case of coverage
12 provided through district self-insurance.

13 (e) Based on the criteria prescribed by Subsection (b), the
14 executive director of the Teacher Retirement System of Texas shall,
15 for each district that does not participate in the program
16 described by Subsection (a), certify whether a district's coverage
17 is comparable to the basic health coverage provided under Chapter
18 1551, Insurance Code [~~the Texas Employees Uniform Group Insurance~~
19 ~~Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code)]. If
20 the executive director of the Teacher Retirement System of Texas
21 determines that the group health coverage offered by a district is
22 not comparable, the executive director shall report that
23 information to the district and to the Legislative Budget Board.
24 The executive director shall submit a report to the legislature not
25 later than September 1 of each even-numbered year describing the
26 status of each district's group health coverage program based on
27 the information contained in the report required by Subsection (d)~~

1 and the certification required by this subsection.

2 (f) A school district that does not participate in the
3 program described by Subsection (a) may not contract with an
4 insurer, a company subject to Chapter 842 [~~20~~], Insurance Code, or a
5 health maintenance organization to issue a policy or contract under
6 this section, or with any person to assist the school district in
7 obtaining or managing the policy or contract unless, before the
8 contract is entered into, the insurer, company, organization, or
9 person provides the district with an audited financial statement
10 showing the financial condition of the insurer, company,
11 organization, or person.

12 (g) An insurer, a company subject to Chapter 842 [~~20~~],
13 Insurance Code, or a health maintenance organization that issues a
14 policy or contract under this section and any person that assists
15 the school district in obtaining or managing the policy or contract
16 for compensation shall provide an annual audited financial
17 statement to the school district showing the financial condition of
18 the insurer, company, organization, or person.

19 SECTION 10A.512. Section 348.208(c), Finance Code, as added
20 by Chapter 1559, Acts of the 76th Legislature, Regular Session,
21 1999, is amended to read as follows:

22 (c) Notwithstanding any other law, service contracts sold
23 by a retail seller of a motor vehicle to a retail buyer are not
24 subject to Chapter 101 [~~1.14-1~~], Insurance Code.

25 SECTION 10A.513. Section 403.327, Government Code, is
26 amended to read as follows:

27 Sec. 403.327. INDEMNITY REQUIREMENT. For each film to be

1 produced with the proceeds from a loan approved to be guaranteed
2 under the program, the producer of the film shall provide an
3 indemnity against loss in an amount equal to the full amount of the
4 loan guarantee. The indemnity must be issued to the comptroller as
5 the beneficiary of the indemnity by:

6 (1) an insurance company, surety company, or financial
7 institution that:

8 (A) is licensed and authorized to do business in
9 this state; and

10 (B) is approved by the comptroller; or

11 (2) an eligible surplus lines insurer that:

12 (A) meets the requirements of Chapter 981
13 [~~Article 1.14-2~~], Insurance Code, and rules adopted by the
14 commissioner under that chapter [~~article~~]; and

15 (B) is approved by the comptroller.

16 SECTION 10A.514. Section 501.146(b), Government Code, is
17 amended to read as follows:

18 (b) To implement the managed health care plan, The
19 University of Texas Medical Branch at Galveston and the Texas Tech
20 University Health Sciences Center, for employees who are entitled
21 to retain salary and benefits applicable to employees of the Texas
22 Department of Criminal Justice under Section 9.01, Chapter 238,
23 Acts of the 73rd Legislature, Regular Session, 1993, may
24 administer, offer, and report through their payroll systems
25 participation by those employees in the Texas employees [~~uniform~~]
26 group [~~insurance~~] benefits program and the Employees Retirement
27 System of Texas.

1 SECTION 10A.515. Sections 533.004(a) and (e), Government
2 Code, are amended to read as follows:

3 (a) In providing health care services through Medicaid
4 managed care to recipients in a health care service region, the
5 commission shall contract with a managed care organization in that
6 region that is licensed under Chapter 843, Insurance Code, [~~the~~
7 ~~Texas Health Maintenance Organization Act (Chapter 20A, Vernon's~~
8 ~~Texas Insurance Code)~~] to provide health care in that region and
9 that is:

10 (1) wholly owned and operated by a hospital district
11 in that region;

12 (2) created by a nonprofit corporation that:

13 (A) has a contract, agreement, or other
14 arrangement with a hospital district in that region or with a
15 municipality in that region that owns a hospital licensed under
16 Chapter 241, Health and Safety Code, and has an obligation to
17 provide health care to indigent patients; and

18 (B) under the contract, agreement, or other
19 arrangement, assumes the obligation to provide health care to
20 indigent patients and leases, manages, or operates a hospital
21 facility owned by the hospital district or municipality; or

22 (3) created by a nonprofit corporation that has a
23 contract, agreement, or other arrangement with a hospital district
24 in that region under which the nonprofit corporation acts as an
25 agent of the district and assumes the district's obligation to
26 arrange for services under the Medicaid expansion for children as
27 authorized by Chapter 444, Acts of the 74th Legislature, Regular

1 Session, 1995.

2 (e) In providing health care services through Medicaid
3 managed care to recipients in a health care service region, with the
4 exception of the Harris service area for the STAR Medicaid managed
5 care program, as defined by the commission as of September 1, 1999,
6 the commission shall also contract with a managed care organization
7 in that region that holds a certificate of authority as a health
8 maintenance organization under Chapter 843, Insurance Code
9 [~~Section 5, Texas Health Maintenance Organization Act (Article~~
10 ~~20A.05, Vernon's Texas Insurance Code)~~], and that:

11 (1) is certified under Section 162.001, Occupations
12 Code;

13 (2) is created by The University of Texas Medical
14 Branch at Galveston; and

15 (3) has obtained a certificate of authority as a
16 health maintenance organization to serve one or more counties in
17 that region from the Texas Department of Insurance before September
18 2, 1999.

19 SECTION 10A.516. Sections 533.013(b) and (c), Government
20 Code, are amended to read as follows:

21 (b) In determining the maximum premium payment rates paid to
22 a managed care organization that is licensed under Chapter 843,
23 Insurance Code [~~the Texas Health Maintenance Organization Act~~
24 ~~(Chapter 20A, Vernon's Texas Insurance Code)~~], the commission shall
25 consider and adjust for the regional variation in costs of services
26 under the traditional fee-for-service component of the state
27 Medicaid program, utilization patterns, and other factors that

1 influence the potential for cost savings. For a service area with a
2 service area factor of .93 or less, or another appropriate service
3 area factor, as determined by the commission, the commission may
4 not discount premium payment rates in an amount that is more than
5 the amount necessary to meet federal budget neutrality requirements
6 for projected fee-for-service costs unless:

7 (1) a historical review of managed care financial
8 results among managed care organizations in the service area served
9 by the organization demonstrates that additional savings are
10 warranted;

11 (2) a review of Medicaid fee-for-service delivery in
12 the service area served by the organization has historically shown
13 a significant overutilization by recipients of certain services
14 covered by the premium payment rates in comparison to utilization
15 patterns throughout the rest of the state; or

16 (3) a review of Medicaid fee-for-service delivery in
17 the service area served by the organization has historically shown
18 an above-market cost for services for which there is substantial
19 evidence that Medicaid managed care delivery will reduce the cost
20 of those services.

21 (c) The premium payment rates paid to a managed care
22 organization that is licensed under Chapter 843, Insurance Code,
23 [~~the Texas Health Maintenance Organization Act (Chapter 20A,~~
24 ~~Vernon's Texas Insurance Code)~~] shall be established by a
25 competitive bid process but may not exceed the maximum premium
26 payment rates established by the commission under Subsection (b).

27 SECTION 10A.517. Section 615.045(a), Government Code, is

1 amended to read as follows:

2 (a) Records of individuals listed by Section 615.003 and of
3 survivors eligible for benefits under this chapter that are in the
4 custody of the Employees Retirement System of Texas or of a carrier
5 or [~~7~~] administering firm as defined by Section 1551.007 or
6 1551.003, Insurance Code, as applicable [~~the Texas Employees~~
7 ~~Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's~~
8 ~~Texas Insurance Code)~~], or of another [~~other~~] governmental agency
9 acting with or on behalf of the retirement system are confidential,
10 not subject to public disclosure, and exempt from the public
11 information provisions of Chapter 552, except as otherwise provided
12 by this section.

13 SECTION 10A.518. Section 615.073(a), Government Code, is
14 amended to read as follows:

15 (a) An eligible surviving spouse of a deceased individual
16 listed in Section 615.071 who was employed by the state is entitled
17 to purchase continued health insurance benefits under Chapter 1551,
18 Insurance Code [~~the Texas Employees Uniform Group Insurance~~
19 ~~Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code)~~], as
20 provided by this subchapter.

21 SECTION 10A.519. Section 661.004(b), Government Code, is
22 amended to read as follows:

23 (b) The board of trustees [~~trustee~~] of the state employee
24 [~~uniform~~] group [~~insurance~~] benefits program established under
25 Chapter 1551, Insurance Code [~~the Texas Employees Uniform Group~~
26 ~~Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance~~
27 ~~Code)~~], shall:

1 (1) classify, for the purposes of this subchapter,
2 those injuries and illnesses that are catastrophic; and

3 (2) provide a written statement of the classification
4 to the governing body of each state agency.

5 SECTION 10A.520. Section 814.1042(c), Government Code, is
6 amended to read as follows:

7 (c) Service described by this section may not be used in
8 determining eligibility for participation under Chapter 1551,
9 Insurance Code [~~in the Texas Employees Uniform Group Insurance~~
10 ~~Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code)] .~~

11 SECTION 10A.521. Section 823.302(b), Government Code, is
12 amended to read as follows:

13 (b) A member eligible to establish military service credit
14 is one who has at least five years of service credit in the
15 retirement system for actual service in public schools, except that
16 a member meeting this condition does not qualify for insurance
17 coverage under Chapter 1575, Insurance Code, [~~the Texas Public~~
18 ~~School Employees Group Insurance Act (Article 3.50-4, Insurance~~
19 ~~Code)] until the member has 10 or more years of membership service
20 credit.~~

21 SECTION 10A.522. Section 824.803(a), Government Code, is
22 amended to read as follows:

23 (a) A person participating in the plan remains a member of
24 the retirement system during the period of participation, unless
25 the member terminates membership under Section 822.003, but the
26 member may not, during participation, accrue additional service
27 credit. The member shall make employee contributions to the

1 retirement system, and the state and the member's employing
2 district, if applicable, shall make contributions for the member's
3 service performed during the member's participation in the plan.
4 Member contributions made during the period of participation in the
5 plan are not eligible for withdrawal by the participant and are
6 deposited in the retired reserve account. The member and the state
7 retain the obligation to contribute under Sections 1575.202 and
8 1575.203, Insurance Code [~~Section 16, Texas Public School Employees~~
9 ~~Group Insurance Act (Article 3.50-4, Insurance Code)~~], during the
10 member's participation in this plan.

11 SECTION 10A.523. Sections 108.002(9) and (11), Health and
12 Safety Code, are amended to read as follows:

13 (9) "Health benefit plan" means a plan provided by:

14 (A) a health maintenance organization; or

15 (B) an approved nonprofit health corporation
16 that is certified under Section 162.001, Occupations Code, and that
17 holds a certificate of authority issued by the commissioner of
18 insurance under Chapter 844 [~~Article 21.52F~~], Insurance Code.

19 (11) "Health maintenance organization" means an
20 organization as defined in Section 843.002, Insurance Code [~~27~~
21 ~~Texas Health Maintenance Organization Act (Article 20A.02,~~
22 ~~Vernon's Texas Insurance Code)~~].

23 SECTION 10A.524. Section 161.024, Health and Safety Code, is
24 amended to read as follows:

25 Sec. 161.024. APPLICATION TO HEALTH MAINTENANCE
26 ORGANIZATION. This subchapter does not apply to a function of a
27 health maintenance organization other than medical peer review and

1 quality assurance conducted under Chapter 843, Insurance Code [~~the~~
2 ~~Texas Health Maintenance Organization Act (Chapter 20A, Vernon's~~
3 ~~Texas Insurance Code)~~], the rules adopted under that chapter [~~Act~~],
4 or other applicable state and federal statutes and rules.

5 SECTION 10A.525. Section 161.031(a), Health and Safety
6 Code, is amended to read as follows:

7 (a) In this subchapter, "medical committee" includes any
8 committee, including a joint committee, of:

- 9 (1) a hospital;
- 10 (2) a medical organization;
- 11 (3) a university medical school or health science
12 center;
- 13 (4) a health maintenance organization licensed under
14 Chapter 843, Insurance Code [~~the Texas Health Maintenance~~
15 ~~Organization Act (Chapter 20A, Vernon's Texas Insurance Code)~~],
16 including an independent practice association or other physician
17 association whose committee or joint committee is a condition of
18 contract with the health maintenance organization;
- 19 (5) an extended care facility;
- 20 (6) a hospital district; or
- 21 (7) a hospital authority.

22 SECTION 10A.526. Section 241.1015(g), Health and Safety
23 Code, is amended to read as follows:

24 (g) In this section, "health care plan" has the meaning
25 assigned by Section 843.002, Insurance Code [~~2, Texas Health~~
26 ~~Maintenance Organization Act (Article 20A.02, Vernon's Texas~~
27 ~~Insurance Code)~~], and "hospital medical directors" means

1 physicians who have been employed by or are under contract with a
2 hospital to manage a clinical department or departments of the
3 hospital.

4 SECTION 10A.527. Section 242.0372(c), Health and Safety
5 Code, as effective September 1, 2003, is amended to read as follows:

6 (c) The insurance coverage maintained by an institution
7 under this section must:

8 (1) provide coverage annually in the minimum amount of
9 \$1 million per occurrence and \$3 million aggregate, except as
10 provided by Subsection (d);

11 (2) be written on a claims-made basis;

12 (3) be issued by:

13 (A) an admitted insurer authorized to write
14 professional liability insurance in this state;

15 (B) the Texas Medical Liability Insurance
16 Underwriting Association established under Article 21.49-3,
17 Insurance Code; or

18 (C) an eligible surplus lines insurer in
19 accordance with Chapter 981 [~~Article 1.14-2~~], Insurance Code; and

20 (4) be in a form acceptable to the department.

21 SECTION 10A.528. Section 281.0517(a)(2), Health and Safety
22 Code, is amended to read as follows:

23 (2) "Provider" means a physician or a provider as
24 defined under Section 843.002, Insurance Code [~~2, Texas Health
25 Maintenance Organization Act (Article 20A.02, Vernon's Texas
26 Insurance Code)~~].

27 SECTION 10A.529. Section 281.0517(d), Health and Safety

1 Code, is amended to read as follows:

2 (d) An integrated health care system that recites in its
3 articles of incorporation that it is created under this section is:

4 (1) subject to:

5 (A) Chapter 551, Government Code;

6 (B) Chapter 552, Government Code;

7 (C) Chapter 843, Insurance Code [~~the Texas Health~~
8 ~~Maintenance Organization Act (Chapter 20A, Vernon's Texas~~
9 ~~Insurance Code)];~~

10 (D) Chapter 844 [~~Article 21.52F~~], Insurance
11 Code; and

12 (E) Chapter 262, Local Government Code; and

13 (2) a unit of local government for the purposes of
14 Chapter 101, Civil Practice and Remedies Code.

15 SECTION 10A.530. Section 534.101(b), Health and Safety
16 Code, is amended to read as follows:

17 (b) Before a nonprofit corporation organized or operating
18 under Subsection (a) accepts or enters into any capitated or other
19 at-risk payment arrangement for services designated in a plan
20 approved by the department under Subchapter A, the nonprofit
21 corporation must obtain the appropriate certificate of authority
22 from the Texas Department of Insurance to operate as a health
23 maintenance organization pursuant to Chapter 843, Insurance Code
24 [~~the Texas Health Maintenance Organization Act (Chapter 20A,~~
25 ~~Vernon's Texas Insurance Code)] .~~

26 SECTION 10A.531. Section 534.102, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 534.102. LAWS AND RULES. A nonprofit corporation
2 created or operated under this subchapter that obtains and holds a
3 valid certificate of authority as a health maintenance organization
4 may exercise the powers and authority and is subject to the
5 conditions and limitations provided by this subchapter, Chapter
6 843, Insurance Code [~~the Texas Health Maintenance Organization Act~~
7 ~~(Chapter 20A, Vernon's Texas Insurance Code)~~], the Texas Non-Profit
8 Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil
9 Statutes), and rules of the Texas Department of Insurance.

10 SECTION 10A.532. Section 534.103, Health and Safety Code, is
11 amended to read as follows:

12 Sec. 534.103. APPLICATION OF LAWS AND RULES. A health
13 maintenance organization created and operating under this
14 subchapter is governed as, and is subject to the same laws and rules
15 of the Texas Department of Insurance as, any other health
16 maintenance organization of the same type. The commissioner of
17 insurance may adopt rules as necessary to accept funding sources
18 other than the sources specified by Section 843.405, Insurance Code
19 [~~13, Texas Health Maintenance Organization Act (Article 20A.13,~~
20 ~~Vernon's Texas Insurance Code)~~], from a nonprofit health
21 maintenance organization created and operating under this
22 subchapter, to meet the minimum surplus requirements of that
23 section.

24 SECTION 10A.533. Section 534.104(b), Health and Safety
25 Code, is amended to read as follows:

26 (b) Nothing in this subchapter precludes one or more
27 community centers from forming a nonprofit corporation under

1 Chapter 162, Occupations Code, to provide services on a
2 risk-sharing or capitated basis as permitted under Chapter 844
3 [~~Article 21.52F~~], Insurance Code.

4 SECTION 10A.534. Section 22.023(b), Human Resources Code,
5 is amended to read as follows:

6 (b) Subject to the limitations in Subsection (c) of this
7 section, the department may purchase and pay the premiums for a
8 conversion policy or other health insurance coverage for a person
9 who is diagnosed as having AIDS, HIV, or other terminal or chronic
10 illness and whose income level is less than 200 percent of the
11 federal poverty level, based on the federal Office of Management
12 and Budget poverty index in effect at the time coverage is provided,
13 even though a person may be eligible for benefits under Chapter 32
14 of this code. Health insurance coverage for which premiums may be
15 paid under this section includes coverage purchased from an
16 insurance company authorized to do business in this state, a group
17 hospital services corporation operating under Chapter 842 [~~20~~],
18 Insurance Code, a health maintenance organization operating under
19 Chapter 843, Insurance Code [~~the Texas Health Maintenance~~
20 ~~Organization Act (Chapter 20A, Vernon's Texas Insurance Code)~~], or
21 an insurance pool created by the federal or state government or a
22 political subdivision of the state.

23 SECTION 10A.535. Section 301.104, Labor Code, is amended to
24 read as follows:

25 Sec. 301.104. ELIGIBILITY. A person is eligible for the
26 refund for wages paid or incurred by the person, during each
27 calendar year for which the refund is claimed, only if:

1 (1) the wages paid or incurred by the person are for
2 services of an employee who is:

3 (A) a resident of this state; and

4 (B) a recipient of:

5 (i) financial assistance and services in
6 accordance with Chapter 31, Human Resources Code; or

7 (ii) medical assistance in accordance with
8 Chapter 32, Human Resources Code;

9 (2) the person satisfies the certification
10 requirements under Section 301.105; and

11 (3) the person provides and pays for the benefit of the
12 employee a part of the cost of coverage under:

13 (A) a health plan provided by a health
14 maintenance organization established under Chapter 843, Insurance
15 Code [~~the Texas Health Maintenance Organization Act (Chapter 20A,~~
16 ~~Vernon's Texas Insurance Code)~~];

17 (B) a health benefit plan approved by the
18 commissioner of insurance;

19 (C) a self-funded or self-insured employee
20 welfare benefit plan that provides health benefits and is
21 established in accordance with the Employee Retirement Income
22 Security Act of 1974 (29 U.S.C. Section 1001 et seq.); or

23 (D) a medical savings account authorized under
24 the Health Insurance Portability and Accountability Act of 1996 (26
25 U.S.C. Section 220).

26 SECTION 10A.536. Section 408.0222(n), Labor Code, is
27 amended to read as follows:

1 (n) Except for emergency care, or as otherwise provided by
2 this section, an employee who elects to participate in a regional
3 network shall receive medical treatment, including referrals, from
4 health care providers within the regional network. An employee or
5 an employee's treating doctor may use a health care provider
6 outside of the regional network with the approval of the regional
7 network for good cause consistent with the regional network
8 contract. If medically necessary services are not available
9 through regional network health care providers, the regional
10 network must, on the request of a regional network health care
11 provider, within a reasonable time allow a referral to a
12 nonregional network health care provider and shall fully reimburse
13 the nonregional network physician or provider at the rate provided
14 by the commission fee guidelines or an agreed rate. For purposes of
15 this subsection, "emergency care" has the meaning assigned by
16 Section 843.002, Insurance Code [~~2(g), Texas Health Maintenance~~
17 ~~Organization Act (Article 20A.02, Vernon's Texas Insurance Code)~~].

18 SECTION 10A.537. Section 157.006(b), Local Government Code,
19 is amended to read as follows:

20 (b) Health insurance coverage for which premiums may be paid
21 under this section includes coverage purchased from an insurance
22 company authorized to do business in this state, a group hospital
23 services corporation operating under Chapter 842 [~~20~~], Insurance
24 Code, a health maintenance organization operating under Chapter
25 843, Insurance Code [~~the Texas Health Maintenance Organization Act~~
26 ~~(Chapter 20A, Vernon's Texas Insurance Code)~~], or an insurance pool
27 created by the federal or state government or a political

1 subdivision of the state.

2 SECTION 10A.538. Section 113.097(a), Natural Resources
3 Code, is amended to read as follows:

4 (a) The commission shall not issue a license authorizing
5 activities under Section 113.082 of this code or renew an existing
6 license unless the applicant for license or license renewal
7 provides proof of required insurance coverage with an insurance
8 carrier authorized to do business in this state as evidenced by a
9 certificate of authority having been issued to the carrier by the
10 Texas Department [~~State Board~~] of Insurance or, if the applicant is
11 unable to obtain coverage from such a carrier, provides, on
12 approval of the commission, proof of required insurance coverage
13 issued by a surplus lines insurer that meets the requirements of
14 Chapter 981 [~~Article 1.14-2~~], Insurance Code, and rules adopted by
15 the commissioner of insurance [~~State Board of Insurance~~] under that
16 chapter [~~article~~].

17 SECTION 10A.539. Section 131.143(a), Natural Resources
18 Code, is amended to read as follows:

19 (a) After a permit application is approved but before the
20 permit is issued, the applicant shall file a certificate of
21 insurance certifying that the applicant has in force a public
22 liability insurance policy issued by an insurance company
23 authorized to conduct business in this state or, if the applicant is
24 unable to obtain coverage from an insurance carrier authorized to
25 do business in this state, file, with the commission's approval,
26 such a certificate of insurance from a surplus lines insurer that
27 meets the requirements of Chapter 981 [~~Article 1.14-2~~], Insurance

1 Code, and rules adopted by the commissioner of insurance [~~State~~
2 ~~Board of Insurance~~] under that chapter [~~article~~].

3 SECTION 10A.540. Section 161.364, Natural Resources Code,
4 is amended to read as follows:

5 Sec. 161.364. PROVISIONS OF INSURANCE. In addition to the
6 provisions of Subchapters A-P, Chapter 1131 [~~Article 3.50~~],
7 Insurance Code, as amended, the master contract or agreement shall
8 provide that the life insurance coverage will be offered by the
9 insurer to all persons without physical examination and that no
10 person may be denied coverage because he is disabled at the time of
11 application for the coverage.

12 SECTION 10A.541. Section 35.01(4), Penal Code, is amended to
13 read as follows:

14 (4) "Insurer" means a person who engages in the
15 business of insurance in this state, including:

16 (A) an insurer that is not authorized to do
17 business in this state;

18 (B) a health maintenance organization;

19 (C) a group hospital service corporation
20 regulated under Chapter 842 [~~20~~], Insurance Code; and

21 (D) any person who self-insures and provides
22 health care benefits to the person's employees.

23 SECTION 10A.542. Section 102.005, Occupations Code, is
24 amended to read as follows:

25 Sec. 102.005. APPLICABILITY TO CERTAIN ENTITIES. Section
26 102.001 does not apply to:

27 (1) a licensed insurer;

1 (2) a governmental entity, including:

2 (A) an intergovernmental risk pool established
3 under Chapter 172, Local Government Code; and

4 (B) a system [~~an "institution"~~] as defined by
5 Section 1601.003, Insurance Code [~~in the Texas State College and~~
6 ~~University Employees Uniform Insurance Benefits Act (Article~~
7 ~~3.50-3, Vernon's Texas Insurance Code)~~];

8 (3) a group hospital service corporation; or

9 (4) a health maintenance organization that
10 reimburses, provides, offers to provide, or administers hospital,
11 medical, dental, or other health-related benefits under a health
12 benefits plan for which it is the payor.

13 SECTION 10A.543. Section 160.055, Occupations Code, is
14 amended to read as follows:

15 Sec. 160.055. SANCTIONS FOR FAILURE TO REPORT. The
16 commissioner may impose sanctions authorized by Chapter 82 [~~Section~~
17 ~~7, Article 1.10~~], Insurance Code, on an insurer who fails to report
18 information as required by this subchapter.

19 SECTION 10A.544. Section 202.353(j), Occupations Code, is
20 amended to read as follows:

21 (j) The commissioner of insurance may impose the sanctions
22 authorized by Chapter 82 [~~Section 7, Article 1.10~~], Insurance Code,
23 against an insurer subject to this section who fails to report as
24 prescribed by this section.

25 SECTION 10A.545. Section 1702.002(9), Occupations Code, is
26 amended to read as follows:

27 (9) "Insurance agent" means:

1 (A) a person licensed under Article [~~1.14-2 or~~
2 21.14 or Chapter 981, Insurance Code;

3 (B) a salaried, state, or special agent; or

4 (C) a person authorized to represent an insurance
5 fund or pool created by a local government under Chapter 791,
6 Government Code.

7 SECTION 10A.546. Section 1702.124(a), Occupations Code, is
8 amended to read as follows:

9 (a) The commission may not issue a license unless the
10 applicant files with the commission:

11 (1) evidence of a general liability insurance policy
12 on a certificate of insurance form prescribed by the commission and
13 countersigned by an insurance agent licensed in this state; or

14 (2) a certificate of insurance for surplus lines
15 coverage obtained under Chapter 981 [~~Article 1.14-2~~], Insurance
16 Code, through a licensed Texas surplus lines agent resident in this
17 state.

18 SECTION 10A.547. Section 1704.160(h), Occupations Code, is
19 amended to read as follows:

20 (h) The certificate of authority to do business in this
21 state issued under Section 861.102 [~~Article 8.20~~], Insurance Code,
22 to an applicant that is a corporation is conclusive evidence of:

23 (1) the sufficiency of the applicant's security; and

24 (2) the applicant's solvency and credits.

25 SECTION 10A.548. Section 2151.101(a), Occupations Code, is
26 amended to read as follows:

27 (a) A person may not operate an amusement ride unless the

1 person:

2 (1) has had the amusement ride inspected at least once
3 a year by an insurer or a person with whom the insurer has
4 contracted;

5 (2) obtains a written certificate from the insurer or
6 person with whom the insurer has contracted stating that the
7 amusement ride:

8 (A) has been inspected;

9 (B) meets the standards for insurance coverage;

10 and

11 (C) is covered by the insurance required by
12 Subdivision (3);

13 (3) has an insurance policy currently in effect
14 written by an insurance company authorized to do business in this
15 state or by a surplus lines insurer, as defined by Chapter 981
16 [~~Article 1.14-2~~], Insurance Code, or has an independently procured
17 policy subject to Chapter 101 [~~Article 1.14-1~~], Insurance Code,
18 insuring the owner or operator against liability for injury to
19 persons arising out of the use of the amusement ride in an amount of
20 not less than:

21 (A) \$100,000 per occurrence with a \$300,000
22 annual aggregate for Class A amusement rides; and

23 (B) \$1,000,000 per occurrence for Class B
24 amusement rides;

25 (4) files with the commissioner, as required by this
26 chapter, the inspection certificate and the insurance policy or a
27 photocopy of the certificate or policy authorized by the

1 commissioner; and

2 (5) files with each sponsor, lessor, landowner, or
3 other person responsible for the amusement ride being offered for
4 use by the public a photocopy of the inspection certificate and the
5 insurance policy required by this subsection.

6 SECTION 10A.549. Section 2154.001(10), Occupations Code, is
7 amended to read as follows:

8 (10) "Insurance agent" means:

9 (A) a person, firm, or corporation licensed under
10 Article [~~1.14-2 or~~] 21.14 or Chapter 981, Insurance Code;

11 (B) a salaried, state, or special agent; and

12 (C) a person authorized to represent an insurance
13 fund or pool created by a city, county, or other political
14 subdivision of the state under Chapter 791, Government Code.

15 SECTION 10A.550. Section 2154.205(d), Occupations Code, is
16 amended to read as follows:

17 (d) A certificate of insurance for surplus lines coverage
18 obtained under Chapter 981 [~~Article 1.14-2~~], Insurance Code,
19 through a licensed Texas surplus lines agent resident in this state
20 may be filed with the commissioner as evidence of coverage required
21 by this section.

22 SECTION 10A.551. Section 142.009(b), Property Code, is
23 amended to read as follows:

24 (b) In approving an insurance company under Subsection
25 (a)(3), the court may consider whether the company:

26 (1) holds an industry rating equivalent to at least
27 two of the following rating organizations:

1 (A) A. M. Best Company: A++ or A+;

2 (B) Duff & Phelps Credit Rating Company Insurance
3 Company Claims Paying Ability Rating: AA-, AA, AA+, or AAA;

4 (C) Moody's Investors Service Claims Paying
5 Ability Rating: Aa3, Aa2, Aa1, or aaa; or

6 (D) Standard & Poor's Corporation Insurer
7 Claims-Paying Ability Rating: AA-, AA, AA+, or AAA;

8 (2) is an affiliate, as that term is described by
9 Section 823.003 [~~defined by Article 21.49-1~~], Insurance Code, of a
10 liability insurance carrier involved in the suit for which the
11 structured settlement is created; or

12 (3) is connected in any way to a person obligated to
13 fund the structured settlement.

14 SECTION 10A.552. Section 171.751(6), Tax Code, as effective
15 until December 31, 2009, is amended to read as follows:

16 (6) "Group health benefit plan" means:

17 (A) a health plan provided by a health
18 maintenance organization established under Chapter 843, Insurance
19 Code [~~the Texas Health Maintenance Organization Act (Chapter 20A,~~
20 ~~Vernon's Texas Insurance Code)~~];

21 (B) a health benefit plan approved by the
22 commissioner of insurance; or

23 (C) a self-funded or self-insured employee
24 welfare benefit plan that provides health benefits and is
25 established in accordance with the Employee Retirement Income
26 Security Act of 1974 (29 U.S.C. Section 1001 et seq.), as amended.

27 SECTION 10A.553. Section 502.355(c), Transportation Code,

1 is amended to read as follows:

2 (c) A person may obtain a permit under this section by:

3 (1) applying to the department on a form prescribed by
4 the department;

5 (2) paying a fee equal to 1/12 the registration fee
6 prescribed by this chapter for the vehicle;

7 (3) furnishing satisfactory evidence that the motor
8 vehicle is insured under an insurance policy that complies with
9 Section 601.072 and that is written by:

10 (A) an insurance company or surety company
11 authorized to write motor vehicle liability insurance in this
12 state; or

13 (B) with the department's approval, a surplus
14 lines insurer that meets the requirements of Chapter 981 [~~Article~~
15 ~~1.14-2~~], Insurance Code, and rules adopted by the commissioner of
16 insurance under that chapter [~~article~~], if the applicant is unable
17 to obtain insurance from an insurer described by Paragraph (A); and

18 (4) furnishing evidence that the vehicle has been
19 inspected as required under Chapter 548.

20 SECTION 10A.554. Section 643.106(a), Transportation Code,
21 is amended to read as follows:

22 (a) Notwithstanding any provision of any law or regulation,
23 a motor carrier that is required to register under Subchapter B and
24 whose primary business is transportation for compensation or hire
25 between two or more municipalities shall protect its employees by
26 obtaining:

27 (1) workers' compensation insurance coverage as

1 defined under Subtitle A, Title 5, Labor Code; or

2 (2) accidental insurance coverage approved by the
3 department from:

4 (A) a reliable insurance company authorized to
5 write accidental insurance policies in this state; or

6 (B) a surplus lines insurer under Chapter 981
7 [~~Article 1.14-2~~], Insurance Code.

8 SECTION 10A.555. Section 643.153(f), Transportation Code,
9 is amended to read as follows:

10 (f) The unauthorized practice of the insurance business
11 under Chapter 101 [~~Article 1.14-1~~], Insurance Code, does not
12 include the offer of insurance by a household goods motor carrier,
13 or its agent, that transports goods for up to the full value of a
14 customer's property transported or stored, if the offer is
15 authorized by a rule adopted under Subsection (b).

16 ARTICLE 11. CHANGES RELATING TO LABOR CODE

17 SECTION 11.001. (a) Sections 21.401(3)-(5), Labor Code,
18 are amended to conform to changes made to similar language in
19 Chapter 58, Occupations Code, to read as follows:

20 (3) "Genetic characteristic" means a scientifically
21 or medically identifiable genetic or chromosomal variation,
22 composition, or alteration that:

23 (A) is scientifically or medically believed to:

24 (i) predispose an individual to a disease,
25 disorder, or syndrome; or

26 (ii) be associated with a statistically
27 significant increased risk of developing [~~development of~~] a

1 disease, disorder, or syndrome; and

2 (B) may or may not be associated with any symptom
3 of an ongoing disease, disorder, or syndrome affecting an
4 individual on the date the ~~[that]~~ genetic information is obtained
5 regarding the ~~[that]~~ individual.

6 (4) "Genetic information" means information that is:

7 (A) obtained from or based on a scientific or
8 medical determination of the presence or absence in an individual
9 of a genetic characteristic; or

10 (B) derived from the results of a genetic test
11 performed on, or a family health history obtained from, an ~~[that]~~
12 individual.

13 (5) "Genetic test" means a presymptomatic laboratory
14 test of an individual's genes, gene products, or chromosomes that:

15 (A) analyzes ~~[to identify by analysis of]~~ the
16 individual's DNA, RNA, proteins, or chromosomes; and

17 (B) is performed to identify any genetic
18 variation, composition ~~[variations, compositions]~~, or alteration
19 ~~[alterations]~~ that is ~~[are]~~ associated with the individual's having
20 a statistically increased risk of:

21 (i) developing ~~[to develop]~~ a clinically
22 recognized disease, disorder, or syndrome; or

23 (ii) being ~~[to be]~~ a carrier of ~~[such]~~ a
24 clinically recognized disease, disorder, or syndrome.

25 The term does not include a blood test, cholesterol test,
26 urine test, or other physical test used for a purpose other than
27 determining a genetic or chromosomal variation, composition, or

1 alteration in a specific individual.

2 (b) The heading to Section 21.403, Labor Code, is amended to
3 conform to changes made to similar language in Chapter 58,
4 Occupations Code, to read as follows:

5 Sec. 21.403. CONFIDENTIALITY OF GENETIC INFORMATION
6 [~~CONFIDENTIAL, EXCEPTIONS~~].

7 (c) Section 21.403(a), Labor Code, is amended to conform to
8 changes made to similar language in Chapter 58, Occupations Code,
9 to read as follows:

10 (a) Except as provided by Section 21.4031 [~~Subsections (c)~~
11 ~~and (d)~~], genetic information is confidential and privileged
12 regardless of the source of the information.

13 (b) A person who holds genetic [~~that~~] information about an
14 individual may not disclose or be compelled to disclose, by
15 subpoena or otherwise, that [~~genetic~~] information [~~about an~~
16 ~~individual~~] unless the disclosure is specifically authorized [~~by~~
17 ~~the individual~~] as provided by Section 21.4032 [~~Subsection (b)~~].

18 (c) This section [~~subsection~~] applies to a redisclosure of
19 genetic information by a secondary recipient of the information
20 after disclosure of the information by an initial recipient.

21 (d) Sections 21.403(c) and (d), Labor Code, are
22 redesignated as Section 21.4031 and amended to conform to changes
23 made to similar language in Chapter 58, Occupations Code, to read as
24 follows:

25 Sec. 21.4031. EXCEPTIONS TO CONFIDENTIALITY. (a) [~~(c)~~]
26 Subject to Subchapter G, Chapter 411, Government Code, genetic
27 information [~~relating to an individual~~] may be disclosed without an

1 ~~[the]~~ authorization required under Section 21.4032 ~~[Subsection~~
2 ~~(b)]~~ if the disclosure is:

3 (1) authorized under a state or federal criminal law
4 relating to:

5 (A) the identification of individuals; or

6 (B) a criminal or juvenile proceeding, an
7 inquest, or a child fatality review by a multidisciplinary
8 child-abuse team;

9 (2) required under a specific order of a state or
10 federal court;

11 (3) for the purpose of establishing paternity as
12 authorized under a state or federal law ~~[to establish paternity]~~;

13 (4) made to provide ~~[furnish]~~ genetic information
14 relating to a decedent and the disclosure is made to the blood
15 relatives of the decedent for ~~[the purpose of]~~ medical diagnosis;
16 or

17 (5) made to identify a decedent.

18 (b) Genetic ~~[(d) In addition to the exceptions under~~
19 ~~Subsection (c), genetic]~~ information ~~[relating to an individual]~~
20 may be disclosed without an ~~[the]~~ authorization ~~[required]~~ under
21 Section 21.4032 ~~[Subsection (b)]~~ if:

22 (1) the disclosure is for information from a research
23 study in which the procedure for obtaining informed written consent
24 and the use of the information is governed by national standards for
25 protecting participants involved in research projects, including
26 guidelines issued under 21 C.F.R. Part 50 and 45 C.F.R. Part 46;

27 (2) the information does not identify a specific

1 ~~[particular]~~ individual; and

2 (3) the information is provided to the Texas
3 Department of Health to comply with Chapter 87, Health and Safety
4 Code.

5 (e) Section 21.403(b), Labor Code, is redesignated as
6 Section 21.4032 and amended to conform to changes made to similar
7 language in Chapter 58, Occupations Code, to read as follows:

8 Sec. 21.4032. AUTHORIZED DISCLOSURE. ~~[(b)]~~ An individual
9 or the legal representative of an individual may authorize ~~[the]~~
10 disclosure of genetic information relating to the ~~[that]~~ individual
11 by ~~[through]~~ a written authorization that includes:

- 12 (1) a description of the information to be disclosed;
13 (2) the name of the person to whom the disclosure is
14 made; and
15 (3) the purpose for the disclosure.

16 (f) Section 21.404, Labor Code, is amended to conform to
17 changes made to similar language in Chapter 58, Occupations Code,
18 to read as follows:

19 Sec. 21.404. DISCLOSURE OF [RIGHT TO KNOW] TEST RESULTS TO
20 INDIVIDUAL TESTED. An individual who submits to a genetic test has
21 the right to know the results of the ~~[that]~~ test. On the written
22 request by ~~[of]~~ the individual, the entity that performed the test
23 shall disclose the test results to:

- 24 (1) the individual; or
25 (2) ~~[to]~~ a physician designated by the individual.

26 (g) Section 21.405, Labor Code, is amended to conform to
27 changes made to similar language in Chapter 58, Occupations Code,

1 to read as follows:

2 Sec. 21.405. DESTRUCTION OF [~~RETENTION OF~~] SAMPLE MATERIAL;
3 EXCEPTIONS. A sample of genetic material obtained from an
4 individual [~~taken~~] for a genetic test [~~from an individual~~] shall be
5 destroyed promptly after the purpose for which the sample was
6 obtained is accomplished unless:

7 (1) the sample is retained under a court order;

8 (2) the individual [~~tested~~] authorizes retention of
9 the sample for [~~purposes of~~] medical treatment or scientific
10 research;

11 (3) the [~~for a~~] sample was obtained for research that
12 is cleared by an institutional review board and retention of [~~7~~] the
13 sample is:

14 (A) [~~retained~~] under a requirement [~~the~~
15 ~~requirements that~~] the institutional review board imposes on a
16 specific research project; or

17 (B) [~~as~~] authorized by the research participant
18 with institutional review board approval under federal law; or

19 (4) the sample was obtained for a screening test
20 established by the Texas Department of Health under Section
21 33.011, Health and Safety Code, and performed by that department or
22 [~~by~~] a laboratory approved by that department [~~under Section~~
23 ~~33.011, Health and Safety Code~~].

24 SECTION 11.002. Section 201.067, Labor Code, as amended by
25 Chapters 518 and 996, Acts of the 77th Legislature, Regular
26 Session, 2001, is reenacted to read as follows:

27 Sec. 201.067. REHABILITATIVE SERVICE; WORK RELIEF;

1 EXCEPTION FOR SERVICES PERFORMED BY CERTAIN BLIND INDIVIDUALS. (a)
2 In this subtitle, "employment" does not include service performed
3 by an individual who:

4 (1) receives rehabilitative work or paying work in the
5 employ of a facility that:

6 (A) is conducted to carry out a program of
7 rehabilitation for individuals whose earning capacity is impaired
8 by:

9 (i) age;

10 (ii) physical impairment, other than
11 blindness; or

12 (iii) mental deficiency or injury; or

13 (B) provides paying work for individuals who,
14 because of their impaired physical or mental capacity, cannot be
15 readily absorbed in the competitive labor market;

16 (2) is blind while the individual is in training at a
17 sheltered workshop operated by a charitable organization under a
18 rehabilitation program that includes:

19 (A) an individual plan for employment as required
20 by 29 U.S.C. Section 722, as amended;

21 (B) a timeline for completion of the training;
22 and

23 (C) a planned employment outcome; or

24 (3) receives work relief or work training as a part of
25 an unemployment work-relief or work-training program assisted or
26 financed in whole or in part by a federal agency, an agency of a
27 state, a political subdivision of a state, or an Indian tribe.

1 (b) Notwithstanding Subsection (a), in this subtitle
2 "employment" includes service performed by an individual who is
3 blind and who, after training, is working for a sheltered workshop
4 operated by a charitable organization:

5 (1) temporarily while awaiting placement in a position
6 of employment in the competitive labor market; or

7 (2) permanently because the individual is unable to
8 compete in the competitive labor market.

9 SECTION 11.003. Section 19(b)(4), Texas Unemployment
10 Compensation Act (Article 5221b-17, Vernon's Texas Civil
11 Statutes), as amended by Chapter 122, Acts of the 73rd Legislature,
12 Regular Session, 1993, is repealed to conform to codification of
13 that Act by Chapter 269, Acts of the 73rd Legislature, Regular
14 Session, 1993.

15 ARTICLE 12. CHANGES RELATING TO LOCAL GOVERNMENT CODE

16 SECTION 12.001. Section 43.851, Local Government Code, is
17 amended to correct a reference to read as follows:

18 Sec. 43.851. DEFINITIONS. In this subchapter [~~chapter~~]:

19 (1) "Affected county" means Jasper County, Newton
20 County, or Orange County.

21 (2) "Affected municipality" means a municipality the
22 boundaries of which are located in whole or in part in an affected
23 county.

24 (3) "Extraterritorial jurisdiction" means
25 extraterritorial jurisdiction of a municipality as determined
26 under Chapter 42.

27 (4) "Mauriceville boundary" means the circumference

1 of a circle, the center of which is the intersection of the
2 rights-of-way of Texas State Highway 62 and Texas State Highway 12,
3 and the radius of which is 2 1/2 miles.

4 (5) "Mauriceville community" means the area in the
5 affected counties consisting of the unincorporated community known
6 as Mauriceville.

7 (6) "Municipal annexation plan" means an annexation
8 plan adopted or amended by an affected municipality under Section
9 43.052.

10 SECTION 12.002. Section 43.856, Local Government Code, is
11 amended to correct a reference to read as follows:

12 Sec. 43.856. EXPIRATION DATE. This subchapter [~~chapter~~]
13 expires at midnight on December 31, 2030.

14 SECTION 12.003. Section 252.021(a), Local Government Code,
15 as amended by Chapters 115, 436, and 1409, Acts of the 77th
16 Legislature, Regular Session, 2001, is reenacted and amended to
17 read as follows:

18 (a) Before a municipality may enter into a contract that
19 requires an expenditure of more than \$25,000 from one or more
20 municipal funds, the municipality must:

21 (1) comply with the procedure prescribed by this
22 subchapter and Subchapter C for competitive sealed bidding or
23 competitive sealed proposals; [~~or~~]

24 (2) use the reverse auction procedure, as defined by
25 Section 2155.062(d), Government Code, for purchasing; or

26 (3) comply with a method described by Subchapter H,
27 Chapter 271.

1 SECTION 12.004. Section 262.023, Local Government Code, as
2 amended by Chapters 436, 1063, and 1409, Acts of the 77th
3 Legislature, Regular Session, 2001, is reenacted and amended to
4 read as follows:

5 Sec. 262.023. COMPETITIVE REQUIREMENTS FOR CERTAIN
6 PURCHASES. (a) Before a county may purchase one or more items
7 under a contract that will require an expenditure exceeding
8 \$25,000, the commissioners court of the county must:

9 (1) comply with the competitive bidding or competitive
10 proposal procedures prescribed by this subchapter;

11 (2) [or] use the reverse auction procedure, as defined
12 by Section 2155.062(d), Government Code, for purchasing; or

13 (3) comply [or] with a method described by Subchapter
14 H, Chapter 271. [~~All competitive bids or competitive proposals~~
15 ~~must be sealed.~~]

16 (b) The requirements established by Subsection (a) apply to
17 contracts for which payment will be made from current funds or bond
18 funds or through time warrants. Contracts for which payments will
19 be made through certificates of obligation are governed by The
20 Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271).
21 Contracts for which payment will be made through anticipation notes
22 are subject to the competitive bidding provisions of The
23 Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271)
24 in the same manner as certificates of obligation.

25 (c) In applying the requirements established by Subsection
26 (a), all separate, sequential, or component purchases of items
27 ordered or purchased, with the intent of avoiding the requirements

1 of this subchapter, from the same supplier by the same county
2 officer, department, or institution are treated as if they are part
3 of a single purchase and of a single contract. In applying this
4 provision to the purchase of office supplies, separate purchases of
5 supplies by an individual department are not considered to be part
6 of a single purchase and single contract by the county if a specific
7 intent to avoid the requirements of this subchapter is not present.

8 SECTION 12.005. Section 302.005, Local Government Code, as
9 amended by Chapters 573 and 1319, Acts of the 77th Legislature,
10 Regular Session, 2001, is reenacted and amended to read as follows:

11 Sec. 302.005. BIDDING PROCEDURES; AWARD OF CONTRACT. (a) A
12 contract under this chapter may be let in accordance with the
13 procedures established for professional services by Section
14 2254.004, Government Code. Notice of the request for
15 qualifications shall be published in the manner provided for
16 competitive bidding.

17 (b) [~~(d)~~] Prior to entering into a contract under this
18 section, the governing body must require that the cost savings
19 projected by an offeror be reviewed by a licensed [~~professional~~]
20 engineer who is not an officer or employee of an offeror for the
21 contract under review or otherwise associated with the contract or
22 the offeror. An engineer who reviews a contract shall maintain the
23 confidentiality of any proprietary information the engineer
24 acquires while reviewing the contract. Sections 1001.053 and
25 1001.407, Occupations Code, apply [~~Section 19, The Texas~~
26 ~~Engineering Practice Act (Article 3271a, Vernon's Texas Civil~~
27 ~~Statutes), applies] to work performed under the contract.~~

1 SECTION 12.006. Section 334.2515, Local Government Code, as
2 amended by Chapters 660 and 1044, Acts of the 77th Legislature,
3 Regular Session, 2001, is reenacted to read as follows:

4 Sec. 334.2515. APPLICATION. Except as provided by Section
5 334.2516, this subchapter does not apply to the financing of a venue
6 project that is:

7 (1) an area or facility that is part of a municipal
8 parks and recreation system as described by Section 334.001(4)(D);
9 or

10 (2) a project described by Section 334.001(4)(E),
11 except for projects described in Section 334.001(4)(A).

12 SECTION 12.007. (a) Sections 396.061 and 396.062, Local
13 Government Code, are amended to conform to Chapter 1312, Acts of the
14 76th Legislature, Regular Session, 1999, to read as follows:

15 Sec. 396.061. DEFINITIONS. In this subchapter:

16 (1) "Authority" means the Red River Redevelopment
17 Authority.

18 (2) "Board" means the board of directors of the
19 authority.

20 (3) "County" means Bowie County.

21 (4) "Eligible municipality" includes only the cities
22 of Texarkana, New Boston, Hooks, Nash, Wake Village, Leary,
23 Redwater, Maud, ~~and~~ DeKalb, and Red Lick.

24 (5) "Property" means land, improvements, and personal
25 property described in Section 396.0621.

26 Sec. 396.062. ESTABLISHMENT. (a) The creation,
27 establishment, and organization of the authority are validated,

1 ratified, approved, and confirmed. The [~~is established as a~~
2 ~~political subdivision with~~] boundaries of the authority are the
3 same as the boundaries of the real property described in Section
4 396.0621. The boundaries of the authority may be expanded from time
5 to time as additional real property, if any, is conveyed to the
6 authority by the United States of America [~~396.064(1), if each~~
7 ~~eligible municipality and the county.~~

8 ~~[(1) adopts resolutions authorizing the authority's~~
9 ~~establishment; and~~

10 ~~[(2) appoints members to the board as provided by~~
11 ~~Section 396.063].~~

12 (b) The authority is a governmental agency, a body politic
13 and corporate, and a political subdivision of this state.

14 (c) For all purposes, including the application of Chapter
15 101, Civil Practice and Remedies Code, the authority is a unit of
16 government and the operations of the authority are considered to be
17 essential governmental functions and not proprietary functions.

18 (d) The authority is subject to Chapters 551 and 552,
19 Government Code.

20 (e) The authority is a duly constituted authority
21 authorized to issue revenue bonds in accordance with Sections
22 54.502 and 54.503, Water Code, for the purposes of the authority.

23 (f) The authority is subject to the regulatory authority of
24 the state or any agencies of the state to the same extent as a
25 municipal corporation.

26 (b) Subchapter C, Chapter 396, Local Government Code, is
27 amended to conform to Chapter 1312, Acts of the 76th Legislature,

1 Regular Session, 1999, by adding Section 396.0621 to read as
2 follows:

3 Sec. 396.0621. AUTHORITY TERRITORY. The initial property
4 comprising the authority is the tract of real property located in
5 Bowie County, Texas, as conveyed, or to be conveyed, in one or more
6 parcels, by the United States of America to the authority,
7 described as follows:

8 LAND DESCRIPTION - 765.5 Acres

9 A tract of land situated in the Charles Collom Survey, Abstract No.
10 108, Jonathan Collom Survey, Abstract No. 109, C. M. Akin Survey,
11 Abstract No. 2, J. H. Smelser Survey, Abstract No. 722, John M.
12 Smith Survey, Abstract No. 819, and the John Paxton Survey,
13 Abstract No. 461, Bowie County, Texas, and being all of a one tract
14 of land, Tract No. 503 as described in Warranty Deed to the United
15 States of America as recorded in Volume 192, Page 92 (Tract No. 2)
16 of the Deed Records of Bowie County, Texas, and being a portion of
17 nine tracts of land, Tract No. 504 as described in Judgement on
18 Declaration of Taking No. 1 as recorded in Volume 184, Page 148 of
19 the Deed Records of Bowie County, Texas, Tract No. 501 as described
20 in Warranty Deed to the United States of America as recorded in
21 Volume 188, Page 342 of the Deed Records of Bowie County, Texas,
22 Tract No. 502 as described in Warranty Deed to the United States of
23 America as recorded in Volume 190, Page 372 of the Deed Records of
24 Bowie County, Texas, Tract No. 537 as described in Warranty Deed to
25 the United States of America as recorded in Volume 190, Page 372 of
26 the Deed Records of Bowie County, Texas, Tract No. 503 as described
27 in Warranty Deed to the United States of America as recorded in

1 Volume 192, Page 92 (Tract No. 1) of the Deed Records of Bowie
2 County, Texas, Tract No. 531 as described in Warranty Deed to the
3 United States of America as recorded in Volume 186, Page 121 of the
4 Deed Records of Bowie County, Texas, and Tract No. 529 as described
5 in Judgement on Declaration of Taking No. 1 as recorded in Volume
6 184, Page 148 of the Deed Records of Bowie County, Texas, Tract No.
7 527 as described in Warranty Deed to the United States of America as
8 recorded in Volume 190, Page 116 of the Deed Records of Bowie
9 County, Texas, and Tract No. 526 as described in Judgement on
10 Declaration of Taking No. 4 as recorded in Volume 192, Page 135 of
11 the Deed Records of Bowie County, Texas, and being more
12 particularly described as follows:

13 COMMENCING at a PK nail set in concrete fence post base at the
14 intersection of the southerly right-of-way line of the Texas
15 Pacific Railroad with the east line of the said Charles Collom
16 Survey and being the northeast corner of the Red River Army Depot as
17 reference in the completion report for the Red River Ordinance
18 Depot, dated November 30, 1942, from which a one inch brass rod
19 stamped "R.R.O.D. #2, 1942" found in a four inch by four inch
20 concrete base bears South 19 degrees 26 minutes 24 seconds West a
21 distance of 7.21 feet;

22 THENCE, South 86 degrees 22 minutes 15 seconds West along the
23 southerly right-of-way line of the Texas & Pacific Railroad a
24 distance of 3,664.42 feet to a five-eighths inch iron rod set with
25 "Huitt-Zollars" cap at the POINT OF BEGINNING, said POINT OF
26 BEGINNING also being North 00 degrees 18 minutes 22 seconds West
27 2,827.78 feet and North 86 degrees 21 minutes 50 seconds East

1 1,017.50 feet from the Southeast Corner of the Jonathan Collum
2 Headright Survey, A-108;
3 THENCE, South 03 degrees 53 minutes 26 seconds East and along a
4 chain link fence a distance of 457.13 feet to a five-eighths inch
5 iron rod set with "Huitt-Zollars" cap, said rod being southwesterly
6 of the centerline of a spur railroad track a perpendicular distance
7 of 10.00 feet and being the beginning of a non-tangent curve to the
8 right;
9 THENCE, in a southerly direction parallel with and 10.00 foot from
10 said spur tract and along said curve to the right through a central
11 angle of 22 degrees 08 minutes 35 seconds and having a radius of
12 643.04 feet and an arc length of 248.52 feet, being subtended by a
13 chord of South 14 degrees 45 minutes 12 seconds East a distance of
14 246.97 feet to a five-eighths inch iron rod set with
15 "Huitt-Zollars" cap at the end of said curve;
16 THENCE, South 04 degrees 00 minutes 36 seconds East parallel with
17 and 10.00 foot from said spur track a distance of 232.21 feet to a
18 five-eighths inch iron rod set with "Huitt-Zollars" caps;
19 THENCE, South 86 degrees 32 minutes 05 seconds West a distance of
20 49.86 feet to a chain link fence corner post from which a
21 five-eighths inch iron rod set with "Huitt-Zollars" cap bears North
22 48 degrees 34 minutes 56 seconds West a distance of 14.17 feet;
23 THENCE, with said chain link fence the following bearings and
24 distances: South 03 degrees 41 minutes 59 seconds East a distance
25 of 1,285.86 feet to a fence corner post from which a Mag nail set
26 bears North 48 degrees 36 minutes 24 seconds West a distance of
27 14.17 feet; South 86 degrees 29 minutes 10 seconds West a distance

1 of 387.63 feet to a fence corner post from which a five-eighths inch
2 iron rod set with "Huitt-Zollars" cap bears North 19 degrees 35
3 minutes 50 seconds West a distance of 10.87 feet; North 47 degrees
4 17 minutes 25 seconds West a distance of 199.70 feet to a fence
5 corner post from which a five-eighths inch iron rod set with
6 "Huitt-Zollars" cap bears North 63 degrees 55 minutes 37 seconds
7 East a distance of 10.73 feet; North 04 degrees 51 minutes 15
8 seconds West a distance of 243.22 feet to a fence corner post from
9 which a five-eighths inch iron rod set with "Huitt-Zollars" cap
10 bears North 40 degrees 36 minutes 11 seconds East a distance of
11 14.03 feet; South 86 degrees 03 minutes 42 seconds West a distance
12 of 51.40 feet to a gate post from which a PK nail set bears North 06
13 degrees 09 minutes 13 seconds West a distance of 10.01 feet;
14 THENCE, South 81 degrees 37 minutes 54 seconds West along said fence
15 and an extension thereof a distance of 425.22 feet to a fence corner
16 post from which a cut cross set bears North 04 degrees 53 minutes 09
17 seconds West a distance of 10.02 feet;
18 THENCE, South 88 degrees 35 minutes 51 seconds West along a chain
19 link fence a distance of 237.60 feet to a fence post from which a
20 five-eighths inch iron rod set with "Huitt-Zollars" cap bears North
21 02 degrees 40 minutes 08 seconds West a distance of 10.00 feet;
22 THENCE, South 86 degrees 03 minutes 56 seconds West continuing
23 along said fence a distance of 867.95 feet to a five-eighths inch
24 iron rod set with "Huitt-Zollars" cap in fence line from which a
25 five-eighths inch iron rod set with "Huitt-Zollars" cap bears North
26 10 degrees 33 minutes 59 seconds West a distance of 10.07 feet;
27 THENCE, South 72 degrees 48 minutes 06 seconds West and along a

1 chain link fence a distance of 485.28 feet to a fence corner post
2 from which a five-eighths inch iron rod set with "Huitt-Zollars"
3 cap bears North 07 degrees 09 minutes 32 seconds West a distance of
4 10.16 feet;
5 THENCE, North 87 degrees 07 minutes 08 seconds West along said chain
6 link fence a distance of 128.15 feet to a fence post from which a
7 five-eighths inch iron rod set with "Huitt-Zollars" cap bears North
8 04 degrees 11 minutes 40 seconds East a distance of 10.00 feet;
9 THENCE, North 84 degrees 29 minutes 27 seconds West along said fence
10 a distance of 196.24 feet to a fence corner post from which a
11 five-eighths inch iron rod set with "Huitt-Zollars" cap bears North
12 05 degrees 24 minutes 10 seconds East a distance of 10.00 feet;
13 THENCE, departing said fence North 84 degrees 42 minutes 09 seconds
14 West a distance of 390.24 feet to a gate post from which a
15 five-eighths inch iron rod set with "Huitt-Zollars" cap bears North
16 05 degrees 27 minutes 21 seconds East a distance of 10.00 feet;
17 THENCE, North 84 degrees 23 minutes 06 seconds West along a chain
18 link fence a distance of 210.73 feet to a five eighths inch iron rod
19 set with "Huitt-Zollars" cap in fence line from which a
20 five-eighths inch iron rod set with "Huitt-Zollars" cap bears North
21 25 degrees 53 minutes 04 seconds West a distance of 11.73 feet;
22 THENCE, South 32 degrees 36 minutes 57 seconds West and along a
23 chain link fence a distance of 184.63 feet to a fence corner post
24 from which a five-eighths inch iron rod set with "Huitt-Zollars"
25 cap bears North 75 degrees 49 minutes 06 seconds West a distance of
26 10.54 feet;
27 THENCE, along said chain link fence the following bearings and

1 distances: South 04 degrees 15 minutes 19 seconds East a distance
2 of 620.46 feet to a fence corner post from which a five-eighths inch
3 iron rod set with "Huitt-Zollars" cap bears South 85 degrees 55
4 minutes 26 seconds West a distance of 10.00 feet; South 03 degrees
5 54 minutes 00 seconds East a distance of 1,558.07 feet to a fence
6 corner post from which a five-eighths inch iron rod set with
7 "Huitt-Zollars" cap bears North 48 degrees 46 minutes 22 seconds
8 West a distance of 14.17 feet; South 86 degrees 21 minutes 13
9 seconds West a distance of 2,707.77 feet to a fence corner post from
10 which a five-eighths inch iron rod set with "Huitt-Zollars" cap
11 bears North 03 degrees 40 minutes 03 seconds West a distance of
12 10.00 feet; South 86 degrees 18 minutes 46 seconds West a distance
13 of 1,512.49 feet to a fence corner post from which a five-eighths
14 inch iron rod set with "Huitt-Zollars" cap bears North 43 degrees 40
15 minutes 37 seconds East a distance of 14.76 feet; North 01 degree 02
16 minutes 38 seconds East a distance of 952.37 feet to a five eighths
17 inch iron rod set with "Huitt-Zollars" cap in fence line from which
18 a five-eighths inch iron rod set with "Huitt-Zollars" cap bears
19 North 20 degrees 55 minutes 59 seconds East a distance of 29.39
20 feet;

21 THENCE, North 43 degrees 37 minutes 50 seconds West and along a
22 barbed wire fence a distance of 1,644.70 feet to a fence corner post
23 from which a five-eighths inch iron rod set with "Huitt-Zollars"
24 cap bears North 68 degrees 38 minutes 36 seconds East a distance of
25 10.81 feet;

26 THENCE, North 01 degree 43 minutes 49 seconds East a distance of
27 45.19 feet to a point for corner on an extension of an east-west

1 barbed wire fence, from which a five-eighths inch iron rod set with
2 "Huitt-Zollars" cap bears North 46 degrees 00 minutes 47 seconds
3 East a distance of 14.24 feet;
4 THENCE, North 89 degrees 22 minutes 15 seconds West and along a
5 barbed wire fence a distance of 888.96 feet to a fence post from
6 which a five-eighths inch iron rod set with "Huitt-Zollars" cap
7 bears North 00 degrees 28 minutes 32 seconds East a distance of
8 10.00 feet;
9 THENCE, along said barbed wire fence the following bearings and
10 distances: North 89 degrees 40 minutes 40 seconds West a distance of
11 1,235.50 feet to a fence post from which a five-eighths inch iron
12 rod set with "Huitt-Zollars" cap bears North 00 degrees 44 minutes
13 29 seconds East a distance of 10.00 feet; North 88 degrees 50
14 minutes 21 seconds West a distance of 800.02 feet to a fence post
15 from which a five-eighths inch iron rod set with "Huitt-Zollars"
16 cap bears North 00 degrees 48 minutes 04 seconds East a distance of
17 10.00 feet; North 89 degrees 33 minutes 32 seconds West a distance
18 of 389.35 feet to a fence post from which a five-eighths inch iron
19 rod set with "Huitt-Zollars" cap bears North 00 degrees 12 minutes
20 54 seconds East a distance of 10.00 feet; South 89 degrees 59
21 minutes 20 seconds West a distance of 396.21 feet to a fence corner
22 post from which a five-eighths inch iron rod set with
23 "Huitt-Zollars" cap bears North 46 degrees 59 minutes 42 seconds
24 East a distance of 14.66 feet;
25 THENCE, North 04 degrees 00 minutes 07 seconds East along said
26 barbed wire fence and an extension thereof a distance of 970.05 feet
27 to a five-eighths inch iron rod set with "Huitt-Zollars" cap from

1 which a five-eighths inch iron rod set with "Huitt-Zollars" cap
2 bears North 88 degrees 27 minutes 49 seconds East a distance of
3 10.04 feet;

4 THENCE, North 06 degrees 43 minutes 48 seconds West and along a
5 barbed wire fence and extension thereof a distance of 673.70 feet to
6 a five-eighths inch iron rod set with "Huitt-Zollars" cap on the
7 south right-of-way line of the Texas & Pacific Railroad;

8 THENCE, North 86 degrees 18 minutes 33 seconds East along the south
9 right-of-way line of the Texas & Pacific Railroad a distance of
10 4,094.41 feet to a five-eighths inch iron rod set with
11 "Huitt-Zollars" cap;

12 THENCE, North 86 degrees 22 minutes 15 seconds East continuing
13 along the south right-of-way line of the Texas & Pacific Railroad a
14 distance of 8,298.52 feet to the POINT OF BEGINNING and CONTAINING
15 765.5 acres of land, more or less.

16 (c) Sections 396.063, 396.064, and 396.065, Local
17 Government Code, are amended to conform to Chapter 1312, Acts of the
18 76th Legislature, Regular Session, 1999, to read as follows:

19 Sec. 396.063. BOARD. (a) The board consists of 15 members
20 and is responsible for the management, operation, and control of
21 the authority.

22 (b) The board is composed of the following members:

23 (1) two members appointed by the county judge of the
24 county;

25 (2) one member appointed by the commissioners court of
26 the county;

27 (3) three members appointed by the mayor of Texarkana;

- 1 (4) one member appointed by the mayor of New Boston;
2 (5) one member appointed by the mayor of Hooks;
3 (6) one member appointed by the mayor of Nash;
4 (7) one member appointed by the mayor of Wake Village;
5 (8) one member appointed by the mayor of Leary;
6 (9) one member appointed by the mayor of Redwater;
7 (10) one member appointed by the mayor of Maud;
8 (11) one member appointed by the mayor of DeKalb; and
9 (12) one [~~at-large~~] member appointed [~~elected~~] by the
10 mayor of Red Lick [~~appointed members~~].

11 (c) A vacancy on the board is filled in the same manner as
12 the original appointment. Each board member serves for a term of
13 two years.

14 (d) A board member who is also an elected official serves
15 for a term coinciding with the term of the elected office.

16 (e) The board by rule or resolution may provide for the
17 appointment of members of the board in alternate years and may
18 determine the number and manner of deciding which members shall be
19 appointed in odd-numbered years and which shall be appointed in
20 even-numbered years.

21 (f) The board shall elect from its membership a president
22 and a vice president. The vice president shall preside in the
23 absence of the president.

24 (g) [~~(f)~~] The board shall adopt rules to govern its
25 proceedings.

26 (h) [~~(g)~~] The board may employ persons to carry out the
27 powers and duties of the authority.

1 (i) [~~(h)~~] A board member may be recalled at any time by the
2 appointing official.

3 (j) A board member is not entitled to compensation for
4 service on the board but is entitled to be reimbursed for necessary
5 expenses incurred in carrying out the duties and responsibilities
6 of a board member.

7 (k) A position on the board may not be construed to be a
8 civil office of emolument for any purpose, including those purposes
9 described in Section 40, Article XVI, Texas Constitution. Elected
10 officials of the county and cities may serve on the board without
11 penalty or forfeiture of office. In the event of any conflict
12 between this section and any provision of statutory or common law
13 that would in any way prevent the elected officials from serving on
14 the board, the provisions of this section shall prevail and be given
15 effect. A conflict of interest, under either statutory or common
16 law, for any board member regarding a particular matter to come
17 before the board, is governed by Chapter 171, Local Government
18 Code.

19 Sec. 396.064. PURPOSE. (a) The authority is created to:

20 (1) accept title on approval by and in coordination
21 with the governor from the United States to all or any portion of
22 the property [~~situated~~] within, adjacent to, or related to the
23 property described in Section 396.0621. The property shall consist
24 of any property, whether real, personal, or mixed, and any rights,
25 whether tangible or intangible, assets, benefits, or improvements
26 related to the existence, development, operation, or maintenance of
27 the property [~~Red River Army Depot, as legally described by the~~

1 ~~United States Army Corps of Engineers, Fort Worth District~~, now or
2 in the future, [life] of the authority;

3 (2) promote the location and development of new
4 businesses, ~~[and]~~ industries, and commercial activities within or
5 related to ~~[on]~~ the property ~~[described in Subdivision (1)]~~; and

6 (3) undertake a project determined by the board to be
7 necessary or incidental to the industrial, commercial, or business
8 development, redevelopment, maintenance, and expansion of new or
9 existing businesses on and for the property described in Section
10 396.0621 ~~[Subdivision (1)]~~, including the acquisition,
11 construction, operation, maintenance, repair, rehabilitation,
12 replacement, improvement, extension, expansion, and ~~[or]~~
13 enhancement of any of that property, including:

14 (A) roads, bridges, and rights-of-way;

15 (B) housing;

16 (C) property;

17 (D) police, fire, medical, cultural,
18 educational, and research services, equipment, institutions, and
19 resources;

20 (E) other community support services;

21 (F) flood control, water, wastewater treatment,
22 natural gas, electricity, solid waste disposal, steam generation,
23 communications, and other utility facilities and services; ~~[and]~~

24 (G) other infrastructure improvements; and

25 (H) any other services or facilities acquired by
26 the authority from the United States of America.

27 (b) The creation of the authority is necessary to promote,

1 develop, encourage, and maintain employment, commerce, economic
2 development, and the public welfare and to conserve the natural
3 resources of the state and is essential to accomplish the purposes
4 of Sections 49-d, 52, and 52-a, Article III, and Section 59, Article
5 XVI, Texas Constitution, in an area previously established and
6 developed by the United States government for military support
7 purposes and no longer to be similarly maintained for those
8 purposes by the federal government.

9 Sec. 396.065. POWERS OF AUTHORITY. (a) Except as provided
10 by Subsection (c) [~~(b)~~], the authority may exercise~~[, on approval~~
11 ~~by and in coordination with the governor,]~~ all powers, functions,
12 authority, rights, and duties necessary or appropriate to carry out
13 projects described by Section 396.064(a)(3) and the purposes of
14 this subchapter, including the power to:

15 (1) sue and be sued, and plead and be impleaded, in its
16 own name;

17 (2) adopt an official seal, and alter the seal when
18 advisable;

19 (3) adopt, ~~[and]~~ enforce, and from time to time amend
20 ~~[bylaws and]~~ rules for the conduct of its affairs that are not
21 inconsistent with this subchapter;

22 (4) acquire, hold, own, pledge, and dispose of its
23 revenues, income, receipts, funds, and money from every source and
24 to select its depository;

25 (5) acquire, own, rent, lease, accept, hold, or
26 dispose of any or all property, or any interest in property,
27 including rights or easements, in performing its duties and

1 exercising its powers under this subchapter, by purchase, exchange,
2 gift, assignment, [~~condemnation,~~] sale, lease, or otherwise, and to
3 hold, manage, operate, or improve the property;

4 (6) sell, assign, lease, encumber, mortgage, or
5 otherwise dispose of any or all property, or any interest in
6 property, and release or relinquish any right, title, claim, lien,
7 interest, easement, or demand, however acquired;

8 (7) perform an activity authorized by Subdivision (6)
9 by public or private sale, with or without public bidding,
10 notwithstanding any other law;

11 (8) lease or rent any lands [~~within the property~~] and
12 buildings, structures, or facilities [~~located on the property~~] from
13 or to any person or municipality or other public agency or political
14 subdivision to carry out the purposes of this subchapter;

15 (9) request and accept any appropriations, grants,
16 allocations, subsidies, guaranties, aid, contributions, services,
17 labor, materials, gifts, or donations from the federal government,
18 the state, any public agency or political subdivision, or any other
19 source;

20 (10) operate and maintain an office and appoint and
21 determine the duties, tenure, qualifications, and compensation of
22 officers, employees, agents, professional advisors and counselors,
23 including financial consultants, accountants, attorneys,
24 architects, engineers, appraisers, and financing experts, as
25 considered necessary or advisable by the board;

26 (11) borrow money and issue bonds, payable solely from
27 all or any portion of any revenues of the authority, by resolution

1 or order of the board and without the necessity of an election;

2 (12) fix, revise, charge, and collect rents, rates,
3 fees, and charges regarding the property [~~for its facilities~~] and
4 any services provided by the authority;

5 (13) exercise the powers granted to municipalities
6 under Chapters 373 and 380 for the development of housing and
7 expansion of economic development and commercial activity;

8 (14) exercise the powers granted to general-law
9 districts under Chapter 49, Water Code, and to municipal utility
10 districts under Chapter 54, Water Code;

11 (15) exercise the powers granted to road utility
12 districts under Chapter 441, Transportation Code; [~~and~~]

13 (16) exercise the powers granted to municipalities and
14 counties under Subchapter C, Chapter 271;

15 (17) exercise those powers granted to municipalities
16 in Chapter 402 for the provision of municipal utilities;

17 (18) contract and be contracted with, in the
18 authority's own name, any person or entity in the performance of any
19 of the authority's powers or duties, to carry out projects
20 described by Section 396.064(a)(3), or to effectuate the purposes
21 of this subchapter, for a period of years, on the terms and
22 conditions and by competitive bidding or by negotiated contract,
23 all as deemed by the board to be appropriate, desirable, and in the
24 best interests of the authority and the accomplishment of the
25 purposes of this subchapter; and

26 (19) to acquire, hold, own, sell, assign, lease,
27 encumber, mortgage, or otherwise dispose of any real, personal, or

1 mixed property located outside the perimeter of the property
2 described in Section 396.0621 if that other property enhances or
3 facilitates the development, redevelopment, maintenance, or
4 expansion of new and existing businesses, industry, or commercial
5 activity on the property.

6 (b) To the extent the general laws may be inconsistent or in
7 conflict with this subchapter, the provisions of this subchapter
8 shall prevail. It is further the intent of the legislature that the
9 authority shall have all the power and authority necessary to fully
10 qualify and gain the benefits of all laws that are in any way
11 helpful in carrying out the purposes for which the authority is
12 created, and the provisions of those laws of which the authority may
13 lawfully avail itself are adopted by this reference and made
14 applicable to the authority to the extent they do not conflict with
15 this subchapter.

16 (c) The authority may not use the power of eminent domain.

17 (d) Section 396.067(a), Local Government Code, is amended
18 to conform to Chapter 1312, Acts of the 76th Legislature, Regular
19 Session, 1999, to read as follows:

20 (a) The authority may be dissolved by the board on approval
21 of each eligible municipality and the county after all debts or
22 obligations have been satisfied or retired. It is the intent of the
23 legislature that the authority be dissolved, with the approval of
24 the cities and county governing bodies, after conveyance and sale
25 of all of the property [~~with the approval of the governing bodies of~~
26 ~~the county and eligible municipalities~~].

27 (e) Section 396.068, Local Government Code, is amended to

1 conform to Chapter 1312, Acts of the 76th Legislature, Regular
2 Session, 1999, by adding Subsection (b) to read as follows:

3 (b) Bowie County may transfer to the authority by deed, bill
4 of sale, or otherwise, all assets, including personal and real
5 property, accumulated or acquired from, or with funds provided by,
6 the United States Department of the Army or this state for the
7 development, redevelopment, maintenance, or expansion of the
8 property, together with any unexpended funds made available for
9 those purposes by the United States Department of the Army or this
10 state. The transfer of assets shall be made without the requirement
11 of public notice or bidding. Except as otherwise provided by law,
12 this subsection does not authorize the transfer of public funds of
13 Bowie County other than the funds described by this subsection.

14 (f) Chapter 1312, Acts of the 76th Legislature, Regular
15 Session, 1999, is repealed.

16 ARTICLE 13. CHANGES RELATING TO NATURAL RESOURCES CODE

17 SECTION 13.001. (a) Chapter 32, Natural Resources Code, is
18 amended to codify Chapter 11, Acts of the 68th Legislature, Regular
19 Session, 1983, by adding Subchapter G to read as follows:

20 SUBCHAPTER G. TRADE OF LAND

21 Sec. 32.251. AUTHORITY OF BOARD, IN CONJUNCTION WITH LAND
22 OFFICE, TO TRADE LAND. The board, in conjunction with the land
23 office, may trade fee and lesser interests in land dedicated to the
24 permanent school fund for fee and lesser interests in land not
25 dedicated to that fund if the board and the commissioner determine
26 that the trade is in the best public interest of the people of this
27 state.

1 Sec. 32.252. AUTHORITY OF STATE AGENCY OR POLITICAL
2 SUBDIVISION TO SELL OR EXCHANGE REAL PROPERTY. (a) A state agency
3 or political subdivision may directly sell or exchange real
4 property belonging to the state agency or political subdivision
5 with the board for land dedicated to the permanent school fund if
6 the exchange is for fair market value.

7 (b) Section 272.001, Local Government Code, does not apply
8 to an exchange under this section.

9 Sec. 32.253. PURPOSE OF TRADE. Land dedicated to the
10 permanent school fund may be traded to:

11 (1) aggregate sufficient acreage of contiguous land to
12 create a manageable unit;

13 (2) acquire land having unique biological,
14 geological, cultural, or recreational value; or

15 (3) create a buffer zone for the enhancement of
16 already existing public land, facilities, or amenities.

17 Sec. 32.254. LAND TO BE TRADED FOR LAND OF AT LEAST EQUAL
18 VALUE. (a) A trade of land dedicated to the permanent school fund
19 may be made only on an appraised value basis. The appraisal must be
20 made by appraisers of the land office, and the board must concur in
21 the appraisal. The appraisal is conclusive proof of the value of
22 the land.

23 (b) A trade of land dedicated to the permanent school fund
24 may be made only for land of at least equal value.

25 Sec. 32.255. DEED REQUIRED. (a) A trade of land dedicated
26 to the permanent school fund may be made only by a deed signed
27 jointly by the commissioner and the governor.

1 (b) The governor's failure to sign the deed is a veto of the
2 proposed trade.

3 Sec. 32.256. DEDICATION OF ACQUIRED LAND TO FUND. Land
4 acquired by the board by trade under this subchapter is dedicated to
5 the permanent school fund.

6 Sec. 32.257. SUBSURFACE MINERAL RIGHTS. (a) If this state
7 retains the subsurface mineral rights to the oil, gas, and other
8 minerals in permanent school fund land traded under this
9 subchapter, an unrestricted right of ingress to and egress from the
10 land by this state and its lessees shall be retained for the purpose
11 of exploration, development, and production of the oil, gas, and
12 other minerals to which the rights are retained by this state.

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

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

23 (d) Notwithstanding anything to the contrary in this
24 subchapter, the board, to complete a trade of equal value, may
25 convey the surface estate and reserve the oil, gas, and other
26 minerals, with the surface owner acting as agent for the state
27 under:

1 (1) Subchapter F, Chapter 52, in leasing the land for
2 oil and gas and receiving one-half the bonus, rental, and royalty
3 for acting as agent for the state in leasing the land and as
4 compensation for surface damages; or

5 (2) Subchapter C, Chapter 53, in leasing the land for
6 sulphur, coal, lignite, uranium, or potash and receiving 40 percent
7 of the bonus, rental, and royalty for acting as agent for the state
8 in leasing the land and as compensation for surface damages.

9 Sec. 32.258. REPORT TO LEGISLATURE. (a) The board shall
10 report to the legislature a trade of land dedicated to the permanent
11 school fund. The board shall report the trade at:

12 (1) the first regular session of the legislature
13 occurring after the trade if the legislature is not meeting in
14 regular session at the time the trade is made; or

15 (2) the regular session of the legislature occurring
16 at the time of the trade if the legislature is meeting in regular
17 session at the time the trade is made.

18 (b) The report must state the facts that warranted the
19 trade.

20 (b) The following laws are repealed:

21 (1) Chapter 590, Acts of the 63rd Legislature, Regular
22 Session, 1973 (Article 5421c-13, Vernon's Texas Civil Statutes);
23 and

24 (2) Chapter 11, Acts of the 68th Legislature, Regular
25 Session, 1983.

26 SECTION 13.002. (a) Section 51.086(b), Natural Resources
27 Code, is amended to conform to Section 8, Chapter 965, Acts of the

1 68th Legislature, Regular Session, 1983, to read as follows:

2 (b) On a contract for sale of escheated permanent school
3 land, the initial payment must be in cash and may not be less than
4 one-tenth of the purchase price. The purchaser shall pay the
5 balance of the purchase price in nine equal annual installments and
6 shall pay interest on the deferred amount at the rate set by the
7 board [~~of six percent a year~~].

8 (b) Section 52.011, Natural Resources Code, is amended to
9 conform to Section 8, Chapter 965, Acts of the 68th Legislature,
10 Regular Session, 1983, to read as follows:

11 Sec. 52.011. AREA SUBJECT TO LEASE. Under the provisions of
12 this subchapter, the board may lease to any person for the
13 production of oil and natural gas:

14 (1) islands, saltwater lakes, bays, inlets, marshes,
15 and reefs owned by the state within tidewater limits;

16 (2) the portion of the Gulf of Mexico within the
17 jurisdiction of the state;

18 (3) all unsold surveyed and unsurveyed public school
19 land; and

20 (4) all land sold with a reservation of minerals to the
21 state under Section 51.054 or 51.086 of this code in which the state
22 has retained leasing rights.

23 (c) Section 53.151, Natural Resources Code, is amended to
24 conform to Section 8, Chapter 965, Acts of the 68th Legislature,
25 Regular Session, 1983, to read as follows:

26 Sec. 53.151. LEASE OF CERTAIN AREAS. Under the provisions
27 of this subchapter, the board may lease to any person for the

1 production of coal, lignite, sulphur, salt, and potash:

2 (1) islands, saltwater lakes, bays, inlets, marshes,
3 and reefs owned by the state within tidewater limits;

4 (2) the portion of the Gulf of Mexico within the
5 jurisdiction of the state;

6 (3) rivers and channels that belong to the state;

7 (4) all unsold surveyed and unsurveyed public school
8 land; and

9 (5) all land sold with a reservation of minerals to the
10 state under Section 51.054 or 51.086 of this code in which the state
11 has retained leasing rights.

12 (d) Subchapter A, Chapter 71, Property Code, is amended to
13 conform to Section 8, Chapter 965, Acts of the 68th Legislature,
14 Regular Session, 1983, by adding Section 71.007 to read as follows:

15 Sec. 71.007. IDENTIFICATION OF REAL PROPERTY SUBJECT TO
16 ESCHEAT. The tax assessor-collector of each county shall:

17 (1) take all steps necessary to identify real property
18 that may be subject to escheat; and

19 (2) notify the commissioner of the General Land Office
20 and the attorney general so that they may take appropriate action.

21 (e) Section 8, Chapter 965, Acts of the 68th Legislature,
22 Regular Session, 1983, is repealed.

23 SECTION 13.003. (a) Sections 62.093, 62.099, 62.131, and
24 62.133, Natural Resources Code, are amended to conform to Section
25 1, Chapter 487, Acts of the 65th Legislature, Regular Session,
26 1977, to read as follows:

27 Sec. 62.093. PARK AUTHORITY. The board may manage,

1 operate, maintain, equip, improve, and finance:

2 (1) an existing public park placed under its
3 jurisdiction by the commissioners court; or

4 (2) [~~and may improve, manage, operate, maintain,~~
5 ~~equip, and finance~~] additional parks acquired by gift or otherwise
6 but not acquired by the exercise of the power of eminent domain.

7 Sec. 62.099. ADVERTISING. The board may publish brochures
8 and otherwise advertise the county's recreational advantages for
9 the purpose of attracting tourists, residents, and other users of
10 the public facilities operated by the board.

11 Sec. 62.131. AUTHORITY TO ISSUE REVENUE BONDS. For the
12 purpose of acquiring, developing, improving, and enlarging public
13 recreational areas [~~parks~~] and facilities, the board may issue
14 revenue bonds payable solely from:

15 (1) the revenue of all or any designated part of the
16 properties or facilities under the jurisdiction and control of the
17 board; or

18 (2) any other source of funds the board may wish to
19 dedicate for that purpose.

20 Sec. 62.133. SALE OF BONDS. The board shall sell the bonds
21 on the best terms obtainable [~~but not for less than par and accrued~~
22 ~~interest~~].

23 (b) Section 1, Chapter 487, Acts of the 65th Legislature,
24 Regular Session, 1977, is repealed.

25 SECTION 13.004. Chapter 793, Acts of the 73rd Legislature,
26 Regular Session, 1993 (Article 4413(47f), Vernon's Texas Civil
27 Statutes), relating to the Texas Energy Coordination Council, is

1 repealed to conform to the abolition of that agency under Chapter
2 325, Government Code (Texas Sunset Act).

3 ARTICLE 14. CHANGES RELATING TO OCCUPATIONS CODE

4 SECTION 14.001. (a) Title 2, Occupations Code, is amended
5 to codify Article 9032, Revised Statutes, by adding Chapter 58 to
6 read as follows:

7 CHAPTER 58. USE OF GENETIC INFORMATION

8 SUBCHAPTER A. GENERAL PROVISIONS

9 Sec. 58.001. DEFINITIONS. In this chapter:

10 (1) "DNA" means deoxyribonucleic acid.

11 (2) "Family health history" means a history taken by a
12 physician or genetic professional to ascertain genetic or medical
13 information about an individual's family.

14 (3) "Genetic characteristic" means a scientifically
15 or medically identifiable genetic or chromosomal variation,
16 composition, or alteration that:

17 (A) is scientifically or medically believed to:

18 (i) predispose an individual to a disease,
19 disorder, or syndrome; or

20 (ii) be associated with a statistically
21 significant increased risk of developing a disease, disorder, or
22 syndrome; and

23 (B) may or may not be associated with any symptom
24 of an ongoing disease, disorder, or syndrome affecting an
25 individual on the date the genetic information is obtained
26 regarding the individual.

27 (4) "Genetic information" means information that is:

1 (A) obtained from or based on a scientific or
2 medical determination of the presence or absence in an individual
3 of a genetic characteristic; or

4 (B) derived from the results of a genetic test
5 performed on, or a family health history obtained from, an
6 individual.

7 (5) "Genetic test" means a presymptomatic laboratory
8 test of an individual's genes, gene products, or chromosomes that:

9 (A) analyzes the individual's DNA, RNA,
10 proteins, or chromosomes; and

11 (B) is performed to identify any genetic
12 variation, composition, or alteration that is associated with the
13 individual's having a statistically increased risk of:

14 (i) developing a clinically recognized
15 disease, disorder, or syndrome; or

16 (ii) being a carrier of a clinically
17 recognized disease, disorder, or syndrome.

18 The term does not include a blood test, cholesterol test,
19 urine test, or other physical test used for a purpose other than
20 determining a genetic or chromosomal variation, composition, or
21 alteration in a specific individual.

22 (6) "Licensing authority" means a state agency or
23 political subdivision that issues an occupational license.

24 (7) "Occupational license" means a license,
25 certificate, registration, permit, or other form of authorization
26 required by law or rule that must be obtained by an individual to
27 engage in a particular business or occupation.

1 (8) "Political subdivision" means a municipality,
2 county, or special district or authority. The term includes a
3 school district.

4 (9) "RNA" means ribonucleic acid.

5 (10) "State agency" means a department, board, bureau,
6 commission, committee, division, office, council, or agency in the
7 executive or judicial branch of state government.

8 [Sections 58.002-58.050 reserved for expansion]

9 SUBCHAPTER B. USE AND RETENTION OF GENETIC INFORMATION

10 Sec. 58.051. CERTAIN USES OF GENETIC INFORMATION
11 PROHIBITED. A licensing authority may not deny an application for
12 an occupational license, suspend, revoke, or refuse to renew an
13 occupational license, or take any other disciplinary action against
14 a license holder based on the refusal of the license applicant or
15 license holder to:

16 (1) submit to a genetic test;

17 (2) submit a family health history;

18 (3) disclose whether the applicant or holder has
19 submitted to a genetic test; or

20 (4) disclose the results of any genetic test to which
21 the applicant or holder has submitted.

22 Sec. 58.052. DESTRUCTION OF SAMPLE MATERIAL; EXCEPTIONS. A
23 sample of genetic material obtained from an individual for a
24 genetic test shall be destroyed promptly after the purpose for
25 which the sample was obtained is accomplished unless:

26 (1) the sample is retained under a court order;

27 (2) the individual authorizes retention of the sample

1 for medical treatment or scientific research;

2 (3) the sample was obtained for research that is
3 cleared by an institutional review board and retention of the
4 sample is:

5 (A) under a requirement the institutional review
6 board imposes on a specific research project; or

7 (B) authorized by the research participant with
8 institutional review board approval under federal law; or

9 (4) the sample was obtained for a screening test
10 established by the Texas Department of Health under Section 33.011,
11 Health and Safety Code, and performed by that department or a
12 laboratory approved by that department.

13 [Sections 58.053-58.100 reserved for expansion]

14 SUBCHAPTER C. DISCLOSURE OF GENETIC INFORMATION;

15 CONFIDENTIALITY; EXCEPTIONS

16 Sec. 58.101. DISCLOSURE OF TEST RESULTS TO INDIVIDUAL
17 TESTED. An individual who submits to a genetic test has the right
18 to know the results of the test. On written request by the
19 individual, the entity that performed the test shall disclose the
20 test results to:

21 (1) the individual; or

22 (2) a physician designated by the individual.

23 Sec. 58.102. CONFIDENTIALITY OF GENETIC INFORMATION. (a)
24 Except as provided by Section 58.103, genetic information is
25 confidential and privileged regardless of the source of the
26 information.

27 (b) A person who holds genetic information about an

1 individual may not disclose or be compelled to disclose, by
2 subpoena or otherwise, that information unless the disclosure is
3 specifically authorized as provided by Section 58.104.

4 (c) This section applies to a redisclosure of genetic
5 information by a secondary recipient of the information after
6 disclosure of the information by an initial recipient.

7 Sec. 58.103. EXCEPTIONS TO CONFIDENTIALITY. (a) Subject
8 to Subchapter G, Chapter 411, Government Code, genetic information
9 may be disclosed without an authorization under Section 58.104 if
10 the disclosure is:

11 (1) authorized under a state or federal criminal law
12 relating to:

13 (A) the identification of individuals; or

14 (B) a criminal or juvenile proceeding, an
15 inquest, or a child fatality review by a multidisciplinary
16 child-abuse team;

17 (2) required under a specific order of a state or
18 federal court;

19 (3) for the purpose of establishing paternity as
20 authorized under a state or federal law;

21 (4) made to provide genetic information relating to a
22 decedent and the disclosure is made to the blood relatives of the
23 decedent for medical diagnosis; or

24 (5) made to identify a decedent.

25 (b) Genetic information may be disclosed without an
26 authorization under Section 58.104 if:

27 (1) the disclosure is for information from a research

1 study in which the procedure for obtaining informed written consent
2 and the use of the information is governed by national standards for
3 protecting participants involved in research projects, including
4 guidelines issued under 21 C.F.R. Part 50 and 45 C.F.R. Part 46;

5 (2) the information does not identify a specific
6 individual; and

7 (3) the information is provided to the Texas
8 Department of Health to comply with Chapter 87, Health and Safety
9 Code.

10 Sec. 58.104. AUTHORIZED DISCLOSURE. An individual or the
11 legal representative of an individual may authorize disclosure of
12 genetic information relating to the individual by a written
13 authorization that includes:

14 (1) a description of the information to be disclosed;

15 (2) the name of the person to whom the disclosure is
16 made; and

17 (3) the purpose for the disclosure.

18 (b) Article 9032, Revised Statutes, is repealed.

19 SECTION 14.002. (a) Subtitle A, Title 3, Occupations Code,
20 is amended to codify Article 4495c, Revised Statutes, by adding
21 Chapter 107 to read as follows:

22 CHAPTER 107. INTRACTABLE PAIN TREATMENT

23 SUBCHAPTER A. GENERAL PROVISIONS

24 Sec. 107.001. SHORT TITLE. This chapter may be cited as the
25 Intractable Pain Treatment Act.

26 Sec. 107.002. DEFINITIONS. In this chapter:

27 (1) "Board" means the Texas State Board of Medical

1 Examiners.

2 (2) "Intractable pain" means a state of pain for
3 which:

4 (A) the cause of the pain cannot be removed or
5 otherwise treated; and

6 (B) in the generally accepted course of medical
7 practice, relief or cure of the cause of the pain:

8 (i) is not possible; or

9 (ii) has not been found after reasonable
10 efforts.

11 (3) "Physician" means a physician licensed by the
12 board.

13 Sec. 107.003. NONAPPLICABILITY OF CHAPTER TO CERTAIN
14 CHEMICALLY DEPENDENT PERSONS. Except as provided by Subchapter C,
15 this chapter does not apply to a person being treated by a physician
16 for chemical dependency because of the person's use of a dangerous
17 drug or controlled substance.

18 [Sections 107.004-107.050 reserved for expansion]

19 SUBCHAPTER B. PRESCRIPTION AND ADMINISTRATION OF DANGEROUS DRUGS
20 AND CONTROLLED SUBSTANCES

21 Sec. 107.051. AUTHORITY TO PRESCRIBE OR ADMINISTER
22 DANGEROUS DRUG OR CONTROLLED SUBSTANCE. Notwithstanding any other
23 law, a physician may prescribe or administer a dangerous drug or
24 controlled substance to a person in the course of the physician's
25 treatment of the person for intractable pain.

26 Sec. 107.052. LIMITATIONS ON PRESCRIPTION OR
27 ADMINISTRATION OF DANGEROUS DRUG OR CONTROLLED SUBSTANCE. This

1 chapter does not authorize a physician to prescribe or administer
2 to a person a dangerous drug or controlled substance:

3 (1) for a purpose that is not a legitimate medical
4 purpose as defined by the board; and

5 (2) if the physician knows or should know the person is
6 using drugs for a nontherapeutic purpose.

7 Sec. 107.053. LIMITATION ON AUTHORITY OF HOSPITAL OR OTHER
8 HEALTH CARE FACILITY REGARDING USE OF DANGEROUS DRUG OR CONTROLLED
9 SUBSTANCE. A hospital or other health care facility may not
10 prohibit or restrict the use of a dangerous drug or controlled
11 substance prescribed or administered by a physician who holds staff
12 privileges at the hospital or facility for a person diagnosed and
13 treated by a physician for intractable pain.

14 [Sections 107.054-107.100 reserved for expansion]

15 SUBCHAPTER C. TREATMENT OF CERTAIN PATIENTS

16 Sec. 107.101. PATIENT. In this subchapter, "patient"
17 includes a person who:

18 (1) is currently abusing a dangerous drug or
19 controlled substance;

20 (2) is not currently abusing such a drug or substance
21 but has a history of such abuse; or

22 (3) lives in an environment that poses a risk for
23 misuse or diversion to illegitimate use of such a drug or substance.

24 Sec. 107.102. AUTHORITY TO TREAT. This chapter authorizes
25 a physician to treat a patient with an acute or chronic painful
26 medical condition with a dangerous drug or controlled substance to
27 relieve the patient's pain using appropriate doses, for an

1 appropriate length of time, and for as long as the pain persists.

2 Sec. 107.103. DUTY TO MONITOR PATIENT. A physician who
3 treats a patient under this subchapter shall monitor the patient to
4 ensure that a prescribed dangerous drug or controlled substance is
5 used only for the treatment of the patient's painful medical
6 condition.

7 Sec. 107.104. DOCUMENTATION AND CONSULTATION REQUIRED. To
8 ensure that a prescribed dangerous drug or controlled substance is
9 not diverted to another use and to ensure the appropriateness of the
10 treatment of the patient's targeted symptoms, the physician shall:

11 (1) specifically document:

12 (A) the understanding between the physician and
13 patient about the patient's prescribed treatment;

14 (B) the name of the drug or substance prescribed;

15 (C) the dosage and method of taking the
16 prescribed drug or substance;

17 (D) the number of dose units prescribed; and

18 (E) the frequency of prescribing and dispensing
19 the drug or substance; and

20 (2) consult with a psychologist, psychiatrist, expert
21 in the treatment of addictions, or other health care professional,
22 as appropriate.

23 [Sections 107.105-107.150 reserved for expansion]

24 SUBCHAPTER D. DISCIPLINARY ACTION

25 Sec. 107.151. DISCIPLINARY ACTION PROHIBITED. A physician
26 is not subject to disciplinary action by the board for prescribing
27 or administering a dangerous drug or controlled substance in the

1 course of treatment of a person for intractable pain.

2 Sec. 107.152. AUTHORITY OF BOARD TO REVOKE OR SUSPEND
3 LICENSE. (a) This chapter does not affect the authority of the
4 board to revoke or suspend the license of a physician who:

5 (1) prescribes, administers, or dispenses a drug or
6 treatment:

7 (A) for a purpose that is not a legitimate
8 medical purpose as defined by the board; and

9 (B) that is nontherapeutic in nature or
10 nontherapeutic in the manner the drug or treatment is administered
11 or prescribed;

12 (2) fails to keep a complete and accurate record of the
13 purchase and disposal of:

14 (A) a drug listed in Chapter 481, Health and
15 Safety Code; or

16 (B) a controlled substance scheduled in the
17 Comprehensive Drug Abuse Prevention and Control Act of 1970 (21
18 U.S.C. Section 801 et seq.);

19 (3) writes a false or fictitious prescription for:

20 (A) a dangerous drug as defined by Chapter 483,
21 Health and Safety Code;

22 (B) a controlled substance listed in a schedule
23 under Chapter 481, Health and Safety Code; or

24 (C) a controlled substance scheduled in the
25 Comprehensive Drug Abuse Prevention and Control Act of 1970 (21
26 U.S.C. Section 801 et seq.); or

27 (4) prescribes, administers, or dispenses in a manner

1 inconsistent with public health and welfare:

2 (A) a dangerous drug as defined by Chapter 483,
3 Health and Safety Code;

4 (B) a controlled substance listed in a schedule
5 under Chapter 481, Health and Safety Code; or

6 (C) a controlled substance scheduled in the
7 Comprehensive Drug Abuse Prevention and Control Act of 1970 (21
8 U.S.C. Section 801 et seq.).

9 (b) For purposes of Subsection (a)(2), the physician's
10 records must include a record of:

11 (1) the date of purchase;

12 (2) the sale or disposal of the drug or substance by
13 the physician;

14 (3) the name and address of the person receiving the
15 drug or substance; and

16 (4) the reason for the disposal or dispensing of the
17 drug or substance to the person.

18 (b) Article 4495c, Revised Statutes, is repealed.

19 SECTION 14.003. (a) Subtitle A, Title 3, Occupations Code,
20 is amended to codify Article 4506a, Revised Statutes, by adding
21 Chapter 108 to read as follows:

22 CHAPTER 108. LICENSE SUSPENSION OR REVOCATION

23 REQUIRED FOR CERTAIN DRUG FELONY CONVICTIONS

24 Sec. 108.001. DEFINITION. In this chapter, "board" means
25 the Texas State Board of Medical Examiners.

26 Sec. 108.002. LICENSE SUSPENSION ON CONVICTION;
27 REVOCATION. (a) The board shall suspend a license issued by the

1 board if it is determined at an administrative hearing that the
2 license holder has been convicted of a felony under Chapter 481 or
3 483, Health and Safety Code, or Section 485.032 of that code.

4 (b) A hearing under Subsection (a) shall be conducted under
5 Chapter 2001, Government Code.

6 (c) The board shall revoke the license of a person whose
7 license is suspended under Subsection (a) on the person's final
8 conviction.

9 Sec. 108.003. LICENSE REINSTATEMENT OR REISSUANCE. (a)
10 The board may not reinstate or reissue a license suspended or
11 revoked under Section 108.002 unless an express determination is
12 made that the reinstatement or reissuance of the license is in the
13 best interests of the public and the person whose license was
14 suspended or revoked.

15 (b) The board must base its determination under Subsection
16 (a) on substantial evidence contained in an investigative report.

17 (b) Article 4506a, Revised Statutes, is repealed.

18 SECTION 14.004. (a) Subtitle A, Title 3, Occupations Code,
19 is amended to codify Article 4512g-1, Revised Statutes, by adding
20 Chapter 109 to read as follows:

21 CHAPTER 109. RELEASE OF SEX OFFENDER TREATMENT INFORMATION

22 SUBCHAPTER A. GENERAL PROVISIONS

23 Sec. 109.001. DEFINITIONS. In this chapter:

24 (1) "Administration of criminal justice" and
25 "criminal justice agency" have the meanings assigned by Article
26 60.01, Code of Criminal Procedure.

27 (2) "Local law enforcement authority" has the meaning

1 assigned by Article 62.01, Code of Criminal Procedure.

2 (3) "Sex offender" has the meaning assigned by Section
3 9(m), Article 42.12, Code of Criminal Procedure.

4 Sec. 109.002. PURPOSE OF RELEASING INFORMATION. A person
5 who is authorized by this chapter to release or obtain information
6 may do so only for the administration of criminal justice.

7 Sec. 109.003. IMMUNITY FROM DAMAGES. A person who releases
8 or obtains information as authorized by this chapter is not liable
9 for damages arising from the release of the information.

10 [Sections 109.004-109.050 reserved for expansion]

11 SUBCHAPTER B. RELEASE OF TREATMENT INFORMATION

12 Sec. 109.051. RELEASE BY PERSONS PROVIDING MENTAL HEALTH OR
13 MEDICAL SERVICES. (a) Information concerning the treatment of a
14 sex offender may be released by a person who:

15 (1) is licensed or certified in this state to provide
16 mental health or medical services, including a:

17 (A) physician;

18 (B) psychiatrist;

19 (C) psychologist;

20 (D) licensed professional counselor;

21 (E) licensed marriage and family therapist; or

22 (F) social worker; and

23 (2) while licensed or certified, provides or provided
24 mental health or medical services for the rehabilitation of sex
25 offenders.

26 (b) Notwithstanding Subtitle B, Title 3, of this code or
27 Chapter 611, Health and Safety Code, a person described by

1 Subsection (a) may release information concerning the treatment of
2 a sex offender to:

- 3 (1) another person described by Subsection (a);
4 (2) a criminal justice agency; or
5 (3) a local law enforcement authority.

6 Sec. 109.052. RELEASE BY CRIMINAL JUSTICE AGENCY. A
7 criminal justice agency may release information concerning the
8 treatment of a sex offender to:

- 9 (1) another criminal justice agency;
10 (2) a local law enforcement authority; or
11 (3) a person described by Section 109.051(a).

12 Sec. 109.053. RELEASE BY LOCAL LAW ENFORCEMENT AUTHORITY. A
13 local law enforcement authority may release information concerning
14 the treatment of a sex offender to:

- 15 (1) another local law enforcement authority;
16 (2) a criminal justice agency; or
17 (3) a person described by Section 109.051(a).

18 (b) Article 4512g-1, Revised Statutes, is repealed.

19 SECTION 14.005. (a) Subtitle A, Title 3, Occupations Code,
20 is amended to codify Chapter 462, Acts of the 68th Legislature,
21 Regular Session, 1983 (Article 4413(51), Vernon's Texas Civil
22 Statutes), by adding Chapter 110 to read as follows:

23 CHAPTER 110. COUNCIL ON SEX OFFENDER TREATMENT

24 SUBCHAPTER A. GENERAL PROVISIONS

25 Sec. 110.001. DEFINITIONS. In this chapter:

- 26 (1) "Board" means the Texas Board of Health.
27 (2) "Council" means the Council on Sex Offender

1 Treatment.

2 (3) "Department" means the Texas Department of Health.

3 (4) "Registry" means a database maintained by the
4 council that contains the names of persons who:

5 (A) have met the council's criteria for the
6 treatment of sex offenders; and

7 (B) provide mental health or medical services for
8 the rehabilitation of sex offenders.

9 (5) "Rehabilitation service" means a mental health
10 treatment or medical intervention program designed to treat or
11 remedy a sex offender's mental or medical problem that may relate or
12 contribute to the sex offender's criminal or paraphiliac problem.

13 (6) "Sex offender" means a person who:

14 (A) is convicted of committing or adjudicated to
15 have committed a sex crime under state or federal law;

16 (B) is awarded deferred adjudication for a sex
17 crime under state or federal law;

18 (C) admits to having violated state or federal
19 law with regard to sexual conduct; or

20 (D) experiences or evidences a paraphiliac
21 disorder as defined by the Revised Diagnostic and Statistical
22 Manual, including any subsequent revision of that manual.

23 (7) "Sex offender treatment provider" means a person,
24 licensed or certified to practice in this state, including a
25 physician, psychiatrist, psychologist, licensed professional
26 counselor, licensed marriage and family therapist, or social
27 worker, who provides mental health or medical services for

1 rehabilitation of sex offenders.

2 [Sections 110.002-110.050 reserved for expansion]

3 SUBCHAPTER B. COUNCIL ON SEX OFFENDER TREATMENT

4 Sec. 110.051. COUNCIL; MEMBERSHIP. (a) The council is
5 within the department.

6 (b) The council consists of six part-time members,
7 appointed by the governor with the advice and consent of the senate
8 as follows:

9 (1) two representatives of the public; and

10 (2) four members each of whom meets the requirements
11 for registration as a sex offender treatment provider.

12 (c) Appointments to the council shall be made without regard
13 to the race, color, disability, sex, religion, age, or national
14 origin of the appointee.

15 Sec. 110.052. PUBLIC MEMBERSHIP ELIGIBILITY. A person
16 is not eligible for appointment as a public member if:

17 (1) the person meets the requirements for registration
18 as a sex offender treatment provider; or

19 (2) the person or the person's spouse:

20 (A) is registered, certified, or licensed by an
21 occupational regulatory agency in the field of sex offender
22 treatment;

23 (B) is employed by or participates in the
24 management of a business entity or other organization regulated by
25 the council or receiving funds from the council;

26 (C) owns or controls, directly or indirectly,
27 more than a 10 percent interest in a business entity or other

1 organization regulated by the council or receiving funds from the
2 council; or

3 (D) uses or receives a substantial amount of
4 tangible goods, services, or funds from the council, other than
5 compensation or reimbursement authorized by law for council
6 membership, attendance, or expenses.

7 Sec. 110.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)
8 In this section, "Texas trade association" means a nonprofit,
9 cooperative, and voluntarily joined association of business or
10 professional competitors in this state designed to assist its
11 members and its industry or profession in dealing with mutual
12 business or professional problems and in promoting their common
13 interest.

14 (b) An officer, employee, or paid consultant of a Texas
15 trade association in the field of sex offender treatment may not be
16 a member of the council and may not be an employee of the council who
17 is exempt from the state's position classification plan or is
18 compensated at or above the amount prescribed by the General
19 Appropriations Act for step 1, salary group A17, of the position
20 classification salary schedule.

21 (c) A person who is the spouse of an officer, manager, or
22 paid consultant of a Texas trade association in the field of sex
23 offender treatment may not be a member of the council and may not be
24 an employee of the council who is exempt from the state's position
25 classification plan or is compensated at or above the amount
26 prescribed by the General Appropriations Act for step 1, salary
27 group A17, of the position classification salary schedule.

1 (d) A person may not serve as a member of the council or act
2 as the general counsel to the council if the person is required to
3 register as a lobbyist under Chapter 305, Government Code, because
4 of the person's activities for compensation on behalf of a
5 profession related to the operation of the council.

6 Sec. 110.054. TERMS. Members of the council serve
7 staggered six-year terms. The terms of two members expire on
8 February 1 of each odd-numbered year.

9 Sec. 110.055. PRESIDING OFFICER. The governor shall
10 designate a member of the council as the presiding officer of the
11 council to serve in that capacity at the pleasure of the governor.

12 Sec. 110.056. GROUNDS FOR REMOVAL. (a) It is a ground for
13 removal from the council that a member:

14 (1) does not have at the time of appointment the
15 qualifications required by Sections 110.051(b) and 110.052;

16 (2) does not maintain during service on the council
17 the qualifications required by Sections 110.051(b) and 110.052;

18 (3) does not complete the training program as required
19 by Section 110.059;

20 (4) violates a prohibition established by Section
21 110.053;

22 (5) cannot because of illness or disability discharge
23 the member's duties for a substantial part of the member's term; or

24 (6) is absent from more than half of the regularly
25 scheduled council meetings that the member is eligible to attend
26 during a calendar year unless the absence is excused by majority
27 vote of the council.

1 (b) The validity of an action of the council is not affected
2 by the fact the action is taken when a ground for removal of a
3 council member exists.

4 (c) If the executive director has knowledge that a potential
5 ground for removal exists, the executive director shall notify the
6 presiding officer of the council of the potential ground. The
7 presiding officer shall then notify the governor and the attorney
8 general that a potential ground for removal exists. If the
9 potential ground for removal involves the presiding officer, the
10 executive director shall notify the next highest ranking officer of
11 the council, who shall notify the governor and the attorney general
12 that a potential ground exists.

13 Sec. 110.057. MEETINGS. (a) The council shall meet at
14 least four times each year.

15 (b) The council may hold additional meetings at the call of
16 the presiding officer or as provided by council rule.

17 Sec. 110.058. COMPENSATION; REIMBURSEMENT. (a) A council
18 member may not receive compensation for performing the duties of
19 the council.

20 (b) A council member is entitled to reimbursement for travel
21 and other necessary expenses incurred in performing official duties
22 at the rate provided in the General Appropriations Act for state
23 employees.

24 Sec. 110.059. TRAINING. (a) To be eligible to take office
25 as a member of the council, a person appointed to the council must
26 complete at least one course of a training program that complies
27 with this section. If the person has not completed the training

1 course at the time of the appointment, the person must complete the
2 training program not later than six months after the date of
3 appointment.

4 (b) The training program must provide information to a
5 person regarding:

6 (1) the enabling legislation that created the council;
7 (2) the programs operated by the council;
8 (3) the role and functions of the council;
9 (4) the rules of the council, with an emphasis on the
10 rules relating to disciplinary and investigatory authority;

11 (5) the current budget for the council;
12 (6) the results of the most recent formal audit of the
13 council;

14 (7) the requirements of Chapters 551, 552, and 2001,
15 Government Code;

16 (8) the requirements of the conflict of interest laws
17 and other laws relating to public officials; and

18 (9) any applicable ethics policies adopted by the
19 council or the Texas Ethics Commission.

20 (c) A person appointed to the council is entitled to
21 reimbursement for travel expenses incurred in attending the
22 training program, as provided by the General Appropriations Act, as
23 if the person were a member of the council.

24 [Sections 110.060-110.100 reserved for expansion]

25 SUBCHAPTER C. EXECUTIVE DIRECTOR AND STAFF

26 Sec. 110.101. EXECUTIVE DIRECTOR. The commissioner of
27 public health shall employ an executive director, chosen with the

1 advice and consent of the council, who is the executive head of the
2 council and performs its administrative duties.

3 Sec. 110.102. STAFF. The executive director shall employ
4 staff necessary to administer the council's duties.

5 Sec. 110.103. DIVISION OF RESPONSIBILITIES. The council
6 shall develop and implement policies that clearly separate the
7 policymaking responsibilities of the council and the management
8 responsibilities of the executive director and the staff of the
9 council.

10 Sec. 110.104. QUALIFICATIONS AND STANDARDS OF CONDUCT
11 INFORMATION. The executive director or the executive director's
12 designee shall provide, as often as necessary, to council members
13 and employees information regarding their:

14 (1) qualifications for office or employment under this
15 chapter; and

16 (2) responsibilities under applicable laws relating
17 to standards of conduct for state officers or employees.

18 [Sections 110.105-110.150 reserved for expansion]

19 SUBCHAPTER D. COUNCIL POWERS AND DUTIES

20 Sec. 110.151. TREATMENT FOR SEX OFFENDERS. The council
21 shall:

22 (1) develop treatment strategies for sex offenders by
23 evaluating in-state and out-of-state programs for sex offender
24 treatment;

25 (2) set standards for treatment of sex offenders that
26 must be met by sex offender treatment providers to be eligible for
27 inclusion in the council's registry; and

1 (3) recommend to licensing and regulatory boards and
2 to the directors of current programs methods of improving programs
3 to meet council standards.

4 Sec. 110.152. REGISTRY AND REGISTRATION REQUIREMENTS. The
5 council shall:

6 (1) maintain a registry; and

7 (2) develop and implement by rule:

8 (A) registration requirements; and

9 (B) procedures for sex offender treatment
10 providers in the registry.

11 Sec. 110.153. COLLECTION AND DISSEMINATION OF
12 INFORMATION. The council shall collect and disseminate
13 information about available sex offender treatment programs to:

14 (1) judicial officers;

15 (2) community supervision or parole workers;

16 (3) appropriate state and municipal agencies; and

17 (4) the public.

18 Sec. 110.154. DISTRIBUTION OF MONEY. The council shall
19 distribute money appropriated to the council by the legislature for
20 that purpose to political subdivisions, private organizations, or
21 other persons to be used for the development, operation, or
22 evaluation of sex offender treatment programs.

23 Sec. 110.155. AGENCY ASSISTANCE. The council shall advise
24 and assist agencies in coordinating procedures to provide treatment
25 services. The treatment services may include community-based
26 programs.

27 Sec. 110.156. ADJUDICATION INFORMATION. (a) The council

1 shall establish a uniform method of obtaining adjudication
2 information. The uniform method must require that:

3 (1) a complete set of fingerprints, the complete name
4 of the person being investigated, or other information necessary to
5 conduct a criminal history background check be submitted to the
6 Department of Public Safety or another law enforcement agency; and

7 (2) if fingerprints are submitted, the fingerprints be
8 submitted to the Federal Bureau of Investigation for further
9 information if a relevant disqualifying record or other substantive
10 information is not obtained from a state or local law enforcement
11 agency.

12 (b) A law enforcement agency may provide to the council
13 information about the conviction or deferred adjudication of a
14 person being investigated only if the information:

15 (1) is relevant to the person's current or proposed
16 registration; and

17 (2) was collected in accordance with this section.

18 (c) The council is not entitled to adjudication information
19 that is not relevant. Adjudication information is relevant only if
20 it relates to a conviction or deferred adjudication for:

21 (1) a sexual offense;

22 (2) murder, assault, battery, or any other offense
23 involving personal injury or threat to another person; or

24 (3) a felony not listed in Subdivision (1) or (2).

25 (d) All adjudication information received by the council is
26 privileged information and for the exclusive use of the council.

27 The information may be released or otherwise disclosed to any other

1 person or agency only:

2 (1) on court order; or

3 (2) with the consent of the person being investigated.

4 (e) The council by rule shall establish a method to collect
5 and destroy adjudication information after the council makes a
6 decision on the eligibility of the person for registration who is
7 the subject of the information. The council shall destroy the
8 adjudication information not later than the first anniversary of
9 the date of the council's decision on the person's eligibility for
10 registration.

11 Sec. 110.157. CONTINUING EDUCATION PROGRAMS. The council
12 shall design and conduct continuing education programs for sex
13 offender treatment providers.

14 Sec. 110.158. RULEMAKING. The council may adopt rules
15 consistent with this chapter. In adopting rules, the council shall:

16 (1) consider the rules and procedures of the board and
17 the department; and

18 (2) adopt procedural rules consistent with similar
19 existing rules and procedures of the board or the department.

20 Sec. 110.159. COLLECTION OF FEES. (a) The council shall:

21 (1) charge and collect reasonable fees in amounts
22 necessary to cover the costs of administering this chapter; and

23 (2) send all fees collected under this section to the
24 department.

25 (b) Fees charged and collected by the council under this
26 section may include:

27 (1) sex offender treatment provider registration and

1 renewal fees;

2 (2) training fees;

3 (3) publication fees; and

4 (4) fees for providing continuing education and other
5 services to sex offender treatment providers.

6 Sec. 110.160. BIENNIAL REPORT. (a) The council shall file
7 biennially a report with the governor, lieutenant governor, and
8 speaker of the house of representatives about the activities of the
9 council. The council shall include in the report:

10 (1) any recommendation made under Section 110.151; and

11 (2) any other recommendation the council considers
12 appropriate.

13 Sec. 110.161. PUBLICATION OF REGISTRY. (a) The council
14 shall prepare annually a list of registered sex offender treatment
15 providers.

16 (b) The council by rule shall establish procedures for
17 developing and distributing the list of registered sex offender
18 treatment providers.

19 (c) The council, on request, shall make the list of
20 registered sex offender treatment providers available on payment of
21 a reasonable fee in an amount sufficient to cover the costs of
22 printing and distribution.

23 Sec. 110.162. CONFIDENTIALITY REQUIRED. The council and
24 the staff and consultants employed by the council shall keep
25 confidential any record relating to the identity, examination,
26 diagnosis, prognosis, or treatment of a sex offender.

27 Sec. 110.163. GRANTS AND DONATIONS. The council may apply

1 for and accept on behalf of the state a grant or donation from any
2 source to be used by the council to perform its duties.

3 [Sections 110.164-110.200 reserved for expansion]

4 SUBCHAPTER E. INTERAGENCY ADVISORY COMMITTEE

5 Sec. 110.201. INTERAGENCY ADVISORY COMMITTEE. The
6 interagency advisory committee shall advise the council on
7 administering the council's duties under this chapter.

8 Sec. 110.202. ADVISORY COMMITTEE MEMBERSHIP. (a) The
9 executive head of each of the following agencies or that person's
10 designated representative shall serve as a member of the
11 interagency advisory committee:

12 (1) Texas Department of Criminal Justice;

13 (2) Texas Juvenile Probation Commission;

14 (3) Texas Department of Mental Health and Mental
15 Retardation;

16 (4) Texas Youth Commission;

17 (5) Sam Houston State University;

18 (6) Department of Protective and Regulatory Services;

19 and

20 (7) Texas Council of Community Mental Health and
21 Mental Retardation Centers.

22 (b) The director of each of the following divisions of a
23 state agency or that person's designated representative shall serve
24 as a member of the interagency advisory committee:

25 (1) the criminal justice division of the governor's
26 office; and

27 (2) the sexual assault prevention and crisis services

1 division of the office of the attorney general.

2 (c) The council may appoint additional members to the
3 interagency advisory committee as the council determines is
4 necessary. An additional member appointed by the council must be a
5 representative of a public or private nonprofit entity that has a
6 demonstrated interest in improving the treatment of sex offenders.

7 (d) If the executive head of a state agency or the director
8 of a division designates a representative as a member of the
9 interagency advisory committee, the representative must be, at the
10 time of the designation and during the time of service on the
11 committee, an officer or employee of the agency or division.

12 Sec. 110.203. MEETINGS. The interagency advisory
13 committee shall meet at the call of its presiding officer or at the
14 request of the council.

15 Sec. 110.204. AGENCY COOPERATION. Each state agency or
16 division of an agency represented on the interagency advisory
17 committee shall cooperate with the council at the request of the
18 council.

19 [Sections 110.205-110.250 reserved for expansion]

20 SUBCHAPTER F. PUBLIC INTEREST INFORMATION

21 AND COMPLAINT PROCEDURES

22 Sec. 110.251. PUBLIC INTEREST INFORMATION. (a) The
23 council shall prepare information of public interest describing the
24 functions of the council and the procedures by which complaints are
25 filed with and resolved by the council.

26 (b) The council shall make the information available to the
27 public and appropriate state agencies.

1 Sec. 110.252. PUBLIC PARTICIPATION. (a) The council shall
2 develop and implement policies that provide the public with a
3 reasonable opportunity to appear before the council and to speak on
4 any issue under the council's jurisdiction.

5 (b) The executive director shall prepare and maintain a
6 written plan describing how a person who does not speak English may
7 be provided reasonable access to the council's programs and
8 services.

9 Sec. 110.253. COMPLAINTS. The council by rule shall
10 establish methods by which consumers and service recipients are
11 notified of the name, mailing address, and telephone number of the
12 council for the purpose of directing complaints to the council. The
13 council may provide for that notice:

14 (1) on each registration form, application, or written
15 contract for services of a person regulated under this chapter;

16 (2) on a sign prominently displayed in the place of
17 business of each person regulated under this chapter; or

18 (3) in a bill for service provided by a person
19 regulated under this chapter.

20 Sec. 110.254. RECORD OF COMPLAINTS. (a) The council shall
21 keep an information file about each written complaint filed with
22 the council that the council has authority to resolve. The
23 information file must include:

24 (1) the name of the person who filed the complaint;

25 (2) the date the complaint is received;

26 (3) the subject matter of the complaint;

27 (4) the name of each person contacted in relation to

1 the complaint;

2 (5) a summary of the results of the review or
3 investigation of the complaint; and

4 (6) for a complaint for which the council took no
5 action, an explanation of the reason the complaint was closed
6 without action.

7 (b) The council shall provide to a person filing a complaint
8 and to each person who is the subject of the complaint a copy of the
9 council's policies and procedures relating to complaint
10 investigation and resolution.

11 (c) The council, at least quarterly and until final
12 disposition of a complaint, shall notify the person filing the
13 complaint and each person who is the subject of the complaint of the
14 status of the complaint unless the notice would jeopardize an
15 undercover investigation.

16 Sec. 110.255. COMPLAINT INVESTIGATION; SUBPOENAS. (a) In
17 an investigation of a complaint filed with the council, the council
18 may request that the commissioner of public health or the
19 commissioner's designee approve the issuance of a subpoena. If the
20 request is approved, the council may issue a subpoena to compel the
21 attendance of a relevant witness or the production, for inspection
22 or copying, of relevant evidence in this state. The council may
23 delegate the authority granted under this subsection to the
24 executive director of the council.

25 (b) A subpoena may be served personally or by certified
26 mail.

27 (c) If a person fails to comply with a subpoena, the

1 council, acting through the attorney general, may file suit to
2 enforce the subpoena in a district court in Travis County or the
3 county in which a hearing conducted by the council may be held.

4 (d) On finding that good cause exists for issuing the
5 subpoena, the court shall order the person to comply with the
6 subpoena. The court may punish a person who fails to obey the court
7 order.

8 (e) The council shall pay a reasonable fee for photocopies
9 subpoenaed under this section in an amount not to exceed the amount
10 the council may charge for copies of its records.

11 (f) The reimbursement of the expenses of a witness whose
12 attendance is compelled under this section is governed by Section
13 2001.103, Government Code.

14 Sec. 110.256. CONFIDENTIALITY. (a) Except as provided by
15 Subsection (b), all information and materials subpoenaed or
16 compiled by the council in connection with a complaint and
17 investigation are confidential and not subject to disclosure under
18 Chapter 552, Government Code, and not subject to disclosure,
19 discovery, subpoena, or other means of legal compulsion for their
20 release to anyone other than the council or its employees or agents
21 involved in the complaint and investigation.

22 (b) The information described by Subsection (a) may be
23 disclosed to:

24 (1) persons involved with the council in a complaint
25 and investigation;

26 (2) professional sex offender treatment provider
27 licensing or disciplinary boards in other jurisdictions;

1 (3) peer assistance programs approved by the board
2 under Chapter 467, Health and Safety Code;

3 (4) law enforcement agencies; and

4 (5) persons engaged in bona fide research, if all
5 individual-identifying information is deleted.

6 (c) The filing of formal charges by the council against a
7 person under this chapter, the nature of those charges, the
8 council's disciplinary proceedings, and final disciplinary
9 actions, including warnings and reprimands, by the council are not
10 confidential and are subject to disclosure in accordance with
11 Chapter 552, Government Code.

12 [Sections 110.257-110.300 reserved for expansion]

13 SUBCHAPTER G. SEX OFFENDER TREATMENT PROVIDER REGISTRY

14 Sec. 110.301. USE OF TITLE; REGISTRATION REQUIRED. A
15 person may not claim to be a sex offender treatment provider or use
16 the title "sex offender treatment provider" unless the person is
17 listed in the registry.

18 Sec. 110.302. ELIGIBILITY FOR REGISTRATION. The council
19 by rule shall develop procedures and eligibility requirements for
20 inclusion in the registry, including, if appropriate, requirements
21 related to clinical practice experience and assessment, continuing
22 education, and supervision.

23 Sec. 110.303. REGISTRATION OF OUT-OF-STATE
24 APPLICANTS. The council may waive any prerequisite to
25 registration for an applicant after reviewing the applicant's
26 credentials and determining that the applicant holds a valid
27 registration from another state that has registration requirements

1 substantially equivalent to those of this state.

2 Sec. 110.304. CONVICTION OR DEFERRED ADJUDICATION
3 INFORMATION. The council may receive from a law enforcement agency
4 information about the conviction or deferred adjudication of a
5 person who has applied for registration or renewal of registration.

6 Sec. 110.305. REGISTRATION EXPIRATION. (a) The council by
7 rule may adopt a system under which registrations expire on various
8 dates during the year.

9 (b) For the year in which the registration expiration date
10 is changed, registration fees shall be prorated on a monthly basis
11 so that each person pays only that portion of the registration fee
12 allocable to the number of months during which the registration is
13 valid.

14 (c) On renewal of a registration on the new expiration date,
15 the total registration renewal fee is payable.

16 Sec. 110.306. REGISTRATION RENEWAL REQUIRED. A person
17 whose registration has expired may not engage in activities that
18 require registration until the registration is renewed.

19 Sec. 110.307. PROCEDURE FOR RENEWAL. (a) Not later than
20 the 30th day before the expiration date of a person's registration,
21 the council shall send written notice of the registration
22 expiration to the person at the person's last known address
23 according to the records of the council.

24 (b) A person who is otherwise eligible to renew a
25 registration may renew an unexpired registration by paying the
26 required registration fee to the council before the registration
27 expiration date.

1 (c) A person who is otherwise eligible to renew a
2 registration and whose registration has been expired for:

3 (1) 90 days or less, may renew the registration by
4 paying to the council a fee equal to one and one-half times the
5 required renewal fee; and

6 (2) longer than 90 days but less than one year, may
7 renew the registration by paying to the council a fee equal to two
8 times the required renewal fee.

9 (d) Except as provided by Section 110.308, a person whose
10 registration has been expired for one year or longer may not renew
11 the registration. The person may obtain a new registration by
12 submitting to reexamination and complying with the requirements and
13 procedures for obtaining an original registration.

14 Sec. 110.308. RENEWAL OF EXPIRED REGISTRATION BY
15 OUT-OF-STATE PRACTITIONER. A person whose registration has been
16 expired for one year or longer may renew the registration without
17 complying with the requirements of Section 110.307(d) by paying to
18 the council a fee equal to two times the required renewal fee if the
19 person:

20 (1) was registered in this state;

21 (2) moved to another state; and

22 (3) has been registered and in practice in the other
23 state for two years preceding the date of application for renewal.

24 Sec. 110.309. DENIAL OF REGISTRATION. The council may deny
25 an application for registration if:

26 (1) the council determines that a previous criminal
27 conviction or deferred adjudication indicates the applicant is not

1 qualified or suitable; or

2 (2) the applicant fails to provide the information
3 described by Section 110.156(a)(1).

4 [Sections 110.310-110.350 reserved for expansion]

5 SUBCHAPTER H. DISCIPLINARY PROCEDURES

6 Sec. 110.351. DISCIPLINARY POWERS OF COUNCIL. The council
7 shall revoke, suspend, or refuse to renew a registration, place on
8 probation a person whose registration has been suspended, or
9 reprimand a person who is listed in the registry if the person
10 violates this chapter or a rule of the council.

11 Sec. 110.352. PROBATION. If the suspension of a person's
12 registration is probated, the council may require the person to:

13 (1) report regularly to the council on matters that
14 are the basis of the probation;

15 (2) limit the person's practice to the areas
16 prescribed by the council; or

17 (3) continue or review professional education until
18 the person attains a degree of skill satisfactory to the council in
19 those areas that are the basis of the probation.

20 Sec. 110.353. DISCIPLINARY HEARING. (a) If the council
21 proposes to revoke, suspend, or refuse to renew a person's
22 registration, the person is entitled to a hearing conducted by the
23 State Office of Administrative Hearings.

24 (b) Disciplinary proceedings are governed by Chapter 2001,
25 Government Code.

26 (c) Rules of practice adopted by the council under Section
27 2001.004, Government Code, applicable to the proceedings for a

1 disciplinary action may not conflict with rules adopted by the
2 State Office of Administrative Hearings.

3 [Sections 110.354-110.400 reserved for expansion]

4 SUBCHAPTER I. CRIMINAL PENALTIES

5 Sec. 110.401. OFFENSE: MISUSE OF TITLE. (a) A person
6 commits an offense if the person violates Section 110.301.

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

8 Sec. 110.402. OFFENSE: RELEASE OF ADJUDICATION
9 INFORMATION. (a) A person commits an offense if the person
10 releases or discloses in violation of Section 110.156 adjudication
11 information received by the council.

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

13 (b) Chapter 462, Acts of the 68th Legislature, Regular
14 Session, 1983 (Article 4413(51), Vernon's Texas Civil Statutes), is
15 repealed.

16 SECTION 14.006. (a) Section 901.301(a), Occupations Code,
17 as amended by Chapters 381 and 1497, Acts of the 77th Legislature,
18 Regular Session, 2001, is reenacted to read as follows:

19 (a) The board shall conduct or contract with another person
20 to conduct uniform CPA examinations administered under this
21 chapter.

22 (b) Section 901.304(a), Occupations Code, as amended by
23 Chapters 381 and 1497, Acts of the 77th Legislature, Regular
24 Session, 2001, is reenacted to read as follows:

25 (a) For each examination or reexamination, the board by rule
26 shall apportion an amount of the total examination fee among the
27 parts of the examination that an applicant is eligible to take on a

1 particular examination date. For each examination or
2 reexamination, the board shall collect a fee set by board rule not
3 to exceed the cost of administering the examination.

4 (c) Section 901.307, Occupations Code, as amended by
5 Chapters 381 and 1497, Acts of the 77th Legislature, Regular
6 Session, 2001, is reenacted to read as follows:

7 Sec. 901.307. GRADING EXAMINATION. (a) The board by rule
8 shall:

- 9 (1) adopt a method for grading the examination; and
10 (2) establish the criteria for passing the
11 examination.

12 (b) Rules adopted under this section must, to the extent
13 possible, be uniform with those of other states.

14 SECTION 14.007. Section 1701.253, Occupations Code, is
15 amended for grammatical purposes and relettered to eliminate
16 duplicate citations to read as follows:

17 Sec. 1701.253. SCHOOL CURRICULUM. (a) The commission
18 shall establish minimum curriculum requirements for preparatory
19 and advanced courses and programs for schools subject to approval
20 under Section 1701.251(c)(1).

21 (b) In establishing requirements under this section, the
22 commission shall require courses and programs to provide training
23 in:

24 (1) the investigation and documentation of cases that
25 involve:

26 (A) child abuse or neglect;

27 (B) family violence; and

- 1 (C) sexual assault;
- 2 (2) issues concerning sex offender characteristics;
- 3 and
- 4 (3) crime victims' rights under Chapter 56, Code of
- 5 Criminal Procedure, and Chapter 57, Family Code, and the duty of law
- 6 enforcement agencies to ensure that a victim is afforded those
- 7 rights.

8 (c) As part of the minimum curriculum requirements, the

9 commission shall establish a statewide comprehensive education and

10 training program on civil rights, racial sensitivity, and cultural

11 diversity for persons licensed under this chapter.

12 (d) Training in documentation of cases required by

13 Subsection (b) shall include instruction in:

14 (1) making a written account of the extent of injuries

15 sustained by the victim of an alleged offense;

16 (2) recording by photograph or videotape the area in

17 which an alleged offense occurred and the victim's injuries; and

18 (3) recognizing and recording a victim's statement

19 that may be admissible as evidence in a proceeding concerning the

20 matter about which the statement was made.

21 (e) As part of the minimum curriculum requirements relating

22 to the vehicle and traffic laws of this state, the commission shall

23 require an education and training program on laws relating to the

24 operation of motorcycles and to the wearing of protective headgear

25 by motorcycle operators and passengers. In addition, the

26 commission shall require education and training on motorcycle

27 operator profiling awareness and sensitivity training.

1 (f) [~~(e)~~] Training for officers and recruits in
2 investigation of cases required by Subsection (b)(1)(B) shall
3 include instruction in preventing dual arrest whenever possible and
4 conducting a thorough investigation to determine which person is
5 the predominant aggressor when allegations of family violence from
6 two or more opposing persons are received arising from the same
7 incident.

8 (g) [~~(e)~~] As part of the minimum curriculum requirements,
9 the commission shall establish a statewide comprehensive education
10 and training program on asset forfeiture under Chapter 59, Code of
11 Criminal Procedure, for officers licensed under this chapter. An
12 officer shall complete a program established under this subsection
13 not later than the second anniversary of the date the officer is
14 licensed under this chapter or the date the officer applies for an
15 intermediate proficiency certificate, whichever date is earlier.

16 (h) [~~(e)~~] As part of the minimum curriculum requirements,
17 the commission shall establish a statewide comprehensive education
18 and training program on racial profiling for officers licensed
19 under this chapter. An officer shall complete a program
20 established under this subsection not later than the second
21 anniversary of the date the officer is licensed under this chapter
22 or the date the officer applies for an intermediate proficiency
23 certificate, whichever date is earlier.

24 SECTION 14.008. Section 1701.402, Occupations Code, is
25 amended to correct references and relettered to eliminate duplicate
26 citations to read as follows:

27 Sec. 1701.402. PROFICIENCY CERTIFICATES. (a) The

1 commission shall issue certificates that recognize proficiency
2 based on law enforcement training, education, and experience. For
3 this purpose the commission shall use the employment records of the
4 employing agency.

5 (b) As a requirement for a basic proficiency certificate,
6 the commission shall require completion of local courses or
7 programs of instruction on federal and state statutes that relate
8 to employment issues affecting peace officers and county jailers,
9 including:

10 (1) civil service;

11 (2) compensation, including overtime compensation,
12 and vacation time;

13 (3) personnel files and other employee records;

14 (4) management-employee relations in law enforcement
15 organizations;

16 (5) work-related injuries;

17 (6) complaints and investigations of employee
18 misconduct; and

19 (7) disciplinary actions and the appeal of
20 disciplinary actions.

21 (c) An employing agency is responsible for providing the
22 training required by this section.

23 (d) As a requirement for an intermediate proficiency
24 certificate, an officer must complete an education and training
25 program on asset forfeiture established by the commission under
26 Section 1701.253(g) [~~1701.253(e)~~].

27 (e) [~~(d)~~] As a requirement for an intermediate proficiency

1 certificate, an officer must complete an education and training
2 program on racial profiling established by the commission under
3 Section 1701.253(h) [~~1701.253(e)~~].

4 SECTION 14.009. Section 1701.356, Occupations Code, is
5 amended to more closely conform to the law from which it was derived
6 to read as follows:

7 Sec. 1701.356. CERTAIN OFFICERS: REACTIVATION AND
8 CONTINUING EDUCATION NOT REQUIRED. (a) An honorably retired
9 commissioned officer of the Department of Public Safety who is a
10 special ranger under Section 411.023, Government Code, may not be
11 required to undergo training under Section 1701.352(b).

12 (b) An honorably retired commissioned officer of the
13 Department of Public Safety who is a special ranger under Section
14 411.023, Government Code, or a retired state employee and who holds
15 a permanent license issued before January 1981 and that was current
16 on January 1, 1995:

17 (1) has the same rights and privileges as any other
18 peace officer of this state;

19 (2) holds, notwithstanding Section 1701.316, an
20 active license unless the license is revoked, suspended, or
21 probated by the commission for a violation of this chapter; and

22 (3) is not subject to Section 1701.351.

23 SECTION 14.010. Section 1802.001(5), Occupations Code, is
24 amended to more closely conform to the law from which it was derived
25 to read as follows:

26 (5) "Auctioneer" means an individual who sells or
27 offers to sell property at auction, with or without receiving

1 valuable consideration, as a bid caller.

2 SECTION 14.011. Section 10(c), Article 9103, Revised
3 Statutes, is repealed to conform to the repeal of Article 9103 by
4 Chapter 268, Acts of the 74th Legislature, Regular Session, 1995.

5 ARTICLE 14A. OCCUPATIONS CODE UPDATE

6 PART 1. CHANGES RELATING TO SUBTITLE A, TITLE 6, OCCUPATIONS
7 CODE

8 SECTION 14A.001. (a) Section 1001.003(c), Occupations
9 Code, is amended to conform to Section 2, Chapter 1502, Acts of the
10 77th Legislature, Regular Session, 2001, to read as follows:

11 (c) The practice of engineering includes:

12 (1) consultation, investigation, evaluation,
13 analysis, planning, engineering for program management, providing
14 an expert engineering opinion or testimony, engineering for testing
15 or evaluating materials for construction or other engineering use,
16 and mapping;

17 (2) design, conceptual design, or conceptual design
18 coordination of engineering works or systems;

19 (3) development or optimization of plans and
20 specifications for engineering works or systems;

21 (4) planning the use or alteration of land or water or
22 the design or analysis of works or systems for the use or alteration
23 of land or water;

24 (5) ~~[teaching an advanced engineering subject,~~
25 ~~[(6)]~~ responsible charge of engineering teaching or
26 the teaching of engineering;

27 (6) ~~[(7)]~~ performing an engineering survey or study;

1 (7) [~~(8)~~] engineering for construction, alteration,
2 or repair of real property;

3 (8) [~~(9)~~] engineering for preparation of an operating
4 or maintenance manual;

5 (9) [~~(10)~~] engineering for review of the construction
6 or installation of engineered works to monitor compliance with
7 drawings or specifications;

8 (10) [~~(11)~~] a service, design, analysis, or other work
9 performed for a public or private entity in connection with a
10 utility, structure, building, machine, equipment, process, system,
11 work, project, or industrial or consumer product or equipment of a
12 mechanical, electrical, electronic, chemical, hydraulic,
13 pneumatic, geotechnical, or thermal nature; or

14 (11) [~~(12)~~] any other professional service necessary
15 for the planning, progress, or completion of an engineering
16 service.

17 (b) Section 2, Chapter 1502, Acts of the 77th Legislature,
18 Regular Session, 2001, is repealed.

19 SECTION 14A.002. (a) Subchapter B, Chapter 1001,
20 Occupations Code, is amended to conform to Section 1, Chapter 1502,
21 Acts of the 77th Legislature, Regular Session, 2001, by adding
22 Section 1001.065 to read as follows:

23 Sec. 1001.065. EMPLOYEES OF INSTITUTIONS OF HIGHER
24 EDUCATION. (a) In this section, "institution of higher education"
25 and "private or independent institution of higher education" have
26 the meanings assigned by Section 61.003, Education Code.

27 (b) An employee of an institution of higher education or a

1 private or independent institution of higher education who is
2 performing research or instructional work within the scope of the
3 person's employment by the institution is exempt from the licensing
4 requirements of this chapter.

5 (b) Section 1, Chapter 1502, Acts of the 77th Legislature,
6 Regular Session, 2001, is repealed.

7 SECTION 14A.003. (a) Section 1001.302(c), Occupations
8 Code, is amended to conform to Section 3, Chapter 1502, Acts of the
9 77th Legislature, Regular Session, 2001, to read as follows:

10 (c) For purposes of determining an applicant's
11 qualifications under Subsection (a)(3), the board may not consider
12 as active practice in engineering work:

13 (1) [~~may consider the responsible charge of~~]
14 engineering teaching [~~as responsible charge of engineering work~~];
15 [~~and~~]

16 (2) [~~may not consider as active practice in~~
17 ~~engineering work.~~]

18 [~~(A)~~] the mere execution, as a contractor, of
19 work designed by an engineer; or

20 (3) [~~(B)~~] the supervision, as a foreman or
21 superintendent, of the construction of work designed by an
22 engineer.

23 (b) Section 3, Chapter 1502, Acts of the 77th Legislature,
24 Regular Session, 2001, is repealed.

25 SECTION 14A.004. (a) Subtitle A, Title 6, Occupations Code,
26 is amended to codify Subchapters A-K, Texas Geoscience Practice Act
27 (Article 3271b, Vernon's Texas Civil Statutes), by adding Chapter

1 1002 to read as follows:

2 CHAPTER 1002. GEOSCIENTISTS

3 SUBCHAPTER A. GENERAL PROVISIONS

4 Sec. 1002.001. SHORT TITLE. This chapter may be cited as
5 the Texas Geoscience Practice Act.

6 Sec. 1002.002. DEFINITIONS. In this chapter:

7 (1) "Board" means the Texas Board of Professional
8 Geoscientists.

9 (2) "Certified geoscientist" means a geoscientist who
10 has been certified in a discipline of geoscience by a professional
11 organization, society, or association that maintains a
12 certification program.

13 (3) "Geoscience" means the science of the earth and
14 its origin and history, the investigation of the earth's
15 environment and its constituent soils, rocks, minerals, fossil
16 fuels, solids, and fluids, and the study of the natural and
17 introduced agents, forces, and processes that cause changes in and
18 on the earth.

19 (4) "Geoscientist" means a person qualified to engage
20 in the public practice of geoscience because of the person's
21 knowledge, acquired through education and practical experience, of
22 geoscience, mathematics, and the supporting physical, chemical,
23 mineralogical, morphological, and life sciences.

24 (5) "Licensed geoscientist" means a person who holds a
25 license issued by the board under this chapter.

26 (6) "Practice for the public":

27 (A) means providing professional geoscientific

1 services:

2 (i) for a governmental entity in this
3 state;

4 (ii) to comply with a rule established by
5 this state or a political subdivision of this state; or

6 (iii) for the public or a firm or
7 corporation in this state if the practitioner assumes the ultimate
8 liability for the work product; and

9 (B) does not include services provided for the
10 express use of a firm or corporation by an employee or consultant if
11 the firm or corporation assumes the ultimate liability for the work
12 product.

13 (7) "Public practice of geoscience" means the practice
14 for the public of geoscientific services or work, including
15 consulting, investigating, evaluating, analyzing, planning,
16 mapping, and inspecting geoscientific work and the responsible
17 supervision of those tasks.

18 (8) "Responsible charge" means the independent
19 control and direction of geoscientific work or the supervision of
20 geoscientific work by the use of initiative, skill, and independent
21 judgment.

22 Sec. 1002.003. APPLICATION OF SUNSET ACT. The Texas Board
23 of Professional Geoscientists is subject to Chapter 325, Government
24 Code (Texas Sunset Act). Unless continued in existence as provided
25 by that chapter, the board is abolished and this chapter expires
26 September 1, 2013.

27 Sec. 1002.004. APPLICATION OF CHAPTER. (a) In this

1 section:

2 (1) "Driller" has the meaning assigned by Section
3 1901.001.

4 (2) "Engineer" has the meaning assigned by Section
5 1001.002.

6 (3) "Installer" has the meaning assigned by Section
7 1902.001.

8 (4) "Licensed driller" means a person who holds a
9 license issued by the state under Chapter 1902.

10 (5) "Licensed installer" means a person who holds a
11 license issued under Chapter 1902.

12 (6) "Practice of engineering" has the meaning assigned
13 by Section 1001.003.

14 (7) "Professional surveying" has the meaning assigned
15 by Section 1071.002.

16 (b) This chapter does not authorize the practice of
17 professional surveying by a licensed geoscientist. This chapter
18 does not apply to a qualified and registered surveyor who confines
19 the surveyor's practice to acts of surveying allowed under Chapter
20 1071.

21 (c) This chapter does not authorize the practice of
22 engineering by a licensed geoscientist.

23 (d) This chapter does not require an engineer, or a person
24 acting under the supervision of an engineer, who performs service
25 or work that is both engineering and geoscience to be licensed as a
26 geoscientist or to work under the supervision of a licensed
27 geoscientist.

1 (e) A recommendation, design, analysis, redesign, or review
2 and evaluation, the supervision, or a summary analysis of an
3 engineered structure or work, the performance of which requires
4 engineering education, training, and experience in the application
5 of special knowledge of mathematical, physical, and engineering
6 sciences, is engineering and is subject to Chapter 1001.

7 (f) This chapter does not permit a licensed geoscientist to
8 perform an engineering analysis supporting an engineering design
9 unless the action is under the supervision of an engineer.

10 (g) This chapter does not permit a licensed geoscientist to
11 provide construction quality control and evaluation, to perform
12 materials engineering and testing, or to design, develop, or
13 perform engineering review and evaluation of engineering plans and
14 engineering specifications for an engineered structure or work
15 unless the action is under the supervision of an engineer.

16 (h) With regard to an environmental and pollution
17 remediation project, this chapter:

18 (1) permits the characterization, study, appraisal,
19 investigation, analysis, and geoscientific review and evaluation
20 of and the making of recommendations regarding the geoscientific
21 components of the project by a licensed geoscientist; and

22 (2) does not permit the design, development, or
23 performance of engineering review and evaluation of a component of
24 the project consisting of an engineered structure, work, or process
25 or a related constructed improvement by a licensed geoscientist.

26 (i) With regard to a geoscientific investigation of
27 geological conditions affecting an engineered structure, work, or

1 process, this chapter:

2 (1) permits the characterization, study, appraisal,
3 investigation, analysis, and geoscientific review and evaluation
4 of and the making of recommendations regarding the geoscientific
5 components of the engineered structure, work, or process by a
6 licensed geoscientist; and

7 (2) does not permit the design, development, or
8 performance of engineering review and evaluation of the engineered
9 structure, work, or process or a related constructed improvement by
10 a licensed geoscientist.

11 (j) The board and the Texas Board of Professional Engineers
12 by rule, memorandum of understanding, or other appropriate
13 procedure or document shall jointly resolve any conflict between
14 this chapter or a rule adopted under this chapter and Chapter 1001
15 or a rule adopted under that chapter.

16 (k) This chapter does not authorize a licensed geoscientist
17 to act as or offer to perform services as a driller or installer.
18 This chapter does not apply to a licensed driller or licensed
19 installer who confines the driller's or installer's activities to
20 activities regulated under Chapter 1901 or 1902, respectively.

21 (l) The board and the executive director of the Texas
22 Department of Licensing and Regulation by rule, memorandum of
23 understanding, or other appropriate procedure or document shall
24 jointly resolve any conflict between this chapter or a rule adopted
25 under this chapter and Chapter 51, 1901, or 1902 or a rule adopted
26 under one of those chapters.

27 [Sections 1002.005-1002.050 reserved for expansion]

1 SUBCHAPTER B. TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

2 Sec. 1002.051. BOARD MEMBERSHIP. (a) The Texas Board of
3 Professional Geoscientists shall administer this chapter.

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

6 (c) Six members of the board must be licensed geoscientists.

7 (d) Three members of the board must be members of the
8 public.

9 (e) Appointments to the board shall be made without regard
10 to the race, color, disability, sex, religion, age, or national
11 origin of the appointees.

12 Sec. 1002.052. MEMBER ELIGIBILITY. (a) A member of the
13 board must:

14 (1) be a citizen of the United States;

15 (2) have been a resident of this state for at least the
16 three years preceding appointment; and

17 (3) be at least 25 years of age.

18 (b) A person is not eligible for appointment as a public
19 member of the board if the person or the person's spouse:

20 (1) is registered, certified, or licensed by an
21 occupational regulatory agency in a discipline of geoscience;

22 (2) is employed by or participates in the management
23 of a business entity or other organization regulated by or
24 receiving money from the board;

25 (3) owns or controls, directly or indirectly, more
26 than a 10 percent interest in a business entity or other
27 organization regulated by or receiving money from the board; or

1 (4) uses or receives a substantial amount of tangible
2 goods, services, or money from the board other than compensation or
3 reimbursement authorized by law for board membership, attendance,
4 or expenses.

5 Sec. 1002.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)
6 In this section, "society or trade association" means a nonprofit,
7 cooperative, and voluntarily joined association of business or
8 professional competitors designed to assist its members and its
9 industry or profession in dealing with mutual business or
10 professional problems and in promoting their common interest.

11 (b) A person may not be a member of the board and may not be a
12 board employee employed in a "bona fide executive, administrative,
13 or professional capacity," as that phrase is used in Section 13,
14 Fair Labor Standards Act of 1938 (29 U.S.C. Section 213), and its
15 subsequent amendments, if:

16 (1) the person is an officer, employee, or paid
17 consultant of a society or trade association in a discipline of
18 geoscience; or

19 (2) the person's spouse is an officer, manager, or paid
20 consultant of a society or trade association in a discipline of
21 geoscience.

22 (c) A person may not be a member of the board or act as the
23 general counsel to the board if the person is required to register
24 as a lobbyist under Chapter 305, Government Code, because of the
25 person's activities for compensation on behalf of a profession
26 related to the operation of the board.

27 Sec. 1002.054. TERMS. (a) Members of the board serve

1 staggered six-year terms, with the terms of three members expiring
2 February 1 of each odd-numbered year.

3 (b) A member of the board may not serve more than two
4 consecutive full terms.

5 Sec. 1002.055. GROUNDS FOR REMOVAL. (a) It is a ground for
6 removal from the board that a member:

7 (1) is no longer qualified for appointment to the
8 board;

9 (2) engages in misconduct, is determined to be
10 incompetent, neglects the member's official duties, or engages in
11 malfeasance;

12 (3) commits a violation of this chapter resulting in
13 disciplinary action or a felony; or

14 (4) fails without excuse to attend at least half of the
15 regularly scheduled meetings held in a calendar year while the
16 member is a member of the board.

17 (b) The validity of an action of the board is not affected by
18 the fact that it is taken when a ground for removal of a board member
19 exists.

20 (c) If the executive director has knowledge that a potential
21 ground for removal exists, the executive director shall notify the
22 presiding officer of the board of the potential ground. The
23 presiding officer shall then notify the governor and the attorney
24 general that a potential ground for removal exists. If the
25 potential ground for removal involves the presiding officer, the
26 executive director shall notify the assistant presiding officer,
27 who shall then notify the governor and the attorney general that a

1 potential ground for removal exists.

2 Sec. 1002.056. REIMBURSEMENT FOR TRAVEL EXPENSES. A member
3 of the board is entitled to reimbursement for the travel expenses
4 incurred by the member while conducting the business of the board,
5 as provided by the General Appropriations Act.

6 Sec. 1002.057. OFFICERS. (a) The board shall elect
7 biennially from its own membership a presiding officer, assistant
8 presiding officer, and secretary-treasurer. A member may not hold
9 one of those positions for more than two consecutive two-year
10 periods. A member serves in the position at the will of the board
11 and may be removed from the position by a two-thirds majority vote
12 of the board.

13 (b) The board may appoint an assistant secretary and other
14 assistants who are not members of the board to assist the board and
15 exercise its authority in carrying out the board's powers and
16 duties.

17 Sec. 1002.058. OFFICE. The board shall maintain its office
18 in Austin.

19 Sec. 1002.059. MEETINGS. The board shall hold at least two
20 regular meetings in each calendar year. A special meeting may be
21 held at a time permitted by board rule.

22 Sec. 1002.060. TRAINING. (a) A person who is appointed to
23 and qualifies for office as a member of the board may not vote,
24 deliberate, or be counted as a member in attendance at a meeting of
25 the board until the person completes a training program that
26 complies with this section.

27 (b) The training program must provide the person with

1 information regarding:

2 (1) the legislation that created the board;

3 (2) the programs operated by the board;

4 (3) the role and functions of the board;

5 (4) the rules of the board, with an emphasis on the
6 rules that relate to disciplinary and investigative authority;

7 (5) the current budget for the board;

8 (6) the results of the most recent formal audit of the
9 board;

10 (7) the requirements of:

11 (A) the open meetings law, Chapter 551,
12 Government Code;

13 (B) the public information law, Chapter 552,
14 Government Code;

15 (C) the administrative procedure law, Chapter
16 2001, Government Code; and

17 (D) other laws relating to public officials,
18 including conflict-of-interest laws; and

19 (8) any applicable ethics policies adopted by the
20 board or the Texas Ethics Commission.

21 (c) A person appointed to the board is entitled to
22 reimbursement, as provided by the General Appropriations Act, for
23 the travel expenses incurred in attending the training program
24 regardless of whether the attendance at the program occurs before
25 or after the person qualifies for office.

26 [Sections 1002.061-1002.100 reserved for expansion]

27 SUBCHAPTER C. EXECUTIVE DIRECTOR AND PERSONNEL

1 Sec. 1002.101. EXECUTIVE DIRECTOR. The board shall appoint
2 an executive director, who shall be responsible for managing the
3 day-to-day affairs of the board, including:

4 (1) arranging for and supervising the necessary
5 support, secretarial, and clerical services;

6 (2) obtaining space for holding examinations,
7 meetings, and conferences;

8 (3) printing or purchasing examinations;

9 (4) printing and mailing forms, information, and
10 licenses;

11 (5) sending notices, collecting fees, and issuing
12 receipts;

13 (6) conducting the correspondence of the board,
14 including replying to routine requests for information;

15 (7) maintaining the minutes and records of the board;

16 (8) keeping records of receipts and disbursements; and

17 (9) providing necessary investigative services.

18 Sec. 1002.102. RECEIPTS AND DISBURSEMENTS. The executive
19 director shall receive, administer, and account for all money
20 received under this chapter and shall transfer the money to the
21 comptroller.

22 Sec. 1002.103. DIVISION OF RESPONSIBILITIES. The board
23 shall develop and implement policies that clearly separate the
24 policymaking responsibilities of the board and the management
25 responsibilities of the executive director and the staff of the
26 board.

27 Sec. 1002.104. QUALIFICATIONS AND STANDARDS OF CONDUCT

1 INFORMATION. The executive director or the executive director's
2 designee shall provide to members of the board and to board
3 employees, as often as necessary, information regarding the
4 requirements for office or employment under this chapter, including
5 information regarding a person's responsibilities under applicable
6 laws relating to standards of conduct for state officers or
7 employees.

8 Sec. 1002.105. CAREER LADDER PROGRAM; PERFORMANCE
9 EVALUATIONS. (a) The executive director or the executive
10 director's designee shall develop an intra-agency career ladder
11 program that addresses opportunities for mobility and advancement
12 of employees within the board. The program must require
13 intra-agency posting of all positions concurrently with any public
14 posting.

15 (b) The executive director or the executive director's
16 designee shall develop a system of annual performance evaluations
17 based on documented employee performance. All decisions regarding
18 merit pay for a board employee must be based on that system.

19 Sec. 1002.106. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a)
20 The executive director or the executive director's designee shall
21 prepare and maintain a written policy statement that implements a
22 program of equal employment opportunity to ensure that all
23 personnel decisions are made without regard to race, color,
24 disability, sex, religion, age, or national origin.

25 (b) The policy statement must include:

26 (1) personnel policies, including policies relating
27 to recruitment, evaluation, selection, training, and promotion of

1 personnel, that show the intent of the board to avoid the unlawful
2 employment practices described by Chapter 21, Labor Code; and

3 (2) an analysis of the extent to which the composition
4 of the board's personnel is in accordance with state and federal law
5 and a description of reasonable methods to achieve compliance with
6 state and federal law.

7 (c) The policy statement must be:

8 (1) updated annually;

9 (2) reviewed by the Commission on Human Rights for
10 compliance with Subsection (b)(1); and

11 (3) filed with the governor.

12 [Sections 1002.107-1002.150 reserved for expansion]

13 SUBCHAPTER D. BOARD POWERS AND DUTIES

14 Sec. 1002.151. GENERAL RULEMAKING AUTHORITY. The board
15 shall adopt and enforce rules consistent with this chapter and
16 necessary for the performance of its duties.

17 Sec. 1002.152. FEES. The board may set reasonable and
18 necessary fees to be charged applicants and license holders under
19 this chapter, including fees for application, examination,
20 licensure, and renewal of a license. The board shall base a fee for
21 examination in a discipline of geoscience on the costs associated
22 with preparing, administering, and grading that examination.

23 Sec. 1002.153. CODE OF PROFESSIONAL CONDUCT. (a) The board
24 by rule shall adopt a code of professional conduct that is binding
25 on all license holders under this chapter.

26 (b) The board may enforce the code by imposing sanctions as
27 provided by this chapter.

1 Sec. 1002.154. ENFORCEMENT; REFERRAL OF COMPLAINTS AND
2 INVESTIGATIONS. (a) The board shall enforce this chapter. Any
3 member of the board may present to a prosecuting officer a complaint
4 relating to a violation of this chapter. The board through its
5 members, officers, counsel, or agents may assist in the trial of a
6 case involving the violation of this chapter, subject to the
7 control of the prosecuting officer.

8 (b) Notwithstanding Subsection (a), the board shall refer a
9 complaint or investigation involving the unlicensed practice of
10 geoscience by a person who is licensed as an engineer, surveyor,
11 driller, installer, or member of another similar profession to the
12 agency that issued the license to the person.

13 (c) The board may administer oaths and affirmations and
14 issue subpoenas to compel the attendance of witnesses and the
15 production of evidence.

16 (d) The attorney general shall act as legal advisor to the
17 board and shall provide legal assistance as necessary in enforcing
18 this chapter.

19 Sec. 1002.155. RECOGNITION OF USE OF DESIGNATIONS. (a) The
20 board by rule may recognize the use of the designations used by a
21 professional organization, society, or association that maintains
22 a certification program in a discipline of geoscience if:

23 (1) the requirements for that certification are
24 acceptable to the board;

25 (2) the full name or recognized abbreviation of the
26 organization, society, or association granting the certification
27 is stated following or in conjunction with the use of the

1 designation or abbreviation; and

2 (3) the designation or abbreviation is not used in a
3 manner that is misleading or that creates an impression that the
4 person is licensed to practice geoscience for the public unless the
5 person is licensed under this chapter.

6 (b) The board by rule shall recognize the title "geological
7 engineer," "geotechnical engineer," "hydraulic engineer," or
8 "agricultural engineer" or another legitimate engineering title as
9 a legitimate engineering title separate from geoscience, the use of
10 which requires licensure as an engineer.

11 Sec. 1002.156. ESTABLISHMENT OF DISCIPLINES. The board by
12 rule shall establish the disciplines of geoscience in which a
13 person may be licensed and the requirements for eligibility for a
14 license in each discipline.

15 Sec. 1002.157. AGREEMENTS TO DEVELOP UNIFORM STANDARDS.
16 The board may enter into agreements with licensing or registration
17 boards in other states and other appropriate organizations,
18 societies, associations, and agencies to develop uniform standards
19 for:

- 20 (1) the licensing or registration of geoscientists;
21 (2) accrediting educational programs;
22 (3) establishing reciprocal and temporary licenses;
23 (4) developing regional or national examinations;
24 (5) evaluating applicants; or
25 (6) other purposes consistent with this chapter.

26 Sec. 1002.158. AUTHORITY TO INCUR ADMINISTRATIVE EXPENSES.

27 In administering this chapter, the board may:

- 1 (1) appoint committees;
- 2 (2) employ personnel, contractors, and consultants;
- 3 (3) lease or purchase furnishings, equipment, and
4 supplies;
- 5 (4) lease office space; and
- 6 (5) incur other similar expenses.

7 Sec. 1002.159. ROSTER OF LICENSE HOLDERS. (a) The board
8 shall maintain a roster stating the name, discipline of geoscience,
9 and place of business of each licensed geoscientist.

10 (b) The board shall maintain copies of the roster and shall
11 provide a copy on request to a state agency, a county or municipal
12 clerk or building official, or a license holder. The board may
13 charge a license holder a reasonable fee set by the board for
14 providing the copy.

15 (c) The board shall provide a copy of the roster to another
16 person on written request, subject to payment of a reasonable fee
17 set by the board.

18 Sec. 1002.160. LIST OF GOVERNMENTAL ENTITIES WITH
19 COMPARABLE REQUIREMENTS AND WITH WHICH RECIPROCITY AGREEMENTS
20 EXIST. The board shall maintain a list of each state or foreign
21 country in which the requirements and qualifications for licensure
22 or registration are comparable to those established in this state
23 and with which a reciprocity agreement exists.

24 [Sections 1002.161-1002.200 reserved for expansion]

25 SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

26 Sec. 1002.201. PUBLIC INTEREST INFORMATION. The board
27 shall:

1 (1) prepare information of public interest
2 describing:

3 (A) the regulatory functions of the board; and
4 (B) the board's procedures by which complaints
5 are filed with and resolved by the board; and

6 (2) make the information available to the public and
7 appropriate state agencies.

8 Sec. 1002.202. COMPLAINTS. (a) A person may file a
9 complaint alleging a violation of this chapter or a rule adopted
10 under this chapter.

11 (b) A complaint must be:

12 (1) in writing;

13 (2) sworn to by the person making the complaint; and

14 (3) filed with the secretary-treasurer.

15 Sec. 1002.203. RECORDS OF COMPLAINTS. (a) The board shall
16 maintain a file on each complaint filed with the board. The file
17 must include:

18 (1) the name of the person who filed the complaint;

19 (2) the date the complaint was received by the board;

20 (3) the subject matter of the complaint;

21 (4) the name of each person contacted in relation to
22 the complaint;

23 (5) a summary of the results of the review or
24 investigation of the complaint; and

25 (6) an explanation of the reason the file was closed,
26 if the board closed the file without taking action other than to
27 investigate the complaint.

1 (b) The board, at least quarterly until final disposition of
2 the complaint, shall notify the person filing the complaint and
3 each person who is a subject of the complaint of the status of the
4 investigation unless the notice would jeopardize an undercover
5 investigation.

6 Sec. 1002.204. COMPLAINT INVESTIGATION AND DISPOSITION.

7 (a) The board shall provide to the person filing the complaint and
8 to each person who is a subject of the complaint a copy of the
9 board's policies and procedures relating to complaint
10 investigation and resolution.

11 (b) The board shall investigate all complaints brought to
12 its attention and may employ investigators, expert witnesses, and
13 hearing officers, appoint advisory committees, and conduct
14 hearings to determine whether disciplinary or other action should
15 be taken.

16 Sec. 1002.205. PUBLIC PARTICIPATION. The board shall
17 develop and implement policies that provide the public with a
18 reasonable opportunity to appear before the board and to speak on
19 any issue under the jurisdiction of the board.

20 [Sections 1002.206-1002.250 reserved for expansion]

21 SUBCHAPTER F. LICENSE REQUIREMENTS

22 Sec. 1002.251. LICENSE REQUIRED. (a) Unless exempted by
23 this chapter, a person may not engage in the public practice of
24 geoscience unless the person holds a license issued under this
25 chapter.

26 (b) Unless the person is licensed under this chapter, a
27 person may not:

1 (1) use the term "Licensed Professional Geoscientist"
2 or the initials "P.G." as part of a professional, business, or
3 commercial identification or title; or

4 (2) otherwise represent to the public that the person
5 is qualified to:

6 (A) practice as a geoscientist; or

7 (B) engage in the public practice of geoscience.

8 (c) A person may not take responsible charge of a
9 geoscientific report or a geoscientific portion of a report
10 required by municipal or county ordinance, state or federal law,
11 state agency rule, or federal regulation that incorporates or is
12 based on a geoscientific study or geoscientific data unless the
13 person is licensed under this chapter.

14 Sec. 1002.252. EXEMPTIONS. The following activities do not
15 require a license under this chapter:

16 (1) geoscientific work performed by an employee or a
17 subordinate of a license holder under this chapter if the work does
18 not include the responsible charge of geoscientific work and is
19 performed under the direct supervision of a licensed geoscientist
20 who is responsible for the work;

21 (2) geoscientific work performed by an officer or
22 employee of the United States practicing solely as such an officer
23 or employee;

24 (3) geoscientific work performed exclusively in
25 exploring for and developing oil, gas, or other energy resources,
26 base metals, or precious or nonprecious minerals, including sand,
27 gravel, or aggregate, if the work is done in and for the benefit of

1 private industry;

2 (4) geoscientific research conducted through an
3 academic institution, local, state, or federal governmental
4 agency, nonprofit research institution, or for-profit
5 organization, including submission of a report on the research to a
6 public agency, unless the work is covered by Section 1002.251(c);

7 (5) teaching geoscience or a related physical or
8 natural science;

9 (6) work customarily performed by a cartographer,
10 technician, or physical or natural scientist, including a
11 geologist, geophysicist, soil scientist, chemist, archaeologist,
12 geographer, or oceanographer, if the work does not include the
13 public practice of geoscience;

14 (7) work performed by an archaeologist, geoscientist,
15 or other person conducting a stratigraphic or historical geological
16 investigation for archaeological purposes;

17 (8) testifying or preparing and presenting an exhibit
18 or document for the sole purpose of being placed in evidence before
19 an administrative or judicial tribunal or hearing if the testimony,
20 exhibit, or document does not imply that the person is licensed
21 under this chapter;

22 (9) the evaluation by a state agency, as defined by
23 Section 2001.003, Government Code, or by a hearing examiner of an
24 exhibit or document offered or placed in evidence before an
25 administrative tribunal; or

26 (10) the determination of the suitability of a site
27 for a specific on-site sewage disposal system by a person who has

1 successfully completed site evaluation training approved by the
2 Texas Commission on Environmental Quality and is:

3 (A) registered by the commission as:

4 (i) an installer, if the commission
5 recognizes only one level of installer; or

6 (ii) the highest level of installer
7 recognized by the commission, if the commission recognizes more
8 than one level of installer;

9 (B) a designated representative; or

10 (C) a registered professional sanitarian.

11 Sec. 1002.253. LICENSE APPLICATION. (a) An applicant for a
12 license under this chapter, including an applicant for a temporary
13 or reciprocal license, must apply on a form prescribed by the board
14 that is signed and sworn to by the applicant before a notary public.

15 (b) The application must include:

16 (1) information concerning the applicant's education;

17 (2) a detailed summary of the applicant's relevant
18 work experience; and

19 (3) a signed statement that the applicant has read and
20 will comply with the code of professional conduct adopted under
21 this chapter.

22 (c) The application must be accompanied by:

23 (1) not fewer than five reference letters, of which
24 not fewer than three are from geoscientists, or other professionals
25 acceptable to the board, who have personal knowledge of the
26 applicant's relevant work experience; and

27 (2) the appropriate application fee.

1 Sec. 1002.254. EXAMINATIONS. (a) The board may prepare,
2 administer, and grade oral and written examinations required or
3 permitted under this chapter.

4 (b) The board may adopt or recognize, in whole or in part, an
5 examination prepared, administered, or graded by another
6 organization, on a regional or national basis, that the board
7 determines appropriate to measure the qualifications of an
8 applicant for a license under this chapter if:

9 (1) the examination questions, the correct answers,
10 and the applicant's completed examination are available to the
11 board; and

12 (2) the board retains the authority to determine a
13 passing grade for a license in this state.

14 Sec. 1002.255. LICENSE ELIGIBILITY. (a) To be eligible for
15 a license under this chapter, an applicant must:

16 (1) be of good moral and ethical character as attested
17 to by letters of reference submitted in behalf of the applicant or
18 as otherwise determined by the board;

19 (2) have:

20 (A) graduated from a course of study in a
21 discipline of geoscience satisfactory to the board that consists of
22 at least four years of study and includes at least 30 semester hours
23 or 45 quarter hours of credit in geoscience, of which at least 20
24 semester hours or 30 quarter hours of credit must be in upper-level
25 college courses in that discipline; or

26 (B) satisfactorily completed other equivalent
27 educational requirements as determined by the board;

1 (3) have a documented record of at least five years of
2 qualifying work experience, as provided by Section 1002.256, that
3 demonstrates that the applicant is qualified to assume responsible
4 charge of geoscientific work;

5 (4) pass an examination required by the board covering
6 the fundamentals and practice of the appropriate discipline of
7 geoscience; and

8 (5) meet any other requirements established by the
9 board.

10 (b) The board may accept qualifying work experience in lieu
11 of the education required by Subsection (a)(2).

12 Sec. 1002.256. QUALIFYING WORK EXPERIENCE. (a) The board
13 shall apply the following standards in evaluating the work
14 experience of an applicant for a license under Section 1002.255:

15 (1) each year of work experience acceptable to the
16 board constitutes one year of qualifying work experience if the
17 experience was acquired under the direct supervision of:

18 (A) a geoscientist who is licensed in this state
19 or in another state under requirements for licensure or
20 registration that are comparable to those in this chapter;

21 (B) a geoscientist who meets the educational and
22 work experience requirements for licensure but is not required to
23 be licensed under this chapter; or

24 (C) another professional acceptable to the
25 board;

26 (2) each year of work experience acceptable to the
27 board and acquired before September 1, 2003, constitutes one year

1 of qualifying work experience if the experience:

2 (A) was acquired under the direct supervision of:

3 (i) a geoscientist who meets the
4 educational and work experience requirements for a license under
5 this chapter;

6 (ii) a geoscientist who is licensed or
7 registered under comparable requirements in another state; or

8 (iii) another professional acceptable to
9 the board; or

10 (B) would constitute the responsible charge of
11 professional geoscientific work as determined by the board; and

12 (3) each year of full-time graduate study in a
13 discipline of geoscience that is acceptable to the board
14 constitutes one year of qualifying work experience.

15 (b) The board may accept research in or the teaching of a
16 discipline of geoscience at the college or university level as
17 qualifying work experience if the research or teaching, in the
18 judgment of the board, is comparable to work experience obtained in
19 the practice of geoscience.

20 (c) For purposes of Subsection (a)(3), the board may not
21 accept more than two years of full-time graduate study in a
22 discipline of geoscience as qualifying work experience.

23 Sec. 1002.257. RECIPROCAL LICENSE. (a) The board by rule
24 may authorize the licensing of a person who has not met the
25 examination requirement of Section 1002.255(a)(4) if the person is
26 licensed or registered to practice a discipline of geoscience under
27 the law of another state or a foreign country.

1 (b) The board may issue a license to an applicant who
2 provides proof of licensure or registration under requirements that
3 the board determines to be substantially similar to those
4 established by this chapter and who pays the required fees.

5 Sec. 1002.258. TEMPORARY LICENSE. (a) The board may issue
6 a temporary license to a person who:

7 (1) is not a resident of this state and does not have
8 an established place of business in this state but who seeks to
9 engage in the public practice of geoscience in this state for a
10 temporary period; or

11 (2) applies for a reciprocal license and seeks to
12 engage in the public practice of geoscience pending a determination
13 on the application for the reciprocal license.

14 (b) An applicant for a temporary license must:

15 (1) apply to the board for a temporary license,
16 provide proof of licensure or registration in another state or a
17 foreign country and pay the required fees;

18 (2) agree to comply with the signature requirements of
19 Section 1002.263(b) and to affix the person's seal from the
20 jurisdiction in which the person is licensed or registered on all
21 work completed while practicing under the temporary license; and

22 (3) file the required information and reports and
23 comply with other requirements established by the board concerning
24 the person's temporary practice.

25 (c) A temporary license issued under Subsection (a)(1)
26 expires on the 90th day after the date of issuance. A temporary
27 license issued under Subsection (a)(2) expires on the date the

1 reciprocal license is issued or denied.

2 Sec. 1002.259. WAIVER OF REQUIREMENTS. (a) Except for the
3 payment of required fees, the board may waive any of the
4 requirements for licensure by a two-thirds vote of the entire board
5 if the applicant makes a written request and shows good cause and
6 the board determines that the applicant is otherwise qualified for
7 a license.

8 (b) Each requirement waived under this section and the basis
9 for the waiver must be recorded in the applicant's record and in the
10 proceedings of the board.

11 Sec. 1002.260. CONFIDENTIALITY OF CERTAIN INFORMATION. A
12 statement made by a person who provides a reference for an applicant
13 for a license under this chapter or provides any information
14 compiled by or submitted to the board relating to an applicant is
15 privileged and confidential and may be used only by the board or an
16 employee or agent of the board who is directly involved in the
17 application or licensure process. Confidential information under
18 this section is not subject to discovery, subpoena, or other
19 disclosure in any proceeding.

20 Sec. 1002.261. ISSUANCE OF LICENSE. (a) The board shall
21 issue a license to an applicant who meets the requirements of this
22 chapter on payment of the applicable license fee.

23 (b) The license must:

24 (1) show the full name of the license holder;

25 (2) have a serial number;

26 (3) state the license holder's discipline of
27 geoscience; and

1 (4) be signed by an appropriate officer of the board
2 under the board's seal.

3 (c) The issuance by the board of a license is prima facie
4 evidence that during the term of the license the license holder is
5 entitled to all the rights and privileges of a licensed
6 geoscientist.

7 (d) A licensed geoscientist may engage in the practice of
8 any discipline of geoscience regardless of the discipline of
9 geoscience stated on the person's license.

10 Sec. 1002.262. LICENSE DURATION; EXPIRATION. (a) A
11 license is valid for a period not to exceed three years and expires
12 according to a schedule established by board rule.

13 (b) On expiration, a license is invalid and may not be
14 renewed except as provided by this chapter.

15 Sec. 1002.263. SEAL. (a) On issuance of a license, the
16 license holder must obtain a seal of a design established by the
17 board bearing:

- 18 (1) the license holder's name;
19 (2) the license number;
20 (3) the words "Licensed Professional Geoscientist";

21 and

- 22 (4) the license holder's discipline of geoscience.

23 (b) A geoscientific report, document, or other record, as
24 defined by the board, that is offered to the public and prepared or
25 issued by or under the supervision of a licensed geoscientist must,
26 in accordance with rules adopted by the board, include the full
27 name, signature, and license number of the license holder who

1 prepared the report, document, or other record or under whose
2 supervision it was prepared and bear an impression of the license
3 holder's seal.

4 Sec. 1002.264. REPLACEMENT OF LOST, DESTROYED, OR MUTILATED
5 LICENSE. The board shall issue a new license to replace a license
6 that has been lost, destroyed, or mutilated, subject to the rules
7 and fees adopted by the board.

8 [Sections 1002.265-1002.300 reserved for expansion]

9 SUBCHAPTER G. LICENSE RENEWAL

10 Sec. 1002.301. LICENSE RENEWAL. (a) Not later than the
11 60th day before the date the license expires, the board shall notify
12 a license holder of:

13 (1) the date the license expires; and

14 (2) the amount of the fee required for renewal.

15 (b) The board shall renew the license of a license holder
16 who before the date the license expires or within a period not to
17 exceed 60 days after the expiration date:

18 (1) submits the required renewal application and fee
19 and a penalty for late renewal, if required; and

20 (2) meets the requirements for renewal established by
21 the board.

22 (c) The board by rule may establish conditions and fees for
23 the reissuance of a license that has lapsed, expired, or been
24 suspended or revoked.

25 Sec. 1002.302. CONTINUING PROFESSIONAL EDUCATION. As a
26 condition for renewal of a license, the board may require each
27 license holder to participate in continuing professional education

1 on a periodic or other basis.

2 [Sections 1002.303-1002.350 reserved for expansion]

3 SUBCHAPTER H. PUBLIC PRACTICE OF GEOSCIENCE

4 Sec. 1002.351. PUBLIC PRACTICE OF GEOSCIENCE BY FIRM OR
5 CORPORATION. (a) A firm or corporation may engage in the public
6 practice of geoscience only if:

7 (1) the geoscientific work is performed by, or under
8 the supervision of, a licensed geoscientist who is in responsible
9 charge of the work and who signs and seals all geoscientific
10 reports, documents, and other records as required by this chapter;
11 or

12 (2) the principal business of the firm or corporation
13 is the public practice of geoscience as determined by board rule and
14 a principal of the firm or an officer or director of the corporation
15 is a licensed geoscientist and has overall supervision and control
16 of the geoscientific work performed in this state.

17 (b) The board may adopt rules relating to the public
18 practice of geoscience by a firm or corporation. Rules adopted
19 under this section must recognize that this chapter does not apply
20 to an engineer or engineering firm that performs service or work
21 that is both engineering and geoscience. A firm that engages in the
22 practice of both engineering and geoscience is exempt from any firm
23 registration requirements created under this subsection.

24 (c) Except as provided by this section, an individual, firm,
25 or corporation may not represent to the public that the individual,
26 firm, or corporation is a licensed geoscientist or able to perform
27 geoscientific services or prepare a geoscientific report,

1 document, or other record that requires the signature and seal of a
2 license holder under Section 1002.263(b).

3 [Sections 1002.352-1002.400 reserved for expansion]

4 SUBCHAPTER I. LICENSE DENIAL AND DISCIPLINARY PROCEDURES

5 Sec. 1002.401. DENIAL OF LICENSE. (a) The board may deny a
6 license:

7 (1) to an applicant who fails to satisfy a requirement
8 of this chapter; or

9 (2) on a determination by the board that there is
10 probable cause to believe that an applicant has violated:

11 (A) this chapter;

12 (B) a provision of this chapter to which a
13 license holder would be subject; or

14 (C) a comparable provision in the licensing or
15 registration law of another state.

16 (b) The board may not issue a license pending the
17 disposition of a complaint alleging a violation in this or another
18 state if the board has notice of the alleged violation.

19 (c) The board shall notify an applicant who is denied a
20 license of the reason for denial in writing not later than the 30th
21 day after the date of the board's decision. Not later than the 30th
22 day after the date of receipt of the notice, the applicant may make
23 a written request for a hearing. In the absence of a request for a
24 hearing, the board's action is final.

25 Sec. 1002.402. GROUNDS FOR DISCIPLINARY ACTION. The board
26 may impose appropriate sanctions for:

27 (1) the practice of fraud or deceit in obtaining a

1 license as a geoscientist;

2 (2) incompetence, misconduct, fraud, gross
3 negligence, or repeated incidents of negligence in the public
4 practice of geoscience;

5 (3) conviction of a license holder of a crime
6 involving moral turpitude or a felony;

7 (4) the imposition of an administrative or civil
8 penalty or a criminal fine, or imprisonment or probation instead of
9 a fine, for a misdemeanor relating to or arising out of the public
10 practice of geoscience;

11 (5) the issuance of a cease and desist order or a
12 similar sanction relating to or arising out of the public practice
13 of geoscience;

14 (6) using the seal of another license holder or using
15 or allowing the use of the license holder's seal on geoscientific
16 work not performed by or under the supervision of the license
17 holder;

18 (7) aiding or abetting a person in a violation of this
19 chapter;

20 (8) the revocation or suspension of a license, the
21 denial of renewal of a license, or other disciplinary action taken
22 by a state agency, board of registration, or similar licensing
23 agency for geoscientists or a profession or occupation related to
24 the public practice of geoscience;

25 (9) practicing or offering to practice geoscience or
26 representing to the public that the person or the person's firm or
27 corporation is licensed or qualified to practice geoscience if the

1 person is not licensed under this chapter or the person's firm or
2 corporation does not employ a licensed geoscientist as required
3 under this chapter; or

4 (10) violating this chapter, a rule adopted under this
5 chapter, including the code of professional conduct, or a
6 comparable provision of the laws or rules regulating the practice
7 of geoscience in another state or country.

8 Sec. 1002.403. DISCIPLINARY ACTIONS. (a) The board may
9 take the following disciplinary actions:

10 (1) refuse to issue or renew a license;

11 (2) permanently revoke a license;

12 (3) suspend a license for a specified time, not to
13 exceed three years, to take effect immediately notwithstanding an
14 appeal if the board determines that the license holder's continued
15 practice constitutes an imminent danger to the public health,
16 safety, or welfare;

17 (4) issue a public or private reprimand to an
18 applicant, a license holder, or an individual, firm, or corporation
19 practicing geoscience under this chapter;

20 (5) impose limitations, conditions, or restrictions
21 on the practice of an applicant, a license holder, or an individual,
22 firm, or corporation practicing geoscience under this chapter;

23 (6) require that a license holder participate in a
24 peer review program under rules adopted by the board;

25 (7) require that a license holder obtain remedial
26 education and training prescribed by the board;

27 (8) impose probation on a license holder requiring

1 regular reporting to the board;

2 (9) require restitution, in whole or in part, of
3 compensation or fees earned by a license holder, individual, firm,
4 or corporation practicing geoscience under this chapter;

5 (10) impose an appropriate administrative penalty as
6 provided by Subchapter J for a violation of this chapter or a rule
7 adopted under this chapter on a license holder or a person who is
8 not licensed and is not exempt from licensure under this chapter; or

9 (11) issue a cease and desist order.

10 (b) The board may not impose a sanction for a ground
11 described by Section 1002.402(8) that exceeds in severity or
12 duration the sanction on which the board's action is based.

13 Sec. 1002.404. RIGHT TO HEARING. A person is entitled to a
14 hearing before the board may suspend or revoke the person's
15 license.

16 Sec. 1002.405. REINSTATEMENT. (a) On application, the
17 board may reinstate a license to engage in the public practice of
18 geoscience to a person whose license has been revoked if a majority
19 of the entire board votes in favor of the reinstatement.

20 (b) As a condition for reinstatement, the board may:

21 (1) review the applicant's qualifications and
22 experience;

23 (2) require continuing professional education;

24 (3) conduct a reexamination on a periodic or other
25 basis; or

26 (4) require other evidence of the competence of the
27 applicant.

1 [Sections 1002.406-1002.450 reserved for expansion]

2 SUBCHAPTER J. ADMINISTRATIVE PENALTY

3 Sec. 1002.451. IMPOSITION OF PENALTY. The board may impose
4 an administrative penalty against a person licensed under this
5 chapter or any other person who violates this chapter or a rule
6 adopted or order issued under this chapter.

7 Sec. 1002.452. AMOUNT OF PENALTY. (a) The board may
8 include in the amount of the administrative penalty the actual
9 costs of investigating and prosecuting the violation.

10 (b) The amount of the penalty may not exceed \$100 for each
11 violation. Each day a violation continues or occurs is a separate
12 violation for purposes of imposing a penalty.

13 (c) The amount of the penalty shall be based on:

14 (1) the seriousness of the violation, including:

15 (A) the nature, circumstances, extent, and
16 gravity of any prohibited acts; and

17 (B) the hazard or potential hazard created to the
18 health, safety, or economic welfare of the public;

19 (2) the economic harm to property or the environment
20 caused by the violation;

21 (3) the history of previous violations;

22 (4) the amount necessary to deter a future violation;

23 (5) efforts or resistance to efforts to correct the
24 violation; and

25 (6) any other matter that justice may require.

26 Sec. 1002.453. ADMINISTRATIVE PROCEDURE. (a) The board
27 shall adopt rules of procedure for the imposition of an

1 administrative penalty.

2 (b) Rules adopted under this section must conform to the
3 requirements of Chapter 2001, Government Code.

4 (c) A proceeding to impose the penalty is considered to be a
5 contested case under Chapter 2001, Government Code.

6 Sec. 1002.454. OPTIONS FOLLOWING FINAL ORDER: PAY OR
7 APPEAL. (a) Not later than the 30th day after the date the board's
8 order becomes final, the person shall:

9 (1) pay the administrative penalty;

10 (2) pay the penalty and file a petition for judicial
11 review contesting the occurrence of the violation, the amount of
12 the penalty, or both; or

13 (3) without paying the penalty, file a petition for
14 judicial review contesting the occurrence of the violation, the
15 amount of the penalty, or both.

16 (b) Within the 30-day period, a person who acts under
17 Subsection (a)(3) may:

18 (1) stay enforcement of the penalty by:

19 (A) paying the penalty to the court for placement
20 in an escrow account; or

21 (B) giving to the court a supersedeas bond
22 approved by the court for the amount of the penalty that is
23 effective until judicial review of the board's order is final; or

24 (2) request the court to stay enforcement of the
25 penalty by:

26 (A) filing with the court a sworn affidavit of
27 the person stating that the person is financially unable to pay the

1 penalty and is financially unable to give the supersedeas bond; and

2 (B) giving a copy of the affidavit to the
3 executive director by certified mail.

4 (c) On receipt of a copy of an affidavit under Subsection
5 (b)(2), the executive director may file with the court, not later
6 than the fifth day after the date the copy is received, a contest to
7 the affidavit. The court shall hold a hearing on the facts alleged
8 in the affidavit as soon as practicable and shall stay the
9 enforcement of the penalty on finding that the alleged facts are
10 true. The person who files the affidavit has the burden of proving
11 that the person is financially unable to pay the penalty and to give
12 a supersedeas bond.

13 Sec. 1002.455. COLLECTION OF PENALTY. If the person does
14 not pay the administrative penalty and the enforcement of the
15 penalty is not stayed, the executive director may refer the matter
16 to the attorney general for collection of the penalty.

17 Sec. 1002.456. JUDICIAL REVIEW. The order of the board is
18 subject to judicial review.

19 Sec. 1002.457. REMITTANCE OF PENALTY AND INTEREST. (a) If
20 the court sustains the occurrence of the violation, the court may
21 uphold or reduce the amount of the administrative penalty and order
22 the person to pay the full or reduced penalty. If the court does not
23 sustain the occurrence of the violation, the court shall order that
24 a penalty is not owed.

25 (b) If after judicial review the administrative penalty is
26 reduced or not imposed by the court, the court shall, after the
27 judgment becomes final:

1 (2) protect the public against the irresponsible
2 practice of architecture.

3 SECTION 14A.052. (a) Section 1051.204(b), Occupations
4 Code, is amended to conform to Section 4, Chapter 861, Acts of the
5 77th Legislature, Regular Session, 2001, to read as follows:

6 (b) The board shall set the required renewal fee for:

7 (1) a resident of this state in an amount that is equal
8 to the sum of:

9 (A) the amount determined by the board as
10 reasonable and necessary to cover administrative costs; and

11 (B) an amount, not to exceed \$10, determined
12 annually by the board as reasonable and necessary for the
13 administration of the examination fee scholarship program under
14 Section 1051.206; and

15 (2) [plus \$10. The required renewal fee for]
16 nonresidents [shall be] in an amount determined by the board.

17 (b) Section 4, Chapter 861, Acts of the 77th Legislature,
18 Regular Session, 2001, is repealed.

19 SECTION 14A.053. (a) Section 1051.206, Occupations Code, is
20 amended by amending Subsections (a), (b), and (d) and adding
21 Subsections (e) and (f) to conform to Sections 1 and 11, Chapter
22 861, Acts of the 77th Legislature, Regular Session, 2001, to read as
23 follows:

24 (a) The board shall provide for the awarding of [administer]
25 scholarships to applicants for examination under this chapter in a
26 manner the board determines best serves the public purpose of:

27 (1) promoting the professional needs of the state;

1 (2) increasing the number of highly trained and
2 educated architects available to serve the residents of the state;

3 (3) improving the state's business environment and
4 encouraging economic development; and

5 (4) identifying, recognizing, and supporting
6 outstanding applicants who plan to pursue careers in architecture.

7 (b) In determining what best serves the public purpose of
8 the scholarships as described by Subsection (a), the board shall
9 consider at least:

10 (1) the financial need of each person who applies for a
11 scholarship under this section; and

12 (2) the importance of distributing the scholarships
13 among applicants who are graduates of the various universities or
14 colleges of architecture in this state.

15 (d) The board shall deposit the examination fee scholarship
16 portion of [Scholarships under this section are funded by the \$10
17 added to] each renewal fee under Section 1051.204(b) or 1051.355(b)
18 to the credit of the scholarship fund for architectural examination
19 applicants. The scholarship fund for architectural examination
20 applicants is an account in the general revenue fund that may be
21 appropriated only to the board to:

22 (1) provide scholarships to applicants for
23 examination under this chapter; and

24 (2) pay the administrative costs associated with the
25 examination fee scholarship program.

26 (e) Interest earned on the scholarship fund for
27 architectural examination applicants shall be credited to the fund.

1 At the end of each state fiscal year, any unexpended balance in the
2 scholarship fund shall remain in the fund.

3 (f) Not [The board may not use] more than 15 percent of the
4 amount appropriated to the board for scholarships under this
5 section may be used to pay the scholarship program's administrative
6 costs. The board may contract with the Texas Higher Education
7 Coordinating Board or a private entity to administer the
8 examination fee scholarship program established under this section
9 [of administering the scholarships].

10 (b) Section 1, Chapter 861, Acts of the 77th Legislature,
11 Regular Session, 2001, is repealed.

12 SECTION 14A.054. (a) Section 1051.355(b), Occupations
13 Code, is amended to conform to Section 3, Chapter 861, Acts of the
14 77th Legislature, Regular Session, 2001, to read as follows:

15 (b) A person whose certificate of registration is on
16 inactive status must pay an annual [a] renewal fee [of \$10] on a
17 date and in a manner prescribed by board rule. The board shall
18 prescribe the renewal fee under this subsection in an amount equal
19 to the sum of:

20 (1) the amount determined by the board as reasonable
21 and necessary to cover the costs of administering this section; and

22 (2) the additional amount required under Section
23 1051.204(b)(1)(B) for the examination fee scholarship program.

24 (b) Section 3, Chapter 861, Acts of the 77th Legislature,
25 Regular Session, 2001, is repealed.

26 SECTION 14A.055. (a) Section 1051.402, Occupations Code, is
27 amended to conform to Section 2, Chapter 861, Acts of the 77th

1 Legislature, Regular Session, 2001, to read as follows:

2 Sec. 1051.402. GROUNDS FOR DISCIPLINARY ACTION. A person
3 is subject to disciplinary action under Section 1051.401 for:

4 (1) a violation of this chapter or a board rule adopted
5 under this chapter;

6 (2) a failure to provide or to timely provide [plans
7 ~~and specifications]~~ to the Texas Department of Licensing and
8 Regulation any document designated by Chapter 469, Government Code,
9 as a document the person is required to provide to the department
10 ~~[as required by Article 9102, Revised Statutes];~~

11 (3) a cause for which the board may refuse to issue a
12 certificate of registration;

13 (4) gross incompetency;

14 (5) recklessness in the construction or alteration of
15 a building by an architect designing, planning, or observing the
16 construction or alteration; or

17 (6) dishonest practice by the holder of a certificate
18 of registration.

19 (b) Section 2, Chapter 861, Acts of the 77th Legislature,
20 Regular Session, 2001, is repealed.

21 SECTION 14A.056. (a) Section 1052.001(3), Occupations
22 Code, is amended to conform to Section 1, Chapter 1099, Acts of the
23 77th Legislature, Regular Session, 2001, to read as follows:

24 (3) "Landscape architecture":

25 (A) means the art and science of landscape
26 analysis, landscape planning, and landscape design;

27 (B) includes the performance of professional

1 services such as consultation, investigation, research, the
2 preparation of general development and detailed site design plans,
3 the preparation of studies, the preparation of specifications, and
4 responsible supervision related to the development of landscape
5 areas for:

6 (i) the planning, preservation,
7 enhancement, and arrangement of land forms, natural systems,
8 features, and plantings, including ground and water forms;

9 (ii) the planning and design of vegetation,
10 circulation, walks, and other landscape features to fulfill
11 aesthetic and functional requirements;

12 (iii) the formulation of graphic and
13 written criteria to govern the planning and design of landscape
14 construction development programs, including:

15 (a) the preparation, review, and
16 analysis of master and site plans for landscape use and
17 development;

18 (b) the analysis of environmental,
19 physical, and social considerations related to land use;

20 (c) the preparation of drawings,
21 construction documents, and specifications; and

22 (d) construction observation;

23 (iv) design coordination and review of
24 technical submissions, plans, and construction documents prepared
25 by persons working under the direction of the landscape architect;

26 (v) the preparation of feasibility studies,
27 statements of probable construction costs, and reports and site

1 selection for landscape development and preservation;

2 (vi) the integration, site analysis, and
3 determination of the location of buildings, structures, and
4 circulation and environmental systems;

5 (vii) the analysis and design of:

6 (a) site landscape grading and
7 drainage;

8 (b) systems for landscape erosion and
9 sediment control; and

10 (c) pedestrian walkway systems;

11 (viii) the planning and placement of
12 uninhabitable landscape structures, plants, landscape lighting,
13 and hard surface areas;

14 (ix) the collaboration of landscape
15 architects with other professionals in the design of roads,
16 bridges, and structures regarding the functional, environmental,
17 and aesthetic requirements of the areas in which they are to be
18 placed; and

19 (x) field observation of landscape site
20 construction, revegetation, and maintenance; and

21 (C) does not include:

22 (i) traffic, roadway, or pavement
23 engineering;

24 (ii) the design of utilities;

25 (iii) the engineering or study of
26 hydrologic management of stormwater systems or floodplains;

27 (iv) the making of final plats; or

1 (v) a service or function within the
2 practice of engineering, architecture, or public surveying as
3 defined by Chapter 1001, 1051, or 1071 [~~a professional service~~
4 ~~performed in connection with the development of a land area to the~~
5 ~~extent that the principal purpose of the service is to arrange and~~
6 ~~modify the natural scenery for aesthetic effect while considering~~
7 ~~the intended use of the land]~~.

8 (b) Section 1052.001(5), Occupations Code, is repealed to
9 conform to Section 1, Chapter 1099, Acts of the 77th Legislature,
10 Regular Session, 2001.

11 (c) Section 1, Chapter 1099, Acts of the 77th Legislature,
12 Regular Session, 2001, is repealed.

13 SECTION 14A.057. (a) Section 1052.002, Occupations Code, is
14 repealed to conform to Section 2, Chapter 1099, Acts of the 77th
15 Legislature, Regular Session, 2001.

16 (b) Section 1052.003, Occupations Code, is amended to
17 conform to Section 2, Chapter 1099, Acts of the 77th Legislature,
18 Regular Session, 2001, to read as follows:

19 Sec. 1052.003. PRACTICE OF LANDSCAPE ARCHITECTURE
20 [EXEMPTIONS]. (a) A person may not engage in the practice of
21 landscape architecture unless the person holds a certificate of
22 registration under this chapter or [~~is exempt from registration~~
23 ~~under this chapter if]~~ the person:

24 (1) holds a license or permit issued by the Department
25 of Agriculture, if that license or permit authorizes the person to
26 engage in the business of selling nursery stock in this state;

27 (2) is a building designer;

1 (3) is a landscape contractor;

2 (4) is a landscape designer;

3 (5) is a golf course designer or planner involved in
4 services such as consultation, investigation, reconnaissance,
5 research, design, preparation of drawings and specifications, and
6 supervision, if the dominant purpose of the service is golf course
7 design or planning;

8 (6) makes a plan, drawing, or specification for
9 personal use, if the plan, drawing, or specification is for
10 property that is owned by that person;

11 (7) makes a plan, drawing, or specification for a
12 single-family residence;

13 (8) makes a plan, drawing, or specification for a
14 multifamily residential project that is not an assisted living
15 facility as defined by Section 247.002, Health and Safety Code;

16 (9) makes a plan, drawing, or specification for
17 residential housing owned and operated by an institution of higher
18 education as defined by Section 61.003, Education Code;

19 (10) is engaged in the location, arrangement, and
20 design of any tangible objects and features that are incidental and
21 necessary to landscape development, preservation, and aesthetic
22 and functional enhancement, if that engagement is for:

23 (A) the design of structures or facilities with
24 separate and self-contained purposes that are ordinarily included
25 in the practice of engineering or architecture; or

26 (B) the making of land surveys for official
27 approval or recording;

1 (11) is licensed in this state to practice:

2 (A) architecture;

3 (B) engineering; or

4 (C) land surveying;

5 (12) is primarily engaged in the business of park and
6 recreation planning and involved in services such as consultation,
7 investigation, reconnaissance, research, design, preparation of
8 drawings and specifications, and supervision, if the dominant
9 purpose of those services is park and recreation design and
10 planning;

11 (13) is primarily engaged in maintaining an existing
12 landscape;

13 (14) makes a plan, drawing, or specification for
14 property primarily used for farm, ranch, agriculture, wildlife
15 management, or habitat restoration purposes; or

16 (15) is a volunteer acting under the direction of a
17 governmental entity for a public purpose [~~is:~~

18 ~~[(1) an agriculturist,~~

19 ~~[(2) an agronomist,~~

20 ~~[(3) a forester,~~

21 ~~[(4) a garden or lawn caretaker,~~

22 ~~[(5) a gardener or contract gardener,~~

23 ~~[(6) a grader or cultivator of land,~~

24 ~~[(7) a horticulturist,~~

25 ~~[(8) a nurseryman, or~~

26 ~~[(9) a person preparing plans for property owned by~~
27 ~~the person].~~

1 (b) A person described by Subsection (a) may not use the
2 term "landscape architect," "landscape architectural," or
3 "landscape architecture," or any similar term, to describe the
4 person or the services the person provides [~~architect" in a sign,~~
5 ~~card, listing, or advertisement or otherwise represent the person~~
6 ~~to be a landscape architect~~] unless the person holds a certificate
7 of registration under [~~complies with~~] this chapter.

8 (c) Section 1052.151, Occupations Code, is amended to
9 conform to Sections 2 and 3, Chapter 1099, Acts of the 77th
10 Legislature, Regular Session, 2001, to read as follows:

11 Sec. 1052.151. REGISTRATION REQUIRED. (a) A person may not
12 engage in the practice of landscape architecture unless the person
13 holds a certificate of registration under this chapter.

14 (b) A person may not represent the person to be a landscape
15 architect unless the person holds a certificate of registration [~~as~~
16 ~~a landscape architect issued by the board~~] or is exempt from
17 registration under this chapter.

18 (d) Subchapter D, Chapter 1052, Occupations Code, is
19 amended by adding Section 1052.1515 to conform to Section 2,
20 Chapter 1099, Acts of the 77th Legislature, Regular Session, 2001,
21 to read as follows:

22 Sec. 1052.1515. ACCEPTANCE OF ASSIGNMENTS. A landscape
23 architect may not accept an assignment to engage in the practice of
24 landscape architecture unless:

25 (1) the landscape architect is qualified by education,
26 examination, or experience to adequately and competently perform
27 the assignment; or

1 (2) if the landscape architect is not qualified to
2 perform part of the assignment, that part of the assignment is to be
3 performed by persons who are qualified.

4 (e) Sections 2 and 3, Chapter 1099, Acts of the 77th
5 Legislature, Regular Session, 2001, are repealed.

6 SECTION 14A.058. (a) Section 1052.053, Occupations Code, is
7 amended to conform to Section 7, Chapter 861, Acts of the 77th
8 Legislature, Regular Session, 2001, to read as follows:

9 Sec. 1052.053. RULES RESTRICTING ADVERTISING OR
10 COMPETITIVE BIDDING. (a) Except as provided by Subsection (b), the
11 [The] board may not adopt a rule restricting advertising or
12 competitive bidding by a person registered under this chapter
13 except to prohibit a false, misleading, or deceptive practice by
14 the person.

15 (b) The board shall adopt rules to prevent a person
16 regulated by the board from submitting a competitive bid to, or
17 soliciting a competitive bid on behalf of, a governmental entity
18 that is prohibited by Subchapter A, Chapter 2254, Government Code,
19 from making a selection or awarding a contract on the basis of
20 competitive bids.

21 (b) Section 7, Chapter 861, Acts of the 77th Legislature,
22 Regular Session, 2001, is repealed.

23 SECTION 14A.059. (a) Section 1052.204(b), Occupations
24 Code, is amended to conform to Section 5, Chapter 861, Acts of the
25 77th Legislature, Regular Session, 2001, to read as follows:

26 (b) A person whose certificate of registration is on
27 inactive status shall ~~[is not required to]~~ pay an annual ~~[a]~~ renewal

1 fee on a date and in a manner prescribed by board rule. The board
2 shall prescribe the renewal fee under this subsection in an amount
3 determined by the board as reasonable and necessary to cover the
4 costs of administering this section.

5 (b) Section 5, Chapter 861, Acts of the 77th Legislature,
6 Regular Session, 2001, is repealed.

7 SECTION 14A.060. (a) Section 1052.252, Occupations Code, is
8 amended to conform to Section 6, Chapter 861, Acts of the 77th
9 Legislature, Regular Session, 2001, to read as follows:

10 Sec. 1052.252. GROUNDS FOR DISCIPLINARY ACTION. A person
11 is subject to disciplinary action under Section 1052.251 for:

12 (1) violating this chapter or a board rule adopted
13 under this chapter;

14 (2) using fraud or deceit in obtaining a certificate
15 of registration;

16 (3) giving false or forged evidence to the board or a
17 member of the board in obtaining or assisting another person to
18 obtain a certificate of registration;

19 (4) using or attempting to use as the person's own the
20 certificate of registration of another person;

21 (5) holding the person out to the public as an engineer
22 or using the term "engineer," "engineered," "professional
23 engineer," or "P.E." or any other term tending to create the
24 impression that the person is authorized to practice engineering or
25 another profession unless the person is licensed under Chapter 1001
26 or another licensing law of this state, as applicable;

27 (6) holding the person out to the public as a surveyor

1 or using the term "surveyor," "surveyed," or "registered
2 professional land surveyor" or any other term tending to create the
3 impression that the person is authorized to practice surveying or
4 another profession unless the person is licensed under Chapter 1071
5 or another licensing law of this state, as applicable; ~~or~~

6 (7) committing an act of gross negligence,
7 incompetency, or misconduct in the practice of landscape
8 architecture; or

9 (8) failing to provide or to timely provide to the
10 Texas Department of Licensing and Regulation any document
11 designated by Chapter 469, Government Code, as a document the
12 person is required to provide to the department.

13 (b) Section 6, Chapter 861, Acts of the 77th Legislature,
14 Regular Session, 2001, is repealed.

15 SECTION 14A.061. (a) Section 1053.204(b), Occupations
16 Code, is amended to conform to Section 8, Chapter 861, Acts of the
17 77th Legislature, Regular Session, 2001, to read as follows:

18 (b) A person whose certificate of registration is on
19 inactive status shall ~~[is not required to]~~ pay an annual ~~[a]~~ renewal
20 fee on a date and in a manner prescribed by board rule. The board
21 shall prescribe the renewal fee under this subsection in an amount
22 determined by the board as reasonable and necessary to cover the
23 costs of administering this section.

24 (b) Section 8, Chapter 861, Acts of the 77th Legislature,
25 Regular Session, 2001, is repealed.

26 SECTION 14A.062. (a) Section 1053.252, Occupations Code, is
27 amended to conform to Section 9, Chapter 861, Acts of the 77th

1 Legislature, Regular Session, 2001, to read as follows:

2 Sec. 1071.258. REEXAMINATION; FEE. An applicant who fails
3 an examination may apply to take a subsequent examination [~~not~~
4 ~~earlier than six months after the date of the failed examination~~] by
5 filing an updated application and paying an additional examination
6 fee not to exceed \$100.

7 (b) Section 1, Chapter 594, Acts of the 77th Legislature,
8 Regular Session, 2001, is repealed.

9 PART 4. CHANGES RELATING TO SUBTITLE A, TITLE 7,

10 OCCUPATIONS CODE

11 SECTION 14A.151. Section 1101.002(1), Occupations Code, is
12 amended to more closely conform to the law from which it was derived
13 to read as follows:

14 (1) "Broker":

15 (A) means a person who, in exchange for a
16 commission or other valuable consideration or with the expectation
17 of receiving a commission or other valuable consideration, performs
18 for another person one of the following acts:

19 (i) sells, exchanges, purchases, or leases
20 real estate;

21 (ii) offers to sell, exchange, purchase, or
22 lease real estate;

23 (iii) negotiates or attempts to negotiate
24 the listing, sale, exchange, purchase, or lease of real estate;

25 (iv) lists or offers, attempts, or agrees
26 to list real estate for sale, lease, or exchange;

27 (v) appraises or offers, attempts, or

1 agrees to appraise real estate;

2 (vi) auctions or offers, attempts, or
3 agrees to auction real estate;

4 (vii) deals in options on real estate,
5 including buying, selling, or offering to buy or sell options on
6 real estate;

7 (viii) aids or offers or attempts to aid in
8 locating or obtaining real estate for purchase or lease;

9 (ix) procures or assists in procuring a
10 prospect to effect the sale, exchange, or lease of real estate; or

11 (x) procures or assists in procuring
12 property to effect the sale, exchange, or lease of real estate; and

13 (B) includes a person who:

14 (i) is employed by or for an owner of real
15 estate to sell any portion of the real estate; or

16 (ii) engages in the business of charging an
17 advance fee or contracting to collect a fee under a contract that
18 requires the person primarily to promote the sale of real estate by:

19 (a) listing the real estate in a
20 publication primarily used for listing real estate; or

21 (b) referring information about the
22 real estate to brokers.

23 SECTION 14A.152. (a) Section 1101.003(c), Occupations
24 Code, is amended to conform to Section 2, Chapter 997, Acts of the
25 77th Legislature, Regular Session, 2001, to read as follows:

26 (c) The commission by rule may prescribe:

27 (1) the content of the core real estate courses listed

1 in Subsection (a); and

2 (2) the title and content of additional core real
3 estate courses.

4 (b) Section 1101.356(a), Occupations Code, is amended to
5 conform to Section 2, Chapter 997, Acts of the 77th Legislature,
6 Regular Session, 2001, to read as follows:

7 (a) An applicant for a broker license must provide to the
8 commission satisfactory evidence that the applicant:

9 (1) has had at least two years of active experience in
10 this state as a license holder during the 36 months preceding the
11 date the application is filed; and

12 (2) has successfully completed at least 60 semester
13 hours, or equivalent classroom hours, of postsecondary education,
14 including:

15 (A) at least 18 semester hours or equivalent
16 classroom hours of core real estate courses; and

17 (B) at least 42 hours of core real estate courses
18 or related [~~postsecondary education~~] courses accepted by the
19 commission.

20 (c) Section 1101.358(a), Occupations Code, is amended to
21 conform to Section 2, Chapter 997, Acts of the 77th Legislature,
22 Regular Session, 2001, to read as follows:

23 (a) An applicant for a salesperson license must provide to
24 the commission satisfactory evidence that the applicant has
25 completed at least 12 semester hours, or equivalent classroom
26 hours, of postsecondary education, including:

27 (1) at least four hours of core real estate courses on

1 principles of real estate;

2 (2) at least two hours of each of the following core
3 real estate courses:

4 (A) [~~principles of real estate,~~

5 [~~B~~] agency law; and

6 (B) [~~C~~] contract law; and

7 (3) [~~2~~] at least four [~~six~~] hours of core real
8 estate courses or related courses.

9 (d) Sections 1101.454(a)-(c), Occupations Code, are amended
10 to conform to Section 2, Chapter 997, Acts of the 77th Legislature,
11 Regular Session, 2001, to read as follows:

12 (a) An applicant applying for the first renewal of a
13 salesperson license must provide to the commission satisfactory
14 evidence of completion of at least 14 semester hours, or equivalent
15 classroom hours, of postsecondary education, including 10 [~~eight~~]
16 hours of core real estate courses.

17 (b) An applicant applying for the second renewal of a
18 salesperson license must provide to the commission satisfactory
19 evidence of completion of at least 16 semester hours, or equivalent
20 classroom hours, of postsecondary education, including 12 [~~10~~]
21 hours of core real estate courses.

22 (c) An applicant applying for the third renewal of a
23 salesperson license must provide to the commission satisfactory
24 evidence of completion of at least 18 semester hours, or equivalent
25 classroom hours, of postsecondary education, including 14 [~~12~~]
26 hours of core real estate courses.

27 (e) Section 2, Chapter 997, Acts of the 77th Legislature,

1 Regular Session, 2001, is repealed.

2 SECTION 14A.153. Section 1101.004, Occupations Code, is
3 amended to more closely conform to the law from which it was derived
4 to read as follows:

5 Sec. 1101.004. ACTING AS BROKER OR SALESPERSON. A person
6 acts as a broker or salesperson under this chapter if the person,
7 with the expectation of receiving valuable consideration, directly
8 or indirectly performs or offers, attempts, or agrees to perform
9 for another person any act described by Section 1101.002(1), as a
10 part of a transaction or as an entire transaction.

11 SECTION 14A.154. (a) Subchapter A, Chapter 1101,
12 Occupations Code, is amended by adding Section 1101.0055 to conform
13 to Section 6, Chapter 997, Acts of the 77th Legislature, Regular
14 Session, 2001, to read as follows:

15 Sec. 1101.0055. NONAPPLICABILITY OF LAW GOVERNING
16 CANCELLATION OF CERTAIN TRANSACTIONS. A service contract that a
17 license holder enters into for services governed by this chapter is
18 not a good or service governed by Chapter 39, Business & Commerce
19 Code.

20 (b) Section 1101.204(b), Occupations Code, is amended to
21 conform to Section 6, Chapter 997, Acts of the 77th Legislature,
22 Regular Session, 2001, to read as follows:

23 (b) The commission shall investigate the actions and
24 records of a license holder if:

25 (1) a person [~~consumer or service recipient~~] submits a
26 signed, written complaint; and

27 (2) the complaint and any evidence presented with the

1 complaint provide reasonable cause for an investigation.

2 (c) Section 1101.652, Occupations Code, is amended to
3 conform to Section 6, Chapter 997, Acts of the 77th Legislature,
4 Regular Session, 2001, to read as follows:

5 Sec. 1101.652. GROUNDS FOR SUSPENSION OR REVOCATION OF
6 LICENSE. (a) The commission may suspend or revoke a license issued
7 under this chapter or take other disciplinary action authorized by
8 this chapter if the license holder:

9 (1) enters a plea of guilty or nolo contendere to or is
10 convicted of a felony in which fraud is an essential element, and
11 the time for appeal has elapsed or the judgment or conviction has
12 been affirmed on appeal, without regard to an order granting
13 community supervision that suspends the imposition of the sentence;

14 (2) procures or attempts to procure a license under
15 this chapter for the license holder or a salesperson by fraud,
16 misrepresentation, or deceit or by making a material misstatement
17 of fact in an application for a license;

18 (3) engages in misrepresentation, dishonesty, or
19 fraud when selling, buying, trading, or leasing real property in
20 the license holder's own name;

21 (4) fails to honor, within a reasonable time, a check
22 issued to the commission after the commission has sent by certified
23 mail a request for payment to the license holder's last known
24 business address according to commission records;

25 (5) fails or refuses to produce on request, for
26 inspection by the commission or a commission representative, a
27 document, book, or record that is in the license holder's

1 possession and relates to a real estate transaction conducted by
2 the license holder;

3 (6) fails to provide, within a reasonable time,
4 information requested by the commission that relates to a formal or
5 informal complaint to the commission that would indicate a
6 violation of this chapter;

7 (7) fails to surrender to the owner, without just
8 cause, a document or instrument that is requested by the owner and
9 that is in the license holder's possession;

10 (8) fails to use a contract form required by the
11 commission under Section 1101.155; or

12 (9) disregards or violates this chapter.

13 (b) The commission may suspend or revoke a license issued
14 under this chapter or take other disciplinary action authorized by
15 this chapter if the license holder, while acting as a broker or
16 salesperson:

17 (1) acts negligently or incompetently;

18 (2) engages in conduct that is dishonest or in bad
19 faith or that demonstrates untrustworthiness;

20 (3) makes a material misrepresentation to a potential
21 buyer concerning a significant defect, including a latent
22 structural defect, known to the license holder that would be a
23 significant factor to a reasonable and prudent buyer in making a
24 decision to purchase real property;

25 (4) fails to disclose to a potential buyer a defect
26 described by Subdivision (3) that is known to the license holder;

27 (5) makes a false promise that is likely to influence a

1 person to enter into an agreement when the license holder is unable
2 or does not intend to keep the promise;

3 (6) pursues a continued and flagrant course of
4 misrepresentation or makes false promises through an agent or
5 salesperson, through advertising, or otherwise;

6 (7) fails to make clear to all parties to a real estate
7 transaction the party for whom the license holder is acting;

8 (8) receives compensation from more than one party to
9 a real estate transaction without the full knowledge and consent of
10 all parties to the transaction;

11 (9) fails within a reasonable time to properly account
12 for or remit money that is received by the license holder and that
13 belongs to another person;

14 (10) commingles money that belongs to another person
15 with the license holder's own money;

16 (11) pays a commission or a fee to or divides a
17 commission or a fee with a person other than a license holder or a
18 real estate broker or salesperson licensed in another state for
19 compensation for services as a real estate agent;

20 (12) fails to specify a definite termination date that
21 is not subject to prior notice in a contract, other than a contract
22 to perform property management services, in which the license
23 holder agrees to perform services for which a license is required
24 under this chapter;

25 (13) accepts, receives, or charges an undisclosed
26 commission, rebate, or direct profit on an expenditure made for a
27 principal;

1 (14) solicits, sells, or offers for sale real property
2 by means of a lottery;

3 (15) solicits, sells, or offers for sale real property
4 by means of a deceptive practice;

5 (16) acts in a dual capacity as broker and undisclosed
6 principal in a real estate transaction;

7 (17) guarantees or authorizes or permits a person to
8 guarantee that future profits will result from a resale of real
9 property;

10 (18) places a sign on real property offering the real
11 property for sale or lease without obtaining the written consent of
12 the owner of the real property or the owner's authorized agent;

13 (19) offers to sell or lease real property without the
14 knowledge and consent of the owner of the real property or the
15 owner's authorized agent;

16 (20) offers to sell or lease real property on terms
17 other than those authorized by the owner of the real property or the
18 owner's authorized agent;

19 (21) induces or attempts to induce a party to a
20 contract of sale or lease to break the contract for the purpose of
21 substituting a new contract;

22 (22) negotiates or attempts to negotiate the sale,
23 exchange, or lease of real property with an owner, landlord, buyer,
24 or tenant with knowledge that that person is a party to an
25 outstanding written contract that grants exclusive agency to
26 another broker in connection with the transaction;

27 (23) publishes or causes to be published an

1 advertisement, including an advertisement by newspaper, radio,
2 television, the Internet, or display, that misleads or is likely to
3 deceive the public, tends to create a misleading impression, or
4 fails to identify the person causing the advertisement to be
5 published as a licensed broker or agent;

6 (24) withholds from or inserts into a statement of
7 account or invoice a statement that the license holder knows makes
8 the statement of account or invoice inaccurate in a material way;

9 (25) publishes or circulates an unjustified or
10 unwarranted threat of a legal proceeding or other action;

11 (26) establishes an association by employment or
12 otherwise with a person other than a license holder if the person is
13 expected or required to act as a license holder;

14 (27) aids, abets, or conspires with another person to
15 circumvent this chapter;

16 (28) fails or refuses to provide, on request, a copy of
17 a document relating to a real estate transaction to a person who
18 signed the document;

19 (29) fails to advise a buyer in writing before the
20 closing of a real estate transaction that the buyer should:

21 (A) have the abstract covering the real estate
22 that is the subject of the contract examined by an attorney chosen
23 by the buyer; or

24 (B) be provided with or obtain a title insurance
25 policy;

26 (30) fails to deposit, within a reasonable time, money
27 the license holder receives as escrow agent in a real estate

1 transaction:

2 (A) in trust with a title company authorized to
3 do business in this state; or

4 (B) in a custodial, trust, or escrow account
5 maintained for that purpose in a banking institution authorized to
6 do business in this state;

7 (31) disburses money deposited in a custodial, trust,
8 or escrow account, as provided in Subdivision (30), before the
9 completion or termination of the real estate transaction;

10 (32) discriminates against an owner, potential buyer,
11 landlord, or potential tenant on the basis of race, color,
12 religion, sex, national origin, or ancestry, including directing a
13 prospective buyer or tenant interested in equivalent properties to
14 a different area based on the race, color, religion, sex, national
15 origin, or ancestry of the potential owner or tenant; or

16 (33) disregards or violates this chapter.

17 (d) Section 6, Chapter 997, Acts of the 77th Legislature,
18 Regular Session, 2001, is repealed.

19 SECTION 14A.155. (a) Section 1101.006, Occupations Code, is
20 amended to conform to Section 3.03, Chapter 1481, Acts of the 77th
21 Legislature, Regular Session, 2001, to read as follows:

22 Sec. 1101.006. APPLICATION OF SUNSET ACT. The Texas Real
23 Estate Commission is subject to Chapter 325, Government Code (Texas
24 Sunset Act). Unless continued in existence as provided by that
25 chapter, the commission is abolished and this chapter and Chapter
26 1102 expire September 1, 2007 [~~2003~~].

27 (b) Section 3.03, Chapter 1481, Acts of the 77th

1 Legislature, Regular Session, 2001, is repealed.

2 SECTION 14A.156. (a) Section 1101.152(a), Occupations
3 Code, is amended to conform to Section 5, Chapter 997, Acts of the
4 77th Legislature, Regular Session, 2001, to read as follows:

5 (a) The commission shall charge and collect the following
6 fees:

7 (1) for filing an original application for a broker
8 license, not more than \$100;

9 (2) for annual renewal of a broker license, not more
10 than \$100;

11 (3) for filing an original application for a
12 salesperson license, not more than \$50;

13 (4) for annual renewal of a salesperson license, not
14 more than \$50;

15 (5) for annual registration, \$80;

16 (6) for an application for a license examination, not
17 more than \$100 [~~\$50~~];

18 (7) for filing a request for a branch office license,
19 not more than \$20;

20 (8) for filing a request for a change of place of
21 business, change of name, return to active status, or change of
22 sponsoring broker, not more than \$20;

23 (9) for filing a request to replace a lost or destroyed
24 license or certificate of registration, not more than \$20;

25 (10) for filing an application for approval of an
26 education program under Subchapter G, not more than \$400;

27 (11) for annual operation of an education program

1 under Subchapter G, not more than \$200;

2 (12) for transcript evaluation, \$20 [~~\$15~~];

3 (13) for preparing a license or registration history,
4 not more than \$10; and

5 (14) for filing an application for a moral character
6 determination, not more than \$50.

7 (b) Section 5, Chapter 997, Acts of the 77th Legislature,
8 Regular Session, 2001, is repealed.

9 SECTION 14A.157. (a) Section 1101.204(g), Occupations
10 Code, is amended to conform to Section 7, Chapter 997, Acts of the
11 77th Legislature, Regular Session, 2001, to read as follows:

12 (g) The commission may authorize a commission employee to
13 file a signed, written complaint against a person licensed under
14 this chapter or Chapter 1102 and to conduct an investigation if:

15 (1) a judgment against the person has been paid from
16 the real estate recovery trust account under this chapter or the
17 real estate inspection recovery fund under Chapter 1102;

18 (2) the person is convicted of a criminal offense that
19 may constitute grounds for the suspension or revocation of the
20 person's license; [~~or~~]

21 (3) the person fails to honor a check issued to the
22 commission;

23 (4) the person fails to complete required continuing
24 education within the period prescribed by commission rules adopted
25 under Section 1101.457; or

26 (5) the person fails to provide, within a reasonable
27 time, information requested by the commission in connection with an

1 application to renew a license.

2 (b) Section 7, Chapter 997, Acts of the 77th Legislature,
3 Regular Session, 2001, is repealed.

4 SECTION 14A.158. (a) Section 1101.352, Occupations Code, is
5 amended to conform to Section 1, Chapter 997, Acts of the 77th
6 Legislature, Regular Session, 2001, to read as follows:

7 Sec. 1101.352. LICENSE APPLICATION. (a) Each applicant
8 for a broker or salesperson license must submit an application on a
9 form prescribed by the commission.

10 (b) [~~A broker who intends to associate with an applicant for~~
11 ~~a salesperson license must join the applicant in filing the~~
12 ~~application.~~

13 [~~(c)~~] Each applicant for a broker or salesperson license
14 must disclose in the license application whether the applicant has:

15 (1) entered a plea of guilty or nolo contendere to a
16 felony; or

17 (2) been convicted of a felony and the time for appeal
18 has elapsed or the judgment or conviction has been affirmed on
19 appeal.

20 (c) [~~(d)~~] The disclosure under Subsection (b) [~~(c)~~] must be
21 provided even if an order has granted community supervision
22 suspending the imposition of the sentence.

23 (b) Section 1101.363, Occupations Code, is amended by
24 adding a new Subsection (b) and relettering existing Subsection (b)
25 as Subsection (c) to conform to Section 1, Chapter 997, Acts of the
26 77th Legislature, Regular Session, 2001, to read as follows:

27 (b) The commission may issue an inactive salesperson

1 license to a person who applies for a salesperson license and
2 satisfies all requirements for the license. The person may not act
3 as a salesperson unless the person is sponsored by a licensed broker
4 who has notified the commission and paid the fee for issuance of an
5 active license to the salesperson as required by Section
6 1101.367(b).

7 (c) A license remains in effect for the period prescribed by
8 the commission if the license holder complies with this chapter and
9 pays the appropriate renewal fees.

10 (c) Section 1101.367, Occupations Code, is amended to
11 conform to Section 1, Chapter 997, Acts of the 77th Legislature,
12 Regular Session, 2001, to read as follows:

13 Sec. 1101.367. INACTIVE LICENSE: SALESPERSON. (a) [~~The~~
14 ~~commission may place on inactive status the license of a person who~~
15 ~~was previously licensed as a salesperson if the person applies for~~
16 ~~inactive status on a form prescribed by the commission not later~~
17 ~~than the first anniversary of the expiration date of the license.~~
18 ~~An application under this subsection does not require the~~
19 ~~participation of a broker.~~

20 [~~(b)~~] When the association of a salesperson with the
21 salesperson's sponsoring broker terminates, the broker shall
22 immediately return the salesperson license to the commission. A
23 salesperson license returned under this subsection is inactive.

24 (b) [~~(c)~~] The commission may remove a salesperson license
25 from inactive status under Subsection (a) [~~(b)~~] if, before the
26 expiration date of the salesperson license, a licensed broker files
27 a request with the commission advising the commission that the

1 broker assumes sponsorship of the salesperson, accompanied by the
2 appropriate fee.

3 (c) [~~(d)~~] As a condition of returning to active status, an
4 inactive salesperson whose license is not subject to the annual
5 education requirements of Section 1101.454 must provide to the
6 commission proof of attending at least 15 hours of continuing
7 education as specified by Section 1101.455 during the two years
8 preceding the date the application to return to active status is
9 filed.

10 (d) Section 1, Chapter 997, Acts of the 77th Legislature,
11 Regular Session, 2001, is repealed.

12 SECTION 14A.159. (a) Section 1101.455(c), Occupations
13 Code, is amended to conform to Section 3, Chapter 997, Acts of the
14 77th Legislature, Regular Session, 2001, to read as follows:

15 (c) The commission by rule may:

16 (1) prescribe the title, content, and duration of
17 continuing education courses that a license holder must attend to
18 renew a license; and

19 (2) approve as a substitute for the classroom
20 attendance required by Subsection (b):

21 (A) [~~(1)~~] relevant educational experience; and

22 (B) [~~(2)~~] correspondence courses.

23 (b) Section 3, Chapter 997, Acts of the 77th Legislature,
24 Regular Session, 2001, is repealed.

25 SECTION 14A.160. (a) Section 1101.603, Occupations Code, is
26 amended by amending Subsection (c), adding a new Subsection (d),
27 relettering existing Subsection (d) as Subsection (e) and amending

1 that subsection, and adding Subsection (f) to conform to Sections 4
2 and 9, Chapter 997, Acts of the 77th Legislature, Regular Session,
3 2001, to read as follows:

4 (c) The commission shall deposit to the credit of the trust
5 account:

6 (1) fees collected under Subsections (a) and (b); and

7 (2) an administrative penalty collected under
8 Subchapter O for a violation by a person licensed as a broker or
9 salesperson.

10 (d) An administrative penalty collected under Subchapter O
11 for a violation by a person who is not licensed under this chapter
12 or Chapter 1102 shall be deposited to the credit of the trust
13 account or the real estate inspection recovery fund, as determined
14 by the commission.

15 (e) On a determination by the commission at any time that
16 [If] the balance in the trust account [on December 31 of a year] is
17 less than \$1 million, each license holder at the next license
18 renewal must pay, in addition to the renewal fee, a fee that is
19 equal to the lesser of \$10 or a pro rata share of the amount
20 necessary to obtain a balance in the trust account of \$1.7 million.
21 The commission shall deposit the additional fee to the credit of the
22 trust account.

23 (f) To ensure the availability of a sufficient amount to pay
24 anticipated claims on the trust account, the commission by rule may
25 provide for the collection of assessments at different times and
26 under conditions other than those specified by this chapter.

27 (b) Section 1101.607, Occupations Code, is amended to

1 conform to Section 4, Chapter 997, Acts of the 77th Legislature,
2 Regular Session, 2001, to read as follows:

3 Sec. 1101.607. ISSUES AT HEARING. At the hearing on the
4 application for payment from the trust account, the aggrieved
5 person must show:

6 (1) that the judgment is based on facts allowing
7 recovery under this subchapter;

8 (2) that the person is not:

9 (A) the spouse of the judgment debtor or the
10 personal representative of the spouse; or

11 (B) a license or certificate holder who is
12 seeking to recover compensation, including a commission, in the
13 real estate transaction that is the subject of the application for
14 payment;

15 (3) ~~[that the person has obtained a judgment described~~
16 ~~by Section 1101.606 that is not subject to a stay or discharge in~~
17 ~~bankruptcy,~~

18 ~~[(4) the amount of the judgment and the amount owing on~~
19 ~~the judgment on the date of the application,~~

20 ~~[(5)]~~ that, according to the best information
21 available, the judgment debtor does not have sufficient attachable
22 assets in this or another state to satisfy the judgment;

23 (4) ~~[(6)]~~ the amount that may be realized from the
24 sale of assets liable to be sold or applied to satisfy the judgment;
25 and

26 (5) ~~[(7)]~~ the balance remaining due on the judgment
27 after application of the amount under Subdivision (4) ~~[(6)]~~.

1 (c) Section 1101.701, Occupations Code, is amended to
2 conform to Section 9, Chapter 997, Acts of the 77th Legislature,
3 Regular Session, 2001, to read as follows:

4 Sec. 1101.701. IMPOSITION OF ADMINISTRATIVE PENALTY. The
5 commission may impose an administrative penalty on a person
6 [~~licensed under this chapter~~] who violates this chapter or a rule
7 adopted or order issued by the commission under this chapter.

8 (d) Subchapter O, Chapter 1101, Occupations Code, is
9 amended by adding Section 1101.7015 to conform to Section 9,
10 Chapter 997, Acts of the 77th Legislature, Regular Session, 2001,
11 to read as follows:

12 Sec. 1101.7015. DELEGATION OF ADMINISTRATOR'S AUTHORITY.
13 The commission may authorize the administrator to delegate to
14 another commission employee the administrator's authority to act
15 under this subchapter.

16 (e) Section 1101.702(a), Occupations Code, is amended to
17 conform to Section 9, Chapter 997, Acts of the 77th Legislature,
18 Regular Session, 2001, to read as follows:

19 (a) The amount of an administrative penalty may not exceed
20 \$1,000 for each violation. Each day a violation continues or occurs
21 may be considered a separate violation for purposes of imposing a
22 penalty if the commission determines that the person charged:

23 (1) engaged in an activity for which a broker or
24 salesperson license is required without holding a license; and

25 (2) was not licensed by the commission as a broker or
26 salesperson at any time in the four years preceding the date of the
27 violation.

1 (f) Section 1101.705, Occupations Code, is amended by
2 adding Subsection (e) to conform to Section 9, Chapter 997, Acts of
3 the 77th Legislature, Regular Session, 2001, to read as follows:

4 (e) The commission may authorize the hearings examiner to
5 conduct the hearing and enter a final decision.

6 (g) Section 1102.403, Occupations Code, is amended to
7 conform to Section 9, Chapter 997, Acts of the 77th Legislature,
8 Regular Session, 2001, to read as follows:

9 Sec. 1102.403. ADMINISTRATIVE PENALTY. (a) The commission
10 may impose an administrative penalty as provided by Subchapter O,
11 Chapter 1101, on a person [~~an inspector~~] who violates this chapter
12 or a rule adopted or order issued by the commission under this
13 chapter or Chapter 1101.

14 (b) An administrative penalty collected under this section
15 for a violation by an inspector shall be deposited to the credit of
16 the real estate inspection recovery fund. A penalty collected
17 under this section for a violation by a person who is not licensed
18 under this chapter or Chapter 1101 shall be deposited to the credit
19 of the real estate recovery trust account or the real estate
20 inspection recovery fund, as determined by the commission.

21 (h) Sections 4 and 9, Chapter 997, Acts of the 77th
22 Legislature, Regular Session, 2001, are repealed.

23 SECTION 14A.161. (a) Section 1101.757(b), Occupations
24 Code, is amended to conform to Section 15, Chapter 997, Acts of the
25 77th Legislature, Regular Session, 2001, to read as follows:

26 (b) An offense under this section is a Class A [~~B~~]
27 misdemeanor.

1 (b) Section 15, Chapter 997, Acts of the 77th Legislature,
2 Regular Session, 2001, is repealed.

3 SECTION 14A.162. (a) Section 1101.758(b), Occupations
4 Code, is amended to conform to Section 8, Chapter 997, Acts of the
5 77th Legislature, Regular Session, 2001, to read as follows:

6 (b) An [~~Except as provided by Subsection (c), (d), or (e),~~
7 ~~an~~] offense under this section is a Class A misdemeanor [~~punishable~~
8 ~~by:~~

9 [~~(1) a fine of not less than \$100 or more than \$500,~~

10 [~~(2) confinement in the county jail for not more than~~
11 ~~one year, or~~

12 [~~(3) both the fine and confinement~~].

13 (b) Sections 1101.758(c)-(e), Occupations Code, are
14 repealed to conform to Section 8, Chapter 997, Acts of the 77th
15 Legislature, Regular Session, 2001.

16 (c) Section 8, Chapter 997, Acts of the 77th Legislature,
17 Regular Session, 2001, is repealed.

18 SECTION 14A.163. (a) Section 1102.203, Occupations Code, is
19 amended to conform to Section 10, Chapter 997, Acts of the 77th
20 Legislature, Regular Session, 2001, to read as follows:

21 Sec. 1102.203. RENEWAL OF LICENSE [~~CERTAIN LICENSES~~]. (a)
22 A person may renew an unexpired license by paying the required
23 renewal fee to the commission before the expiration date of the
24 license.

25 (b) [~~If the person's license has been expired for 90 days or~~
26 ~~less, the person may renew the license by paying to the commission~~
27 ~~the required renewal fee and a fee that is equal to half the amount~~

1 ~~of the examination fee for the license.~~

2 ~~[(c) If the person's license has been expired for more than~~
3 ~~90 days but less than one year, the person may renew the license by~~
4 ~~paying to the commission all unpaid renewal fees and a fee that is~~
5 ~~equal to the amount of the examination fee for the license.~~

6 ~~[(d)]~~ If the person's license expires ~~[has been expired for~~
7 ~~one year or more]~~, the person may not renew the license. The person
8 may obtain a new license by submitting to reexamination, if
9 required, and complying with the requirements and procedures for
10 obtaining an original license.

11 (b) Section 1102.204, Occupations Code, is repealed to
12 conform to Section 10, Chapter 997, Acts of the 77th Legislature,
13 Regular Session, 2001.

14 (c) Section 10, Chapter 997, Acts of the 77th Legislature,
15 Regular Session, 2001, is repealed.

16 SECTION 14A.164. (a) Section 1102.205(b), Occupations
17 Code, is amended to conform to Section 12, Chapter 997, Acts of the
18 77th Legislature, Regular Session, 2001, to read as follows:

19 (b) As a prerequisite for renewal of a real estate inspector
20 license or professional inspector license, the inspector must
21 participate in the continuing education program and submit evidence
22 satisfactory to the commission of successful completion of at least
23 the following number of classroom hours of core real estate
24 inspection courses during the year preceding the renewal:

25 (1) eight ~~[four]~~ hours for a real estate inspector
26 license renewal; or

27 (2) 16 ~~[eight]~~ hours for a professional inspector

1 license renewal.

2 (b) Section 12, Chapter 997, Acts of the 77th Legislature,
3 Regular Session, 2001, is repealed.

4 SECTION 14A.165. (a) Section 1102.251, Occupations Code, is
5 amended to conform to Section 11, Chapter 997, Acts of the 77th
6 Legislature, Regular Session, 2001, to read as follows:

7 Sec. 1102.251. AMOUNT OF FEES. The commission shall charge
8 and collect reasonable and necessary fees to cover the cost of
9 administering this chapter as follows:

10 (1) for filing an original application for an
11 apprentice inspector license, not more than \$75;

12 (2) for filing an original application for a real
13 estate inspector license, not more than \$125;

14 (3) for filing an original application for a
15 professional inspector license, not more than \$150;

16 (4) for renewal of an apprentice inspector license,
17 not more than \$125;

18 (5) for renewal of a real estate inspector license,
19 not more than \$175;

20 (6) for renewal of a professional inspector license,
21 not more than \$200;

22 (7) for a license examination, not more than \$100;

23 [~~and~~]

24 (8) for a request to change a place of business or to
25 replace a lost or destroyed license, not more than \$20; and

26 (9) for filing a request for issuance of a license
27 because of a change of name, return to active status, or change in

1 sponsoring professional inspector, not more than \$20.

2 (b) Section 11, Chapter 997, Acts of the 77th Legislature,
3 Regular Session, 2001, is repealed.

4 SECTION 14A.166. (a) Section 1102.352, Occupations Code, is
5 amended by amending Subsection (b) and adding Subsection (c) to
6 conform to Section 14, Chapter 997, Acts of the 77th Legislature,
7 Regular Session, 2001, to read as follows:

8 (b) If the balance in the fund at any time [~~on December 31 of~~
9 ~~a year~~] is less than \$300,000, each inspector at the next license
10 renewal must pay, in addition to the renewal fee, a fee that is
11 equal to the lesser of \$75 or a pro rata share of the amount
12 necessary to obtain a balance in the fund of \$450,000. The
13 commission shall deposit the additional fee to the credit of the
14 fund.

15 (c) To ensure the availability of a sufficient amount to pay
16 anticipated claims on the fund, the commission by rule may provide
17 for the collection of assessments at different times and under
18 conditions other than those specified by this chapter.

19 (b) Section 1102.356, Occupations Code, is amended to
20 conform to Section 14, Chapter 997, Acts of the 77th Legislature,
21 Regular Session, 2001, to read as follows:

22 Sec. 1102.356. ISSUES AT HEARING. At the hearing on the
23 application for payment from the fund, the aggrieved person must
24 show:

25 (1) that the judgment is based on facts allowing
26 recovery under this subchapter;

27 (2) that the person is not:

1 (A) the spouse of the judgment debtor or the
2 personal representative of the spouse; or

3 (B) an inspector;

4 (3) [~~that the person has obtained a judgment described~~
5 ~~by Section 1102.355 that is not subject to a stay or discharge in~~
6 ~~bankruptcy,~~

7 [~~(4) the amount of the judgment and the amount owing on~~
8 ~~the judgment on the date of the application,~~

9 [~~(5)] that, according to the best information~~

10 available, the judgment debtor does not have sufficient attachable

11 assets in this or another state to satisfy the judgment;

12 (4) [~~(6)] the amount that may be realized from the~~

13 sale of assets liable to be sold or applied to satisfy the judgment;

14 and

15 (5) [~~(7)] the balance remaining due on the judgment~~

16 after application of the amount under Subdivision (4) [~~(6)].~~

17 (c) Sections 1102.359(a) and (b), Occupations Code, are

18 amended to conform to Section 14, Chapter 997, Acts of the 77th

19 Legislature, Regular Session, 2001, to read as follows:

20 (a) Payments from the fund for claims, including attorney's

21 fees, interest, and court costs, arising out of a single

22 transaction may not exceed a total of \$12,500 [~~\$7,500~~], regardless

23 of the number of claimants.

24 (b) Payments from the fund for claims based on judgments

25 against a single inspector may not exceed a total of \$30,000

26 [~~\$15,000~~] until the inspector has reimbursed the fund for all

27 amounts paid.

1 (d) Section 14, Chapter 997, Acts of the 77th Legislature,
2 Regular Session, 2001, is repealed.

3 SECTION 14A.167. (a) Section 1102.407(b), Occupations
4 Code, is amended to conform to Section 13, Chapter 997, Acts of the
5 77th Legislature, Regular Session, 2001, to read as follows:

6 (b) An offense under this section is a Class A [~~B~~]
7 misdemeanor.

8 (b) Section 13, Chapter 997, Acts of the 77th Legislature,
9 Regular Session, 2001, is repealed.

10 PART 5. CHANGES RELATING TO SUBTITLE B,
11 TITLE 7, OCCUPATIONS CODE

12 SECTION 14A.201. (a) Section 1152.001(2), Occupations
13 Code, is repealed to conform to the changes in terminology made by
14 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001.

15 (b) Section 1152.001, Occupations Code, is amended by
16 adding Subdivision (3-a) to conform to the changes in terminology
17 made by Chapter 836, Acts of the 77th Legislature, Regular Session,
18 2001, to read as follows:

19 (3-a) "Executive director" means the executive
20 director of the department.

21 SECTION 14A.202. The heading to Subchapter B, Chapter 1152,
22 Occupations Code, is amended to conform to the changes in
23 terminology made by Chapter 836, Acts of the 77th Legislature,
24 Regular Session, 2001, to read as follows:

25 SUBCHAPTER B. DUTIES OF EXECUTIVE DIRECTOR [~~COMMISSIONER~~] AND
26 DEPARTMENT

27 SECTION 14A.203. Section 1152.051, Occupations Code, is

1 amended to conform to the changes in terminology made by Chapter
2 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
3 follows:

4 Sec. 1152.051. STANDARDS OF CONDUCT FOR REGISTRANTS. The
5 executive director [~~commissioner~~] by rule shall establish
6 standards of practice, conduct, and ethics for registrants.

7 SECTION 14A.204. Section 1152.104(b), Occupations Code, is
8 amended to conform to the changes in terminology made by Chapter
9 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
10 follows:

11 (b) If a vacancy occurs during a member's term, the
12 executive director [~~commissioner~~] shall appoint to fill the
13 unexpired part of the term a replacement who meets the
14 qualifications of the vacated office.

15 SECTION 14A.205. Section 1152.108, Occupations Code, is
16 amended to conform to the changes in terminology made by Chapter
17 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
18 follows:

19 Sec. 1152.108. COUNCIL POWERS. The council shall:

20 (1) recommend to the executive director
21 [~~commissioner~~] standards of practice, conduct, and ethics for
22 registrants to be adopted under this chapter;

23 (2) recommend to the commission amounts for the fees
24 it may set under this chapter;

25 (3) recommend to the executive director
26 [~~commissioner~~] contents for the senior property tax consultant
27 registration examination and standards of acceptable performance;

1 (4) assist and advise the executive director
2 [~~commissioner~~] in recognizing continuing education programs and
3 educational courses for registrants; and

4 (5) advise the executive director [~~commissioner~~] in
5 establishing educational requirements for initial applicants.

6 SECTION 14A.206. Sections 1152.154(a) and (c), Occupations
7 Code, are amended to conform to the changes in terminology made by
8 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001,
9 to read as follows:

10 (a) An applicant for registration must file an application
11 with the department on a printed form prescribed by the executive
12 director [~~commissioner~~].

13 (c) The department shall refund the registration fee if the
14 executive director [~~commissioner~~] does not approve the
15 application.

16 SECTION 14A.207. Section 1152.155(a), Occupations Code, is
17 amended to conform to the changes in terminology made by Chapter
18 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
19 follows:

- 20 (a) To be eligible for registration, an applicant must:
- 21 (1) be at least 18 years of age;
 - 22 (2) hold a high school diploma or its equivalent;
 - 23 (3) pay the fees required by the commission;
 - 24 (4) have a place of business in this state or designate
25 a resident of this state as the applicant's agent for service of
26 process; and
 - 27 (5) meet any additional qualifications required by

1 this chapter or by the executive director [~~commissioner~~] under this
2 chapter or Chapter 51.

3 SECTION 14A.208. Sections 1152.156, 1152.159, 1152.160, and
4 1152.162, Occupations Code, are amended to conform to the changes
5 in terminology made by Chapter 836, Acts of the 77th Legislature,
6 Regular Session, 2001, to read as follows:

7 Sec. 1152.156. ELIGIBILITY TO REGISTER AS PROPERTY TAX
8 CONSULTANT. (a) In addition to satisfying the requirements of
9 Section 1152.155, an applicant for registration as a property tax
10 consultant must:

11 (1) complete at least 15 classroom hours of
12 educational courses approved by the executive director
13 [~~commissioner~~], including at least four hours of instruction on
14 laws and legal issues in this state related to property tax
15 consulting services; or

16 (2) if the person is eligible for registration under
17 Section 1152.155(b), submit to the commission evidence that the
18 applicant has completed at least four classroom hours of
19 educational programs or courses on the laws and legal issues in this
20 state related to property tax consulting services.

21 (b) The executive director [~~commissioner~~] may give
22 appropriate credit to an initial applicant for:

23 (1) educational courses on principles of law related
24 to property tax consulting services completed by the applicant not
25 more than two years before the date of application; and

26 (2) educational programs or courses completed by the
27 applicant on:

- 1 (A) property taxation;
2 (B) the property tax system;
3 (C) property tax administration;
4 (D) ethical standards; or
5 (E) general principles of appraisal, accounting,
6 or law as they relate to property tax consulting services.

7 Sec. 1152.159. CREDITS FOR SENIOR PROPERTY TAX CONSULTANT
8 APPLICANTS. (a) The executive director [~~commissioner~~] shall grant
9 credit to an applicant for registration as a senior property tax
10 consultant as follows:

11 (1) two credits for each year the applicant completed
12 at an institution of higher education that meets program and
13 accreditation standards comparable to those for public
14 institutions of higher education as determined by the Texas Higher
15 Education Coordinating Board, not to exceed six credits;

16 (2) four credits to an applicant who holds a bachelor's
17 degree or equivalent from an institution of higher education
18 described by Subdivision (1); and

19 (3) one credit for each year in excess of five years
20 that the applicant's primary occupation involved the performance or
21 supervision of property tax consulting services or property
22 appraisal, assessment, or taxation, not to exceed 10 credits.

23 (b) The executive director [~~commissioner~~] may grant
24 additional credits to an applicant for registration as a senior
25 property tax consultant for:

26 (1) successful completion of educational programs or
27 courses on:

- 1 (A) property taxation;
2 (B) the property tax system;
3 (C) property tax administration;
4 (D) ethical standards; or
5 (E) general principles of appraisal, accounting,
6 and law as they relate to property tax consulting services;

7 (2) completion of other educational programs or
8 courses; or

9 (3) advanced or postgraduate educational achievement,
10 occupational experience, professional licenses, or professional
11 designations obtained from recognized associations, institutes, or
12 organizations.

13 (c) The executive director [~~commissioner~~] may assign not
14 less than one credit or more than five credits to a program or
15 course described by Subsection (b)(1). In determining the amount
16 of credit for the program or course, the executive director
17 [~~commissioner~~] shall consider:

- 18 (1) the nature of the program or course;
19 (2) the number of actual instructional hours in the
20 program or course;
21 (3) whether an examination is required for successful
22 completion of the program or course; and
23 (4) other factors the executive director
24 [~~commissioner~~] determines appropriate.

25 Sec. 1152.160. SENIOR PROPERTY TAX CONSULTANT REGISTRATION
26 EXAMINATION. (a) The executive director [~~commissioner~~] shall:

- 27 (1) adopt an examination for registration as a senior

1 property tax consultant; and

2 (2) establish the standards for passing the
3 examination.

4 (b) The department shall offer the examination at times and
5 places designated by the executive director [~~commissioner~~].

6 (c) To be eligible to take the examination, an applicant
7 must pay to the department an examination fee. The executive
8 director [~~commissioner~~] by rule may establish conditions for
9 refunding the examination fee to an applicant who does not take the
10 examination.

11 (d) The examination must:

12 (1) test the applicant's knowledge of:

13 (A) property taxation;

14 (B) the property tax system;

15 (C) property tax administration;

16 (D) ethical standards; and

17 (E) general principles of appraisal, accounting,
18 and law as they relate to property tax consulting services; and

19 (2) be graded according to rules adopted by the
20 executive director [~~commissioner~~].

21 Sec. 1152.162. ISSUANCE OF CERTIFICATE OF REGISTRATION.

22 (a) The executive director [~~commissioner~~] shall act on an initial
23 application for registration filed under Section 1152.154 not later
24 than the 31st day after the date the department receives the
25 application.

26 (b) The executive director [~~commissioner~~] shall issue to an
27 applicant who qualifies for registration the appropriate

1 certificate of registration.

2 SECTION 14A.209. Section 1152.163(a), Occupations Code, is
3 amended to conform to the changes in terminology made by Chapter
4 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
5 follows:

6 (a) The executive director [~~commissioner~~] may waive any
7 registration requirement for an applicant who holds a certificate
8 of registration or license issued by another state that has
9 registration or licensing requirements that were, on the date of
10 registration or licensing, substantially equal to those of this
11 state.

12 SECTION 14A.210. Section 1152.202(a), Occupations Code, is
13 amended to conform to the changes in terminology made by Chapter
14 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
15 follows:

16 (a) The executive director [~~commissioner~~] shall issue to an
17 eligible registrant a certificate of renewal of registration on the
18 timely receipt of the required renewal fee. The certificate
19 expires on the second anniversary of the date of issuance.

20 SECTION 14A.211. Sections 1152.203, 1152.204, and 1152.251,
21 Occupations Code, are amended to conform to the changes in
22 terminology made by Chapter 836, Acts of the 77th Legislature,
23 Regular Session, 2001, to read as follows:

24 Sec. 1152.203. REQUIRED CONTINUING EDUCATION. The
25 executive director [~~commissioner~~] by rule shall require that, to
26 renew a registration, the registrant complete during the term of
27 the registration at least 20 classroom hours of continuing

1 education courses recognized by the executive director
2 [~~commissioner~~] at least six hours of which include instruction on
3 laws and legal issues in this state related to property tax
4 consulting services.

5 Sec. 1152.204. RECOGNITION OF EDUCATIONAL PROGRAMS AND
6 COURSES. (a) The executive director [~~commissioner~~] by rule shall
7 recognize appropriate continuing education programs for
8 registrants.

9 (b) The executive director [~~commissioner~~] shall recognize a
10 continuing education course, including a course on the legal issues
11 and law related to property tax consulting services, that is:

12 (1) approved by the Texas Real Estate Commission or
13 the Texas Appraiser Licensing and Certification Board; and

14 (2) completed by a registrant who also holds:

15 (A) an active real estate broker license or an
16 active real estate salesperson license under Chapter 1101; or

17 (B) an active real estate appraiser license or
18 certificate under Chapter 1103.

19 (c) The executive director [~~commissioner~~] may recognize an
20 educational program or course:

21 (1) related to property tax consulting services; and

22 (2) offered or sponsored by a public provider or a
23 recognized private provider, including:

24 (A) the comptroller;

25 (B) the State Bar of Texas;

26 (C) the Texas Real Estate Commission;

27 (D) an institution of higher education that meets

1 program and accreditation standards comparable to those for public
2 institutions of higher education as determined by the Texas Higher
3 Education Coordinating Board; or

4 (E) a nonprofit and voluntary trade association,
5 institute, or organization:

6 (i) whose membership consists primarily of
7 persons who represent property owners in property tax or
8 transactional tax matters;

9 (ii) that has written experience and
10 examination requirements for membership or for granting
11 professional designation to its members; and

12 (iii) that subscribes to a code of
13 professional conduct or ethics.

14 (d) The executive director [~~commissioner~~] may recognize a
15 private provider of an educational program or course if the
16 provider:

17 (1) applies to the department on a printed form
18 prescribed by the executive director [~~commissioner~~]; and

19 (2) pays in the amounts set by the commission:

20 (A) a nonrefundable application fee; and

21 (B) an educational provider's fee.

22 (e) The department shall refund the educational provider's
23 fee if the executive director [~~commissioner~~] does not recognize the
24 provider's educational program or course.

25 Sec. 1152.251. DISCIPLINARY POWERS OF EXECUTIVE DIRECTOR
26 [~~COMMISSIONER~~]. After a hearing, the executive director
27 [~~commissioner~~] may deny a certificate of registration and may

1 impose an administrative sanction or penalty and seek injunctive
2 relief and a civil penalty against a registrant as provided by
3 Chapter 51 for:

4 (1) a violation of this chapter or a rule applicable to
5 the registrant adopted by the executive director [~~commissioner~~]
6 under this chapter;

7 (2) gross incompetency in the performance of property
8 tax consulting services;

9 (3) dishonesty or fraud committed while performing
10 property tax consulting services; or

11 (4) a violation of the standards of ethics adopted by
12 the executive director [~~commissioner~~].

13 PART 6. CHANGES RELATING TO SUBTITLE C,

14 TITLE 7, OCCUPATIONS CODE

15 SECTION 14A.251. (a) Sections 1201.003(3), (7), and (8),
16 Occupations Code, are amended to conform to Section 1.34, Chapter
17 1367, Acts of the 77th Legislature, Regular Session, 2001, to read
18 as follows:

19 (3) "Board" means the Manufactured Housing Board
20 within the Texas Department of Housing and Community Affairs
21 [~~governing board of the department~~].

22 (7) "Department" means the Texas Department of Housing
23 and Community Affairs operating through its manufactured housing
24 division.

25 (8) "Director" means the executive director of the
26 manufactured housing division of the Texas Department of Housing
27 and Community Affairs [~~department~~].

1 (b) Section 1.34, Chapter 1367, Acts of the 77th
2 Legislature, Regular Session, 2001, is repealed.

3 SECTION 14A.252. (a) Section 1201.102(d), Occupations
4 Code, is amended to conform to Sections 1.36 and 1.46, Chapter 1367,
5 Acts of the 77th Legislature, Regular Session, 2001, to read as
6 follows:

7 (d) A person who holds a real estate broker's or
8 salesperson's license under Chapter 1101 may act as a broker or
9 salesperson under this chapter without holding a license or filing
10 a bond or other security as required by this chapter if negotiations
11 for the sale, exchange, or lease-purchase of a manufactured home
12 are conducted for a consumer [~~person~~] for whom the person is also
13 acting [~~holder of the real estate license otherwise acts~~] as a real
14 estate broker or salesperson under Chapter 1101 consistent with
15 Section 1201.007.

16 (b) Section 1.36, Chapter 1367, Acts of the 77th
17 Legislature, Regular Session, 2001, is repealed.

18 SECTION 14A.253. (a) Section 1201.113, Occupations Code, is
19 amended to conform to Section 1.37, Chapter 1367, Acts of the 77th
20 Legislature, Regular Session, 2001, to read as follows:

21 Sec. 1201.113. CERTIFICATION AND [~~OR~~] CONTINUING EDUCATION
22 PROGRAMS [~~PROGRAM~~]. (a) The department [~~director~~] may recognize,
23 prepare, or administer a certification [~~or continuing education~~]
24 program for persons regulated under this chapter. Participation in
25 a certification program is voluntary.

26 (b) The board shall recognize, prepare, or administer a
27 continuing education program for its license holders. A license

1 holder must participate in a continuing education program to the
2 extent required by the board to retain the person's license.

3 (c) To prepare or administer a certification or continuing
4 education program under this section, the board may contract with:

5 (1) a private, nonprofit organization that qualifies
6 for an exemption from federal income taxation under Section 501(a),
7 Internal Revenue Code of 1986, by being listed as an exempt
8 organization under Section 501(c)(3) of that code; or

9 (2) an educational institution.

10 (d) The department [director] shall issue an appropriate
11 certificate to a person who[+]

12 [(-)] completes a certification program[+] or

13 [(-)] participates in a continuing education program
14 under this section.

15 [(-) Participation in a certification or continuing
16 education program is voluntary.]

17 (b) Section 1.37, Chapter 1367, Acts of the 77th
18 Legislature, Regular Session, 2001, is repealed.

19 SECTION 14A.254. (a) Subchapter C, Chapter 1201,
20 Occupations Code, is amended by amending Section 1201.114 and
21 adding Sections 1201.115-1201.117 to conform to Section 1.35,
22 Chapter 1367, Acts of the 77th Legislature, Regular Session, 2001,
23 to read as follows:

24 Sec. 1201.114. LICENSE EXPIRATION [~~RENEWAL~~]. (a) A
25 license is valid for one year and may be renewed as provided by the
26 director. A person whose license has expired may not engage in
27 activities that require a license until the license has been

1 renewed.

2 (b) The board by rule may adopt a system under which
3 licenses expire on various dates during the year. For the year in
4 which the license expiration date is changed, the department shall
5 prorate license fees on a monthly basis so that each license holder
6 pays only that portion of the license fee that is allocable to the
7 number of months during which the license is valid. On renewal of
8 the license on the new expiration date, the total license renewal
9 fee is payable.

10 Sec. 1201.115. NOTICE OF LICENSE EXPIRATION. Not later
11 than the 30th day before the date a person's license is scheduled to
12 expire, the department shall send written notice of the impending
13 expiration to the person at the person's last known address
14 according to the records of the department.

15 Sec. 1201.116. PROCEDURE FOR LICENSE RENEWAL. (a) The
16 department shall renew a license if the department receives the
17 renewal application and payment of the annual fee before the
18 expiration date of the license.

19 (b) [~~(c)~~] If the department needs additional information
20 for the renewal application or verification of continuing insurance
21 or bond coverage, the license holder must provide the requested
22 information or verification not later than the 20th day after the
23 date of receipt of notice from the department.

24 (c) [~~(d)~~] The renewal license expires on the first
25 anniversary of the date the license was renewed.

26 (d) A person whose license has been expired for 90 days or
27 less may renew the license by paying to the department a renewal fee

1 that is equal to 1-1/2 times the normally required renewal fee.

2 (e) A person whose license has been expired for more than 90
3 days but less than one year may renew the license by paying to the
4 department a renewal fee that is equal to two times the normally
5 required renewal fee.

6 (f) A person whose license has been expired for one year or
7 more may not renew the license. The person may obtain a new license
8 by complying with the requirements and procedures for obtaining an
9 original license.

10 Sec. 1201.117. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE
11 PRACTITIONER. (a) A person who was licensed in this state, moved
12 to another state, and is currently licensed and has been in practice
13 in the other state for the two years preceding the date of
14 application may obtain a new license without fulfilling the
15 instruction requirements of Section 1201.104(a).

16 (b) The person must pay to the department a fee that is equal
17 to two times the normally required renewal fee for the license.

18 (b) Subchapter L, Chapter 1201, Occupations Code, is
19 amended by adding Section 1201.554 to conform to Section 1.35,
20 Chapter 1367, Acts of the 77th Legislature, Regular Session, 2001,
21 to read as follows:

22 Sec. 1201.554. PROBATION. The department may place on
23 probation a person whose license is suspended. If a license
24 suspension is probated, the department may require the person to:

25 (1) report regularly to the department on matters that
26 are the basis of the probation;

27 (2) limit practice to the areas prescribed by the

1 department; or

2 (3) continue or review professional education until
3 the person attains a degree of skill satisfactory to the department
4 in those areas that are the basis of the probation.

5 (c) Section 1.35, Chapter 1367, Acts of the 77th
6 Legislature, Regular Session, 2001, is repealed.

7 SECTION 14A.255. (a) Subchapter D, Chapter 1201,
8 Occupations Code, is amended by adding Section 1201.162 to conform
9 to Section 4, Chapter 1055, Acts of the 77th Legislature, Regular
10 Session, 2001, to read as follows:

11 Sec. 1201.162. DISCLOSURE BY RETAILER AND LENDER. (a)
12 Before the completion of a credit application, the retailer or
13 agent must provide to the consumer the following statement that is
14 printed in at least 10-point type and not attached to or combined
15 with any other written material:

16 "When buying a manufactured home, there are a number of
17 important considerations, including price, quality of
18 construction, features, floor plan, and financing alternatives.

19 "The United States Department of Housing and Urban
20 Development (HUD) helps protect consumers through regulation and
21 enforcement of HUD design and construction standards for
22 manufactured homes. Manufactured homes that meet HUD standards are
23 known as 'HUD-code manufactured homes.' The Texas Department of
24 Housing and Community Affairs regulates Texas manufacturers,
25 retailers, brokers, salespersons, installers, and rebuilders of
26 manufactured homes.

27 "If you plan to place a manufactured home on land that you own

1 or will buy, you should consider items such as:

2 "ZONING AND RESTRICTIVE COVENANTS. Some municipalities or
3 subdivisions may restrict placement of manufactured homes on
4 certain lots, may prohibit the placement of homes within a certain
5 distance from property lines, may require that homes be a certain
6 size, and may impose certain construction requirements. You may
7 need to obtain building permits and homeowner association approval
8 before you place a manufactured home on a certain lot. Contact the
9 local municipality, county, and subdivision manager to find out if
10 you can place the manufactured home of your choice on a certain lot.

11 "WATER. Not all lots have immediate access to water lines.
12 You may have to drill a well. Be sure that your lot has access to
13 water. If you must drill a well, contact several drillers for bids.
14 If water is provided by a municipality, utility district, water
15 district, or cooperative, you should inquire about the rates you
16 will have to pay.

17 "SEWER. If your lot is not serviced by a municipal sewer
18 system or utility district, you may have to install an on-site sewer
19 facility (commonly known as a septic system). There are a number of
20 concerns or restrictions that will determine if your lot is
21 adequate to support an on-site sewer facility. Check with the local
22 county or a private installer to determine the requirements that
23 apply to your lot and the cost to install such a system.

24 "HOMEOWNER ASSOCIATION FEES. Many subdivisions have
25 mandatory assessments and fees that lot owners must pay. Check with
26 the manager of the subdivision in which your lot is located to
27 determine if any fees apply to your lot.

1 "TAXES. In Texas, real property is taxed annually based on
2 its market value. Attaching a manufactured home to a lot improves
3 the lot's value and will increase the taxes assessed on the lot.
4 You are liable for the payment of all ad valorem taxes assessed
5 against your home by the municipality, county, school district, and
6 other tax authorities (utility district, community college, etc.).
7 As with other residential structures, the applicable tax rate will
8 apply to the market value of the home. You should contact the local
9 chief appraiser or the county tax assessor-collector for specific
10 tax information. They will need to know the price you paid for, and
11 the specific location of, the home. If the manufactured home is
12 your principal place of residence, you should be able to claim a
13 HOMESTEAD EXEMPTION. You should also make certain that the lot or
14 land you are purchasing is not subject to any rollback tax liability
15 because of the change in use of the property."

16 (b) A retailer may not transfer title to a manufactured home
17 or otherwise sell, assign, or convey a manufactured home to a
18 consumer unless the retailer delivers to the consumer a written
19 document disclosing:

20 (1) the total purchase price of the manufactured home,
21 as adjusted for:

22 (A) any agreed interest rate and any points or
23 fees; and

24 (B) the length of time for any loan repayment;
25 and

26 (2) regardless of whether the real property proposed
27 as the site for the manufactured home has been sold through an

1 executory contract for conveyance, any responsibility of the
2 consumer to:

3 (A) pay property taxes associated with the
4 manufactured home;

5 (B) maintain private roads proximate to the
6 manufactured home's location;

7 (C) maintain a contract for an on-site sewage
8 disposal system;

9 (D) obtain property damage insurance; and

10 (E) obtain mortgage insurance.

11 (c) If the information is available, a person making a loan
12 to a consumer to fund acquisition of a manufactured home shall also
13 make the disclosures described by Subsection (b) before the
14 consumer signs documents relating to the closing of the loan.

15 (d) A federally insured financial institution or lender
16 approved or authorized by the United States Department of Housing
17 and Urban Development as a mortgagee with direct endorsement
18 underwriting authority that fully complies with federal Truth in
19 Lending disclosures concerning the terms of a manufactured housing
20 transaction is exempt from the disclosure provisions of this
21 section.

22 (e) Failure to comply with the disclosure provisions of this
23 section does not affect the validity of a conveyance or transfer of
24 title of a manufactured home or otherwise impair a title or lien
25 position.

26 (b) Section 4, Chapter 1055, Acts of the 77th Legislature,
27 Regular Session, 2001, is repealed.

1 SECTION 14A.256. (a) Section 1201.209, Occupations Code, is
2 amended to conform to Section 1, Chapter 988, Acts of the 77th
3 Legislature, Regular Session, 2001, to read as follows:

4 Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR
5 SUSPENSION OR REVOCATION OF TITLE. The department may not refuse to
6 issue a document of title and may not suspend or revoke a document
7 of title unless:

8 (1) the application for issuance of the document of
9 title contains a false or fraudulent statement, the applicant
10 failed to provide information required by the director, or the
11 applicant is not entitled to issuance of the document of title;

12 (2) the director has reason to believe that the
13 manufactured home is stolen or unlawfully converted, or the
14 issuance of a document of title would defraud the owner or a
15 lienholder of the manufactured home;

16 (3) the director has reason to believe that the
17 manufactured home is salvaged, and an application for a salvage
18 title has not been filed;

19 (4) the required fee has not been paid;

20 (5) the state sales and use tax has not been paid in
21 accordance with Chapter 158, Tax Code, and Section 1201.208; or

22 (6) a local tax lien was [~~has been~~] filed before
23 September 1, 2001, and recorded under Section 32.015, Tax Code, as
24 that section existed on the date the lien was filed, and the lien
25 has not been extinguished.

26 (b) Section 1, Chapter 988, Acts of the 77th Legislature,
27 Regular Session, 2001, is repealed.

1 SECTION 14A.257. (a) Section 1201.217, Occupations Code, is
2 amended by amending Subsections (a) and (b) and adding Subsections
3 (d)-(f) to conform to Section 4, Chapter 899, and Section 2, Chapter
4 1055, Acts of the 77th Legislature, Regular Session, 2001, to read
5 as follows:

6 (a) Except as provided by Section 1201.218, if a
7 manufactured home is permanently attached or becomes an improvement
8 to real property, the manufacturer's certificate or the original
9 document of title shall [~~may~~] be surrendered to the department for
10 cancellation. This requirement does not apply to an owner who is
11 not issued a title under Section 2.001(e) or (f), Property Code.

12 (b) The legal description or the appropriate tract or parcel
13 number of the real property must be given to the department when the
14 certificate or document of title is surrendered. If a notice of
15 attachment is to be filed, a copy of the notice must be submitted
16 with the manufacturer's certificate or the original document of
17 title surrendered for cancellation. The director may require the
18 filing of other information.

19 (d) Before the department issues a certificate of
20 attachment:

21 (1) a title insurer authorized to do business in this
22 state that surrenders the manufacturer's certificate or the
23 original document of title to the department must file a notice of
24 improvement attachment in the real property records of the county
25 in which the home is located; and

26 (2) a person who surrenders the manufacturer's
27 certificate or the original document of title to the department may

1 file a notice of attachment in the real property records of the
2 county in which the home is located.

3 (e) A notice under Subsection (d) must:

4 (1) state that:

5 (A) the manufacturer's certificate or the
6 original document of title has been surrendered for cancellation;
7 and

8 (B) a request has been made for the issuance of a
9 certificate of attachment;

10 (2) include information sufficient to identify the
11 home; and

12 (3) contain the legal description or the appropriate
13 tract or parcel number of the real property on which the home is
14 located.

15 (f) A notice under Subsection (d) is valid for all purposes
16 until the certificate of attachment is issued and filed in the real
17 property records of the appropriate county.

18 (b) Section 1201.220(a), Occupations Code, is amended to
19 conform to Section 4, Chapter 899, Acts of the 77th Legislature,
20 Regular Session, 2001, to read as follows:

21 (a) The department shall provide to each county tax
22 assessor-collector in this state a monthly [~~quarterly~~] report that,
23 for each manufactured home installed in the county during the
24 preceding month [~~calendar quarter~~] and for each manufactured home
25 previously installed in the county for which a transfer of
26 ownership was recorded by the issuance of a document of title during
27 the preceding month [~~calendar quarter~~], lists:

- 1 (1) the name of the owner of the home;
- 2 (2) the name of the manufacturer of the home;
- 3 (3) the model designation of the home;
- 4 (4) the identification number of each section or
5 module of the home; ~~and~~
- 6 (5) the address or location where the home is
7 installed; and
- 8 (6) the date of the installation of the home.

9 (c) Section 4, Chapter 899, and Section 2, Chapter 1055,
10 Acts of the 77th Legislature, Regular Session, 2001, are repealed.

11 SECTION 14A.258. (a) Subchapter E, Chapter 1201,
12 Occupations Code, is amended by adding Section 1201.222 to conform
13 to Section 3, Chapter 1055, Acts of the 77th Legislature, Regular
14 Session, 2001, to read as follows:

15 Sec. 1201.222. CERTAIN MANUFACTURED HOMES CONSIDERED REAL
16 PROPERTY. (a) A manufactured home that is permanently attached to
17 real property is classified and taxed as real property if the real
18 property to which the home is attached is titled in the name of the
19 consumer under a deed or contract for sale. A manufactured home is
20 considered permanently attached to real property if the home is
21 secured to a foundation and connected to a utility, including a
22 utility providing water, electric, natural gas, propane or butane
23 gas, or wastewater service.

24 (b) The closing of a transaction for the acquisition of a
25 manufactured home considered to be real property under this section
26 must occur at the office of a federally insured financial
27 institution, a title insurer, or an attorney at law. If the real

1 property is purchased under a contract of sale, the contract must be
2 filed in the real property records of the county in which the home
3 is installed.

4 (c) Installation of a manufactured home considered to be
5 real property under this section must occur in a manner that
6 satisfies the lending requirements of the Federal Housing
7 Administration (FHA), Fannie Mae, or Freddie Mac for long-term
8 mortgage loans or for FHA insurance. The installation of a new
9 manufactured home must meet, in addition to applicable state
10 standards, the manufacturer's specifications required to validate
11 the manufacturer's warranty.

12 (d) A civil action to enjoin a violation of this section may
13 be brought by:

14 (1) a purchaser in the county in which the violation
15 occurs; or

16 (2) the county in which the violation occurs.

17 (e) A manufactured home permanently attached to real
18 property before January 1, 2002, or placed in a manufactured home
19 rental community as defined by Section 232.007, Local Government
20 Code, is not subject to this section.

21 (f) This section does not require a retailer or retailer's
22 agent to obtain a license under Chapter 1101.

23 (b) Section 3, Chapter 1055, Acts of the 77th Legislature,
24 Regular Session, 2001, is repealed.

25 SECTION 14A.259. (a) Section 1201.360(a), Occupations
26 Code, is amended to conform to Section 2, Chapter 899, Acts of the
27 77th Legislature, Regular Session, 2001, to read as follows:

1 (a) The seller of real property to which a new HUD-code
2 manufactured home is permanently attached may give the initial
3 purchaser a written warranty that combines the manufacturer's
4 warranty and the retailer's warranty required by this subchapter
5 if:

6 (1) the manufacturer's certificate under Section
7 1201.204 is surrendered for cancellation [~~cancelled~~]; and

8 (2) a notice of attachment or certificate of
9 attachment is filed in the real property [~~deed~~] records of the
10 county.

11 (b) Section 2, Chapter 899, Acts of the 77th Legislature,
12 Regular Session, 2001, is repealed.

13 SECTION 14A.260. (a) Section 1201.511, Occupations Code, is
14 amended by adding Subsection (c) to conform to Section 1, Chapter
15 1055, Acts of the 77th Legislature, Regular Session, 2001, to read
16 as follows:

17 (c) A retailer, broker, or salesperson or a person acting on
18 behalf of a retailer or broker may not receive or accept
19 compensation or consideration of any kind from the seller of the
20 real property or a person acting on the seller's behalf. No part of
21 the down payment on the purchase of the manufactured home or any
22 fees, points, or other charges or "buy-downs" may be paid from money
23 from the seller of the real property or a person acting on the
24 seller's behalf.

25 (b) Section 1, Chapter 1055, Acts of the 77th Legislature,
26 Regular Session, 2001, is repealed.

27 SECTION 14A.261. (a) Section 1201.606(b), Occupations

1 Code, is amended to conform to Section 3, Chapter 899, Acts of the
2 77th Legislature, Regular Session, 2001, to read as follows:

3 (b) An offense under this section is a Class A misdemeanor
4 punishable by:

5 (1) a fine of not more than \$4,000 [~~\$2,000~~];

6 (2) confinement in county jail for a term of not more
7 than one year; or

8 (3) both the fine and confinement.

9 (b) Section 3, Chapter 899, Acts of the 77th Legislature,
10 Regular Session, 2001, is repealed.

11 SECTION 14A.262. Section 1, Chapter 899, Acts of the 77th
12 Legislature, Regular Session, 2001, is repealed.

13 SECTION 14A.263. (a) Section 1202.001(2), Occupations
14 Code, is repealed to conform to the changes in terminology made by
15 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001.

16 (b) Section 1202.001, Occupations Code, is amended by
17 adding Subdivision (4-a) to conform to the changes in terminology
18 made by Chapter 836, Acts of the 77th Legislature, Regular Session,
19 2001, to read as follows:

20 (4-a) "Executive director" means the executive
21 director of the department.

22 SECTION 14A.264. Sections 1202.055, 1202.101, and 1202.102,
23 Occupations Code, are amended to conform to the changes in
24 terminology made by Chapter 836, Acts of the 77th Legislature,
25 Regular Session, 2001, to read as follows:

26 Sec. 1202.055. SECRETARY; PERSONNEL. The executive
27 director [~~commissioner~~] shall:

- 1 (1) act as secretary of the council; and
2 (2) provide personnel from the department necessary to
3 perform staff functions for the council.

4 Sec. 1202.101. RULES; ORDERS. (a) The executive director
5 [~~commissioner~~] shall adopt rules and issue orders as necessary to:

- 6 (1) ensure compliance with the purposes of this
7 chapter; and
8 (2) provide for uniform enforcement of this chapter.

9 (b) The executive director [~~commissioner~~] shall adopt rules
10 as appropriate to implement the council's actions, decisions,
11 interpretations, and instructions.

12 Sec. 1202.102. RULES PROVIDING FOR REGISTRATION AND
13 REGULATION. The executive director [~~commissioner~~] by rule shall
14 provide for registration and regulation of manufacturers or
15 builders of industrialized housing or buildings.

16 SECTION 14A.265. Section 1202.103(a), Occupations Code, is
17 amended to conform to the changes in terminology made by Chapter
18 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
19 follows:

20 (a) The executive director [~~commissioner~~] may recognize,
21 prepare, or administer continuing education programs for persons
22 regulated under this chapter.

23 SECTION 14A.266. Sections 1202.105(b) and (c), Occupations
24 Code, are amended to conform to the changes in terminology made by
25 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001,
26 to read as follows:

27 (b) The executive director [~~commissioner~~] shall recommend

1 qualified third-party inspectors and design review agencies to the
2 council.

3 (c) The executive director [~~commissioner~~] shall publish a
4 list of all approved inspectors and design review agencies.

5 SECTION 14A.267. Section 1202.202(a), Occupations Code, is
6 amended to conform to the changes in terminology made by Chapter
7 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
8 follows:

9 (a) To ensure compliance with approved designs, plans, and
10 specifications, the department shall inspect the construction of
11 industrialized housing and buildings at the manufacturing
12 facility. The executive director [~~commissioner~~] may designate
13 approved third-party inspectors to perform the inspections subject
14 to the rules of the executive director [~~commissioner~~].

15 SECTION 14A.268. Sections 1202.204 and 1202.205,
16 Occupations Code, are amended to conform to the changes in
17 terminology made by Chapter 836, Acts of the 77th Legislature,
18 Regular Session, 2001, to read as follows:

19 Sec. 1202.204. RULES PROVIDING FOR DECALS OR INSIGNIA. The
20 executive director [~~commissioner~~] by rule shall provide for the
21 placement of decals or insignia on each transportable modular
22 section or modular component to indicate compliance with the
23 mandatory construction codes.

24 Sec. 1202.205. RECIPROCITY. (a) The executive director
25 [~~commissioner~~] by rule may authorize an inspection of
26 industrialized housing or buildings constructed in another state to
27 be performed by an inspector of the equivalent regulatory agency of

1 the other state.

2 (b) The executive director [~~commissioner~~] by rule may
3 authorize an inspection of industrialized housing or buildings
4 constructed in this state for use in another state.

5 (c) The executive director [~~commissioner~~] shall enter into
6 a reciprocity agreement with the equivalent regulatory agency of
7 the other state as necessary to implement this section.

8 SECTION 14A.269. Section 1202.252(a), Occupations Code, is
9 amended to conform to the changes in terminology made by Chapter
10 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
11 follows:

12 (a) A municipality that regulates the on-site construction
13 or installation of industrialized housing and buildings may:

14 (1) require and review, for compliance with mandatory
15 construction codes, a complete set of designs, plans, and
16 specifications bearing the council's stamp of approval for each
17 installation of industrialized housing or buildings in the
18 municipality;

19 (2) require that all applicable local permits and
20 licenses be obtained before construction begins on a building site;

21 (3) require, in accordance with executive director
22 [~~commissioner~~] rules, that all modules or modular components bear
23 an approved decal or insignia indicating inspection at the
24 manufacturing facility; and

25 (4) establish procedures for the inspection of:

26 (A) the erection and installation of
27 industrialized housing or buildings to be located in the

1 municipality, to ensure compliance with mandatory construction
2 codes and executive director [~~commissioner~~] rules; and

3 (B) all foundation and other on-site
4 construction, to ensure compliance with approved designs, plans,
5 and specifications.

6 SECTION 14A.270. Section 1202.301(b), Occupations Code, is
7 amended to conform to the changes in terminology made by Chapter
8 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
9 follows:

10 (b) A person may not construct, sell or offer to sell, lease
11 or offer to lease, or transport over a street or highway of this
12 state any industrialized housing or building, or modular section or
13 component of a modular section, in violation of this chapter or a
14 rule or order of the executive director [~~commissioner~~].

15 SECTION 14A.271. Section 1202.302, Occupations Code, is
16 amended to conform to the changes in terminology made by Chapter
17 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
18 follows:

19 Sec. 1202.302. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.
20 The executive director [~~commissioner~~] may deny, permanently
21 revoke, or suspend for a definite period and specified location or
22 geographic area a certificate of registration if the executive
23 director [~~commissioner~~] finds that the applicant or registrant:

24 (1) provided false information on an application or
25 other document filed with the department;

26 (2) failed to pay a fee or file a report required by
27 the department for the administration or enforcement of this

1 chapter;

2 (3) engaged in a false, misleading, or deceptive act
3 or practice as described by Subchapter E, Chapter 17, Business &
4 Commerce Code; or

5 (4) violated:

6 (A) this chapter;

7 (B) a rule adopted or order issued by the
8 executive director [~~commissioner~~] under this chapter; or

9 (C) a decision, action, or interpretation of the
10 council.

11 SECTION 14A.272. Section 1202.351(b), Occupations Code, is
12 amended to conform to the changes in terminology made by Chapter
13 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
14 follows:

15 (b) A person commits an offense if the person knowingly and
16 wilfully violates this chapter or a published rule or order of the
17 executive director [~~commissioner~~].

18 PART 7. CHANGES RELATING TO TITLE 8, OCCUPATIONS CODE

19 SECTION 14A.301. (a) Section 1301.002, Occupations Code, is
20 amended to conform to Section 1, Chapter 504, and Section 1, Chapter
21 791, Acts of the 77th Legislature, Regular Session, 2001, and to
22 more closely conform to the law from which it was derived to read as
23 follows:

24 Sec. 1301.002. DEFINITIONS. In this chapter:

25 (1) "Board" means the Texas State Board of Plumbing
26 Examiners.

27 (2) "Drain cleaner" means a person who:

1 (A) has completed at least 4,000 hours working
2 under the supervision of a master plumber as a drain
3 cleaner-restricted registrant;

4 (B) has fulfilled the requirements of and is
5 registered with the board; and

6 (C) installs cleanouts and removes and resets
7 p-traps to eliminate obstructions in building drains and sewers.

8 (3) "Drain cleaner-restricted registrant" means a
9 person who:

10 (A) has worked as a plumber's apprentice under
11 the supervision of a master plumber;

12 (B) has fulfilled the requirements of and is
13 registered with the board; and

14 (C) clears obstructions in sewer and drain lines
15 through any code-approved existing opening.

16 (4) "Journeyman plumber" means a person licensed under
17 this chapter [~~other than a master plumber~~] who:

18 (A) has met the qualifications for registration
19 as a plumber's apprentice or for licensing as a tradesman
20 plumber-limited license holder;

21 (B) has completed at least 8,000 hours working
22 under the supervision of a master plumber;

23 (C) installs, changes, repairs, services, or
24 renovates plumbing or supervises any of those activities; and

25 (D) [~~(B)~~] has passed the required examination
26 and fulfilled the other requirements of the board.

27 (5) [~~(3)~~] "Master plumber" means a person licensed

1 under this chapter who:

2 (A) is skilled in the planning and superintending
3 of plumbing and in the practical installation, repair, and
4 servicing of plumbing;

5 (B) secures permits for plumbing work;

6 (C) is knowledgeable about [~~familiar with~~] the
7 codes, ordinances, or rules governing the [~~these~~] activities
8 described by Paragraphs (A) and (B);

9 (D) [~~(C)~~] performs or supervises plumbing work;
10 and

11 (E) [~~(D)~~] has passed the required examination
12 and fulfilled the other requirements of the board.

13 (6) [~~(4)~~] "Plumber's apprentice" means a person other
14 than a master plumber, [~~or a~~] journeyman plumber, or tradesman
15 plumber-limited license holder who, as the person's principal
16 occupation, learns about and assists in the installation of
17 plumbing, is registered by the board, and works under the
18 supervision of a master plumber and the direct supervision of a
19 licensed plumber.

20 (7) [~~(5)~~] "Plumbing" means:

21 (A) a fixture, appurtenance, appliance, or
22 piping, including a disposal system, used in or around a building in
23 which a person lives or works or in which persons assemble, to:

24 (i) supply or recirculate water, other
25 liquid, or gas; or

26 (ii) eliminate sewage for a personal or
27 domestic purpose;

1 (B) a fixture, appurtenance, appliance, or
2 piping used outside a building to connect the building to:

3 (i) a supply of water, other liquid,
4 medical gases and vacuum, or other gas on the premises; or

5 (ii) the main in the street or alley or at
6 the curb;

7 (C) a fixture, appurtenance, appliance, or
8 piping, including a drain or waste pipe, used to carry wastewater or
9 sewage from or within a building to:

10 (i) a sewer service lateral at the curb or
11 in the street or alley; or

12 (ii) a disposal or septic terminal that
13 holds private or domestic sewage; or

14 (D) the installation, repair, service, or
15 maintenance of a fixture, appurtenance, appliance, or piping
16 described by Paragraph (A), (B), or (C).

17 (8) [~~6~~] "Plumbing inspector" means a person who:

18 (A) is employed by a political subdivision, or
19 contracts as an independent contractor with a political
20 subdivision, to inspect plumbing in connection with health and
21 safety laws, including ordinances, and plumbing and gas codes; and

22 (B) has passed the required examination and
23 fulfilled the other requirements of the board.

24 (9) "Residential utilities installer" means a person
25 who:

26 (A) has completed at least 2,000 hours working
27 under the supervision of a master plumber as a plumber's

1 apprentice;

2 (B) has fulfilled the requirements of and is
3 registered with the board; and

4 (C) constructs and installs yard water service
5 pipng for one-family or two-family dwellings and building sewers.

6 (10) "Tradesman plumber-limited license holder" means
7 a person who:

8 (A) has completed at least 4,000 hours working
9 under the direct supervision of a journeyman or master plumber as a
10 plumber's apprentice;

11 (B) has passed the required examination and
12 fulfilled the other requirements of the board;

13 (C) constructs and installs plumbing for
14 one-family or two-family dwellings; and

15 (D) has not met or attempted to meet the
16 qualifications for a journeyman plumber license.

17 (11) [~~7~~] "Water supply protection specialist" means
18 a person who holds an endorsement issued by the board to engage in
19 the inspection, in connection with health and safety laws,
20 including ordinances, of:

21 (A) the plumbing of a public water system
22 distribution facility; or

23 (B) customer-owned plumbing connected to the
24 water distribution lines of a public water system.

25 (12) [~~8~~] "Water treatment" means a business
26 conducted under contract that requires ability, experience, and
27 skill in analyzing water to determine how to treat influent and

1 effluent water to change or purify the water or to add or remove
2 minerals, chemicals, or bacteria. The term includes:

3 (A) installing and servicing fixed or portable
4 water treatment equipment in a public or private water treatment
5 system; or

6 (B) making connections necessary to install a
7 water treatment system.

8 (b) Section 1, Chapter 504, and Section 1, Chapter 791, Acts
9 of the 77th Legislature, Regular Session, 2001, are repealed.

10 SECTION 14A.302. (a) Section 1301.052, Occupations Code, is
11 amended to conform to Section 2, Chapter 791, Acts of the 77th
12 Legislature, Regular Session, 2001, to read as follows:

13 Sec. 1301.052. WORK [~~INSIDE OR~~] OUTSIDE MUNICIPALITIES. A
14 person is not required to be licensed under this chapter to perform
15 plumbing on a property that is:

16 (1) located in a subdivision or on a tract of land that
17 is not required to be platted under Section 232.0015, Local
18 Government Code; or

19 (2) not connected to a public water system and is
20 located outside a municipality[~~, or~~

21 [~~(2) inside a municipality with fewer than 5,000~~
22 ~~inhabitants, unless an ordinance of the municipality requires the~~
23 ~~person to be licensed].~~

24 (b) Section 2, Chapter 791, Acts of the 77th Legislature,
25 Regular Session, 2001, is repealed.

26 SECTION 14A.303. (a) Subchapter B, Chapter 1301,
27 Occupations Code, is amended by amending Sections 1301.053 and

1 1301.055 and adding Section 1301.058 to conform to Section 2,
2 Chapter 504, Acts of the 77th Legislature, Regular Session, 2001,
3 to read as follows:

4 Sec. 1301.053. WORK INCIDENTAL TO OTHER PROFESSIONS. (a) A
5 person is not required to be licensed under this chapter to perform:

6 (1) plumbing incidental to and in connection with the
7 business in which the person is employed or engaged if the person:

8 (A) is regularly employed as or acting as a
9 maintenance person or maintenance engineer; and

10 (B) does not engage in plumbing for the public;

11 (2) construction, installation, or maintenance on the
12 premises or equipment of a railroad if the person is an employee of
13 the railroad who does not engage in plumbing for the public;

14 (3) plumbing if the person is engaged by a public
15 service company to:

16 (A) lay, maintain, or operate its service mains
17 or lines to the point of measurement; and

18 (B) install, change, adjust, repair, remove, or
19 renovate appurtenances, equipment, or appliances;

20 (4) appliance installation and service work that
21 involves connecting appliances to existing openings with a
22 code-approved appliance connector [~~pipings~~] if the person performs
23 the work as an appliance dealer or an employee of an appliance
24 dealer; or

25 (5) water treatment installations, exchanges,
26 services, or repairs.

27 (b) Work described by this section is subject to inspection

1 and approval as provided by applicable state law or municipal
2 ordinance.

3 Sec. 1301.055. LP GAS INSTALLERS. A person is not required
4 to be licensed under this chapter to perform LPG system
5 installation [~~plumbing~~] if the person performs the LPG system
6 installation [~~plumbing~~] as an LP gas installer licensed under
7 Subchapter D, Chapter 113, Natural Resources Code.

8 Sec. 1301.058. TESTING OF MEDICAL GAS AND VACUUM PIPING. A
9 person is not required to be licensed under this chapter to verify
10 medical gas and vacuum piping integrity and content.

11 (b) Section 2, Chapter 504, Acts of the 77th Legislature,
12 Regular Session, 2001, is repealed.

13 SECTION 14A.304. (a) Section 1301.151(a), Occupations
14 Code, is amended to conform to Section 4, Chapter 504, Acts of the
15 77th Legislature, Regular Session, 2001, to read as follows:

16 (a) The Texas State Board of Plumbing Examiners consists of
17 nine members appointed by the governor with the advice and consent
18 of the senate as follows:

19 (1) one member who has [~~with~~] at least 10 years'
20 practical experience and is licensed as a master plumber;

21 (2) one member who has [~~with~~] at least five years'
22 practical experience and is licensed as a journeyman plumber;

23 (3) one member who has [~~with~~] at least five years'
24 practical experience and is licensed as a plumbing inspector;

25 (4) one member who is a plumbing contractor with at
26 least five years' experience;

27 (5) one member who is a licensed [~~sanitary~~] engineer;

1 (6) two members who are building contractors with at
2 least five years' contracting experience, one of whom is
3 principally engaged in home building and one of whom is principally
4 engaged in commercial building; and

5 (7) two members who represent the public.

6 (b) Section 4, Chapter 504, Acts of the 77th Legislature,
7 Regular Session, 2001, is repealed.

8 SECTION 14A.305. (a) Section 1301.202(b), Occupations
9 Code, is amended to conform to Section 5, Chapter 504, Acts of the
10 77th Legislature, Regular Session, 2001, to read as follows:

11 (b) A plumbing examiner shall:

12 (1) examine the fitness and qualifications of a person
13 applying to the board[+]

14 ~~[(A)]~~ for a license as a master plumber, ~~[or]~~
15 journeyman plumber, tradesman plumber-limited license holder, [+]
16 or

17 ~~[(B) to serve as a]~~ plumbing inspector; and

18 (2) promptly certify the result of the examination to
19 the board.

20 (b) Subchapter E, Chapter 1301, Occupations Code, is
21 amended by adding Section 1301.258 to conform to Section 5, Chapter
22 504, Acts of the 77th Legislature, Regular Session, 2001, to read as
23 follows:

24 Sec. 1301.258. ADVISORY COMMITTEES. The board may appoint
25 advisory committees as it considers necessary. An advisory
26 committee shall serve without compensation or reimbursement and is
27 subject to Section 2110.008, Government Code.

1 (c) Subchapter G, Chapter 1301, Occupations Code, is
2 amended by adding Section 1301.3575 to conform to Section 5,
3 Chapter 504, Acts of the 77th Legislature, Regular Session, 2001,
4 to read as follows:

5 Sec. 1301.3575. REGISTRATION OF CERTAIN PERSONS. The board
6 shall register a person who complies with this chapter as a drain
7 cleaner, drain cleaner-restricted registrant, residential
8 utilities installer, or plumber's apprentice.

9 (d) Section 1301.404, Occupations Code, is amended to
10 conform to Sections 5 and 15, Chapter 504, Acts of the 77th
11 Legislature, Regular Session, 2001, to read as follows:

12 Sec. 1301.404. MANDATORY CONTINUING PROFESSIONAL
13 EDUCATION. (a) The board shall recognize, approve, and administer
14 continuing education programs for persons who hold licenses or
15 endorsements under this chapter.

16 (b) A person who holds a license or endorsement [licensed]
17 under this chapter must complete at least six hours of continuing
18 professional education each [license] year the person holds the
19 license or endorsement to renew the person's license or
20 endorsement. Three of the six hours must be in the subjects of
21 health protection, energy conservation, and water conservation.

22 (c) [~~b~~] The board by rule shall adopt the criteria for the
23 continuing professional education.

24 (d) [~~e~~] A person may receive credit for participating in a
25 continuing professional education program or course only if the
26 program or course is provided:

27 (1) by an individual, business, or association

1 approved by the board; and

2 (2) according to criteria adopted by the board.

3 (e) [~~(d)~~] A person may complete the continuing professional
4 education requirement of this section through a correspondence
5 course as approved by the board [~~if the person lives in a county in~~
6 ~~which there is not a municipality with a population of more than~~
7 ~~100,000~~].

8 (f) [~~(e)~~] The board by rule may exempt certain persons from
9 the requirements of this section if the board determines that the
10 exemption is in the public interest.

11 (e) Section 1301.405, Occupations Code, is repealed to
12 conform to Section 5, Chapter 504, Acts of the 77th Legislature,
13 Regular Session, 2001.

14 (f) Sections 5 and 15, Chapter 504, Acts of the 77th
15 Legislature, Regular Session, 2001, are repealed.

16 SECTION 14A.306. (a) Section 1301.255, Occupations Code, is
17 amended to conform to Section 6, Chapter 504, and Section 3, Chapter
18 791, Acts of the 77th Legislature, Regular Session, 2001, to read as
19 follows:

20 Sec. 1301.255. ADOPTION OF PLUMBING CODES. (a) The board
21 shall adopt the following plumbing codes, as those codes existed on
22 May 31, 2001:

23 (1) the [~~Southern Standard Plumbing Code,~~
24 [~~(2) the~~] Uniform Plumbing Code, as published by the
25 International Association of Plumbing and Mechanical Officials;
26 and

27 (2) the International Plumbing Code, as published by

1 the International Code Council ~~[, and~~

2 ~~[(3) the National Standard Plumbing Code].~~

3 (b) The board by rule may adopt later editions of the
4 plumbing codes listed in Subsection (a).

5 (c) Plumbing installed in an area not otherwise subject to
6 regulation under this chapter by a person licensed under this
7 chapter must be installed in accordance with a plumbing code
8 adopted by the board under Subsection (a) or (b).

9 (d) In adopting a code ~~[A municipality or an owner of a~~
10 ~~public water system may adopt standards]~~ for the design,
11 installation, and maintenance of a plumbing system under this
12 section, a municipality or an owner of a public water system may
13 amend any provisions of the code to conform to local concerns that
14 ~~[only if those standards]~~ do not substantially vary from board
15 rules or other rules of this state.

16 (e) Plumbing installed in compliance with a code adopted
17 under Subsection (a), (b), or (d) must be inspected by a plumbing
18 inspector. To perform the inspection, the political subdivision
19 may contract with any plumbing inspector paid directly by the
20 political subdivision.

21 (b) Section 6, Chapter 504, and Section 3, Chapter 791, Acts
22 of the 77th Legislature, Regular Session, 2001, are repealed.

23 SECTION 14A.307. (a) Section 1301.359, Occupations Code, is
24 amended to conform to Section 14, Chapter 504, Acts of the 77th
25 Legislature, Regular Session, 2001, to read as follows:

26 Sec. 1301.359. STATEWIDE VALIDITY OF LICENSE, ENDORSEMENT,
27 OR REGISTRATION; NONTRANSFERABILITY. (a) A license, endorsement,

1 or registration issued under this chapter is valid throughout this
2 state.

3 (b) A license, endorsement, or registration issued under
4 this chapter is not assignable or transferable.

5 (b) The heading to Subchapter H, Chapter 1301, Occupations
6 Code, is amended to conform to Section 14, Chapter 504, Acts of the
7 77th Legislature, Regular Session, 2001, to read as follows:

8 SUBCHAPTER H. LICENSE, ENDORSEMENT, AND REGISTRATION

9 EXPIRATION AND RENEWAL

10 (c) Sections 1301.401-1301.403, Occupations Code, are
11 amended to conform to Sections 14 and 18, Chapter 504, Acts of the
12 77th Legislature, Regular Session, 2001, to read as follows:

13 Sec. 1301.401. ANNUAL RENEWAL REQUIRED. (a) A license or
14 registration under this chapter is valid for one year. On payment
15 of the required fee, a license may be renewed annually [~~on or before~~
16 ~~February 1 or as provided by this section~~].

17 (b) The board by rule may adopt a system under which
18 licenses, endorsements, and registrations expire on various dates
19 during the year.

20 [~~(c) For the year in which the license expiration date is~~
21 ~~changed, renewal fees payable on February 1 shall be prorated on a~~
22 ~~monthly basis so that each license holder pays only that portion of~~
23 ~~the fee that is allocable to the number of months during which the~~
24 ~~license is valid. On renewal of the license on the new expiration~~
25 ~~date, the total renewal fee is payable.~~]

26 Sec. 1301.402. NOTICE OF LICENSE, ENDORSEMENT, OR
27 REGISTRATION EXPIRATION. (a) Not later than the 31st day before

1 the expiration date of a person's license, endorsement, or
2 registration, the board shall send written notice of the impending
3 [~~license~~] expiration to the person at the person's last known
4 address according to board records.

5 (b) The person shall notify the board not later than the
6 30th day after the date of receipt of the written notice of any
7 change of name or address.

8 Sec. 1301.403. PROCEDURE FOR RENEWAL. (a) A person may
9 renew an unexpired license, endorsement, or registration by paying
10 the required renewal fee to the board before the expiration date of
11 the license, endorsement, or registration.

12 (b) A person whose license or endorsement has been expired
13 for 90 days or less may renew the license or endorsement by paying
14 to the board the required renewal fee and a fee equal to half of the
15 examination fee for the license or endorsement. A person whose
16 registration has been expired for 90 days or less may renew the
17 registration by paying to the board the required renewal fee and a
18 fee equal to half of the registration fee.

19 (c) A person whose license or endorsement has been expired
20 for more than 90 days but less than two years may renew the license
21 or endorsement by paying to the board all unpaid renewal fees and a
22 fee that is equal to the examination fee for the license or
23 endorsement. A person whose registration has been expired for more
24 than 90 days but less than two years may renew the registration by
25 paying to the board all unpaid renewal fees and a fee that is equal
26 to the registration fee.

27 (d) A person whose license, endorsement, or registration

1 has been expired for two years or more may not renew the license,
2 endorsement, or registration. The person may obtain a new license,
3 endorsement, or registration by submitting to reexamination for a
4 license or endorsement and complying with the requirements and
5 procedures for obtaining an original license, endorsement, or
6 registration.

7 (d) Section 1301.257, Occupations Code, is repealed to
8 conform to Section 14, Chapter 504, Acts of the 77th Legislature,
9 Regular Session, 2001.

10 (e) Section 14, Chapter 504, Acts of the 77th Legislature,
11 Regular Session, 2001, is repealed.

12 SECTION 14A.308. (a) Section 1301.302, Occupations Code, is
13 amended to conform to Section 9, Chapter 504, Acts of the 77th
14 Legislature, Regular Session, 2001, to read as follows:

15 Sec. 1301.302. CONTRACT INFORMATION. A written contract
16 for plumbing [the] services to be performed by or under the
17 direction of a plumber licensed under this chapter must contain the
18 name, mailing address, and telephone number of the board.

19 (b) Section 9, Chapter 504, Acts of the 77th Legislature,
20 Regular Session, 2001, is repealed.

21 SECTION 14A.309. (a) The heading to Subchapter G, Chapter
22 1301, Occupations Code, is amended to conform to Section 16,
23 Chapter 504, Acts of the 77th Legislature, Regular Session, 2001,
24 to read as follows:

25 SUBCHAPTER G. LICENSE, ENDORSEMENT, AND
26 REGISTRATION REQUIREMENTS

27 (b) The heading to Section 1301.351, Occupations Code, is

1 amended to conform to Section 16, Chapter 504, Acts of the 77th
2 Legislature, Regular Session, 2001, to read as follows:

3 Sec. 1301.351. LICENSE, ENDORSEMENT, OR REGISTRATION
4 REQUIRED.

5 (c) Section 1301.351(a), Occupations Code, is amended to
6 conform to Section 16, Chapter 504, Acts of the 77th Legislature,
7 Regular Session, 2001, to read as follows:

8 (a) A person may not engage in the business of plumbing
9 unless:

10 (1) the person holds a license or endorsement or is
11 registered [~~is licensed~~] under this chapter; or

12 (2) the person's work is supervised and controlled by a
13 person licensed under this chapter.

14 (d) Section 1301.502, Occupations Code, is amended to
15 conform to Section 16, Chapter 504, Acts of the 77th Legislature,
16 Regular Session, 2001, to read as follows:

17 Sec. 1301.502. CITATION. A field representative, water
18 district plumbing inspector, or, within the jurisdiction of the
19 municipality, municipal plumbing inspector shall [~~may~~] issue a
20 citation to a person who engages in conduct described by Section
21 1301.508.

22 (e) Section 16, Chapter 504, Acts of the 77th Legislature,
23 Regular Session, 2001, is repealed.

24 SECTION 14A.310. (a) Section 1301.352, Occupations Code, is
25 amended to conform to Section 8, Chapter 504, Acts of the 77th
26 Legislature, Regular Session, 2001, to read as follows:

27 Sec. 1301.352. EXAMINATION REQUIRED. The board shall issue

1 a license or endorsement as a master plumber, journeyman plumber,
2 [~~or~~] plumbing inspector, tradesman plumber-limited license holder,
3 medical gas piping installation endorsement holder, or water supply
4 protection specialist to a person who demonstrates the fitness,
5 competence, and qualifications to receive the license or
6 endorsement by passing a uniform, reasonable examination.

7 (b) Section 8, Chapter 504, Acts of the 77th Legislature,
8 Regular Session, 2001, is repealed.

9 SECTION 14A.311. (a) Section 1301.354, Occupations Code, is
10 amended to conform to Section 13, Chapter 504, Acts of the 77th
11 Legislature, Regular Session, 2001, to read as follows:

12 Sec. 1301.354. PLUMBER'S APPRENTICE [~~ELIGIBILITY FOR~~
13 ~~EXAMINATION~~]. (a) A person who desires to learn the trade of
14 plumbing must register as a plumber's apprentice before assisting a
15 person licensed under this chapter in the trade of plumbing.

16 (b) A person who has worked as a plumber's apprentice for a
17 period established by law or board rule may apply for and take an
18 examination for a license as a journeyman plumber or tradesman
19 plumber-limited license holder.

20 (b) Section 13, Chapter 504, Acts of the 77th Legislature,
21 Regular Session, 2001, is repealed.

22 SECTION 14A.312. (a) Section 1301.356, Occupations Code, is
23 amended by amending Subsections (a) and (c) and adding Subsection
24 (e) to conform to Section 11, Chapter 504, Acts of the 77th
25 Legislature, Regular Session, 2001, to read as follows:

26 (a) A person may not install pipe used solely to transport
27 gas for medical purposes or a vacuum used for medical purposes

1 unless the person:

2 (1) is licensed under this chapter as a master plumber
3 or journeyman plumber; and

4 (2) holds an endorsement issued under this section.

5 (c) An endorsement under this section is valid for three
6 years and may be renewed as provided by board rule [~~on or before~~
7 ~~February 1 or on another date that the board may set as it does under~~
8 ~~Section 1301.401 for a license. A person may renew an endorsement~~
9 ~~in the same manner that a license is renewed under Subchapter H~~].

10 (e) A plumbing inspector who meets the requirements of the
11 board may inspect medical gas piping installations.

12 (b) Section 11, Chapter 504, Acts of the 77th Legislature,
13 Regular Session, 2001, is repealed.

14 SECTION 14A.313. (a) Sections 1301.451-1301.453,
15 Occupations Code, are amended to conform to Section 12, Chapter
16 504, Acts of the 77th Legislature, Regular Session, 2001, to read as
17 follows:

18 Sec. 1301.451. DISCIPLINARY POWERS OF BOARD. (a) On
19 determining that a person who holds a license or endorsement or is
20 registered [~~licensed~~] under this chapter engaged in conduct for
21 which the person is subject to disciplinary action under Section
22 1301.452, the board shall:

23 (1) revoke or suspend the person's license,
24 endorsement, or registration;

25 (2) probate suspension of the person's license,
26 endorsement, or registration; or

27 (3) reprimand the person.

1 (b) A person whose license, endorsement, or registration
2 has been revoked may not apply for a new license, endorsement, or
3 registration before the first anniversary of the date of
4 revocation.

5 Sec. 1301.452. GROUNDS FOR DISCIPLINARY ACTION. (a) A
6 person is subject to disciplinary action under Section 1301.451 if
7 the person violates this chapter or a board rule. A violation of
8 this chapter includes:

9 (1) obtaining a license, endorsement, or registration
10 through error or fraud;

11 (2) wilfully, negligently, or arbitrarily violating a
12 municipal rule or ordinance that regulates sanitation, drainage, or
13 plumbing;

14 (3) [~~knowingly~~] making a [~~substantial~~]
15 misrepresentation of services provided or to be provided; or

16 (4) making a false promise with the intent to induce a
17 person to contract for a service.

18 (b) Retesting procedures may be used to determine whether
19 grounds exist for suspension or revocation of a license,
20 endorsement, or registration due to incompetence or a wilful
21 violation by a person licensed under this chapter.

22 Sec. 1301.453. HEARING. A person is entitled to a hearing
23 before the board if the board proposes to:

24 (1) deny the person's application for a license,
25 endorsement, or registration; or

26 (2) suspend or revoke the person's license,
27 endorsement, or registration.

1 (b) Section 1301.508(a), Occupations Code, is amended to
2 conform to Section 12, Chapter 504, Acts of the 77th Legislature,
3 Regular Session, 2001, to read as follows:

4 (a) A person commits an offense if the person:

5 (1) [~~knowingly~~] violates this chapter or a rule
6 adopted under this chapter;

7 (2) does [~~is~~] not hold a license or endorsement or is
8 not registered [~~licensed~~] under this chapter and engages in an
9 activity for which a license, endorsement, or registration is
10 required; or

11 (3) employs a [~~an unlicensed~~] person who does not hold
12 a license or endorsement or who is not registered to engage in an
13 activity for which a license, endorsement, or registration is
14 required under this chapter.

15 (c) Section 12, Chapter 504, Acts of the 77th Legislature,
16 Regular Session, 2001, is repealed.

17 SECTION 14A.314. (a) Section 1301.503, Occupations Code, is
18 amended to conform to Section 10, Chapter 504, Acts of the 77th
19 Legislature, Regular Session, 2001, to read as follows:

20 Sec. 1301.503. ENFORCEMENT BY PLUMBING INSPECTOR. Each [~~A~~]
21 plumbing inspector shall [~~may~~] enforce this chapter.

22 (b) Section 10, Chapter 504, Acts of the 77th Legislature,
23 Regular Session, 2001, is repealed.

24 SECTION 14A.315. (a) Subchapter G, Chapter 1301,
25 Occupations Code, is amended by adding Section 1301.3576 to conform
26 to Section 17, Chapter 504, Acts of the 77th Legislature, Regular
27 Session, 2001, to read as follows:

1 Sec. 1301.3576. CERTIFICATE OF INSURANCE FOR MASTER
2 PLUMBER. When a person is issued a master plumber's license, the
3 person must provide the board with a certificate of insurance that
4 meets the requirements of Section 1301.552 before the person works
5 as a master plumber.

6 (b) Section 1301.551, Occupations Code, is amended by
7 amending Subsections (a) and (c) and adding Subsection (d) to
8 conform to Section 17, Chapter 504, Acts of the 77th Legislature,
9 Regular Session, 2001, and to more closely conform to the law from
10 which it was derived to read as follows:

11 (a) A municipality with more than 5,000 inhabitants shall
12 regulate by ordinance or bylaw the material, construction,
13 alteration, and inspection of any pipe, faucet, tank, valve, water
14 heater, or other fixture by or through which a supply of water, gas,
15 or sewage is used or carried.

16 (c) A municipality that adopts an ordinance or bylaw under
17 this section shall provide by ordinance or bylaw that a person must
18 obtain a permit before the person performs plumbing, other than the
19 repairing of leaks. The municipality may prescribe the terms on
20 which the permit is issued.

21 (d) A plumbing inspection in a municipality that adopts an
22 ordinance or bylaw under this section must be performed by a
23 plumbing inspector.

24 (c) Subchapter K, Chapter 1301, Occupations Code, is
25 amended by adding Section 1301.553 to conform to Section 17,
26 Chapter 504, Acts of the 77th Legislature, Regular Session, 2001,
27 to read as follows:

1 Sec. 1301.553. PLUMBING INSPECTIONS IN MUNICIPALITY THAT
2 OVERLAPS MUNICIPAL UTILITY DISTRICT. (a) If the boundaries of a
3 municipality and a municipal utility district overlap, only the
4 affected municipality may perform a plumbing inspection and collect
5 a permit fee.

6 (b) The standard used in the plumbing inspection may not be
7 less restrictive than the standard used by the municipal utility
8 district.

9 (d) Section 17, Chapter 504, Acts of the 77th Legislature,
10 Regular Session, 2001, is repealed.

11 SECTION 14A.316. Sections 3 and 7, Chapter 504, Acts of the
12 77th Legislature, Regular Session, 2001, are repealed.

13 SECTION 14A.317. Subchapter L, Chapter 1301, Occupations
14 Code, is repealed to conform to Section 25, Chapter 880, and Section
15 7.01, Chapter 965, Acts of the 77th Legislature, Regular Session,
16 2001.

17 SECTION 14A.318. (a) Section 1302.002(5), Occupations
18 Code, is amended to conform to the changes in terminology made by
19 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001,
20 to read as follows:

21 (5) "Air conditioning and refrigeration maintenance
22 work" means all work, including repair work, required for the
23 continued normal performance of an environmental air conditioning
24 system, a process cooling or heating system, a commercial
25 refrigeration system, or commercial refrigeration equipment. The
26 term does not include:

27 (A) the total replacement of a system; or

1 (B) the installation or repair of a boiler or
2 pressure vessel that must be installed in accordance with rules
3 adopted by the executive director [~~commissioner~~] under Chapter 755,
4 Health and Safety Code.

5 (b) Section 1302.002(8), Occupations Code, is repealed to
6 conform to the changes in terminology made by Chapter 836, Acts of
7 the 77th Legislature, Regular Session, 2001.

8 (c) Section 1302.002, Occupations Code, is amended by
9 adding Subdivision (11-a) to conform to the changes in terminology
10 made by Chapter 836, Acts of the 77th Legislature, Regular Session,
11 2001, to read as follows:

12 (11-a) "Executive director" means the executive
13 director of the department.

14 (d) Section 1302.002(12), Occupations Code, is amended to
15 conform to Section 1, Chapter 790, Acts of the 77th Legislature,
16 Regular Session, 2001, to read as follows:

17 (12) "Mechanical integrity" means the condition of a
18 product, a system, or equipment installed in accordance with its
19 intended purpose and according to:

20 (A) standards at least as strict as the standards
21 provided by:

22 (i) the Uniform Mechanical Code [~~published~~
23 ~~jointly by the International Conference of Building Officials and~~
24 ~~the International Association of Plumbing and Mechanical~~
25 ~~Officials, or their successor organizations]; and [~~or~~]~~

26 (ii) the International [~~Standard~~]
27 Mechanical Code [~~published by the Southern Building Code Congress~~

1 ~~International, Inc., or its successor organization];~~

2 (B) all other applicable codes; and

3 (C) the manufacturer's specifications.

4 (e) Section 1, Chapter 790, Acts of the 77th Legislature,
5 Regular Session, 2001, is repealed.

6 SECTION 14A.319. The heading to Subchapter C, Chapter 1302,
7 Occupations Code, is amended to conform to the changes in
8 terminology made by Chapter 836, Acts of the 77th Legislature,
9 Regular Session, 2001, to read as follows:

10 SUBCHAPTER C. EXECUTIVE DIRECTOR [~~COMMISSIONER~~] AND DEPARTMENT
11 POWERS AND DUTIES

12 SECTION 14A.320. (a) Section 1302.101, Occupations Code, is
13 amended to conform to Section 2, Chapter 790, Acts of the 77th
14 Legislature, Regular Session, 2001, and to the changes in
15 terminology made by Chapter 836, Acts of the 77th Legislature,
16 Regular Session, 2001, to read as follows:

17 Sec. 1302.101. GENERAL POWERS AND DUTIES OF EXECUTIVE
18 DIRECTOR [~~COMMISSIONER~~]. (a) The executive director
19 [~~commissioner~~] shall:

20 (1) adopt rules for the practice of air conditioning
21 and refrigeration contracting that are at least as strict as the
22 standards provided by:

23 (A) the Uniform Mechanical Code published
24 [~~jointly~~] by [~~the International Conference of Building Officials~~
25 ~~and~~] the International Association of Plumbing and Mechanical
26 Officials[~~, as that code exists at the time the rules are adopted~~];
27 and [~~or~~]

1 (B) the International [~~Standard~~] Mechanical Code
2 published by the International Code Council [~~Southern Building Code~~
3 ~~Congress International, Inc.~~, as that code exists at the time the
4 ~~rules are adopted~~];

5 (2) prescribe the design of an original and a renewal
6 license; and

7 (3) maintain a record of the executive director's
8 [~~commissioner's~~] proceedings under this chapter.

9 (b) The executive director [~~commissioner~~] may authorize
10 disbursements necessary to implement this chapter, including
11 disbursements for office expenses, equipment costs, and other
12 necessary facilities.

13 (b) Section 2, Chapter 790, Acts of the 77th Legislature,
14 Regular Session, 2001, is repealed.

15 SECTION 14A.321. Sections 1302.102 and 1302.103,
16 Occupations Code, are amended to conform to the changes in
17 terminology made by Chapter 836, Acts of the 77th Legislature,
18 Regular Session, 2001, to read as follows:

19 Sec. 1302.102. INSURANCE REQUIREMENTS. (a) The executive
20 director [~~commissioner~~] shall set insurance requirements for a
21 license holder under this chapter.

22 (b) The executive director [~~commissioner~~] may waive the
23 insurance requirements for a license holder who does not engage in
24 air conditioning and refrigeration contracting for the public.

25 Sec. 1302.103. RULES REGARDING USE AND DISPLAY OF LICENSE.
26 The executive director [~~commissioner~~], with the advice of the
27 advisory board, shall adopt rules relating to the use, display, and

1 advertisement of a license.

2 SECTION 14A.322. Section 1302.107(a), Occupations Code, is
3 amended to conform to the changes in terminology made by Chapter
4 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
5 follows:

6 (a) The executive director [~~commissioner~~] may recognize,
7 prepare, or administer continuing education programs for license
8 holders.

9 SECTION 14A.323. Sections 1302.151, 1302.152, and 1302.203,
10 Occupations Code, are amended to conform to the changes in
11 terminology made by Chapter 836, Acts of the 77th Legislature,
12 Regular Session, 2001, to read as follows:

13 Sec. 1302.151. CONSUMER INTEREST INFORMATION. (a) The
14 executive director [~~commissioner~~] shall prepare information of
15 consumer interest describing:

16 (1) the functions performed by the executive director
17 [~~commissioner~~] under this chapter; and

18 (2) the rights of a consumer affected by this chapter.

19 (b) The information must describe the procedure by which a
20 consumer complaint is filed with and resolved by the executive
21 director [~~commissioner~~].

22 (c) The executive director [~~commissioner~~] shall make the
23 information available to the public.

24 Sec. 1302.152. COMPLAINT INVESTIGATION. (a) The executive
25 director [~~commissioner~~] shall investigate a consumer complaint
26 filed with the executive director [~~commissioner~~].

27 (b) The executive director [~~commissioner~~] may take

1 appropriate action under Section 51.353 if the executive director
2 [~~commissioner~~] determines after an investigation that a license
3 holder violated this chapter or a rule adopted under this chapter.

4 Sec. 1302.203. EX OFFICIO MEMBERS. The executive director
5 [~~commissioner~~] and the chief administrator of this chapter serve as
6 ex officio, nonvoting members of the advisory board.

7 SECTION 14A.324. Section 1302.204(a), Occupations Code, is
8 amended to conform to the changes in terminology made by Chapter
9 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
10 follows:

11 (a) The advisory board shall advise the executive director
12 [~~commissioner~~] in adopting rules and in administering and enforcing
13 this chapter.

14 SECTION 14A.325. Section 1302.253(a), Occupations Code, is
15 amended to conform to the changes in terminology made by Chapter
16 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
17 follows:

18 (a) The executive director [~~commissioner~~] shall issue a
19 Class A or Class B air conditioning and refrigeration contractor
20 license.

21 SECTION 14A.326. Sections 1302.256(a) and (c), Occupations
22 Code, are amended to conform to the changes in terminology made by
23 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001,
24 to read as follows:

25 (a) An applicant for a license must submit a verified
26 application on a form prescribed by the executive director
27 [~~commissioner~~].

1 (c) The application must be accompanied by:

2 (1) a statement containing evidence satisfactory to
3 the executive director [~~commissioner~~] of the applicant's practical
4 experience required by Section 1302.255(a)(2); and

5 (2) the examination fee.

6 SECTION 14A.327. Section 1302.257, Occupations Code, is
7 amended to conform to the changes in terminology made by Chapter
8 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
9 follows:

10 Sec. 1302.257. EXAMINATIONS. (a) The executive director
11 [~~commissioner~~] shall prescribe:

12 (1) a separate examination for each class of license;
13 and

14 (2) within each class of license, a separate
15 examination for:

16 (A) an environmental air conditioning
17 endorsement; and

18 (B) a commercial refrigeration and process
19 cooling or heating endorsement.

20 (b) The executive director [~~commissioner~~] shall prescribe
21 the method and content of an examination administered under this
22 chapter and shall set compliance requirements for the examination.
23 To obtain an endorsement, an applicant must pass the examination
24 for the endorsement.

25 (c) The examination shall be offered on a monthly basis or
26 more frequently as determined by the executive director
27 [~~commissioner~~].

1 (d) The examination shall be offered at locations within the
2 state as determined by the executive director [~~commissioner~~]. The
3 examination may be offered by computer at locations within the
4 state as determined by the executive director [~~commissioner~~].

5 SECTION 14A.328. Sections 1302.258(a), (b), and (c),
6 Occupations Code, are amended to conform to the changes in
7 terminology made by Chapter 836, Acts of the 77th Legislature,
8 Regular Session, 2001, to read as follows:

9 (a) The executive director [~~commissioner~~] shall notify each
10 examinee of the results of an examination not later than the 30th
11 day after the date the examination is administered. If an
12 examination is graded or reviewed by a national testing service,
13 the executive director [~~commissioner~~] shall notify each examinee of
14 the results of the examination not later than the 14th day after the
15 date the executive director [~~commissioner~~] receives the results
16 from the testing service.

17 (b) If the notice of the results of an examination graded or
18 reviewed by a national testing service will be delayed for more than
19 90 days after the examination date, the executive director
20 [~~commissioner~~] shall notify each examinee of the reason for the
21 delay before the 90th day.

22 (c) If requested in writing by a person who fails the
23 examination, the executive director [~~commissioner~~] shall provide
24 to the person an analysis of the person's performance on the
25 examination.

26 SECTION 14A.329. Section 1302.259, Occupations Code, is
27 amended to conform to the changes in terminology made by Chapter

1 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
2 follows:

3 Sec. 1302.259. WAIVER OF LICENSE REQUIREMENT. The
4 executive director [~~commissioner~~] may waive any license
5 requirement for an applicant who holds a license issued by another
6 state that has a reciprocity agreement with this state.

7 SECTION 14A.330. Section 1302.260(a), Occupations Code, is
8 amended to conform to the changes in terminology made by Chapter
9 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
10 follows:

11 (a) On payment of the license fee, the executive director
12 [~~commissioner~~] shall issue an air conditioning and refrigeration
13 contractor license to an applicant who:

- 14 (1) meets the requirements of this subchapter;
- 15 (2) provides evidence of insurance coverage required
16 by the executive director [~~commissioner~~] in accordance with this
17 chapter; and
- 18 (3) passes the applicable examination.

19 SECTION 14A.331. Section 1302.261, Occupations Code, is
20 amended to conform to the changes in terminology made by Chapter
21 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
22 follows:

23 Sec. 1302.261. TEMPORARY LICENSE. The executive director
24 [~~commissioner~~] by rule may provide for the issuance of a temporary
25 air conditioning and refrigeration contracting license to an
26 applicant who:

- 27 (1) submits to the executive director [~~commissioner~~]

1 an application on a form prescribed by the executive director
2 [~~commissioner~~]; and

3 (2) pays the required fees.

4 SECTION 14A.332. Section 1302.303(b), Occupations Code, is
5 amended to conform to the changes in terminology made by Chapter
6 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
7 follows:

8 (b) The municipality shall report a violation of the
9 ordinance to the executive director [~~commissioner~~] not later than
10 the 10th day after the date the municipality acts to enforce the
11 ordinance.

12 SECTION 14A.333. Section 1302.354(b), Occupations Code, is
13 amended to conform to the changes in terminology made by Chapter
14 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
15 follows:

16 (b) The executive director [~~commissioner~~] by rule shall
17 adopt requirements governing the registration and issuance of a
18 certificate of registration.

19 SECTION 14A.334. Section 1302.355(c), Occupations Code, is
20 amended to conform to the changes in terminology made by Chapter
21 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
22 follows:

23 (c) The executive director [~~commissioner~~] by rule shall
24 establish requirements for evidence that satisfies this section.

25 SECTION 14A.335. Section 1302.451, Occupations Code, is
26 amended to conform to the changes in terminology made by Chapter
27 836, Acts of the 77th Legislature, Regular Session, 2001, to read as

1 follows:

2 Sec. 1302.451. EMERGENCY AND CEASE AND DESIST ORDERS. (a)
3 The executive director [~~commissioner~~] may issue an emergency order
4 as necessary to enforce this chapter if the executive director
5 [~~commissioner~~] determines that an emergency exists requiring
6 immediate action to protect the public health and safety.

7 (b) The executive director [~~commissioner~~] may issue the
8 emergency order without notice and hearing or with any notice and
9 hearing the executive director [~~commissioner~~] considers
10 practicable under the circumstances. The executive director
11 [~~commissioner~~] shall set the time and place for a hearing to affirm,
12 modify, or set aside an emergency order that was issued without a
13 hearing.

14 (c) The executive director [~~commissioner~~] may issue a cease
15 and desist order.

16 SECTION 14A.336. (a) Subchapter A, Chapter 1303,
17 Occupations Code, is amended by adding Section 1303.0035 to conform
18 to Section 16, Chapter 997, Acts of the 77th Legislature, Regular
19 Session, 2001, to read as follows:

20 Sec. 1303.0035. NONAPPLICABILITY OF LAW GOVERNING
21 CANCELLATION OF CERTAIN TRANSACTIONS. The sale of a residential
22 service contract governed by this chapter is not a good or service
23 governed by Chapter 39, Business & Commerce Code.

24 (b) Subchapter H, Chapter 1303, Occupations Code, is
25 amended by adding Section 1303.3525 to conform to Section 16,
26 Chapter 997, Acts of the 77th Legislature, Regular Session, 2001,
27 to read as follows:

1 Sec. 1303.3525. HEARING EXAMINER. (a) The commission may
2 authorize a hearing examiner to conduct a hearing and enter a final
3 decision in a proceeding under Section 1303.351.

4 (b) A final decision of a hearing examiner under this
5 section is appealable to the commission as provided by commission
6 rule.

7 (c) Section 16, Chapter 997, Acts of the 77th Legislature,
8 Regular Session, 2001, is repealed.

9 SECTION 14A.337. (a) Section 1304.002(3), Occupations
10 Code, is repealed to conform to the changes in terminology made by
11 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001.

12 (b) Section 1304.002, Occupations Code, is amended by
13 adding Subdivision (5-a) to conform to the changes in terminology
14 made by Chapter 836, Acts of the 77th Legislature, Regular Session,
15 2001, to read as follows:

16 (5-a) "Executive director" means the executive
17 director of the department.

18 SECTION 14A.338. Sections 1304.007 and 1304.051,
19 Occupations Code, are amended to conform to the changes in
20 terminology made by Chapter 836, Acts of the 77th Legislature,
21 Regular Session, 2001, to read as follows:

22 Sec. 1304.007. GENERAL INVESTIGATIVE POWER OF EXECUTIVE
23 DIRECTOR [~~COMMISSIONER~~]. (a) The executive director
24 [~~commissioner~~] may investigate a provider, administrator, or other
25 person as necessary to enforce this chapter and protect service
26 contract holders in this state.

27 (b) On request of the executive director [~~commissioner~~], a

1 provider shall make the records required by Section 1304.155
2 available to the executive director [~~commissioner~~] as necessary to
3 enable the executive director [~~commissioner~~] to reasonably
4 determine compliance with this chapter.

5 Sec. 1304.051. SERVICE CONTRACT PROVIDERS ADVISORY BOARD.

6 (a) The Service Contract Providers Advisory Board consists of six
7 members appointed by the executive director [~~commissioner~~] and one
8 ex officio nonvoting member.

9 (b) Of the appointed members:

10 (1) two must be officers, directors, or employees of a
11 provider of service contracts that have been approved by the
12 executive director [~~commissioner~~];

13 (2) two must be officers, directors, or employees of a
14 retail outlet or other entity in this state that provides to
15 consumers service contracts approved by the executive director
16 [~~commissioner~~] for sale to consumers;

17 (3) one must be an officer, director, or employee of an
18 entity authorized by the Texas Department of Insurance to sell
19 reimbursement insurance policies; and

20 (4) one must be a resident of this state who holds, as
21 a consumer, a service contract that is in force in this state on the
22 date of the member's appointment and was issued by a provider
23 registered under this chapter.

24 (c) The executive director [~~commissioner~~] or the executive
25 director's [~~commissioner's~~] designee serves as an ex officio
26 nonvoting member of the advisory board.

27 SECTION 14A.339. Section 1304.052(a), Occupations Code, is

1 amended to conform to the changes in terminology made by Chapter
2 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
3 follows:

4 (a) The advisory board shall advise the executive director
5 [~~commissioner~~] in adopting rules and in administering and enforcing
6 this chapter.

7 SECTION 14A.340. Section 1304.053(b), Occupations Code, is
8 amended to conform to the changes in terminology made by Chapter
9 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
10 follows:

11 (b) If a vacancy occurs during an appointed member's term,
12 the executive director [~~commissioner~~] shall fill the vacancy for
13 the remainder of the unexpired term with a person who represents the
14 same interests as the predecessor.

15 SECTION 14A.341. Sections 1304.054 and 1304.102,
16 Occupations Code, are amended to conform to the changes in
17 terminology made by Chapter 836, Acts of the 77th Legislature,
18 Regular Session, 2001, to read as follows:

19 Sec. 1304.054. PRESIDING OFFICER. The executive director
20 [~~commissioner~~] shall designate one member of the advisory board to
21 serve as presiding officer.

22 Sec. 1304.102. APPLICATION FOR REGISTRATION. (a) An
23 applicant for registration must submit an application to the
24 executive director [~~commissioner~~].

25 (b) The application must:

26 (1) be in the form prescribed by the executive
27 director [~~commissioner~~]; and

1 (2) include evidence satisfactory to the executive
2 director [~~commissioner~~] of compliance with the applicable
3 financial security requirements prescribed by Section 1304.151.

4 SECTION 14A.342. Section 1304.103(a), Occupations Code, is
5 amended to conform to the changes in terminology made by Chapter
6 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
7 follows:

8 (a) The executive director [~~commissioner~~] shall develop a
9 tiered schedule of annual registration fees under which a
10 provider's registration fee is based on the number of service
11 contracts the provider sold in this state during the preceding
12 12-month period.

13 SECTION 14A.343. Section 1304.104, Occupations Code, is
14 amended to conform to the changes in terminology made by Chapter
15 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
16 follows:

17 Sec. 1304.104. INFORMATION CONCERNING NUMBER OF SERVICE
18 CONTRACTS SOLD. Information concerning the number of service
19 contracts sold by a provider that is submitted under Section
20 1304.103:

21 (1) is a trade secret to which Section 552.110,
22 Government Code, applies; and

23 (2) may be used only by the executive director
24 [~~commissioner~~] and the department in developing the tiered fee
25 schedule under Section 1304.103.

26 SECTION 14A.344. Sections 1304.151(a), (b), (c), and (e),
27 Occupations Code, are amended to conform to the changes in

1 terminology made by Chapter 836, Acts of the 77th Legislature,
2 Regular Session, 2001, to read as follows:

3 (a) To ensure the faithful performance of a provider's
4 obligations to its service contract holders, each provider must:

5 (1) insure the provider's service contracts under a
6 reimbursement insurance policy issued by an insurer authorized to
7 transact insurance in this state or by a surplus lines insurer
8 eligible to place coverage in this state under Chapter 981 [~~Article~~
9 ~~1.14-2~~], Insurance Code;

10 (2) maintain a funded reserve account covering the
11 provider's obligations under its service contracts that are issued
12 and outstanding in this state and place in trust with the executive
13 director [~~commissioner~~] a financial security deposit consisting
14 of:

15 (A) a surety bond issued by an authorized surety;

16 (B) securities of the type eligible for deposit
17 by an authorized insurer in this state;

18 (C) a statutory deposit of cash or cash
19 equivalents;

20 (D) a letter of credit issued by a qualified
21 financial institution; or

22 (E) another form of security prescribed by rules
23 adopted by the executive director [~~commissioner~~]; or

24 (3) maintain, or have a parent company that maintains,
25 a net worth or stockholders' equity of at least \$100 million.

26 (b) If the provider ensures its obligations under
27 Subsection (a)(2), the amount maintained in the reserve account may

1 not be less than an amount equal to 40 percent of the gross
2 consideration the provider received from consumers from the sale of
3 all service contracts issued and outstanding in this state, minus
4 any claims paid. The executive director [~~commissioner~~] may review
5 and examine the reserve account. The amount of the security deposit
6 may not be less than the greater of:

7 (1) \$25,000; or

8 (2) an amount equal to five percent of the gross
9 consideration the provider received from consumers from the sale of
10 all service contracts issued and outstanding in this state, minus
11 any claims paid.

12 (c) If the provider ensures its obligations under
13 Subsection (a)(3), the provider must give to the executive director
14 [~~commissioner~~] on request:

15 (1) a copy of the provider's or the provider's parent
16 company's most recent Form 10-K or Form 20-F filed with the
17 Securities and Exchange Commission within the preceding calendar
18 year; or

19 (2) if the provider or the provider's parent company
20 does not file with the Securities and Exchange Commission, a copy of
21 the provider's or the provider's parent company's audited financial
22 statements showing a net worth of the provider or its parent company
23 of at least \$100 million.

24 (e) The executive director [~~commissioner~~] may not require a
25 provider to meet any additional financial security requirement.

26 SECTION 14A.345. Section 1304.152(b), Occupations Code, is
27 amended to conform to the changes in terminology made by Chapter

1 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
2 follows:

3 (b) The insurer may not cancel the policy until the insurer
4 delivers to the provider a written notice of cancellation that
5 complies with the notice requirements prescribed by Articles
6 21.49-2A and 21.49-2B, Insurance Code, for cancellation of an
7 insurance policy under those articles. The provider shall forward
8 a copy of the cancellation notice to the executive director
9 [~~commissioner~~] not later than the 15th business day after the date
10 the notice is delivered to the provider. Cancellation of the policy
11 does not reduce the insurer's responsibility for a service contract
12 issued by the provider and insured under the policy before the date
13 of the cancellation.

14 SECTION 14A.346. Sections 1304.155(b) and (d), Occupations
15 Code, are amended to conform to the changes in terminology made by
16 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001,
17 to read as follows:

18 (b) The records required by this section may be maintained
19 in an electronic medium or through other recordkeeping technology.
20 If a record is not in a hard copy, the provider must be able to
21 reformat the record into a legible hard copy at the request of the
22 executive director [~~commissioner~~].

23 (d) A provider that discontinues business in this state
24 shall retain its records until the provider furnishes the executive
25 director [~~commissioner~~] with proof satisfactory to the executive
26 director [~~commissioner~~] that the provider has discharged all
27 obligations to service contract holders in this state.

1 SECTION 14A.347. (a) Section 1304.201(a), Occupations
2 Code, is amended to conform to Section 1, Chapter 836, Acts of the
3 77th Legislature, Regular Session, 2001, to read as follows:

4 (a) On a finding that a ground for disciplinary action
5 exists under this chapter, the commission [~~commissioner~~] may impose
6 an administrative sanction, including an administrative penalty[7]
7 as provided by Subchapter F, Chapter 51.

8 (b) Sections 1304.202 and 1304.204, Occupations Code, are
9 amended to conform to Section 1, Chapter 836, Acts of the 77th
10 Legislature, Regular Session, 2001, to read as follows:

11 Sec. 1304.202. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The
12 department [~~commissioner~~] may institute an action under Section
13 51.352 for injunctive relief to restrain a violation or a
14 threatened violation of this chapter or an order issued or rule
15 adopted under this chapter.

16 (b) In addition to the injunctive relief provided by
17 Subsection (a), the department [~~commissioner~~] may institute an
18 action for a civil penalty as provided by Section 51.352. The
19 amount of a civil penalty assessed under this section may not
20 exceed:

21 (1) \$2,500 for each violation; or

22 (2) \$50,000 in the aggregate for all violations of a
23 similar nature.

24 Sec. 1304.204. ADMINISTRATIVE PROCEDURE. Sections 51.305,
25 51.310, and 51.354 apply to disciplinary action taken under this
26 chapter.

27 (c) Section 1, Chapter 836, Acts of the 77th Legislature,

1 Regular Session, 2001, is repealed.

2 PART 8. CHANGES RELATING TO TITLE 11, OCCUPATIONS CODE

3 SECTION 14A.351. (a) Section 1802.001(7), Occupations
4 Code, is repealed to conform to the changes in terminology made by
5 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001.

6 (b) Section 1802.001, Occupations Code, is amended by
7 adding Subdivision (8-a) to conform to the changes in terminology
8 made by Chapter 836, Acts of the 77th Legislature, Regular Session,
9 2001, to read as follows:

10 (8-a) "Executive director" means the executive
11 director of the department.

12 SECTION 14A.352. Section 1802.002, Occupations Code, is
13 amended to conform to the changes in terminology made by Chapter
14 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
15 follows:

16 Sec. 1802.002. APPLICABILITY. This chapter does not apply
17 to:

18 (1) a sale conducted by order of a United States court
19 under Title 11, United States Code;

20 (2) a sale conducted by an employee of the United
21 States, this state, or a political subdivision of this state in the
22 course and scope of employment;

23 (3) a sale conducted by a charitable or nonprofit
24 organization, if the auctioneer receives no compensation;

25 (4) a sale conducted by an individual of the
26 individual's property if the individual is not engaged in the
27 business of selling property as an auctioneer on a recurring basis;

1 (5) a foreclosure sale of real property personally
2 conducted by a trustee under a deed of trust;

3 (6) a foreclosure sale of personal property personally
4 conducted by:

5 (A) a person who holds a security interest in the
6 property, including a mortgage; or

7 (B) an employee or agent of a person described by
8 Paragraph (A) acting in the course and scope of employment, if:

9 (i) the employee or agent is not otherwise
10 engaged in the auction business; and

11 (ii) all property for sale in the auction is
12 subject to a security agreement;

13 (7) a sale conducted by sealed bid;

14 (8) an auction conducted only for student training
15 purposes as part of a course of study approved by the executive
16 director [~~commissioner~~] for auctioneers;

17 (9) an auction conducted by a posted stockyard or
18 market agency as defined by the federal Packers and Stockyards Act
19 (7 U.S.C. Section 181 et seq.), as amended;

20 (10) an auction of livestock conducted by a nonprofit
21 livestock trade association chartered in this state, if the auction
22 involves only the sale of livestock owned by members of the trade
23 association; or

24 (11) an auction conducted by a charitable or nonprofit
25 organization chartered in this state, if the auction:

26 (A) is part of a fair that is organized under
27 state, county, or municipal authority; and

1 (B) involves only the sale of property owned by
2 the organization's members.

3 SECTION 14A.353. Section 1802.051(a), Occupations Code, is
4 amended to conform to the changes in terminology made by Chapter
5 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
6 follows:

7 (a) A person may not act as an auctioneer or associate
8 auctioneer in an auction held in this state unless the person is an
9 individual who holds a license issued by the executive director
10 [~~commissioner~~] under this chapter.

11 SECTION 14A.354. Section 1802.054, Occupations Code, is
12 amended to conform to the changes in terminology made by Chapter
13 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
14 follows:

15 Sec. 1802.054. APPLICATION FOR LICENSE. An applicant for a
16 license must apply to the executive director [~~commissioner~~] on a
17 form provided by the executive director [~~commissioner~~] that
18 establishes the applicant's eligibility for the license. The
19 application must be accompanied by:

- 20 (1) the required bond;
21 (2) the required license fee; and
22 (3) either:

23 (A) the permit number of a sales tax permit
24 issued to the applicant by the comptroller under Subchapter F,
25 Chapter 151, Tax Code; or

26 (B) proof of exemption from the tax permit
27 requirement under Chapter 151, Tax Code.

1 SECTION 14A.355. Sections 1802.055(a) and (b), Occupations
2 Code, are amended to conform to the changes in terminology made by
3 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001,
4 to read as follows:

5 (a) An individual who establishes that the individual is
6 eligible for an auctioneer's license may apply to the executive
7 director [~~commissioner~~] to take the license examination. The
8 application must be accompanied by the examination fee.

9 (b) On receipt of an examination application and fee, the
10 executive director [~~commissioner~~] shall furnish the applicant
11 with:

12 (1) study materials and references on which the
13 examination will be based; and

14 (2) a schedule specifying the dates and places the
15 examination will be offered.

16 SECTION 14A.356. Sections 1802.056(b) and (c), Occupations
17 Code, are amended to conform to the changes in terminology made by
18 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001,
19 to read as follows:

20 (b) The license examination shall be offered at least four
21 times each year at locations designated by the executive director
22 [~~commissioner~~].

23 (c) The executive director [~~commissioner~~] shall prepare:

24 (1) examinations for an auctioneer's license; and

25 (2) study and reference materials on which the
26 examinations are based.

27 SECTION 14A.357. Section 1802.057, Occupations Code, is

1 amended to conform to the changes in terminology made by Chapter
2 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
3 follows:

4 Sec. 1802.057. EXAMINATION RESULTS. (a) The executive
5 director [~~commissioner~~] shall notify each examinee of the results
6 of the examination not later than the 30th day after the date of the
7 examination. However, if an examination is graded or reviewed by a
8 national testing service, the executive director [~~commissioner~~]
9 shall notify each examinee of the results of the examination not
10 later than the 14th day after the date the executive director
11 [~~commissioner~~] receives the results from the testing service.

12 (b) If the notification of results of an examination graded
13 or reviewed by a national testing service will be delayed longer
14 than 90 days after the examination date, the executive director
15 [~~commissioner~~] shall notify each examinee of the reason for the
16 delay before the 90th day.

17 (c) If requested in writing by a person who fails the
18 examination, the executive director [~~commissioner~~] shall provide
19 to the person an analysis of the person's performance on the
20 examination.

21 SECTION 14A.358. Sections 1802.059(a), (b), and (d),
22 Occupations Code, are amended to conform to the changes in
23 terminology made by Chapter 836, Acts of the 77th Legislature,
24 Regular Session, 2001, to read as follows:

25 (a) An applicant for an auctioneer's license who is not a
26 resident of this state but is licensed as an auctioneer in another
27 state must submit to the executive director [~~commissioner~~]:

1 (1) a license application;

2 (2) a certified copy of the auctioneer's license
3 issued to the applicant by the state or political subdivision in
4 which the applicant resides; and

5 (3) proof that the state or political subdivision in
6 which the applicant is licensed has competency standards equivalent
7 to or stricter than those of this state.

8 (b) The executive director [~~commissioner~~] shall accept the
9 applicant's auctioneer's license submitted under Subsection (a)(2)
10 as proof of the applicant's professional competence and waive the
11 examination and training requirements of Section 1802.052 if the
12 state or political subdivision that issued the nonresident a
13 license extends similar recognition and courtesies to this state.

14 (d) A nonresident applicant must submit with the
15 application a written irrevocable consent to service of process.
16 The consent must be in the form and supported by additional
17 information that the executive director [~~commissioner~~] by rule
18 requires. The consent must:

19 (1) provide that an action relating to any transaction
20 subject to this chapter may be commenced against the license holder
21 in the proper court of any county of this state in which the cause of
22 action may arise or in which the plaintiff may reside by service of
23 process on the executive director [~~commissioner~~] as the license
24 holder's agent; and

25 (2) include a statement stipulating and agreeing that
26 service provided by this section is as valid and binding as if
27 service had been made on the person according to the laws of this or

1 any other state.

2 SECTION 14A.359. Sections 1802.061 and 1802.101,
3 Occupations Code, are amended to conform to the changes in
4 terminology made by Chapter 836, Acts of the 77th Legislature,
5 Regular Session, 2001, to read as follows:

6 Sec. 1802.061. CONTINUING EDUCATION. The executive
7 director [~~commissioner~~] may recognize, prepare, or administer
8 continuing education programs for license holders. Participation
9 in the programs is voluntary.

10 Sec. 1802.101. AUCTIONEER EDUCATION ADVISORY BOARD. The
11 advisory board shall advise the executive director [~~commissioner~~]
12 on educational matters.

13 SECTION 14A.360. Sections 1802.102(a) and (b), Occupations
14 Code, are amended to conform to the changes in terminology made by
15 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001,
16 to read as follows:

17 (a) The advisory board consists of five members appointed as
18 follows:

19 (1) three members who are licensed auctioneers
20 appointed by the executive director [~~commissioner~~];

21 (2) the executive director of the Texas Department of
22 Economic Development or the director's designee; and

23 (3) the commissioner of education or the
24 commissioner's designee.

25 (b) In appointing advisory board members under Subsection
26 (a)(1), the executive director [~~commissioner~~] may not appoint
27 members who reside in contiguous senatorial districts.

1 SECTION 14A.361. Section 1802.103(a), Occupations Code, is
2 amended to conform to the changes in terminology made by Chapter
3 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
4 follows:

5 (a) The members appointed under Section 1802.102(a)(1)
6 serve two-year terms that expire on September 1. If a vacancy
7 occurs during the term of such a member, the executive director
8 [~~commissioner~~] shall appoint a replacement to serve for the
9 remainder of the term.

10 SECTION 14A.362. Section 1802.109, Occupations Code, is
11 amended to conform to the changes in terminology made by Chapter
12 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
13 follows:

14 Sec. 1802.109. AUCTIONEER EDUCATION PROGRAMS. (a) The
15 advisory board shall:

16 (1) evaluate educational programs, seminars, and
17 training projects; and

18 (2) make recommendations to the executive director
19 [~~commissioner~~] on their usefulness and merit as continuing
20 education tools.

21 (b) On the recommendation of the advisory board, the
22 executive director [~~commissioner~~] may fund or underwrite specific
23 classes, seminars, or events for the education and advancement of
24 the auctioneering profession in this state.

25 SECTION 14A.363. Section 1802.152(a), Occupations Code, is
26 amended to conform to the changes in terminology made by Chapter
27 836, Acts of the 77th Legislature, Regular Session, 2001, to read as

1 follows:

2 (a) The department is the manager of the fund and shall:

3 (1) administer the fund without appropriation;

4 (2) maintain books and records as required by the
5 executive director [~~commissioner~~];

6 (3) appear at hearings or judicial proceedings; and

7 (4) invest and reinvest the fund's assets as
8 instructed by the executive director [~~commissioner~~].

9 SECTION 14A.364. Section 1802.153(a), Occupations Code, is
10 amended to conform to the changes in terminology made by Chapter
11 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
12 follows:

13 (a) In addition to any other fees required by this chapter,
14 an applicant entitled to receive a license under this chapter must
15 pay a fee of \$100 before the executive director [~~commissioner~~]
16 issues the license.

17 SECTION 14A.365. Section 1802.155(b), Occupations Code, is
18 amended to conform to the changes in terminology made by Chapter
19 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
20 follows:

21 (b) If the fund contains insufficient assets to pay the
22 consumer:

23 (1) the department shall record the time and date an
24 order for payment to a consumer was received; and

25 (2) the executive director [~~commissioner~~] shall pay
26 consumers for whom an order is recorded under Subdivision (1) as
27 funds become available in the order of the recorded time and date of

1 the order.

2 SECTION 14A.366. Sections 1802.156 and 1802.201,
3 Occupations Code, are amended to conform to the changes in
4 terminology made by Chapter 836, Acts of the 77th Legislature,
5 Regular Session, 2001, to read as follows:

6 Sec. 1802.156. EDUCATION EXPENDITURES PERMITTED. The
7 executive director [~~commissioner~~] may use amounts in excess of
8 \$250,000 in the fund to:

9 (1) advance education and research in the
10 auctioneering profession for the benefit of license holders and to
11 improve and increase the efficiency of the industry;

12 (2) underwrite educational seminars, training
13 centers, and other educational projects for the use and benefit of
14 license holders;

15 (3) sponsor, contract, and underwrite other
16 educational and research projects that advance the auctioneering
17 profession in this state; and

18 (4) cooperate with associations of auctioneers and
19 other groups for the education and advancement of the auctioneering
20 profession in this state.

21 Sec. 1802.201. INVESTIGATION OF COMPLAINTS. The executive
22 director [~~commissioner~~] may, on the executive director's
23 [~~commissioner's~~] motion, and shall, on the written and verified
24 complaint of a person aggrieved by the actions of an auctioneer in
25 an auction, investigate an alleged violation of this chapter by a
26 licensed or unlicensed auctioneer or an applicant.

27 SECTION 14A.367. Section 1802.202(b), Occupations Code, is

1 amended to conform to the changes in terminology made by Chapter
2 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
3 follows:

4 (b) The executive director [~~commissioner~~] may not pay a
5 claim against an auctioneer who was not licensed at the time of the
6 transaction on which the claim is based.

7 SECTION 14A.368. Section 1802.203(c), Occupations Code, is
8 amended to conform to the changes in terminology made by Chapter
9 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
10 follows:

11 (c) After the hearing, the hearings examiner shall prepare a
12 proposal for decision for the executive director [~~commissioner~~].

13 SECTION 14A.369. Section 1802.204, Occupations Code, is
14 amended to conform to the changes in terminology made by Chapter
15 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
16 follows:

17 Sec. 1802.204. APPEAL. A party may appeal a decision of the
18 executive director [~~commissioner~~] in the manner provided for a
19 contested case under Chapter 2001, Government Code.

20 SECTION 14A.370. Sections 1802.205(a) and (b), Occupations
21 Code, are amended to conform to the changes in terminology made by
22 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001,
23 to read as follows:

24 (a) If the department's determination under Section
25 1802.202 is not disputed by the auctioneer or the aggrieved party,
26 the executive director [~~commissioner~~] shall pay the claim from the
27 fund, subject to Section 1802.206.

1 (b) If a hearing is held on the department's determination,
2 the executive director [~~commissioner~~] shall pay to the aggrieved
3 party the amount of actual damages determined by the executive
4 director [~~commissioner~~].

5 SECTION 14A.371. Section 1802.206(a), Occupations Code, is
6 amended to conform to the changes in terminology made by Chapter
7 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
8 follows:

9 (a) The executive director [~~commissioner~~] may not pay a
10 single aggrieved party more than \$10,000.

11 SECTION 14A.372. Sections 1802.207 and 1802.208,
12 Occupations Code, are amended to conform to the changes in
13 terminology made by Chapter 836, Acts of the 77th Legislature,
14 Regular Session, 2001, to read as follows:

15 Sec. 1802.207. REIMBURSEMENT; INTEREST. (a) If the
16 executive director [~~commissioner~~] pays a claim against an
17 auctioneer, the auctioneer shall:

18 (1) reimburse the fund immediately or agree in writing
19 to reimburse the fund on a schedule to be determined by rule of the
20 executive director [~~commissioner~~]; and

21 (2) immediately pay the aggrieved party any amount due
22 to that party or agree in writing to pay the party on a schedule to
23 be determined by rule of the executive director [~~commissioner~~].

24 (b) Payments made by an auctioneer to the fund or to an
25 aggrieved party under this section include interest accruing at the
26 rate of eight percent a year beginning on the date the executive
27 director [~~commissioner~~] pays the claim.

1 Sec. 1802.208. SUBROGATION. If the executive director
2 [~~commissioner~~] pays a claim against an auctioneer, the department
3 is subrogated to all rights of the aggrieved party against the
4 auctioneer to the extent of the amount paid to the aggrieved party.

5 SECTION 14A.373. Section 1802.209(a), Occupations Code, is
6 amended to conform to the changes in terminology made by Chapter
7 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
8 follows:

9 (a) This subchapter and Section 1802.252 do not limit the
10 executive director's [~~commissioner's~~] authority to take
11 disciplinary action against a license holder for a violation of
12 this chapter or a rule adopted under this chapter.

13 SECTION 14A.374. Sections 1802.251 and 1802.252,
14 Occupations Code, are amended to conform to the changes in
15 terminology made by Chapter 836, Acts of the 77th Legislature,
16 Regular Session, 2001, to read as follows:

17 Sec. 1802.251. DENIAL OF APPLICATION; SUSPENSION OR
18 REVOCATION OF LICENSE. The executive director [~~commissioner~~] may
19 deny an application for a license or suspend or revoke the license
20 of any auctioneer for:

21 (1) violating this chapter or a rule adopted under
22 this chapter;

23 (2) obtaining a license through false or fraudulent
24 representation;

25 (3) making a substantial misrepresentation in an
26 application for an auctioneer's license;

27 (4) engaging in a continued and flagrant course of

1 misrepresentation or making false promises through an agent,
2 advertising, or otherwise;

3 (5) failing to account for or remit, within a
4 reasonable time, money belonging to another that is in the
5 auctioneer's possession and commingling funds of another with the
6 auctioneer's funds or failing to keep the funds of another in an
7 escrow or trust account;

8 (6) being convicted in a court of this state or another
9 state of a criminal offense involving moral turpitude or a felony;
10 or

11 (7) violating the Business & Commerce Code in
12 conducting an auction.

13 Sec. 1802.252. REVOCATION FOR CLAIM ON FUND. (a) The
14 executive director [~~commissioner~~] may revoke a license issued under
15 this chapter if the executive director [~~commissioner~~] makes a
16 payment from the fund as the result of an action of the license
17 holder.

18 (b) The executive director [~~commissioner~~] may probate an
19 order revoking a license.

20 (c) An auctioneer is not eligible for a new license until
21 the auctioneer has repaid in full the amount paid from the fund on
22 the auctioneer's account, including interest, unless:

23 (1) a hearing is held; and

24 (2) the executive director [~~commissioner~~] issues a new
25 probated license.

26 SECTION 14A.375. Sections 1802.253(a) and (d), Occupations
27 Code, are amended to conform to the changes in terminology made by

1 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001,
2 to read as follows:

3 (a) Before denying an application for a license or
4 suspending or revoking a license, the executive director
5 [~~commissioner~~] shall:

6 (1) set the matter for a hearing; and

7 (2) before the 30th day before the hearing date,
8 notify the applicant or license holder in writing of:

9 (A) the charges alleged or the question to be
10 determined at the hearing; and

11 (B) the date and location of the hearing.

12 (d) If the applicant or license holder who is the subject of
13 the hearing is an associate auctioneer, the executive director
14 [~~commissioner~~] shall provide written notice to the auctioneer who
15 employs the associate auctioneer or who has agreed to employ the
16 associate auctioneer by mailing the notice by certified mail to the
17 auctioneer's last known mailing address.

18 SECTION 14A.376. Section 1802.254, Occupations Code, is
19 amended to conform to the changes in terminology made by Chapter
20 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
21 follows:

22 Sec. 1802.254. APPEAL. An appeal by an applicant or license
23 holder of the executive director's [~~commissioner's~~] determination
24 under Section 1802.252 must be to a district court of Travis County
25 or of the county in which the violation is alleged to have occurred.

26 SECTION 14A.377. Section 1802.303(a), Occupations Code, is
27 amended to conform to the changes in terminology made by Chapter

1 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
2 follows:

3 (a) A person commits an offense if the person violates a
4 provision of this chapter or a rule adopted by the executive
5 director [~~commissioner~~] under this chapter for which a penalty is
6 not provided.

7 PART 9. CHANGES RELATING TO SUBTITLE A, TITLE 12, OCCUPATIONS
8 CODE

9 SECTION 14A.401. (a) Section 1901.001(2), Occupations
10 Code, is repealed to conform to the changes in terminology made by
11 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001.

12 (b) Section 1901.001, Occupations Code, is amended by
13 adding Subdivision (7-a) to conform to the changes in terminology
14 made by Chapter 836, Acts of the 77th Legislature, Regular Session,
15 2001, to read as follows:

16 (7-a) "Executive director" means the executive
17 director of the department.

18 SECTION 14A.402. Section 1901.051(b), Occupations Code, is
19 amended to conform to the changes in terminology made by Chapter
20 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
21 follows:

22 (b) The executive director [~~commissioner~~] shall issue
23 licenses to applicants who qualify.

24 SECTION 14A.403. Section 1901.052, Occupations Code, is
25 amended to conform to the changes in terminology made by Chapter
26 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
27 follows:

1 Sec. 1901.052. RULES. (a) The executive director
2 [~~commissioner~~], with advice and comment from the Texas [~~Natural~~
3 ~~Resource Conservation~~] Commission on Environmental Quality, shall
4 adopt rules as necessary to enforce this chapter, including rules
5 governing:

- 6 (1) license applications;
7 (2) qualifications of applicants;
8 (3) standards of conduct for drillers, including
9 standards for marking well drilling rigs and equipment; and
10 (4) procedures and practices before the department.

11 (b) The executive director [~~commissioner~~] may not adopt a
12 rule under this chapter that:

13 (1) regulates the installation or repair of well pumps
14 and equipment by:

15 (A) a person on property the person owns or
16 controls for the person's own use;

17 (B) an employee of a person described by
18 Paragraph (A); or

19 (C) a person who is not hired or compensated and
20 who acts on behalf of a person described by Paragraph (A); or

21 (2) requires a person who owns or controls property or
22 possesses a well to complete, repair, or retrofit the well to any
23 standard other than a standard in effect at the time the well was
24 originally completed unless the well is found to be a threat to
25 public health and safety or to water quality.

26 SECTION 14A.404. (a) Section 1901.108, Occupations Code, is
27 amended to conform to Section 3, Chapter 778, Acts of the 77th

1 Legislature, Regular Session, 2001, to read as follows:

2 Sec. 1901.108. [~~PER DIEM;~~] REIMBURSEMENT. [~~(a) A council~~
3 ~~member is entitled to a per diem as set by legislative appropriation~~
4 ~~for each day the member engages in the business of the council.~~

5 [~~(b)~~] A council member may be reimbursed for travel
6 expenses, including expenses for meals and lodging. A member is
7 entitled to reimbursement for transportation expenses as
8 prescribed by the General Appropriations Act.

9 (b) Section 3, Chapter 778, Acts of the 77th Legislature,
10 Regular Session, 2001, is repealed.

11 SECTION 14A.405. Section 1901.109(a), Occupations Code, is
12 amended to conform to the changes in terminology made by Chapter
13 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
14 follows:

15 (a) The council may propose rules for adoption by the
16 executive director [~~commissioner~~] relating to the regulation of
17 drillers registered under this chapter.

18 SECTION 14A.406. Section 1901.151, Occupations Code, is
19 amended to conform to the changes in terminology made by Chapter
20 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
21 follows:

22 Sec. 1901.151. LICENSE REQUIRED. A person may not act or
23 offer to act as a driller unless the person holds a license issued
24 by the executive director [~~commissioner~~] under this chapter and
25 rules adopted under this chapter.

26 SECTION 14A.407. (a) Section 1901.155, Occupations Code, is
27 amended to conform to Section 2, Chapter 778, Acts of the 77th

1 Legislature, Regular Session, 2001, and to the changes in
2 terminology made by Chapter 836, Acts of the 77th Legislature,
3 Regular Session, 2001, to read as follows:

4 Sec. 1901.155. LICENSE EXPIRATION; RENEWAL. (a) A [~~Except~~
5 ~~as provided by Section 51.205(a), a~~] license issued under this
6 chapter expires annually [~~August 31 of each year~~]. On or before the
7 license expiration [~~that~~] date, a license holder must pay an annual
8 renewal fee to the department.

9 (b) For a year in which a license expiration date is changed
10 under Section 51.205(a), the executive director [~~commissioner~~]
11 shall prorate license renewal fees payable on the former license
12 expiration date [~~August 31~~]. On renewal of the license on the new
13 expiration date, the total license renewal fee is payable.

14 (b) Section 1901.156, Occupations Code, is repealed to
15 conform to Section 2, Chapter 778, Acts of the 77th Legislature,
16 Regular Session, 2001.

17 (c) Section 2, Chapter 778, Acts of the 77th Legislature,
18 Regular Session, 2001, is repealed.

19 SECTION 14A.408. Section 1901.162, Occupations Code, is
20 amended to conform to the changes in terminology made by Chapter
21 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
22 follows:

23 Sec. 1901.162. WAIVER FOR APPLICANT LICENSED IN ANOTHER
24 STATE. The executive director [~~commissioner~~] may adopt rules
25 allowing waiver of a license requirement for an applicant who is
26 licensed in another state that has license requirements
27 substantially equivalent to those of this state.

1 SECTION 14A.409. Section 1901.251(a), Occupations Code, is
2 amended to conform to the changes in terminology made by Chapter
3 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
4 follows:

5 (a) Each driller who drills, deepens, or otherwise alters a
6 water well in this state shall make and keep a legible and accurate
7 well log in accordance with rules adopted by and on forms prescribed
8 by the executive director [~~commissioner~~]. The well log shall be
9 recorded at the time of drilling, deepening, or otherwise altering
10 the well and must contain:

11 (1) the depth, thickness, and character of the strata
12 penetrated;

13 (2) the location of water-bearing strata;

14 (3) the depth, size, and character of casing
15 installed; and

16 (4) any other information required by rules adopted by
17 the executive director [~~commissioner~~].

18 SECTION 14A.410. Section 1901.252(b), Occupations Code, is
19 amended to conform to the changes in terminology made by Chapter
20 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
21 follows:

22 (b) The executive director [~~commissioner~~] shall adopt rules
23 specifying the manner for marking a rig.

24 SECTION 14A.411. Section 1901.253, Occupations Code, is
25 amended to conform to the changes in terminology made by Chapter
26 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
27 follows:

1 Sec. 1901.253. COMPLETING WATER WELL. A driller shall
2 complete a well under standards and procedures adopted by the
3 executive director [~~commissioner~~].

4 SECTION 14A.412. Section 1901.254(b), Occupations Code, is
5 amended to conform to the changes in terminology made by Chapter
6 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
7 follows:

8 (b) The driller shall ensure that the well is plugged,
9 repaired, or properly completed under standards and procedures
10 adopted by the executive director [~~commissioner~~].

11 SECTION 14A.413. Sections 1901.255(c) and (d), Occupations
12 Code, are amended to conform to the changes in terminology made by
13 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001,
14 to read as follows:

15 (c) Not later than the 180th day after the date a landowner
16 or other person who possesses an abandoned or deteriorated well
17 learns of its condition, the landowner or other person shall have
18 the well plugged or capped under standards and procedures adopted
19 by the executive director [~~commissioner~~].

20 (d) A driller, licensed pump installer, or well owner who
21 plugs an abandoned or deteriorated well shall submit a plugging
22 report to the executive director [~~commissioner~~] not later than the
23 30th day after the date the well is plugged. The department shall
24 furnish plugging report forms on request.

25 SECTION 14A.414. Section 1901.301, Occupations Code, is
26 amended to conform to the changes in terminology made by Chapter
27 836, Acts of the 77th Legislature, Regular Session, 2001, to read as

1 follows:

2 Sec. 1901.301. GROUNDS FOR DISCIPLINARY ACTION. The
3 executive director [~~commissioner~~] may discipline a person under
4 Section 51.353 for a violation of this chapter or a rule adopted
5 under this chapter, including:

6 (1) an intentional misstatement or misrepresentation
7 of a fact on an application or well log or to a person for whom a
8 well is being drilled, deepened, or otherwise altered;

9 (2) the failure to keep, deliver, or send a well log as
10 required by Section 1901.251;

11 (3) the failure to advise a person for whom a well is
12 being drilled that:

13 (A) injurious water has been encountered;

14 (B) the water is a pollution hazard; and

15 (C) the well must be immediately plugged in an
16 acceptable manner; or

17 (4) the failure to complete a well in accordance with
18 standards and procedures adopted by the executive director
19 [~~commissioner~~].

20 SECTION 14A.415. Section 1901.302, Occupations Code, is
21 amended to conform to Section 5, Chapter 778, Acts of the 77th
22 Legislature, Regular Session, 2001, and to the changes in
23 terminology made by Chapter 836, Acts of the 77th Legislature,
24 Regular Session, 2001, to read as follows:

25 Sec. 1901.302. NOTICE AND HEARING. [~~(a)~~] Before revoking a
26 license, placing a license holder on probation, or reprimanding a
27 license holder, the executive director [~~commissioner~~] must:

1 (1) notify the license holder [~~in writing of the~~
2 ~~alleged violation~~]; and

3 (2) provide the license holder with an opportunity for
4 a hearing.

5 [~~(b) The notice must be mailed by registered mail to the~~
6 ~~last known business address of the license holder.~~

7 [~~(c) The license holder, each person complaining against~~
8 ~~the license holder, and any other witness whose testimony is relied~~
9 ~~on to substantiate the charges made may be present at the hearing.~~

10 [~~(d) The license holder may present relevant oral or written~~
11 ~~evidence.~~]

12 SECTION 14A.416. (a) Section 1901.351, Occupations Code, is
13 amended to conform to Section 4, Chapter 778, Acts of the 77th
14 Legislature, Regular Session, 2001, to read as follows:

15 Sec. 1901.351. AMOUNT OF ADMINISTRATIVE PENALTY. (a) The
16 amount of an administrative penalty imposed under Subchapter F,
17 Chapter 51, for a violation of this chapter or a rule adopted under
18 this chapter may not exceed \$2,500 for each violation.

19 (b) The commission shall set the amount of an administrative
20 penalty. [~~In determining the amount of the penalty, the commission~~
21 ~~shall consider:~~

22 [~~(1) the person's history of previous violations, and~~

23 [~~(2) the seriousness of the violation.~~]

24 (b) Section 1901.352, Occupations Code, is repealed to
25 conform to Section 4, Chapter 778, Acts of the 77th Legislature,
26 Regular Session, 2001.

27 (c) Section 4, Chapter 778, Acts of the 77th Legislature,

1 Regular Session, 2001, is repealed.

2 SECTION 14A.417. Section 1, Chapter 778, Acts of the 77th
3 Legislature, Regular Session, 2001, is repealed.

4 SECTION 14A.418. Sections 1901.402 and 1901.403,
5 Occupations Code, are amended to conform to the changes in
6 terminology made by Chapter 836, Acts of the 77th Legislature,
7 Regular Session, 2001, to read as follows:

8 Sec. 1901.402. INJUNCTION AND OTHER ENFORCEMENT
9 PROVISIONS. (a) The executive director [~~commissioner~~] may bring
10 an action to enjoin a person from violating this chapter.

11 (b) The executive director [~~commissioner~~] may enforce by
12 injunction or other appropriate remedy in a court any rule,
13 decision, determination, or order adopted or entered under this
14 chapter.

15 Sec. 1901.403. VENUE. The executive director
16 [~~commissioner~~] may bring an action in:

- 17 (1) Travis County; or
18 (2) the county in which:
19 (A) the offending activity occurred; or
20 (B) the person engaging in the activity resides.

21 SECTION 14A.419. Section 1901.404(b), Occupations Code, is
22 amended to conform to the changes in terminology made by Chapter
23 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
24 follows:

25 (b) At the request of the executive director
26 [~~commissioner~~], the attorney general shall bring an action in the
27 name of the state for injunctive relief, to recover a civil penalty,

1 or for both injunctive relief and a civil penalty, as authorized by
2 this subchapter.

3 SECTION 14A.420. Sections 1901.153, 1901.303, and 1901.304,
4 Occupations Code, are repealed to conform to Section 5, Chapter
5 778, Acts of the 77th Legislature, Regular Session, 2001.

6 SECTION 14A.421. (a) Section 1902.001(2), Occupations
7 Code, is repealed to conform to the changes in terminology made by
8 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001.

9 (b) Section 1902.001, Occupations Code, is amended by
10 adding Subdivision (4-a) to conform to the changes in terminology
11 made by Chapter 836, Acts of the 77th Legislature, Regular Session,
12 2001, to read as follows:

13 (4-a) "Executive director" means the executive
14 director of the department.

15 SECTION 14A.422. Section 1902.051(b), Occupations Code, is
16 amended to conform to the changes in terminology made by Chapter
17 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
18 follows:

19 (b) The executive director [~~commissioner~~] shall issue
20 licenses to applicants who qualify.

21 SECTION 14A.423. Sections 1902.052 and 1902.151,
22 Occupations Code, are amended to conform to the changes in
23 terminology made by Chapter 836, Acts of the 77th Legislature,
24 Regular Session, 2001, to read as follows:

25 Sec. 1902.052. RULES. (a) The executive director
26 [~~commissioner~~] shall adopt rules as necessary to enforce this
27 chapter.

1 (b) The executive director [~~commissioner~~] may not adopt a
2 rule under this chapter that:

3 (1) regulates the installation or repair of well pumps
4 and equipment by:

5 (A) a person on property the person owns or
6 controls for the person's own use;

7 (B) an employee of a person described by
8 Paragraph (A); or

9 (C) a person who is not hired or compensated and
10 who acts on behalf of a person described by Paragraph (A); or

11 (2) requires a person who owns or controls property or
12 possesses a well to complete, repair, or retrofit the well to any
13 standard other than a standard in effect at the time the well was
14 originally completed unless the well is found to be a threat to
15 public health and safety or to water quality.

16 Sec. 1902.151. LICENSE REQUIRED. A person may not act or
17 offer to act as an installer unless the person holds a license
18 issued by the executive director [~~commissioner~~] under rules adopted
19 under this chapter.

20 SECTION 14A.424. (a) Section 1902.155, Occupations Code, is
21 amended to conform to Section 2, Chapter 779, Acts of the 77th
22 Legislature, Regular Session, 2001, and to the changes in
23 terminology made by Chapter 836, Acts of the 77th Legislature,
24 Regular Session, 2001, to read as follows:

25 Sec. 1902.155. LICENSE EXPIRATION; RENEWAL. (a) A [~~Except~~
26 ~~as provided by Section 51.205(a), a~~] license issued under this
27 chapter expires annually [~~August 31 of each year~~]. On or before the

1 license expiration [~~that~~] date, a license holder must pay an annual
2 renewal fee to the department.

3 (b) For a year in which a license expiration date is changed
4 under Section 51.205(a), the executive director [~~commissioner~~]
5 shall prorate license renewal fees payable on the former license
6 expiration date [~~August 31~~]. On renewal of the license on the new
7 expiration date, the total license renewal fee is payable.

8 (b) Section 1902.156, Occupations Code, is repealed to
9 conform to Section 2, Chapter 779, Acts of the 77th Legislature,
10 Regular Session, 2001.

11 (c) Section 2, Chapter 779, Acts of the 77th Legislature,
12 Regular Session, 2001, is repealed.

13 SECTION 14A.425. Sections 1902.162 and 1902.251,
14 Occupations Code, are amended to conform to the changes in
15 terminology made by Chapter 836, Acts of the 77th Legislature,
16 Regular Session, 2001, to read as follows:

17 Sec. 1902.162. WAIVER FOR APPLICANT LICENSED IN ANOTHER
18 STATE. The executive director [~~commissioner~~] may adopt rules
19 allowing waiver of a license requirement for an applicant who is
20 licensed in another state that has license requirements
21 substantially equivalent to those of this state.

22 Sec. 1902.251. INSTALLING AND REPAIRING PUMPS. An
23 installer shall install or repair pumps under standards and
24 procedures adopted by the executive director [~~commissioner~~] with
25 the advice of the council.

26 SECTION 14A.426. Section 1902.252(b), Occupations Code, is
27 amended to conform to the changes in terminology made by Chapter

1 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
2 follows:

3 (b) To avoid injury or pollution, the installer shall repair
4 or properly complete the well under standards and procedures
5 adopted by the executive director [~~commissioner~~].

6 SECTION 14A.427. Section 1902.301, Occupations Code, is
7 amended to conform to the changes in terminology made by Chapter
8 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
9 follows:

10 Sec. 1902.301. GROUNDS FOR DISCIPLINARY ACTION. The
11 executive director [~~commissioner~~] may revoke a license, place a
12 license holder on probation, or reprimand a license holder under
13 Section 51.353 for a violation of this chapter or a rule adopted
14 under this chapter.

15 SECTION 14A.428. (a) Sections 1902.302 and 1902.303,
16 Occupations Code, are repealed to conform to Section 3, Chapter
17 779, Acts of the 77th Legislature, Regular Session, 2001.

18 (b) Section 3, Chapter 779, Acts of the 77th Legislature,
19 Regular Session, 2001, is repealed.

20 SECTION 14A.429. (a) Section 1902.351, Occupations Code, is
21 amended to conform to Section 4, Chapter 779, Acts of the 77th
22 Legislature, Regular Session, 2001, to read as follows:

23 Sec. 1902.351. AMOUNT OF PENALTY. (a) The amount of an
24 administrative penalty imposed under Subchapter F, Chapter 51, for
25 a violation of this chapter or a rule adopted under this chapter may
26 not exceed \$2,500 for each violation.

27 (b) The commission shall set the amount of an administrative

1 penalty. [~~In determining the amount of the penalty, the commission~~
2 ~~shall consider:~~

3 [~~(1) the person's history of previous violations, and~~

4 [~~(2) the seriousness of the violation.~~]

5 (b) Section 1902.352, Occupations Code, is repealed to
6 conform to Section 4, Chapter 779, Acts of the 77th Legislature,
7 Regular Session, 2001.

8 (c) Section 4, Chapter 779, Acts of the 77th Legislature,
9 Regular Session, 2001, is repealed.

10 SECTION 14A.430. Section 1, Chapter 779, Acts of the 77th
11 Legislature, Regular Session, 2001, is repealed.

12 SECTION 14A.431. Sections 1902.402 and 1902.403,
13 Occupations Code, are amended to conform to the changes in
14 terminology made by Chapter 836, Acts of the 77th Legislature,
15 Regular Session, 2001, to read as follows:

16 Sec. 1902.402. INJUNCTION AND OTHER ENFORCEMENT
17 PROVISIONS. (a) The executive director [~~commissioner~~] may bring
18 an action to enjoin a person from violating this chapter.

19 (b) The executive director [~~commissioner~~] may enforce by
20 injunction or other appropriate remedy in a court any rule,
21 decision, determination, or order adopted or entered under this
22 chapter.

23 Sec. 1902.403. VENUE. The executive director
24 [~~commissioner~~] may bring an action in:

25 (1) Travis County; or

26 (2) the county in which:

27 (A) the offending activity occurred; or

1 (B) the person engaging in the activity resides.

2 SECTION 14A.432. Section 1902.404(b), Occupations Code, is
3 amended to conform to the changes in terminology made by Chapter
4 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
5 follows:

6 (b) At the request of the executive director
7 [~~commissioner~~], the attorney general shall bring an action in the
8 name of the state for injunctive relief, to recover a civil penalty,
9 or for both injunctive relief and a civil penalty, as authorized by
10 this subchapter.

11 SECTION 14A.433. (a) Sections 1902.153 and 1902.304,
12 Occupations Code, are repealed to conform to Section 5, Chapter
13 779, Acts of the 77th Legislature, Regular Session, 2001.

14 (b) Subchapter C, Chapter 1902, Occupations Code, is
15 repealed to conform to Section 5, Chapter 779, Acts of the 77th
16 Legislature, Regular Session, 2001.

17 SECTION 14A.434. (a) Section 1903.001, Occupations Code, is
18 amended to conform to Sections 12 and 25, Chapter 880, Acts of the
19 77th Legislature, Regular Session, 2001, to read as follows:

20 Sec. 1903.001. DEFINITIONS. In this chapter:

21 (1) "Commission" means the Texas [~~Natural Resource~~
22 ~~Conservation~~] Commission on Environmental Quality.

23 (2) "Council" means the Irrigator [~~Texas Irrigators~~]
24 Advisory Council.

25 (3) "Executive director" means the executive director
26 of the commission.

27 (4) [~~"Installer" means a person who connects an~~

1 ~~irrigation system to a private or public, raw or potable water~~
2 ~~supply system or any water supply.~~

3 ~~[(5)]~~ "Irrigation system" means an assembly of
4 component parts permanently installed for the controlled
5 distribution and conservation of water to irrigate landscape
6 vegetation, reduce dust, or control erosion. The term does not
7 include a system used on or by an agricultural operation as defined
8 by Section 251.002, Agriculture Code.

9 (5) ~~[(6)]~~ "Irrigator" means a person who sells,
10 designs, consults regarding, installs, maintains, alters, repairs,
11 or services an irrigation system, including the connection of an
12 irrigation system in and to a private or public, raw or potable
13 water supply system or any water supply. ~~The term does not include:~~

14 ~~[(A)]~~ a person who assists in the installation,
15 maintenance, alteration, repair, or service of an irrigation system
16 under the direct supervision of an irrigator; or

17 ~~[(B)]~~ an owner of a business that regularly
18 employs an irrigator who directly supervises the business's sale,
19 design, consultation regarding, installation, maintenance,
20 alteration, repair, or service of irrigation systems.

21 ~~[(7)]~~ "Person" means an individual.

22 (b) Section 12, Chapter 880, Acts of the 77th Legislature,
23 Regular Session, 2001, is repealed.

24 SECTION 14A.435. (a) Section 1903.002, Occupations Code, is
25 amended to conform to Sections 13 and 17, Chapter 880, Acts of the
26 77th Legislature, Regular Session, 2001, to read as follows:

27 Sec. 1903.002. EXEMPTIONS. (a) In this section,

1 "property[+]

2 [~~(1) "Irrigation system" does not include a system~~
3 ~~used on or by an agricultural operation as defined by Section~~
4 ~~251.002, Agriculture Code.~~

5 [~~(2) "Property~~] owners' association" has the meaning
6 assigned by Section 202.001, Property Code.

7 (b) The licensing [~~registration~~] requirements of this
8 chapter do not apply to a person who is:

9 (1) licensed by the Texas State Board of Plumbing
10 Examiners; or

11 (2) a licensed engineer, registered architect, or
12 registered landscape architect to the extent the person's acts are
13 incidental to the pursuit of the person's profession.

14 (c) The licensing [~~registration~~] requirements of this
15 chapter do not apply to:

16 (1) irrigation or yard sprinkler work performed by a
17 property owner in a building or on premises owned or occupied by the
18 person as the person's home;

19 (2) irrigation or yard sprinkler repair work, other
20 than extension of an existing irrigation or yard sprinkler system
21 or installation of a replacement system, that is:

22 (A) performed by a maintenance person who does
23 not act as an irrigator or engage in yard sprinkler construction or
24 maintenance for the public; and

25 (B) incidental to and on premises owned by the
26 business in which the person is regularly employed or engaged;

27 (3) irrigation or yard sprinkler work performed:

1 (A) by a regular employee of a railroad who does
2 not act as an irrigator or engage in yard sprinkler construction or
3 maintenance for the public; and

4 (B) on the premises or equipment of the railroad;

5 (4) irrigation or yard sprinkler work performed on
6 public property by a person who is regularly employed by a political
7 subdivision of this state;

8 (5) irrigation or yard sprinkler work performed by an
9 agriculturist, agronomist, horticulturist, forester, gardener,
10 contract gardener, garden or lawn caretaker, nurseryman, or grader
11 or cultivator of land on land owned by the person;

12 (6) irrigation or yard sprinkler work performed by a
13 member of a property owners' association on real property owned by
14 the association or in common by the association's members if the
15 irrigation or yard sprinkler system waters real property that:

16 (A) is less than one-half acre in size; and

17 (B) is used for aesthetic or recreational
18 purposes;

19 (7) irrigation or yard sprinkler work performed by a
20 person using [~~the use of~~] a garden hose, hose sprinkler, hose-end
21 product, [~~soaker hose,~~] or agricultural irrigation system; [~~or~~]

22 (8) activities involving [~~the use of~~] a [~~portable or~~
23 ~~solid set or other type of~~] commercial agricultural irrigation
24 system;

25 (9) a person who assists in the installation,
26 maintenance, alteration, repair, or service of an irrigation system
27 under the direct supervision of an individual described by

1 Subchapter F of this chapter who is licensed under Chapter 37, Water
2 Code; or

3 (10) an owner of a business that employs an individual
4 described by Subchapter F of this chapter who is licensed under
5 Chapter 37, Water Code, to supervise the business's sale, design,
6 consultation, installation, maintenance, alteration, repair, and
7 service of irrigation systems.

8 (d) A person who is exempt from the licensing [~~registration~~]
9 requirements of this chapter shall comply with the standards
10 established by this chapter and the rules adopted under this
11 chapter.

12 (b) The heading to Subchapter F, Chapter 1903, Occupations
13 Code, is amended to conform to Section 17, Chapter 880, Acts of the
14 77th Legislature, Regular Session, 2001, to read as follows:

15 SUBCHAPTER F. LICENSING [~~REGISTRATION~~] REQUIREMENTS

16 (c) Sections 1903.251 and 1903.252, Occupations Code, are
17 amended to conform to Sections 17 and 25, Chapter 880, Acts of the
18 77th Legislature, Regular Session, 2001, to read as follows:

19 Sec. 1903.251. LICENSE [~~CERTIFICATE OF REGISTRATION~~]
20 REQUIRED. A person must hold a license issued by the commission
21 under Chapter 37, Water Code, if the person:

22 (1) sells, designs, installs, maintains, alters,
23 repairs, or services an irrigation system;

24 (2) provides consulting services relating to an
25 irrigation system; or

26 (3) connects an irrigation system to a private or
27 public, raw or potable water supply system or any water supply [~~may~~

1 ~~not act as an irrigator or installer unless the person holds a~~
2 ~~certificate of registration under this chapter].~~

3 Sec. 1903.252. LICENSING [~~CERTIFICATION~~] OF LANDSCAPE
4 ARCHITECT. The commission may not require a [A] person who on
5 August 27, 1979, held a license as a landscape architect under
6 Chapter 457, Acts of the 61st Legislature, Regular Session, 1969
7 (Article 249c, Vernon's Texas Civil Statutes), to pass an
8 examination in order to be licensed [~~is entitled to be certified as~~
9 ~~an irrigator without complying with Section 1903.251].~~

10 (d) Sections 1903.253, 1903.254, and 1903.256, Occupations
11 Code, are repealed to conform to Section 17, Chapter 880, Acts of
12 the 77th Legislature, Regular Session, 2001.

13 (e) Subchapter G, Chapter 1903, Occupations Code, is
14 repealed to conform to Sections 17 and 25, Chapter 880, Acts of the
15 77th Legislature, Regular Session, 2001.

16 (f) Sections 13 and 17, Chapter 880, Acts of the 77th
17 Legislature, Regular Session, 2001, are repealed.

18 SECTION 14A.436. (a) Sections 1903.053(a) and (b),
19 Occupations Code, are amended to conform to Section 16, Chapter
20 880, Acts of the 77th Legislature, Regular Session, 2001, to read as
21 follows:

22 (a) The commission shall adopt standards governing the
23 connection of irrigation systems to any [~~a public or private~~] water
24 supply [~~by an irrigator or installer~~].

25 (b) The commission may adopt standards for irrigation that
26 include water conservation, irrigation system design and
27 installation, and compliance with municipal codes [~~by an irrigator~~

1 ~~or installer~~].

2 (b) Section 16, Chapter 880, Acts of the 77th Legislature,
3 Regular Session, 2001, is repealed.

4 SECTION 14A.437. (a) The heading to Subchapter D, Chapter
5 1903, Occupations Code, is amended to conform to Section 14,
6 Chapter 880, Acts of the 77th Legislature, Regular Session, 2001,
7 to read as follows:

8 SUBCHAPTER D. IRRIGATOR [~~TEXAS IRRIGATORS~~] ADVISORY COUNCIL

9 (b) Section 14, Chapter 880, Acts of the 77th Legislature,
10 Regular Session, 2001, is repealed.

11 SECTION 14A.438. (a) Section 1903.151(a), Occupations
12 Code, is amended to conform to Section 15, Chapter 880, Acts of the
13 77th Legislature, Regular Session, 2001, to read as follows:

14 (a) The Irrigator [~~Texas Irrigators~~] Advisory Council
15 consists of nine members appointed by the commission as follows:

16 (1) six members who are irrigators, residents of this
17 state, experienced in the irrigation business, and familiar with
18 irrigation methods and techniques; and

19 (2) three public members.

20 (b) Section 1903.155, Occupations Code, is amended to
21 conform to Section 15, Chapter 880, Acts of the 77th Legislature,
22 Regular Session, 2001, to read as follows:

23 Sec. 1903.155. PRESIDING OFFICER. The council shall elect
24 a presiding officer [~~by a majority vote at the first meeting each~~
25 ~~fiscal year~~].

26 (c) Section 1903.157, Occupations Code, is amended to
27 conform to Sections 15 and 25, Chapter 880, Acts of the 77th

1 Legislature, Regular Session, 2001, to read as follows:

2 Sec. 1903.157. MEETINGS[~~;~~ ~~QUORUM~~]. [~~(a)~~] The council
3 shall hold meetings at the call of the commission or presiding
4 officer.

5 ~~[(b) The council shall conduct meetings in compliance with~~
6 ~~Chapter 551, Government Code.~~

7 ~~[(c) A majority of the council constitutes a quorum.]~~

8 (d) Subchapter D, Chapter 1903, Occupations Code, is
9 amended by adding Section 1903.159 to conform to Section 15,
10 Chapter 880, Acts of the 77th Legislature, Regular Session, 2001,
11 to read as follows:

12 Sec. 1903.159. COUNCIL DUTIES. The council shall provide
13 advice to the commission and the commission's staff concerning
14 matters relating to irrigation.

15 (e) Section 15, Chapter 880, Acts of the 77th Legislature,
16 Regular Session, 2001, is repealed.

17 SECTION 14A.439. (a) Section 1903.255, Occupations Code, is
18 amended to conform to Section 8.01, Chapter 965, Acts of the 77th
19 Legislature, Regular Session, 2001, to read as follows:

20 Sec. 1903.255. RECIPROCAL LICENSING. [~~REGISTRATION.~~ ~~(a)~~]
21 The commission may waive any prerequisite for obtaining a license
22 for an applicant who [~~issue a certificate of registration to an~~
23 ~~applicant without requiring the applicant to pass an examination~~
24 ~~under Subchapter G if the applicant]~~ is registered or licensed as an
25 irrigator or installer by another jurisdiction with which this
26 state has a reciprocity agreement. The commission may make an
27 agreement, subject to the approval of the governor, with another

1 state to allow for licensing by reciprocity [~~in another state or~~
2 ~~country that:~~

3 [~~(1) has registration requirements that are at least~~
4 ~~substantially equivalent to the requirements of this state, and~~

5 [~~(2) provides reciprocity to irrigators or installers~~
6 ~~registered in this state].~~

7 [~~(b) An application for a certificate of registration under~~
8 ~~this section must be accompanied by a fee in an amount determined by~~
9 ~~the commission not to exceed:~~

10 [~~(1) \$200 for an irrigator, or~~

11 [~~(2) \$150 for an installer.]~~

12 (b) Section 8.01, Chapter 965, Acts of the 77th Legislature,
13 Regular Session, 2001, is repealed.

14 SECTION 14A.440. Section 8.02, Chapter 965, Acts of the 77th
15 Legislature, Regular Session, 2001, is repealed.

16 SECTION 14A.441. The following provisions of Chapter 1903,
17 Occupations Code, are repealed to conform to Section 25, Chapter
18 880, Acts of the 77th Legislature, Regular Session, 2001:

19 (1) Sections 1903.051, 1903.052, 1903.054, 1903.055,
20 1903.056, 1903.153, 1903.154, and 1903.156; and

21 (2) Subchapters C, E, and H.

22 PART 10. CHANGES RELATING TO SUBTITLE B, TITLE 12,

23 OCCUPATIONS CODE

24 SECTION 14A.451. (a) Section 1951.007, Occupations Code, is
25 amended to conform to Section 3.04, Chapter 1481, Acts of the 77th
26 Legislature, Regular Session, 2001, to read as follows:

27 Sec. 1951.007. APPLICATION OF SUNSET ACT. The Texas

1 Structural Pest Control Board is subject to Chapter 325, Government
2 Code (Texas Sunset Act). Unless continued in existence as provided
3 by that chapter, the board is abolished and this chapter expires
4 September 1, 2007 [~~2003~~].

5 (b) Section 3.04, Chapter 1481, Acts of the 77th
6 Legislature, Regular Session, 2001, is repealed.

7 SECTION 14A.452. (a) Section 1952.105(a), Occupations
8 Code, is amended to conform to Section 2, Chapter 202, Acts of the
9 77th Legislature, Regular Session, 2001, to read as follows:

10 (a) A certificate of registration issued under this chapter
11 expires on the first anniversary of the date of issuance and may be
12 renewed annually on payment of the required renewal fee and on
13 completion of the annual continuing education requirements
14 prescribed by the board.

15 (b) Section 2, Chapter 202, Acts of the 77th Legislature,
16 Regular Session, 2001, is repealed.

17 SECTION 14A.453. (a) Subchapter C, Chapter 1952,
18 Occupations Code, is amended by adding Section 1952.1051 to conform
19 to Section 1, Chapter 202, Acts of the 77th Legislature, Regular
20 Session, 2001, to read as follows:

21 Sec. 1952.1051. CONTINUING EDUCATION. The board by rule
22 shall prescribe annual continuing education requirements for code
23 enforcement officers and code enforcement officers in training
24 that:

25 (1) establish the number of hours of continuing
26 education required for renewal of a certificate of registration;

27 (2) establish an approved curriculum that includes

1 material regarding changes in applicable law; and

2 (3) provide that the approved curriculum may be taught
3 by suitable public agencies and by private entities approved by the
4 department.

5 (b) Section 1, Chapter 202, Acts of the 77th Legislature,
6 Regular Session, 2001, is repealed.

7 SECTION 14A.454. (a) Section 1954.060, Occupations Code, is
8 amended by adding Subsection (c) to conform to Section 1, Chapter
9 674, Acts of the 77th Legislature, Regular Session, 2001, to read as
10 follows:

11 (c) The board may exempt a demolition or renovation project
12 from the rules relating to demolition and renovation activities
13 adopted under Subsection (a) if:

14 (1) the project has received an exemption from the
15 United States Environmental Protection Agency exempting the
16 project from federal regulations; or

17 (2) the board determines that:

18 (A) the project will use methods for the
19 abatement or removal of asbestos that provide protection for the
20 public health and safety at least equivalent to the protection
21 provided by the procedures required under board rule for the
22 abatement or removal of asbestos; and

23 (B) the project does not violate federal law.

24 (b) Section 1, Chapter 674, Acts of the 77th Legislature,
25 Regular Session, 2001, is repealed.

26 SECTION 14A.455. (a) Section 1954.104, Occupations Code, is
27 amended to conform to Sections 1 and 2, Chapter 1391, Acts of the

1 77th Legislature, Regular Session, 2001, to read as follows:

2 Sec. 1954.104. RESILIENT FLOOR-COVERING MATERIAL [~~+~~ ~~CIVIL~~
3 ~~PENALTY~~]. (a) For purposes of this section, "resilient
4 floor-covering material" includes sheet vinyl flooring, resilient
5 tile such as vinyl composition tile, asphalt tile, rubber tile, and
6 associated adhesives.

7 (b) The licensing and registration requirements of this
8 chapter do not apply to an activity that involves resilient
9 floor-covering material if the removal of the material is performed
10 consistently with:

11 (1) work practices published by the resilient
12 floor-covering industry; or

13 (2) other methods determined by the commissioner to
14 provide public health [~~comparable~~] protection from asbestos
15 exposure.

16 (c) A person who removes resilient floor-covering material
17 must have completed a training course on the work practices
18 described by Subsection (b) for a minimum of [~~period not to exceed~~]
19 eight hours.

20 [~~(d) A person who intentionally violates this section is~~
21 ~~liable for a civil penalty in an amount not to exceed \$5,000.~~]

22 (b) Section 1, Chapter 1391, Acts of the 77th Legislature,
23 Regular Session, 2001, is repealed.

24 SECTION 14A.456. (a) Subchapter F, Chapter 1954,
25 Occupations Code, is amended by adding Section 1954.259 to conform
26 to Section 1, Chapter 37, Acts of the 77th Legislature, Regular
27 Session, 2001, to read as follows:

1 Sec. 1954.259. SURVEY REQUIRED. (a) In this section,
2 "permit" means a license, certificate, approval, registration,
3 consent, permit, or other form of authorization that a person is
4 required by law, rule, regulation, order, or ordinance to obtain to
5 perform an action, or to initiate, continue, or complete a project,
6 for which the authorization is sought.

7 (b) A municipality that requires a person to obtain a permit
8 before renovating or demolishing a public or commercial building
9 may not issue the permit unless the applicant provides:

10 (1) evidence acceptable to the municipality that an
11 asbestos survey, as required by this chapter, of all parts of the
12 building affected by the planned renovation or demolition has been
13 completed by a person licensed under this chapter to perform a
14 survey; or

15 (2) a certification from a licensed engineer or
16 registered architect, stating that:

17 (A) the engineer or architect has reviewed the
18 material safety data sheets for the materials used in the original
19 construction, the subsequent renovations or alterations of all
20 parts of the building affected by the planned renovation or
21 demolition, and any asbestos surveys of the building previously
22 conducted in accordance with this chapter; and

23 (B) in the engineer's or architect's professional
24 opinion, all parts of the building affected by the planned
25 renovation or demolition do not contain asbestos.

26 (b) Section 1, Chapter 37, Acts of the 77th Legislature,
27 Regular Session, 2001, is repealed.

PART 11. CHANGES RELATING TO SUBTITLE B, TITLE 13,

OCCUPATIONS CODE

SECTION 14A.501. (a) Section 2052.002(4), Occupations Code, is repealed to conform to the changes in terminology made by Chapter 836, Acts of the 77th Legislature, Regular Session, 2001.

(b) Section 2052.002, Occupations Code, is amended by adding Subdivision (8-a) to conform to the changes in terminology made by Chapter 836, Acts of the 77th Legislature, Regular Session, 2001, to read as follows:

(8-a) "Executive director" means the executive director of the department or the executive director's designated representative.

SECTION 14A.502. The heading to Subchapter B, Chapter 2052, Occupations Code, is amended to conform to the changes in terminology made by Chapter 836, Acts of the 77th Legislature, Regular Session, 2001, to read as follows:

SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT AND EXECUTIVE DIRECTOR [~~COMMISSIONER~~]

SECTION 14A.503. Sections 2052.052 and 2052.053, Occupations Code, are amended to conform to the changes in terminology made by Chapter 836, Acts of the 77th Legislature, Regular Session, 2001, to read as follows:

Sec. 2052.052. RULES. (a) The executive director [~~commissioner~~] shall adopt reasonable and necessary rules to administer this chapter.

(b) The executive director [~~commissioner~~] may adopt rules:

- (1) governing professional kickboxing contests and

1 exhibitions; and

2 (2) establishing reasonable qualifications for an
3 applicant seeking a license from the department under this chapter.

4 Sec. 2052.053. INVESTIGATIVE AUTHORITY. (a) The
5 executive director [~~commissioner~~] shall investigate allegations of
6 activity that may violate this chapter.

7 (b) The executive director [~~commissioner~~] may enter, at a
8 reasonable time, a place of business or an establishment in which
9 activity alleged to violate this chapter may occur. The executive
10 director [~~commissioner~~] is not required to give advance notice
11 before entering.

12 SECTION 14A.504. Section 2052.054(a), Occupations Code, is
13 amended to conform to the changes in terminology made by Chapter
14 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
15 follows:

16 (a) The executive director [~~commissioner~~] may recognize,
17 prepare, or administer continuing education programs for persons
18 licensed under this chapter.

19 SECTION 14A.505. Sections 2052.102 and 2052.103,
20 Occupations Code, are amended to conform to the changes in
21 terminology made by Chapter 836, Acts of the 77th Legislature,
22 Regular Session, 2001, to read as follows:

23 Sec. 2052.102. BOXING PROMOTER LICENSE APPLICATION
24 REQUIREMENTS. (a) An applicant for a boxing promoter's license
25 under this chapter must apply on a form furnished by the executive
26 director [~~commissioner~~].

27 (b) An application must be accompanied by:

1 (1) a license fee in an amount set by the commission;
2 and

3 (2) a surety bond:

4 (A) subject to approval by the executive director
5 [~~commissioner~~]; and

6 (B) conditioned on the applicant's payment of the
7 tax imposed under Section 2052.151.

8 (c) The executive director [~~commissioner~~] shall establish
9 the amount of the surety bond required under Subsection (b). The
10 bond amount may not be less than \$300.

11 Sec. 2052.103. ELIMINATION TOURNAMENT BOXING PROMOTER
12 LICENSE APPLICATION REQUIREMENTS. (a) An applicant for an
13 elimination tournament boxing promoter's license under this
14 chapter must apply on a form furnished by the executive director
15 [~~commissioner~~].

16 (b) An application must be accompanied by an application fee
17 of not more than \$1,000 and, if the applicant charges a fee for
18 admission to the elimination tournament or awards a trophy, prize,
19 including a prize of money, or other item of value of more than \$50
20 to a contestant winning the elimination tournament:

21 (1) a \$50,000 surety bond subject to approval by the
22 executive director [~~commissioner~~] and conditioned on the
23 applicant's payment of:

24 (A) the tax imposed under Section 2052.151; and

25 (B) a claim against the applicant as described by
26 Section 2052.109(a)(3); and

27 (2) proof of not less than \$10,000 accidental death or

1 injury insurance coverage for each contestant participating in the
2 elimination tournament.

3 SECTION 14A.506. Section 2052.108(a), Occupations Code, is
4 amended to conform to the changes in terminology made by Chapter
5 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
6 follows:

7 (a) An application for a license under Section 2052.107 must
8 be made on a form furnished by the executive director
9 [~~commissioner~~].

10 SECTION 14A.507. Sections 2052.110, 2052.111, and 2052.112,
11 Occupations Code, are amended to conform to the changes in
12 terminology made by Chapter 836, Acts of the 77th Legislature,
13 Regular Session, 2001, to read as follows:

14 Sec. 2052.110. LICENSE AND BONDING EXCEPTIONS. The
15 licensing and bonding requirements of this subchapter do not apply
16 to:

17 (1) a boxing event in which the participants do not
18 receive a money remuneration, purse, or prize for their
19 performances or services if the event is promoted, conducted, or
20 maintained by:

- 21 (A) an educational institution;
22 (B) a law enforcement organization;
23 (C) a Texas National Guard Unit; or
24 (D) an amateur athletic organization recognized
25 by the executive director [~~commissioner~~];

26 (2) a nonprofit amateur athletic association
27 chartered under the law of this state, including a membership club

1 affiliated with the association located within this state and
2 recognized by the executive director [~~commissioner~~];

3 (3) an event conducted by a college, school, or
4 university that is part of the institution's athletic program in
5 which only students of different educational institutions
6 participate; or

7 (4) an event in which only members of a troop, battery,
8 company, or unit of the Texas National Guard or a law enforcement
9 agency participate.

10 Sec. 2052.111. DENIAL OF APPLICATION. The executive
11 director [~~commissioner~~] may deny an application for a license if:

12 (1) the applicant does not meet the qualifications for
13 the license; or

14 (2) after conducting an investigation and a hearing,
15 the executive director [~~commissioner~~] determines that the
16 applicant has violated this chapter or a rule adopted under this
17 chapter.

18 Sec. 2052.112. RECIPROCITY AGREEMENT. The executive
19 director [~~commissioner~~] may waive a license requirement under this
20 subchapter if the applicant holds a license issued by another state
21 that has a reciprocity agreement with this state.

22 SECTION 14A.508. Section 2052.203(b), Occupations Code, is
23 amended to conform to the changes in terminology made by Chapter
24 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
25 follows:

26 (b) The elimination tournament boxing promoter of a local,
27 regional, or championship elimination tournament is not required to

1 require that each elimination tournament contestant wear headgear
2 approved by the department if the promoter under department rules
3 notifies the executive director [~~commissioner~~] of the decision not
4 to use the approved headgear.

5 SECTION 14A.509. Section 2052.251, Occupations Code, is
6 amended to conform to the changes in terminology made by Chapter
7 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
8 follows:

9 Sec. 2052.251. BOXING GLOVES. A boxing event contestant,
10 other than an elimination tournament contestant under Subchapter E,
11 shall wear eight-ounce boxing gloves, unless the executive director
12 [~~commissioner~~] by rule requires or permits a contestant to wear
13 heavier gloves.

14 SECTION 14A.510. Sections 2052.252(b) and (e), Occupations
15 Code, are amended to conform to the changes in terminology made by
16 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001,
17 to read as follows:

18 (b) The event may take place only if the executive director
19 [~~commissioner~~] approves the event not later than seven days before
20 the date the event begins.

21 (e) The event is subject to the supervision of the executive
22 director [~~commissioner~~].

23 SECTION 14A.511. Sections 2052.301 and 2052.302,
24 Occupations Code, are amended to conform to the changes in
25 terminology made by Chapter 836, Acts of the 77th Legislature,
26 Regular Session, 2001, to read as follows:

27 Sec. 2052.301. REVOCATION AND SUSPENSION OF LICENSE OR

1 PERMIT. The executive director [~~commissioner~~] may revoke or
2 suspend the license or permit of a license or permit holder under
3 this chapter for violating this chapter or a rule adopted under this
4 chapter.

5 Sec. 2052.302. FORFEITURE OF PURSE. The executive director
6 [~~commissioner~~] may order a boxer or manager to forfeit to this state
7 a purse in an amount of not more than \$1,000 for violating this
8 chapter or a rule adopted under this chapter.

9 SECTION 14A.512. Sections 2052.304(a) and (b), Occupations
10 Code, are amended to conform to the changes in terminology made by
11 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001,
12 to read as follows:

13 (a) A person may seek review of a decision or an order of the
14 executive director [~~commissioner~~] under this chapter by filing a
15 petition for review in a district court in Travis County not later
16 than the 30th day after the date on which the decision or order of
17 the executive director [~~commissioner~~] is final if the person is:

18 (1) a party to an administrative hearing in which the
19 decision or order is issued; and

20 (2) aggrieved by the decision or order.

21 (b) The filing of a petition for review under Subsection (a)
22 does not stay the effect of the decision or order of the executive
23 director [~~commissioner~~] that is the subject of the petition. The
24 executive director [~~commissioner~~] or the district court in which
25 the petition for review is filed may order a stay on appropriate
26 terms.

27 SECTION 14A.513. Section 2052.305, Occupations Code, is

1 amended to conform to the changes in terminology made by Chapter
2 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
3 follows:

4 Sec. 2052.305. SERVICE OF PROCESS. A petition for review
5 filed under Section 2052.304 must be served on:

6 (1) the executive director [~~commissioner~~]; and

7 (2) all parties of record to a hearing before the
8 executive director [~~commissioner~~] that relates to the matter for
9 which the petition for review is filed.

10 SECTION 14A.514. Section 2052.306(a), Occupations Code, is
11 amended to conform to the changes in terminology made by Chapter
12 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
13 follows:

14 (a) On receipt of a petition for review served under Section
15 2052.305, the executive director [~~commissioner~~], not later than the
16 date on which the answer to the petition must be filed or the date on
17 which the record is made available to the executive director
18 [~~commissioner~~], whichever date is later, shall certify to the
19 district court in which the petition is filed the record of the
20 proceedings to which the petition relates.

21 SECTION 14A.515. Sections 2052.307 and 2052.308,
22 Occupations Code, are amended to conform to the changes in
23 terminology made by Chapter 836, Acts of the 77th Legislature,
24 Regular Session, 2001, to read as follows:

25 Sec. 2052.307. JUDICIAL REVIEW. (a) A district court
26 reviewing a decision or an order of the executive director
27 [~~commissioner~~] under this subchapter shall try the action without a

1 jury in the same manner as a civil action, except that evidence is
2 not admissible unless the evidence was presented at the hearing or
3 noticed in the record of the hearing before the executive director
4 [~~commissioner~~]. The petitioner has the burden of proof in the
5 action.

6 (b) The court may:

7 (1) affirm the decision or order of the executive
8 director [~~commissioner~~]; or

9 (2) remand the matter to the executive director
10 [~~commissioner~~] for further proceedings.

11 Sec. 2052.308. APPEAL. (a) The petitioner or executive
12 director [~~commissioner~~] may appeal a final judgment of a court
13 conducting a review under this subchapter in the same manner as a
14 civil action.

15 (b) The executive director [~~commissioner~~] is not required
16 to file an appeal bond.

17 PART 12. CHANGES RELATING TO SUBTITLE C, TITLE 13,

18 OCCUPATIONS CODE

19 SECTION 14A.551. (a) Section 2105.001(2), Occupations
20 Code, is repealed to conform to the changes in terminology made by
21 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001.

22 (b) Section 2105.001, Occupations Code, is amended by
23 adding Subdivision (3-a) to conform to the changes in terminology
24 made by Chapter 836, Acts of the 77th Legislature, Regular Session,
25 2001, to read as follows:

26 (3-a) "Executive director" means the executive
27 director of the department.

1 SECTION 14A.552. Sections 2105.252(a) and (c), Occupations
2 Code, are amended to conform to the changes in terminology made by
3 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001,
4 to read as follows:

5 (a) If it appears that a person is violating or threatening
6 to violate this chapter, a department rule, or an order of the
7 executive director [~~commissioner~~] related to this chapter, the
8 executive director [~~commissioner~~] may bring an action for
9 injunctive relief to restrain the person from engaging in or
10 continuing the violation.

11 (c) The executive director [~~commissioner~~] may recover
12 reasonable expenses, including court costs, attorney's fees,
13 witness fees, and deposition expenses, incurred in obtaining
14 injunctive relief under this section.

15 PART 13. CHANGES RELATING TO SUBTITLE A, TITLE 14,
16 OCCUPATIONS CODE

17 SECTION 14A.601. (a) Sections 2301.002(6) and (16),
18 Occupations Code, are amended to conform to Section 1, Chapter 155,
19 Acts of the 77th Legislature, Regular Session, 2001, to read as
20 follows:

21 (6) "Converter" means a person who before the retail
22 sale of a motor vehicle:

23 (A) assembles, installs, or affixes a body, cab,
24 or special equipment to a chassis; or

25 (B) substantially adds, subtracts from, or
26 modifies a previously assembled or manufactured motor vehicle other
27 than a motor home, ambulance, or fire-fighting vehicle.

1 (16) "Franchised dealer" means a person who:

2 (A) holds a franchised motor vehicle dealer's
3 license [~~general distinguishing number~~] issued by the board under
4 Chapter 503, Transportation Code; and

5 (B) is engaged in the business of buying,
6 selling, or exchanging new motor vehicles and servicing or
7 repairing motor vehicles under a manufacturer's warranty at an
8 established and permanent place of business under a franchise in
9 effect with a manufacturer or distributor.

10 (b) Section 1, Chapter 155, Acts of the 77th Legislature,
11 Regular Session, 2001, is repealed.

12 SECTION 14A.602. Section 2301.002(23), Occupations Code,
13 is amended to more closely conform to the law from which it was
14 derived to read as follows:

15 (23) "Motor vehicle" means:

16 (A) a fully self-propelled vehicle having two or
17 more wheels that has as its primary purpose the transport of a
18 person or persons, or property, on a public highway;

19 (B) a fully self-propelled vehicle having two or
20 more wheels that:

21 (i) has as its primary purpose the
22 transport of a person or persons or property;

23 (ii) is not manufactured for use on public
24 streets, roads, or highways; and

25 (iii) has been issued a certificate of
26 title;

27 (C) an engine, transmission, or rear axle,

1 regardless of whether attached to a vehicle chassis, manufactured
2 for installation in a vehicle that has:

3 (i) the transport of a person or persons, or
4 property, on a public highway as its primary purpose; and

5 (ii) a gross vehicle weight rating of more
6 than 16,000 pounds; or

7 (D) a towable recreational vehicle.

8 SECTION 14A.603. (a) Section 2301.052, Occupations Code,
9 is amended by amending Subsection (c) and adding Subsection (e) to
10 conform to Section 2, Chapter 155, Acts of the 77th Legislature,
11 Regular Session, 2001, to read as follows:

12 (c) Except as provided by Subsection (d), a member's office
13 is vacated if the member or a person related to the member within
14 the first degree by consanguinity or affinity, as determined under
15 Chapter 573, Government Code:

16 (1) becomes a license holder under this chapter;

17 (2) acquires an interest in a business that
18 manufactures, distributes, converts, leases, or sells motor
19 vehicles; or

20 (3) becomes an [~~officer~~7] employee[7] or paid
21 consultant of a trade association in the motor vehicle industry.

22 (e) Notwithstanding the other provisions of this section, a
23 person is not ineligible to be appointed to or to serve on the board
24 because the person or another person owns, directly or indirectly,
25 shares of stock in a publicly traded company that manufactures or
26 distributes motor vehicles, if the ownership interest is not
27 substantial.

1 (b) Section 2, Chapter 155, Acts of the 77th Legislature,
2 Regular Session, 2001, is repealed.

3 SECTION 14A.604. (a) Section 2301.059(b), Occupations
4 Code, is amended to conform to Section 3, Chapter 155, Acts of the
5 77th Legislature, Regular Session, 2001, to read as follows:

6 (b) A member of the board appointed under Section
7 2301.051(b) [~~2301.051(b)(1)~~] may not vote on an issue involving a
8 dispute in which a dealer and a manufacturer are parties.

9 (b) Section 3, Chapter 155, Acts of the 77th Legislature,
10 Regular Session, 2001, is repealed.

11 SECTION 14A.605. (a) Section 2301.151(a), Occupations
12 Code, is amended to conform to Section 5, Chapter 155, Acts of the
13 77th Legislature, Regular Session, 2001, to read as follows:

14 (a) The board has the exclusive [~~general and~~] original
15 [~~power and~~] jurisdiction to regulate those [~~all~~] aspects of the
16 distribution, sale, or lease of motor vehicles that are governed by
17 this chapter, including the original jurisdiction to determine its
18 own jurisdiction.

19 (b) Section 5, Chapter 155, Acts of the 77th Legislature,
20 Regular Session, 2001, is repealed.

21 SECTION 14A.606. (a) Section 2301.153(a), Occupations
22 Code, is amended to conform to Section 6, Chapter 155, Acts of the
23 77th Legislature, Regular Session, 2001, to read as follows:

24 (a) Notwithstanding any other provision of law, the board
25 has all powers necessary, incidental, or convenient to perform a
26 power or duty expressly granted under this chapter, including the
27 power to:

- 1 (1) initiate and conduct proceedings, investigations,
2 or hearings;
- 3 (2) administer oaths;
- 4 (3) receive evidence and pleadings;
- 5 (4) issue subpoenas to compel the attendance of any
6 person;
- 7 (5) order the production of any tangible property,
8 including papers, records, or other documents;
- 9 (6) make findings of fact on all factual issues
10 arising out of a proceeding initiated under this chapter;
- 11 (7) specify and govern appearance, practice, and
12 procedures before the board;
- 13 (8) adopt rules and issue conclusions of law and
14 decisions, including declaratory decisions or orders;
- 15 (9) enter into contracts;
- 16 (10) execute instruments;
- 17 (11) retain counsel;
- 18 (12) use the services of the attorney general and
19 institute and direct the conduct of legal proceedings in any forum;
- 20 (13) obtain other professional services as necessary
21 and convenient;
- 22 (14) impose a sanction for contempt;
- 23 (15) assess and collect fees and costs, including
24 attorney's fees;
- 25 (16) issue, suspend, or revoke licenses;
- 26 (17) prohibit and regulate acts and practices in
27 connection with the distribution and sale of motor vehicles or

1 warranty performance obligations;

2 (18) issue cease and desist orders in the nature of
3 temporary or permanent injunctions; ~~and~~

4 (19) impose a civil penalty;

5 (20) enter an order requiring a person to:

6 (A) pay costs and expenses of a party in
7 connection with an order entered under Section 2301.465;

8 (B) perform an act other than the payment of
9 money; or

10 (C) refrain from performing an act; and

11 (21) enforce a board order.

12 (b) Section 6, Chapter 155, Acts of the 77th Legislature,
13 Regular Session, 2001, is repealed.

14 SECTION 14A.607. (a) Subchapter D, Chapter 2301,
15 Occupations Code, is amended by adding Section 2301.160 to conform
16 to Section 16, Chapter 155, Acts of the 77th Legislature, Regular
17 Session, 2001, to read as follows:

18 Sec. 2301.160. TOLLING OF TIME LIMIT DURING MEDIATION. A
19 time limit relating to a board proceeding that is imposed by this
20 chapter on the board or on a dealer is tolled during the pendency of
21 mediation required by this chapter or by a franchise agreement.

22 (b) Section 16, Chapter 155, Acts of the 77th Legislature,
23 Regular Session, 2001, is repealed.

24 SECTION 14A.608. (a) Section 2301.202(b), Occupations
25 Code, is amended to conform to Section 4, Chapter 155, Acts of the
26 77th Legislature, Regular Session, 2001, to read as follows:

27 (b) The board shall keep an information file about each

1 complaint filed with the board that the board has authority to
2 resolve. The board shall keep the following information [~~file must~~
3 ~~contain a record~~] for each complaint filed by the board for the
4 purpose of enforcing this chapter [~~of~~]:

- 5 (1) the date the complaint is filed;
6 (2) the name of the person filing the complaint;
7 (3) the subject matter of the complaint;
8 (4) each person contacted in relation to the
9 complaint;
10 (5) a summary of the results of the review or
11 investigation of the complaint; and
12 (6) if the board does not take action on the complaint,
13 an explanation of the reasons that action was not taken.

14 (b) Section 4, Chapter 155, Acts of the 77th Legislature,
15 Regular Session, 2001, is repealed.

16 SECTION 14A.609. (a) Section 2301.252(b), Occupations
17 Code, is amended to conform to Section 17, Chapter 155, Acts of the
18 77th Legislature, Regular Session, 2001, to read as follows:

19 (b) For purposes of this section:

- 20 (1) the make of a conversion, ambulance, or
21 fire-fighting vehicle is that of the chassis manufacturer; and
22 (2) the make of a motor home is that of the motor home
23 manufacturer.

24 (b) Section 17, Chapter 155, Acts of the 77th Legislature,
25 Regular Session, 2001, is repealed.

26 SECTION 14A.610. (a) Subchapter F, Chapter 2301,
27 Occupations Code, is amended by adding Section 2301.2575 to conform

1 to Section 10, Chapter 155, Acts of the 77th Legislature, Regular
2 Session, 2001, to read as follows:

3 Sec. 2301.2575. REQUEST FOR DEALER'S LICENSE APPLICATION
4 CONFIDENTIAL. Notwithstanding any other law or rule, a request for
5 an application for a dealer's license is confidential, is not an
6 open record, and is not available for public inspection.

7 (b) Section 10, Chapter 155, Acts of the 77th Legislature,
8 Regular Session, 2001, is repealed.

9 SECTION 14A.611. (a) Section 2301.259(c), Occupations
10 Code, is amended to conform to Section 11, Chapter 155, Acts of the
11 77th Legislature, Regular Session, 2001, to read as follows:

12 (c) An application for a manufacturer's license must
13 include a statement regarding the manufacturer's compliance with
14 Subchapter I and Sections 2301.451-2301.476 [~~2301.451-2301.474~~].

15 (b) Section 11, Chapter 155, Acts of the 77th Legislature,
16 Regular Session, 2001, is repealed.

17 SECTION 14A.612. (a) Section 2301.264(a), Occupations
18 Code, is amended to conform to Section 12, Chapter 155, Acts of the
19 77th Legislature, Regular Session, 2001, to read as follows:

20 (a) The annual fees for a license issued under this chapter
21 are:

22 (1) \$900 for a manufacturer or distributor, plus \$20
23 for each dealer franchised by the manufacturer or distributor;

24 (2) for a franchised dealer:

25 (A) \$175, if the dealer sold fewer than 201 new
26 motor vehicles during the preceding calendar year;

27 (B) \$275, if the dealer sold more than 200 but

1 fewer than 401 new motor vehicles during the preceding calendar
2 year;

3 (C) \$400, if the dealer sold more than 400 but
4 fewer than 801 new motor vehicles during the preceding calendar
5 year;

6 (D) \$500, if the dealer sold more than 800 but
7 fewer than 1,201 new motor vehicles during the preceding calendar
8 year;

9 (E) \$625, if the dealer sold more than 1,200 but
10 fewer than 1,601 new motor vehicles during the preceding calendar
11 year;

12 (F) \$750, if the dealer sold more than 1,600 new
13 motor vehicles during the preceding calendar year; and

14 (G) \$100 for each location separate from the
15 dealership at which the dealer does not offer motor vehicles for
16 sale but performs warranty service work on vehicles the dealer is
17 franchised and licensed to sell;

18 (3) \$25 for an amendment to a [~~dealer~~] license;

19 (4) \$100 for a representative;

20 (5) \$375 for a converter;

21 (6) for a vehicle lessor:

22 (A) \$175, if the lessor leased 200 or fewer motor
23 vehicles during the preceding calendar year;

24 (B) \$275, if the lessor leased more than 200 but
25 fewer than 401 motor vehicles during the preceding calendar year;

26 (C) \$400, if the lessor leased more than 400 but
27 fewer than 801 motor vehicles during the preceding calendar year;

1 (D) \$500, if the lessor leased more than 800 but
2 fewer than 1,201 motor vehicles during the preceding calendar year;

3 (E) \$625, if the lessor leased more than 1,200
4 but fewer than 1,601 motor vehicles during the preceding calendar
5 year; and

6 (F) \$750, if the lessor leased more than 1,600
7 motor vehicles during the preceding calendar year; ~~and~~

8 (7) \$375 for a vehicle lease facilitator; and

9 (8) \$50 for a duplicate license.

10 (b) Section 12, Chapter 155, Acts of the 77th Legislature,
11 Regular Session, 2001, is repealed.

12 SECTION 14A.613. (a) Subchapter F, Chapter 2301,
13 Occupations Code, is amended by adding Section 2301.266 to conform
14 to Section 9, Chapter 155, Acts of the 77th Legislature, Regular
15 Session, 2001, to read as follows:

16 Sec. 2301.266. DUPLICATE LICENSE. The board may:

17 (1) issue a duplicate license for any license the
18 board issues;

19 (2) charge a fee for the issuance of a duplicate
20 license; and

21 (3) adopt rules applicable to the issuance of a
22 duplicate license.

23 (b) Section 9, Chapter 155, Acts of the 77th Legislature,
24 Regular Session, 2001, is repealed.

25 SECTION 14A.614. Sections 2301.453(a) and (f), Occupations
26 Code, are amended to more closely conform to the law from which they
27 were derived to read as follows:

1 (a) Notwithstanding the terms of any franchise, a
2 manufacturer, distributor, or representative may not terminate or
3 discontinue a franchise with a franchised dealer or directly or
4 indirectly force or attempt to force a franchised dealer to
5 relocate or discontinue a line-make or parts or products related to
6 that line-make unless the manufacturer, distributor, or
7 representative provides notice of the termination or
8 discontinuance as required by Subsection (c) [~~this section~~] and:

9 (1) the manufacturer, distributor, or representative
10 receives the dealer's informed written consent;

11 (2) the appropriate time for the dealer to file a
12 protest under Subsection (e) [~~this section~~] has expired; or

13 (3) the board makes a determination of good cause
14 under Subsection (g) [~~this section~~].

15 (f) After a timely protest is filed under Subsection (e),
16 the board shall notify the party seeking the termination or
17 discontinuance that:

18 (1) a timely protest has been filed;

19 (2) a hearing is required under this chapter; and

20 (3) the party may not terminate or discontinue the
21 franchise until the board issues its final order or decision.

22 SECTION 14A.615. Section 2301.454, Occupations Code, is
23 amended to more closely conform to the law from which it was derived
24 to read as follows:

25 Sec. 2301.454. MODIFICATION OR REPLACEMENT OF FRANCHISE.

26 (a) Notwithstanding the terms of any franchise, a manufacturer,
27 distributor, or representative may not modify or replace a

1 franchise if the modification or replacement would adversely affect
2 to a substantial degree the dealer's sales, investment, or
3 obligations to provide service to the public, unless ~~[-~~

4 ~~[(b) Subsection (a) does not apply to a modification or~~
5 ~~replacement of a franchise for which]:~~

6 (1) the manufacturer, distributor, or representative
7 provides written notice by registered or certified mail to each
8 affected dealer and the board of the modification or replacement;
9 and

10 (2) if a protest is filed under this section, the board
11 approves the modification or replacement.

12 (b) ~~[(c)]~~ The notice required by Subsection (a)(1) ~~[(b)(1)]~~
13 must:

14 (1) be given not later than the 60th day before the
15 date of the modification or replacement; and

16 (2) contain on its first page a conspicuous statement
17 that reads: "NOTICE TO DEALER: YOU MAY BE ENTITLED TO FILE A
18 PROTEST WITH THE TEXAS MOTOR VEHICLE BOARD IN AUSTIN, TEXAS, AND
19 HAVE A HEARING IN WHICH YOU MAY PROTEST THE PROPOSED MODIFICATION OR
20 REPLACEMENT OF YOUR FRANCHISE UNDER THE TERMS OF CHAPTER 2301,
21 OCCUPATIONS CODE, IF YOU OPPOSE THIS ACTION."

22 (c) ~~[(d)]~~ A franchised dealer may file a protest with the
23 board of the modification or replacement not later than the latter
24 of:

25 (1) the 60th day after the date of the receipt of the
26 notice; or

27 (2) the time specified in the notice.

1 (d) [~~(e)~~] After a protest is filed, the board shall
2 determine whether the manufacturer, distributor, or representative
3 has established by a preponderance of the evidence that there is
4 good cause for the proposed modification or replacement. The prior
5 franchise continues in effect until the board resolves the protest.

6 SECTION 14A.616. Section 2301.460, Occupations Code, is
7 amended to more closely conform to the law from which it was derived
8 to read as follows:

9 Sec. 2301.460. WARRANTY, PREPARATION, OR DELIVERY
10 AGREEMENT OBLIGATIONS. Notwithstanding the terms of any franchise,
11 a manufacturer, distributor, or representative may not, after a
12 complaint and a hearing, fail or refuse to perform an obligation
13 placed on the manufacturer in connection with the preparation,
14 delivery, and [~~or~~] warranty of a new motor vehicle as provided in
15 the manufacturer's warranty, preparation, and [~~or~~] delivery
16 agreements on file with the board.

17 SECTION 14A.617. Section 2301.461, Occupations Code, is
18 amended to more closely conform to the law from which it was derived
19 to read as follows:

20 Sec. 2301.461. LIABILITY OF FRANCHISED DEALER. (a)
21 Notwithstanding the terms of any franchise or any other law, a
22 franchised dealer's preparation, delivery, and warranty
23 obligations as filed with the board are the dealer's sole
24 responsibility for product liability as between the dealer and a
25 manufacturer or distributor.

26 (b) Notwithstanding the terms of any franchise or any other
27 law, a [A] manufacturer or distributor shall reimburse the dealer

1 for any loss incurred by the dealer, including legal fees, court
2 costs, and damages, as a result of the dealer having been named a
3 party in a product liability action, except for ~~[-~~

4 ~~[(c) Subsection (b) does not apply to]~~ a loss caused by the
5 dealer's:

6 (1) failure to comply with an obligation described by
7 Subsection (a);

8 (2) negligence or intentional misconduct; or

9 (3) modification of a product without the
10 authorization of the manufacturer or distributor.

11 ~~[(d) To the extent of any conflict between this section and
12 another law, this section prevails.]~~

13 SECTION 14A.618. Section 2301.462(b), Occupations Code, is
14 amended to more closely conform to the law from which it was derived
15 to read as follows:

16 (b) Notwithstanding the terms of any franchise, a [A]
17 manufacturer, distributor, or representative may refuse to honor a
18 succession ~~[under Subsection (a)]~~ if, after notice and hearing, it
19 is shown to the board that the result of the succession will be
20 detrimental to the public interest and to the representation of the
21 manufacturer or distributor.

22 SECTION 14A.619. Sections 2301.464(b) and (c), Occupations
23 Code, are amended to more closely conform to the law from which they
24 were derived to read as follows:

25 (b) An application under Subsection (a) to relocate a
26 franchise must contain information reasonably necessary to enable a
27 manufacturer or distributor to adequately evaluate the

1 application.

2 (c) If the applicant files a protest under Subsection
3 (a)(2), the board shall hold a hearing. After the hearing, the
4 board shall determine whether the manufacturer or distributor has
5 established by a preponderance of the evidence that the grounds for
6 the denial or withholding of approval of the relocation are
7 reasonable.

8 SECTION 14A.620. (a) Section 2301.465(a)(2), Occupations
9 Code, is amended to conform to Section 14, Chapter 155, Acts of the
10 77th Legislature, Regular Session, 2001, to read as follows:

11 (2) "Net discount value" is the net cost multiplied by
12 the total mileage, exclusive of mileage placed on the motor vehicle
13 before it was delivered to the dealer, divided by 100,000.

14 (b) Section 2301.465(b), Occupations Code, is amended to
15 conform to Section 14, Chapter 155, Acts of the 77th Legislature,
16 Regular Session, 2001, to read as follows:

17 (b) Notwithstanding the terms of any franchise, after the
18 termination of a franchise, a manufacturer, distributor, or
19 representative shall pay to a franchised dealer or any lienholder,
20 in accordance with the interest of each, the following amounts:

21 (1) the dealer cost of each new motor vehicle in the
22 dealer's inventory with mileage of 6,000 miles or less, exclusive
23 of mileage placed on the vehicle before it was delivered to the
24 dealer, reduced by the net discount value of each vehicle, except
25 that if a vehicle cannot be reduced by the net discount value, the
26 manufacturer or distributor shall pay the dealer the net cost of the
27 vehicle;

1 (2) the dealer cost of each new, unused, undamaged,
2 and unsold part or accessory that:

3 (A) is in the current parts catalogue and is
4 still in the original, resalable merchandising package and in an
5 unbroken lot, except in the case of sheet metal, a comparable
6 substitute for the original package may be used; and

7 (B) was purchased by the dealer either directly
8 from the manufacturer or distributor or from an outgoing authorized
9 dealer as a part of the dealer's initial inventory;

10 (3) the fair market value of each undamaged sign owned
11 by the dealer that bears a trademark or tradename used or claimed by
12 the manufacturer, distributor, or representative and that was
13 purchased from or at the request of the manufacturer, distributor,
14 or representative;

15 (4) the fair market value of all special tools, data
16 processing equipment, and automotive service equipment owned by the
17 dealer that:

18 (A) were recommended in writing and designated as
19 special tools and equipment;

20 (B) were purchased from or at the request of the
21 manufacturer, distributor, or representative; and

22 (C) are in usable and good condition except for
23 reasonable wear and tear; and

24 (5) the cost of transporting, handling, packing,
25 storing, and loading any property subject to repurchase under this
26 section.

27 (c) Section 14, Chapter 155, Acts of the 77th Legislature,

1 Regular Session, 2001, is repealed.

2 SECTION 14A.621. (a) Section 2301.476, Occupations Code, is
3 amended by adding a new Subsection (f) and relettering existing
4 Subsections (f) and (g) as Subsections (g) and (h) to conform to
5 Section 15, Chapter 155, Acts of the 77th Legislature, Regular
6 Session, 2001, to read as follows:

7 (f) For the purpose of determining compliance with
8 Subsection (d)(2), the price of a dealership and the other terms and
9 conditions of a contract for the sale of a dealership are reasonable
10 if the purchaser is a franchised dealer who:

11 (1) has made a significant investment in the
12 dealership, subject to loss;

13 (2) has an ownership interest in the dealership; and

14 (3) operates the dealership under a plan to acquire
15 full ownership of the dealership within a reasonable time and under
16 reasonable terms and conditions.

17 (g) [~~(f)~~] For the purpose of broadening the diversity of its
18 dealer body and enhancing opportunities for qualified persons who
19 are part of a group that has been historically underrepresented in
20 its dealer body, or other qualified persons who lack the resources
21 to purchase a dealership outright, but for no other purpose, a
22 manufacturer or distributor may temporarily own an interest in a
23 dealership if the manufacturer's or distributor's participation in
24 the dealership is in a bona fide relationship with a franchised
25 dealer who:

26 (1) has made a significant investment in the
27 dealership, subject to loss;

1 (2) has an ownership interest in the dealership; and
2 (3) operates the dealership under a plan to acquire
3 full ownership of the dealership within a reasonable time and under
4 reasonable terms.

5 (h) [~~(g)~~] A person who on June 7, 1995, held both a motor
6 home manufacturer's license and a motor home dealer's license
7 issued under this chapter may:

8 (1) continue to hold both licenses; and
9 (2) operate as both a manufacturer and dealer of motor
10 homes but of no other type of vehicle.

11 (b) Section 15, Chapter 155, Acts of the 77th Legislature,
12 Regular Session, 2001, is repealed.

13 SECTION 14A.622. (a) Section 2301.651(a), Occupations
14 Code, is amended to conform to Section 13, Chapter 155, Acts of the
15 77th Legislature, Regular Session, 2001, to read as follows:

16 (a) The board may deny an application for a license, revoke
17 or suspend a license, place on probation a person whose license has
18 been suspended, or reprimand a license holder if the applicant or
19 license holder:

20 (1) is unfit under standards described in this chapter
21 or board rules;

22 (2) makes a material misrepresentation in any
23 application or other information filed under this chapter or board
24 rules;

25 (3) violates this chapter or a board rule or order;

26 (4) violates any law relating to the sale,
27 distribution, financing, or insuring of motor vehicles;

1 (5) fails to maintain the qualifications for a
2 license;

3 (6) wilfully defrauds a [~~retail~~] purchaser; or

4 (7) fails to fulfill a written agreement with a retail
5 purchaser of a motor vehicle.

6 (b) Section 13, Chapter 155, Acts of the 77th Legislature,
7 Regular Session, 2001, is repealed.

8 SECTION 14A.623. Section 2301.651(b), Occupations Code, is
9 amended to more closely conform to the law from which it was derived
10 to read as follows:

11 (b) The board may take action under Subsection (a) against
12 an applicant or license holder for an act or omission by an officer,
13 director, partner, trustee, or other person acting in a
14 representative capacity for the applicant or license holder that
15 would be cause for denying, revoking, or suspending a [~~an~~
16 ~~individual's~~] license under this chapter.

17 SECTION 14A.624. (a) Subchapter O, Chapter 2301,
18 Occupations Code, is amended by adding Section 2301.7025 to conform
19 to Section 8, Chapter 155, Acts of the 77th Legislature, Regular
20 Session, 2001, to read as follows:

21 Sec. 2301.7025. LIMITATIONS PERIOD FOR CERTAIN CAUSES OF
22 ACTION BY LICENSE HOLDERS. (a) This section does not apply to:

23 (1) an action with respect to which this chapter or
24 rules of the board establish specific procedural time limits; or

25 (2) an action brought under Section 2301.204.

26 (b) Except as provided by this section, a license holder may
27 not file an action with the board after the fourth anniversary of

1 the date the action accrues.

2 (c) The limitations period provided by Subsection (b) may be
3 extended for not more than 180 days on a showing that the failure to
4 commence an action in a timely manner was caused by reliance on a
5 fraudulent statement or inducement made by a party to induce a party
6 to refrain from bringing an action.

7 (b) Section 8, Chapter 155, Acts of the 77th Legislature,
8 Regular Session, 2001, is repealed.

9 SECTION 14A.625. (a) Subchapter Q, Chapter 2301,
10 Occupations Code, is amended by adding Section 2301.806 to conform
11 to Section 7, Chapter 155, Acts of the 77th Legislature, Regular
12 Session, 2001, to read as follows:

13 Sec. 2301.806. BOARD EXEMPT FROM FILING FEE.
14 Notwithstanding the other provisions of this chapter, the board is
15 not required to pay a filing fee when filing a complaint or other
16 enforcement action.

17 (b) Section 7, Chapter 155, Acts of the 77th Legislature,
18 Regular Session, 2001, is repealed.

19 SECTION 14A.626. (a) Section 2303.002, Occupations Code, is
20 amended to conform to Section 1, Chapter 1452, Acts of the 77th
21 Legislature, Regular Session, 2001, to read as follows:

22 Sec. 2303.002. DEFINITIONS. In this chapter:

23 (1) "Abandoned nuisance vehicle" means a motor vehicle
24 that is:

25 (A) at least 10 years old; and

26 (B) of a condition only to be demolished,
27 wrecked, or dismantled.

1 (2) "Commission" means the Texas Transportation
2 Commission.

3 (3) [~~(2)~~] "Department" means the Texas Department of
4 Transportation.

5 (4) [~~(3)~~] "Director" means the executive director of
6 the department or a person designated by the executive director who
7 is not below the rank of division or special office director.

8 (5) [~~(4)~~] "Owner of a vehicle" means a person:

9 (A) named as the purchaser or transferee in the
10 certificate of title issued for the vehicle under Chapter 501,
11 Transportation Code;

12 (B) in whose name the vehicle is registered under
13 Chapter 502, Transportation Code, or a member of the person's
14 immediate family;

15 (C) who holds the vehicle through a lease
16 agreement; [~~or~~]

17 (D) who is an unrecorded lienholder entitled to
18 possess the vehicle under the terms of a chattel mortgage; or

19 (E) who is a lienholder, holds an affidavit of
20 repossession, and is entitled to repossess the vehicle.

21 (6) [~~(5)~~] "Principal" means an individual who:

22 (A) personally or constructively holds,
23 including as the beneficiary of a trust:

24 (i) at least 10 percent of a corporation's
25 outstanding stock; or

26 (ii) more than \$25,000 of the fair market
27 value of a business entity;

1 (B) has the controlling interest in a business
2 entity;

3 (C) has a direct or indirect participating
4 interest through shares, stock, or otherwise, regardless of whether
5 voting rights are included, of more than 10 percent of the profits,
6 proceeds, or capital gains of a business entity;

7 (D) is a member of the board of directors or other
8 governing body of a business entity; or

9 (E) serves as an elected officer of a business
10 entity.

11 (7) [~~(6)~~] "Vehicle" means:

12 (A) a motor vehicle for which the issuance of a
13 certificate of title is required under Chapter 501, Transportation
14 Code; or

15 (B) any other device designed to be
16 self-propelled or transported on a public highway.

17 (8) [~~(7)~~] "Vehicle storage facility" means a garage,
18 parking lot, or other facility that is:

19 (A) owned by a person other than a governmental
20 entity; and

21 (B) used to store or park at least 10 vehicles
22 each year.

23 (b) Section 1, Chapter 1452, Acts of the 77th Legislature,
24 Regular Session, 2001, is repealed.

25 SECTION 14A.627. (a) Section 2303.152, Occupations Code, is
26 amended by adding Subsection (d) to conform to Section 2, Chapter
27 1452, Acts of the 77th Legislature, Regular Session, 2001, to read

1 as follows:

2 (d) Only one notice is required to be published for an
3 abandoned nuisance vehicle.

4 (b) Section 2303.153, Occupations Code, is amended to
5 conform to Section 2, Chapter 1452, Acts of the 77th Legislature,
6 Regular Session, 2001, to read as follows:

7 Sec. 2303.153. CONTENTS OF NOTICE. (a) A notice by mail
8 provided under Section 2303.151 [~~or 2303.152~~] must include:

- 9 (1) the date the vehicle was accepted for storage;
- 10 (2) the first day for which a storage fee is assessed;
- 11 (3) the daily storage rate;
- 12 (4) the type and amount of any other charge to be paid
13 when the vehicle is claimed;
- 14 (5) the full name, street address, and telephone
15 number of the vehicle storage facility;
- 16 (6) the hours during which the owner may claim the
17 vehicle; and
- 18 (7) the facility license number preceded by "Texas
19 Department of Transportation Vehicle Storage Facility License
20 Number."

21 (b) A notice by publication provided under Section 2303.152
22 must include:

- 23 (1) the vehicle description;
- 24 (2) the total charges;
- 25 (3) the full name, street address, and telephone
26 number of the facility; and
- 27 (4) the department registration number.

1 (c) Notice by publication is not required to include any
2 information other than that listed in Subsection (b).

3 (d) Notice by publication may include a list of more than
4 one vehicle, watercraft, or outboard motor.

5 (c) Section 2303.154, Occupations Code, is amended by
6 adding Subsection (c) to conform to Section 2, Chapter 1452, Acts of
7 the 77th Legislature, Regular Session, 2001, to read as follows:

8 (c) Notwithstanding Subsection (b), if publication is
9 required for notice under this section, the notice must include:

10 (1) the information listed in Section 2303.153(b); and

11 (2) a statement that the failure of the owner or
12 lienholder to claim the vehicle before the date of sale is:

13 (A) a waiver of all right, title, and interest in
14 the vehicle; and

15 (B) a consent to the sale of the vehicle at a
16 public sale.

17 (d) Subchapter D, Chapter 2303, Occupations Code, is
18 amended by adding Section 2303.1545 to conform to Section 2,
19 Chapter 1452, Acts of the 77th Legislature, Regular Session, 2001,
20 to read as follows:

21 Sec. 2303.1545. DISPOSITION OF ABANDONED NUISANCE VEHICLE.

22 (a) A vehicle storage facility that holds an abandoned nuisance
23 vehicle is not required to send or publish a second notice and is
24 entitled to dispose of the vehicle on the 30th day after the date
25 the notice is mailed or published under Section 2303.151 or
26 2303.152.

27 (b) The facility may:

1 (1) notify the department that notices under Chapter
2 683, Transportation Code, have been provided and shall pay a fee of
3 \$10 to the department; or

4 (2) in the alternative, notify the appropriate law
5 enforcement agency and pay a fee of \$10 to that agency.

6 (c) A law enforcement agency described by Subsection (b)(2)
7 may sign a document issued by the department.

8 (e) Section 2303.155, Occupations Code, is amended to
9 conform to Sections 2 and 3, Chapter 1452, Acts of the 77th
10 Legislature, Regular Session, 2001, to read as follows:

11 Sec. 2303.155. CHARGES RELATED TO STORAGE. (a) For the
12 purposes of this section, "governmental vehicle storage facility"
13 means a garage, parking lot, or other facility that is:

14 (A) owned by a governmental entity; and

15 (B) used to store or park at least 10 vehicles
16 each year.

17 (b) The operator of a vehicle storage facility or
18 governmental vehicle storage facility may charge the owner of a
19 vehicle stored or parked at the facility:

20 (1) a notification fee set in a reasonable amount [~~not~~
21 ~~to exceed \$25~~] for providing notice under this subchapter,
22 including notice under Section 2303.154(c);

23 (2) an impoundment fee of \$10 for any action that:

24 (A) is taken by or at the direction of the owner
25 or operator of the facility; and

26 (B) is necessary to preserve, protect, or service
27 a vehicle stored or parked at the facility; [~~and~~]

1 (3) a daily storage fee of:

2 (A) not less than \$5 and not more than \$15 for
3 each day or part of a day the vehicle is stored at the facility if
4 the vehicle is not longer than 25 feet; or

5 (B) \$30 for each day or part of a day the vehicle
6 is stored at the facility if the vehicle is longer than 25 feet; and

7 (4) any fee that is required to be submitted to a law
8 enforcement agency, the agency's authorized agent, or a
9 governmental entity.

10 (c) A notification fee under Subsection (b) may not exceed
11 \$32, except that if notice by publication is required by this
12 chapter and the cost of publication exceeds 50 percent of the
13 notification fee, the vehicle storage facility may recover the
14 additional amount of the cost of publication from the vehicle owner
15 or agent.

16 (d) For purposes of imposing a daily storage fee, a day is
17 considered to begin at midnight and to end at the next following
18 midnight. A daily storage fee may be charged regardless of whether
19 the vehicle is stored for 24 hours of the day, except that a daily
20 storage fee may not be charged for more than one day if the vehicle
21 remains at the facility for less than 12 hours.

22 (e) [~~(d)~~] The operator of a vehicle storage facility or
23 governmental vehicle storage facility may charge a daily storage
24 fee under Subsection (b):

25 (1) for not more than five days before the date notice
26 is mailed or published under this subchapter; and

27 (2) for each day the vehicle is in storage after the

1 date the notice is mailed or published until the vehicle is removed
2 and all accrued charges are paid.

3 (f) [~~(e)~~] The operator of a vehicle storage facility or
4 governmental vehicle storage facility may not charge an additional
5 fee that is similar to a notification, impoundment, or
6 administrative fee.

7 (g) [~~(f)~~] This section controls over any conflicting
8 municipal ordinance or charter provision.

9 (f) Sections 2 and 3, Chapter 1452, Acts of the 77th
10 Legislature, Regular Session, 2001, are repealed.

11 SECTION 14A.628. (a) Section 2303.157, Occupations Code, is
12 amended by amending Subsection (b) and adding Subsection (c) to
13 conform to Section 4, Chapter 1452, Acts of the 77th Legislature,
14 Regular Session, 2001, to read as follows:

15 (b) An operator entitled to dispose of a vehicle under this
16 section may sell the vehicle at a public sale without obtaining a
17 release or discharge of any lien on the vehicle, regardless of
18 whether notice was provided by mail or by publication under this
19 chapter. The proceeds from the sale of the vehicle shall be applied
20 to the charges incurred for the vehicle under Section 2303.155. The
21 operator shall pay any excess proceeds to the person entitled to
22 those proceeds.

23 (c) Notwithstanding Subsection (a), the operator of a
24 vehicle storage facility may dispose of a vehicle for which notice
25 was given under this subchapter as provided by this section if:

- 26 (1) the vehicle is an abandoned nuisance vehicle; and
27 (2) before the 30th day after the date the notice was

1 sent, the facility submits an application to the department for
2 disposal of the vehicle.

3 (b) Section 4, Chapter 1452, Acts of the 77th Legislature,
4 Regular Session, 2001, is repealed.

5 SECTION 14A.629. (a) Subtitle A, Title 14, Occupations
6 Code, is amended to codify Article 9035, Revised Statutes, by
7 adding Chapter 2306 to read as follows:

8 CHAPTER 2306. VEHICLE PROTECTION PRODUCT WARRANTORS

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 2306.001. SHORT TITLE. This chapter may be cited as
11 the Vehicle Protection Product Regulatory Act.

12 Sec. 2306.002. DEFINITIONS. In this chapter:

13 (1) "Commission" means the Texas Commission of
14 Licensing and Regulation.

15 (2) "Consumer" means a person in this state who
16 purchases or otherwise possesses a vehicle protection product.

17 (3) "Department" means the Texas Department of
18 Licensing and Regulation.

19 (4) "Executive director" means the executive director
20 of the department.

21 (5) "Person" means an individual or a partnership,
22 company, corporation, association, or other group, however
23 organized.

24 (6) "Reimbursement insurance policy" means a policy of
25 insurance issued to a warrantor to:

26 (A) provide reimbursement to the warrantor under
27 the terms of the insured vehicle protection product issued or sold

1 by the warrantor; and

2 (B) pay on behalf of the warrantor, in the event
3 of the warrantor's nonperformance, all covered obligations
4 incurred by the warrantor under the terms of the insured vehicle
5 protection product issued or sold by the warrantor.

6 (7) "Seller" means a person engaged in the business of
7 offering a vehicle protection product for sale to a consumer.

8 (8) "Vehicle protection product" means a product or
9 system, including a written warranty, that is:

10 (A) installed on or applied to a vehicle;

11 (B) designed to prevent loss or damage to a
12 vehicle from a specific cause; and

13 (C) subject to the limitation of Section
14 2306.003.

15 (9) "Warrantor" means a person named under the terms
16 of a vehicle protection product warranty as the contractual obligor
17 to the consumer.

18 Sec. 2306.003. APPLICABILITY OF CHAPTER. (a) This chapter
19 applies only to a vehicle protection product under which, after
20 installation or application of the vehicle protection product, if
21 loss or damage results from the failure of the vehicle protection
22 product to perform as represented in the warranty, the warrantor,
23 to the extent agreed on as part of the warranty, is required to pay
24 expenses to the consumer for the loss of or damage to the vehicle.

25 (b) Loss of or damage to the vehicle under Subsection (a)
26 may also include unreimbursed incidental expenses that may be
27 incurred by the warrantor, including expenses for a replacement

1 vehicle, temporary vehicle rental expenses, and registration
2 expenses for replacement vehicles.

3 Sec. 2306.004. EXEMPTIONS FROM CERTAIN OTHER LAWS.
4 Marketing, selling, offering for sale, issuing, making, proposing
5 to make, and administering a vehicle protection product are exempt
6 from:

7 (1) Chapter 1304;

8 (2) the Insurance Code and other laws of this state
9 regulating the business of insurance; and

10 (3) Chapter 722, Transportation Code.

11 Sec. 2306.005. EXEMPTIONS FROM CHAPTER. The following
12 contracts and agreements are exempt from this chapter and are only
13 subject to any other statute or law that specifically applies to
14 them:

15 (1) warranties or guarantees, other than those
16 provided as part of a vehicle protection product;

17 (2) service contracts regulated by Chapter 1304; and

18 (3) agreements issued by an automobile service club
19 that holds a certificate of authority under Chapter 722,
20 Transportation Code.

21 [Sections 2306.006-2306.050 reserved for expansion]

22 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

23 Sec. 2306.051. POWERS AND DUTIES OF EXECUTIVE DIRECTOR.

24 (a) The executive director may adopt rules as necessary to
25 implement this chapter.

26 (b) The executive director may conduct investigations of
27 warrantors or other persons as reasonably necessary to enforce this

1 chapter and to protect consumers in this state.

2 Sec. 2306.052. FEES. (a) The department shall develop a
3 tiered fee structure under which registration fees are assessed on
4 warrantors based on the number of vehicle protection products sold
5 within this state in the 12 months preceding the date of
6 registration.

7 (b) The information submitted to the department under this
8 section regarding the number of vehicle protection products sold by
9 a warrantor may only be used by the department in determining the
10 tiered fee structure. Information concerning the number of vehicle
11 protection products sold by a warrantor submitted under this
12 section is a trade secret and subject to Section 552.110,
13 Government Code.

14 [Sections 2306.053-2306.100 reserved for expansion]

15 SUBCHAPTER C. ADVISORY BOARD

16 Sec. 2306.101. ADVISORY BOARD. (a) The Vehicle Protection
17 Product Warrantor Advisory Board is an advisory body to the
18 department.

19 (b) The advisory board consists of six members appointed by
20 the executive director as follows:

21 (1) two members who are officers, directors, or
22 employees of a warrantor who has been approved or expects to be
23 approved by the department;

24 (2) two members who are officers, directors, or
25 employees of a retail outlet or other entity located in this state
26 that sells vehicle protection products and is approved or expected
27 to be approved by the department; and

1 (3) two members who are residents of this state and, at
2 the time of appointment, are consumers of vehicle protection
3 products issued by warrantors registered or expected to be
4 registered under this chapter.

5 (c) The executive director or the executive director's
6 designee serves as an ex officio nonvoting member of the advisory
7 board.

8 (d) Chapter 2110, Government Code, does not apply to the
9 advisory board.

10 Sec. 2306.102. ADVISORY BOARD DUTIES. The advisory board
11 shall advise:

12 (1) the executive director on adopting rules and
13 enforcing and administering this chapter; and

14 (2) the commission on setting fees.

15 Sec. 2306.103. TERMS; VACANCY. (a) Members of the advisory
16 board serve staggered six-year terms, with the terms of two members
17 expiring on February 1 of each odd-numbered year. The executive
18 director shall appoint the initial six board members to terms of six
19 years or less in order to create staggered terms for the subsequent
20 members of the advisory board.

21 (b) The executive director shall fill any vacancy on the
22 advisory board by appointing an individual who meets the
23 qualifications for the vacant advisory board position to serve the
24 remainder of the unexpired term.

25 Sec. 2306.104. PRESIDING OFFICER. The executive director
26 shall designate one member of the advisory board to serve as
27 presiding officer.

1 Sec. 2306.105. MEETINGS. (a) The advisory board shall meet
2 at least every six months and may meet at other times at the call of
3 the presiding officer or executive director.

4 (b) The advisory board shall meet at a location in this
5 state designated by the advisory board.

6 Sec. 2306.106. VOTE REQUIRED FOR ACTION. A decision of the
7 advisory board is not effective unless it receives the affirmative
8 vote of at least four members.

9 Sec. 2306.107. COMPENSATION; REIMBURSEMENT. (a) Advisory
10 board members serve without compensation.

11 (b) A member of the advisory board appointed under Section
12 2306.101(b)(3) is entitled to reimbursement for actual and
13 necessary expenses incurred in performing functions as a member of
14 the advisory board, subject to any applicable limitation on
15 reimbursement provided by the General Appropriations Act.

16 [Sections 2306.108-2306.150 reserved for expansion]

17 SUBCHAPTER D. REGISTRATION

18 Sec. 2306.151. REGISTRATION REQUIRED. (a) A person may not
19 operate as a warrantor or represent to the public that the person is
20 a warrantor unless the person is registered with the department.

21 (b) A person who sells or solicits a vehicle protection
22 product but who is not a warrantor is not required to register with
23 the department as a warrantor.

24 (c) A seller is not a warrantor unless, in addition to
25 acting as a seller, the person is named under the terms of a vehicle
26 protection product warranty as the contractual obligor to the
27 consumer.

1 Sec. 2306.152. APPLICATION. Each applicant for
2 registration must file an application on a form prescribed by the
3 department that includes evidence satisfactory to the department of
4 compliance with the financial security requirements adopted under
5 Section 2306.202.

6 Sec. 2306.153. REGISTRATION FEE. Each registered warrantor
7 must pay an annual registration fee, not to exceed \$2,500, as set by
8 the commission to cover the costs of administering this chapter.

9 Sec. 2306.154. RENEWAL OF REGISTRATION. The executive
10 director shall adopt rules providing for the renewal of a
11 warrantor's registration.

12 [Sections 2306.155-2306.200 reserved for expansion]

13 SUBCHAPTER E. PRACTICE BY WARRANTOR

14 Sec. 2306.201. GENERAL WARRANTOR OPERATION REQUIREMENTS.

15 (a) A warrantor may appoint a designee to be responsible for any or
16 all of the administration of vehicle protection products and for
17 compliance with this chapter.

18 (b) A vehicle protection product may not be issued, sold, or
19 offered for sale in this state unless at the time of sale the
20 warrantor provides to the consumer:

21 (1) a copy of the vehicle protection product warranty;

22 or

23 (2) a receipt for, or other written evidence of, the
24 purchase of the vehicle protection product.

25 (c) A warrantor who complies with Subsection (b)(2) shall,
26 within a reasonable time after the date of purchase, provide to the
27 consumer a copy of the vehicle protection product warranty.

1 (d) A warrantor shall indemnify a seller who pays or is
2 obligated to pay a consumer any money the warrantor is obligated to
3 pay under the terms of the vehicle protection product warranty,
4 including damages, attorney's fees, and costs.

5 Sec. 2306.202. FINANCIAL SECURITY REQUIREMENTS. (a) To
6 ensure the adequate performance of a warrantor's obligations to a
7 consumer, each warrantor must comply with financial security
8 requirements by:

9 (1) insuring its vehicle protection products under a
10 reimbursement insurance policy issued by an insurer authorized to
11 transact insurance in this state or by a surplus lines insurer
12 eligible to place coverage in this state under Chapter 981,
13 Insurance Code; or

14 (2) providing any other form of comparable financial
15 security approved by the executive director.

16 (b) The department may not require any other financial
17 security requirements or financial standards for warrantors.

18 Sec. 2306.203. REIMBURSEMENT INSURANCE POLICY. (a) In
19 order for a warrantor to comply with Section 2306.202(a)(1), the
20 warrantor's insurance policy must state that:

21 (1) the insurer that issued the policy shall:

22 (A) reimburse or pay on behalf of the warrantor
23 any covered amounts the warrantor is legally obligated to pay; or

24 (B) provide the service that the warrantor is
25 legally obligated to perform according to the warrantor's
26 obligations under the insured vehicle protection product issued or
27 sold by the warrantor; and

1 (2) if the covered amounts are not paid or the covered
2 service is not provided by the warrantor to a consumer before the
3 61st day after the date the consumer provides proof of loss, payment
4 shall be made or the service shall be provided directly from the
5 reimbursement insurer to the consumer.

6 (b) An insurer who issues a reimbursement insurance policy
7 under this chapter may not cancel the policy until the insurer
8 delivers to the warrantor a written notice of cancellation that
9 complies with the notice requirements prescribed by Articles
10 21.49-2A and 21.49-2B, Insurance Code, for cancellation of an
11 insurance policy under those articles. The warrantor shall forward
12 a copy of the cancellation notice to the department not later than
13 the 15th business day after the date the notice is delivered to the
14 warrantor.

15 (c) The cancellation of a reimbursement insurance policy
16 does not reduce the insurer's responsibility for vehicle protection
17 products issued by the warrantor and insured under the policy
18 before the date of the cancellation.

19 (d) For purposes of this section, a warrantor is considered
20 to be the representative of the insurer who issues the
21 reimbursement insurance policy for purposes of obligating the
22 insurer to consumers in accordance with the vehicle protection
23 product and this chapter.

24 Sec. 2306.204. WARRANTOR RECORDS. (a) Each warrantor
25 shall maintain accurate accounts, books, and other records
26 regarding transactions regulated under this chapter. The
27 warrantor's records must include:

1 (1) a copy of the warranty for each unique form of
2 vehicle protection product sold;

3 (2) the name and address of each consumer;

4 (3) a list of the locations where the warrantor's
5 vehicle protection products are marketed, sold, or offered for
6 sale; and

7 (4) files that contain at least the dates and
8 descriptions of payments to consumers related to the vehicle
9 protection product.

10 (b) On request of the executive director, a warrantor shall
11 make the warrantor's records maintained under this section
12 regarding vehicle protection products sold by the warrantor
13 available to the department as necessary to enable the department
14 to reasonably determine compliance with this chapter.

15 (c) The records required to be maintained under this section
16 may be maintained in an electronic medium or through another
17 recordkeeping technology. If a record is maintained in a format
18 other than paper, the warrantor must be able to reformat the record
19 into a legible paper copy at the request of the department.

20 (d) Except as provided by Subsection (e), each warrantor
21 shall retain all records required under Subsection (a) until at
22 least the first anniversary of the expiration date of the
23 obligations under the vehicle protection product warranty.

24 (e) A warrantor who discontinues business in this state
25 shall maintain the warrantor's records until the date the warrantor
26 provides the department with proof satisfactory to the department
27 that the warrantor has discharged all obligations to consumers in

1 this state.

2 (f) The executive director shall adopt rules governing how a
3 warrantor shall protect nonpublic personal information provided by
4 a consumer to the warrantor.

5 Sec. 2306.205. FORM OF VEHICLE PROTECTION PRODUCT WARRANTY
6 AND REQUIRED DISCLOSURES. (a) Each vehicle protection product
7 warranty marketed, sold, offered for sale, issued, made, proposed
8 to be made, or administered in this state must be written, printed,
9 or typed, in clear, understandable, and easy-to-read language and
10 must disclose the applicable requirements set forth in this
11 section.

12 (b) A vehicle protection product warranty insured under a
13 reimbursement insurance policy must contain a statement
14 substantially similar to the following:

15 "Obligations of the warrantor under this vehicle protection
16 product are insured under a reimbursement insurance policy."

17 (c) The vehicle protection product warranty must state the
18 name and address of the insurer and state that if a covered service
19 is not provided by the warrantor before the 61st day after the date
20 the consumer provides proof of loss, the consumer may apply for
21 reimbursement directly to the vehicle protection product's
22 reimbursement insurer.

23 (d) A vehicle protection product warranty that is not
24 insured under a reimbursement insurance policy must contain a
25 statement substantially similar to the following:

26 "Obligations of the warrantor under this vehicle protection
27 product are backed by the full faith and credit of the warrantor."

1 (e) Each vehicle protection product warranty must state the
2 name, address, and telephone number of the warrantor. All
3 warrantors shall report to the department before the 31st day after
4 the date of any change in the information required to be provided in
5 this subsection.

6 (f) Each vehicle protection product warranty must identify
7 any administrator, if different from the warrantor, the vehicle
8 protection product seller, and the consumer, if the name of the
9 consumer has been provided by the consumer. The identities of those
10 persons are not required to be preprinted on the warranty and may be
11 added to the warranty at the time of sale.

12 (g) Each vehicle protection product warranty must state the
13 product's purchase price, or the warrantor's suggested purchase
14 price, and the terms under which the product is sold. The purchase
15 price is not required to be preprinted on the vehicle protection
16 product warranty and may be negotiated with the consumer at the time
17 of sale.

18 (h) Each vehicle protection product warranty must:

19 (1) specify the products and services to be provided
20 and any limitations, exceptions, or exclusions;

21 (2) specify any restrictions governing the
22 transferability of the vehicle protection product;

23 (3) state the duties of the consumer, including any
24 duty to protect against any further damage and any requirement to
25 follow the warranty's instructions;

26 (4) state the name, mailing address, and telephone
27 number of the department; and

1 (5) include a statement that unresolved complaints
2 concerning a registered warrantor or questions concerning the
3 regulation of a warrantor may be addressed to the department.

4 (i) The requirements of Subsections (h)(4) and (5) may be
5 stamped on the vehicle protection product warranty.

6 Sec. 2306.206. CANCELLATION OF WARRANTY. (a) Each vehicle
7 protection product warranty must state the terms, restrictions, or
8 conditions, if any, governing cancellation of the warranty by the
9 warrantor before the expiration date of the warranty. Cancellation
10 may only occur under this section for:

11 (1) nonpayment by the consumer for the vehicle
12 protection product;

13 (2) a material misrepresentation by the consumer to
14 the seller or warrantor;

15 (3) fraud by the consumer; or

16 (4) a substantial breach of duties by the consumer
17 relating to the warranty.

18 (b) A warrantor shall mail written notice of cancellation to
19 the consumer at the last address of the consumer contained in the
20 records of the warrantor before the fifth day preceding the
21 effective date of the cancellation. The notice must state the
22 effective date of the cancellation and the reason for the
23 cancellation.

24 Sec. 2306.207. LIMITATIONS ON WARRANTOR'S NAME. (a) A
25 warrantor may not use a name that:

26 (1) includes "casualty," "surety," "insurance," or
27 "mutual" or any other word descriptive of the casualty, insurance,

1 or surety business; or

2 (2) is deceptively similar to the name or description
3 of any insurer or surety corporation or to the name of any other
4 warrantor.

5 (b) A warrantor may use the word "guaranty" or a similar
6 word in the warrantor's name.

7 Sec. 2306.208. PROHIBITED ACTS. (a) A warrantor or a
8 warrantor's representative may not, in the warrantor's vehicle
9 protection product warranty or in an advertisement or literature
10 for the warranty:

11 (1) make, permit, or cause to be made any false or
12 misleading statement; or

13 (2) deliberately omit a material statement that would
14 be considered misleading if omitted.

15 (b) A warrantor may not require as a condition of sale or
16 financing that a retail purchaser of a motor vehicle purchase a
17 vehicle protection product that is not installed on the motor
18 vehicle at the time of sale.

19 [Sections 2306.209-2306.250 reserved for expansion]

20 SUBCHAPTER F. ENFORCEMENT AND PENALTY PROVISIONS

21 Sec. 2306.251. SANCTIONS; ADMINISTRATIVE PENALTY. (a) On
22 a determination that a ground for disciplinary action exists under
23 this chapter, the executive director may impose appropriate
24 administrative sanctions on a warrantor, including administrative
25 penalties as provided by Subchapter F, Chapter 51.

26 (b) An administrative penalty imposed under this section
27 may not exceed:

1 Code, is repealed to conform to the changes in terminology made by
2 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001.

3 (b) Section 2401.001, Occupations Code, is amended by
4 adding Subdivision (2-a) to conform to the changes in terminology
5 made by Chapter 836, Acts of the 77th Legislature, Regular Session,
6 2001, to read as follows:

7 (2-a) "Executive director" means the executive
8 director of the department.

9 SECTION 14A.652. The heading to Subchapter B, Chapter 2401,
10 Occupations Code, is amended to conform to the changes in
11 terminology made by Chapter 836, Acts of the 77th Legislature,
12 Regular Session, 2001, to read as follows:

13 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION, EXECUTIVE
14 DIRECTOR [~~COMMISSIONER~~], AND DEPARTMENT

15 SECTION 14A.653. Section 2401.051, Occupations Code, is
16 amended to conform to the changes in terminology made by Chapter
17 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
18 follows:

19 Sec. 2401.051. RULES. The executive director
20 [~~commissioner~~] shall adopt rules necessary to administer this
21 chapter, including rules to establish requirements for the
22 issuance, renewal, denial, suspension, and revocation of a
23 certificate of registration.

24 SECTION 14A.654. Section 2401.102(a), Occupations Code, is
25 amended to conform to the changes in terminology made by Chapter
26 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
27 follows:

1 (a) An applicant for a certificate of registration must
2 submit to the department:

3 (1) an application on a form prescribed by the
4 executive director [~~commissioner~~]; and

5 (2) a nonrefundable registration fee.

6 SECTION 14A.655. Section 2401.104(b), Occupations Code, is
7 amended to conform to the changes in terminology made by Chapter
8 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
9 follows:

10 (b) To renew a certificate of registration, the holder of
11 the certificate must submit to the department:

12 (1) an application for renewal on a form prescribed by
13 the executive director [~~commissioner~~]; and

14 (2) a registration renewal fee.

15 SECTION 14A.656. Sections 2401.201 and 2401.203,
16 Occupations Code, are amended to conform to the changes in
17 terminology made by Chapter 836, Acts of the 77th Legislature,
18 Regular Session, 2001, to read as follows:

19 Sec. 2401.201. DENIAL, SUSPENSION, OR REVOCATION FOR
20 VIOLATION OF CHAPTER. The executive director [~~commissioner~~] may
21 deny, suspend, or revoke a certificate of registration for a
22 violation of this chapter or a rule adopted under this chapter.

23 Sec. 2401.203. SUSPENSION OR REVOCATION OF CERTIFICATE IN
24 CONNECTION WITH CONVICTION OR DELINQUENT TAXES. The executive
25 director [~~commissioner~~] may suspend or revoke the certificate of
26 registration of a person other than an individual if:

27 (1) the department determines that, during the period

1 the person holds the certificate, an officer, director, member, or
2 shareholder of the person or of a person who owns shares in the
3 person is convicted of an offense described by Section
4 2401.103(a)(1); or

5 (2) the person owes delinquent taxes to a local,
6 state, or federal taxing entity.

7 SECTION 14A.657. Section 2401.204(a), Occupations Code, is
8 amended to conform to the changes in terminology made by Chapter
9 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
10 follows:

11 (a) The executive director [~~commissioner~~] may suspend a
12 certificate of registration issued to a transportation service
13 provider if:

14 (1) the department requires a person associated with
15 the business of the transportation service provider to submit to an
16 examination under Section 2401.052; and

17 (2) the person refuses to permit the examination or to
18 respond to questioning under Section 2401.052(a)(2).

19 SECTION 14A.658. Sections 2401.205 and 2401.253,
20 Occupations Code, are amended to conform to the changes in
21 terminology made by Chapter 836, Acts of the 77th Legislature,
22 Regular Session, 2001, to read as follows:

23 Sec. 2401.205. PROCEDURES FOR DISCIPLINARY ACTION. The
24 denial, suspension, or revocation of a certificate of registration
25 by the executive director [~~commissioner~~] and the appeal from that
26 action are governed by the procedures for a contested case hearing
27 under Chapter 2001, Government Code.

1 Sec. 2401.253. AUTHORITY TO INVESTIGATE AND FILE COMPLAINT.

2 (a) The executive director [~~commissioner~~], with the assistance of
3 the Texas Department of Public Safety, may investigate a violation
4 of this chapter or a rule adopted under this chapter.

5 (b) The executive director [~~commissioner~~] or any law
6 enforcement agency may file a complaint with:

7 (1) the district attorney of Travis County; or

8 (2) the prosecuting attorney of the county in which a
9 violation is alleged to have occurred.

10 PART 15. CHANGES RELATING TO TITLE 15, OCCUPATIONS CODE

11 SECTION 14A.701. (a) Section 2501.001(2), Occupations
12 Code, is repealed to conform to the changes in terminology made by
13 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001.

14 (b) Section 2501.001, Occupations Code, is amended by
15 adding Subdivision (4-a) to conform to the changes in terminology
16 made by Chapter 836, Acts of the 77th Legislature, Regular Session,
17 2001, to read as follows:

18 (4-a) "Executive director" means the executive
19 director of the Texas Department of Licensing and Regulation.

20 SECTION 14A.702. Section 2501.053(a), Occupations Code, is
21 amended to conform to the changes in terminology made by Chapter
22 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
23 follows:

24 (a) Not later than the 30th day before the date a personnel
25 service begins operating in this state, the owner of the service
26 must file notice with the executive director [~~commissioner~~].

27 SECTION 14A.703. Section 2501.055(a), Occupations Code, is

1 amended to conform to the changes in terminology made by Chapter
2 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
3 follows:

4 (a) On receipt of a notice filed under Section 2501.053, the
5 executive director [~~commissioner~~] shall issue to the owner a
6 certificate of authority to do business as a personnel service not
7 later than the 15th day after the date the notice is filed if the
8 owner:

9 (1) pays the filing fee required for the certificate;
10 and

11 (2) complies with the requirements of Section
12 2501.054.

13 SECTION 14A.704. Section 2501.057, Occupations Code, is
14 amended to conform to the changes in terminology made by Chapter
15 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
16 follows:

17 Sec. 2501.057. RENEWAL OF CERTIFICATE. The executive
18 director [~~commissioner~~] shall issue a renewal of a certificate of
19 authority on the receipt of:

20 (1) a renewal notice from the owner that contains the
21 information required by Section 2501.053;

22 (2) a renewal fee; and

23 (3) security that complies with Section 2501.054.

24 SECTION 14A.705. Section 2501.058(a), Occupations Code, is
25 amended to conform to the changes in terminology made by Chapter
26 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
27 follows:

1 (a) The executive director [~~commissioner~~] may recognize,
2 prepare, or administer continuing education programs for persons
3 regulated under this chapter.

4 SECTION 14A.706. The heading to Subchapter D, Chapter 2501,
5 Occupations Code, is amended to conform to the changes in
6 terminology made by Chapter 836, Acts of the 77th Legislature,
7 Regular Session, 2001, to read as follows:

8 SUBCHAPTER D. ENFORCEMENT BY EXECUTIVE DIRECTOR [~~COMMISSIONER~~]

9 SECTION 14A.707. Sections 2501.151 and 2501.152,
10 Occupations Code, are amended to conform to the changes in
11 terminology made by Chapter 836, Acts of the 77th Legislature,
12 Regular Session, 2001, to read as follows:

13 Sec. 2501.151. ENFORCEMENT. (a) The executive director
14 [~~commissioner~~] shall enforce Section 2501.102 and may investigate a
15 personnel service as necessary to enforce that section.

16 (b) The attorney general shall assist the executive
17 director [~~commissioner~~] on request.

18 Sec. 2501.152. COMPLAINT AND INVESTIGATION. (a) A person
19 by sworn affidavit may file with the executive director
20 [~~commissioner~~] a complaint alleging a violation of Section
21 2501.102.

22 (b) On receipt of a complaint, the executive director
23 [~~commissioner~~] shall investigate the alleged violation and may:

- 24 (1) inspect any records relevant to the complaint; and
25 (2) subpoena those records and any necessary
26 witnesses.

27 SECTION 14A.708. Sections 2501.153(a) and (c), Occupations

1 Code, are amended to conform to the changes in terminology made by
2 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001,
3 to read as follows:

4 (a) If the executive director [~~commissioner~~] determines as
5 a result of an investigation that a violation of Section 2501.102
6 may have occurred, the executive director [~~commissioner~~] shall hold
7 a hearing not later than the 45th day after the date the complaint
8 was filed under Section 2501.152.

9 (c) The executive director [~~commissioner~~] shall render a
10 decision on the alleged violation not later than the eighth day
11 after the date the hearing is concluded.

12 SECTION 14A.709. Sections 2501.154 and 2501.155,
13 Occupations Code, are amended to conform to the changes in
14 terminology made by Chapter 836, Acts of the 77th Legislature,
15 Regular Session, 2001, to read as follows:

16 Sec. 2501.154. SANCTIONS. (a) If, after a hearing, the
17 executive director [~~commissioner~~] determines that a personnel
18 service has violated Section 2501.102, the executive director
19 [~~commissioner~~] may, as appropriate:

- 20 (1) issue a warning to the personnel service; or
21 (2) suspend or revoke the certificate of authority
22 issued to the personnel service.

23 (b) If, after a hearing, the executive director
24 [~~commissioner~~] determines that a personnel service has violated
25 Section 2501.102, the executive director [~~commissioner~~] may award
26 the complainant an amount equal to the amount of the fee charged by
27 the personnel service.

1 Sec. 2501.155. REISSUANCE OF CERTIFICATE AFTER REVOCATION.

2 If the executive director [~~commissioner~~] revokes a certificate of
3 authority of a personnel service under Section 2501.154, the
4 personnel service and any owner of that personnel service may not
5 apply for a new certificate until the third anniversary of the date
6 the certificate was revoked.

7 SECTION 14A.710. Section 2501.253(a), Occupations Code, is
8 amended to conform to the changes in terminology made by Chapter
9 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
10 follows:

11 (a) In addition to the amount awarded to a complainant under
12 Section 2501.154(b), the executive director [~~commissioner~~] may
13 impose on the personnel service an administrative penalty equal to
14 two times the amount awarded under that subsection. A penalty
15 collected under this section shall be deposited in the state
16 treasury.

17 SECTION 14A.711. (a) Section 2502.001(3), Occupations
18 Code, is repealed to conform to the changes in terminology made by
19 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001.

20 (b) Section 2502.001, Occupations Code, is amended by
21 adding Subdivision (4-a) to conform to the changes in terminology
22 made by Chapter 836, Acts of the 77th Legislature, Regular Session,
23 2001, to read as follows:

24 (4-a) "Executive director" means the executive
25 director of the department.

26 SECTION 14A.712. Sections 2502.052(a) and (b), Occupations
27 Code, are amended to conform to the changes in terminology made by

1 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001,
2 to read as follows:

3 (a) To obtain a certificate of authority, an owner must:

4 (1) file with the executive director [~~commissioner~~] a
5 sworn application accompanied by the required application fee; and

6 (2) file with the department security that complies
7 with Section 2502.053.

8 (b) The application must be in the form prescribed by the
9 executive director [~~commissioner~~] and include:

10 (1) the address of the principal location of the
11 career counseling service;

12 (2) the assumed name, if any, under which the career
13 counseling service will operate;

14 (3) the name and address of each owner; and

15 (4) a statement that the owner has read and is familiar
16 with this chapter.

17 SECTION 14A.713. Section 2502.053(a), Occupations Code, is
18 amended to conform to the changes in terminology made by Chapter
19 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
20 follows:

21 (a) Before the executive director [~~commissioner~~] may issue
22 a certificate of authority to an owner, the owner must file with the
23 department a bond in the amount of \$10,000 that is:

24 (1) executed by a surety company authorized to do
25 business in this state;

26 (2) payable to the state; and

27 (3) conditioned on the faithful performance of the

1 owner's obligations under this chapter.

2 SECTION 14A.714. Sections 2502.054(a) and (b), Occupations
3 Code, are amended to conform to the changes in terminology made by
4 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001,
5 to read as follows:

6 (a) The executive director [~~commissioner~~] shall issue a
7 certificate of authority to do business as a career counseling
8 service to an applicant who meets the requirements of this
9 subchapter.

10 (b) The executive director [~~commissioner~~] shall process a
11 certificate application not later than the 15th day after the date
12 the application is filed.

13 SECTION 14A.715. Section 2502.056, Occupations Code, is
14 amended to conform to the changes in terminology made by Chapter
15 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
16 follows:

17 Sec. 2502.056. RULES. The executive director
18 [~~commissioner~~] may adopt rules relating to the administration and
19 enforcement of the certificate of authority program created under
20 this subchapter.

21 SECTION 14A.716. Section 2502.057(a), Occupations Code, is
22 amended to conform to the changes in terminology made by Chapter
23 836, Acts of the 77th Legislature, Regular Session, 2001, to read as
24 follows:

25 (a) The executive director [~~commissioner~~] may recognize,
26 prepare, or administer continuing education programs for persons
27 regulated under this chapter.

1 SECTION 14A.717. Sections 2502.251 and 2502.252,
2 Occupations Code, are amended to conform to the changes in
3 terminology made by Chapter 836, Acts of the 77th Legislature,
4 Regular Session, 2001, to read as follows:

5 Sec. 2502.251. ENFORCEMENT. (a) The executive director
6 [~~commissioner~~] shall enforce this chapter and may investigate a
7 career counseling service as necessary.

8 (b) The attorney general shall assist the executive
9 director [~~commissioner~~] on request.

10 Sec. 2502.252. COMPLAINT AND INVESTIGATION. (a) A person
11 by sworn affidavit may file with the executive director
12 [~~commissioner~~] a complaint alleging a violation of this chapter.

13 (b) On receipt of the complaint, the executive director
14 [~~commissioner~~] shall investigate the alleged violation and may:

- 15 (1) inspect any record relevant to the complaint; and
16 (2) subpoena the record and any necessary witness.

17 SECTION 14A.718. Sections 2502.253(a) and (c), Occupations
18 Code, are amended to conform to the changes in terminology made by
19 Chapter 836, Acts of the 77th Legislature, Regular Session, 2001,
20 to read as follows:

21 (a) If the executive director [~~commissioner~~] determines as
22 a result of an investigation that a violation of this chapter may
23 have occurred, the executive director [~~commissioner~~] shall hold a
24 hearing not later than the 45th day after the date the complaint was
25 filed under Section 2502.252.

26 (c) The executive director [~~commissioner~~] shall render a
27 decision on the alleged violation not later than the eighth day

1 after the date the hearing is concluded.

2 SECTION 14A.719. Sections 2502.254, 2502.255, and
3 2502.301, Occupations Code, are amended to conform to the changes
4 in terminology made by Chapter 836, Acts of the 77th Legislature,
5 Regular Session, 2001, to read as follows:

6 Sec. 2502.254. SANCTIONS. (a) If, after a hearing, the
7 executive director [~~commissioner~~] determines that a career
8 counseling service has violated this chapter, the executive
9 director [~~commissioner~~] may, as appropriate:

10 (1) issue a warning to the service; or

11 (2) suspend or revoke the certificate of authority
12 issued to the service.

13 (b) If, after a hearing, the executive director
14 [~~commissioner~~] determines that a career counseling service has
15 violated this chapter, the executive director [~~commissioner~~] may
16 award the complainant an amount equal to the amount of the fee
17 charged by the service.

18 Sec. 2502.255. REISSUANCE OF CERTIFICATE AFTER REVOCATION.
19 If the executive director [~~commissioner~~] revokes the certificate of
20 authority of a career counseling service under Section 2502.254,
21 the service and any owner of that service may not apply for a new
22 certificate until after the third anniversary of the date the
23 certificate was revoked.

24 Sec. 2502.301. ADMINISTRATIVE PENALTY. In addition to the
25 amount awarded to a complainant under Section 2502.254(b), the
26 executive director [~~commissioner~~] may impose on the career
27 counseling service an administrative penalty equal to two times the

1 amount awarded under that subsection. A penalty collected under
2 this section shall be deposited in the state treasury.

3 PART 16. CROSS-REFERENCE AND OTHER CONFORMING CHANGES

4 SECTION 14A.751. Section 76.008, Agriculture Code, is
5 amended to read as follows:

6 Sec. 76.008. EXEMPTION. Sections 76.007, 76.104-76.106,
7 76.108-76.117, 76.151(b), 76.151(c), 76.154(b), 76.155, 76.181,
8 76.182, 76.184, and 76.201(d)(1) do not apply to a person who is
9 regulated by Chapter 1951, Occupations Code [~~the Texas Structural
10 Pest Control Act, as amended (Article 135b-6, Vernon's Texas Civil
11 Statutes)~~].

12 SECTION 14A.752. Section 76.102(a), Agriculture Code, is
13 amended to read as follows:

14 (a) The department shall license pesticide applicators
15 involved in the following license use categories:

16 (1) agricultural pest control, including animal pest
17 control;

18 (2) forest pest control;

19 (3) ornamental and turf pest control, except as
20 provided by Chapter 1951, Occupations Code [~~the Texas Structural
21 Pest Control Act, as amended (Article 135b-6, Vernon's Texas Civil
22 Statutes)~~];

23 (4) seed treatments;

24 (5) right-of-way pest control;

25 (6) regulatory pest control;

26 (7) aquatic pest control;

27 (8) demonstration pest control; and

1 (9) other license use categories as necessary to
2 comply with federal requirements. The department may not adopt
3 license use categories that are designated by statute for
4 regulation by another agency.

5 SECTION 14A.753. Section 2A.104(a), Business & Commerce
6 Code, is amended to read as follows:

7 (a) A lease, although subject to this chapter, is also
8 subject to any applicable:

9 (1) certificate of title statute of this state,
10 including Chapter 501, Transportation Code, Chapter 31, Parks and
11 Wildlife Code, and Subchapter E, Chapter 1201, Occupations Code
12 [~~Section 19, Texas Manufactured Housing Standards Act (Article~~
13 ~~5221f, Vernon's Texas Civil Statutes)];~~

14 (2) certificate of title statute of another
15 jurisdiction (Section 2A.105); or

16 (3) consumer law of this state, both decisional and
17 statutory, including, to the extent that they apply to a lease
18 transaction, Chapters 17 and 35 of this code and Chapter 1201,
19 Occupations Code [~~the Texas Manufactured Housing Standards Act~~
20 ~~(Article 5221f, Vernon's Texas Civil Statutes)].~~

21 SECTION 14A.754. Section 9.311(a), Business & Commerce
22 Code, is amended to read as follows:

23 (a) Except as otherwise provided in Subsection (d), the
24 filing of a financing statement is not necessary or effective to
25 perfect a security interest in property subject to:

26 (1) a statute, regulation, or treaty of the United
27 States whose requirements for a security interest's obtaining

1 priority over the rights of a lien creditor with respect to the
2 property preempt Section 9.310(a);

3 (2) the following statutes of this state: Chapter
4 501, Transportation Code, relating to the certificates of title for
5 motor vehicles; Subchapter B-1, Chapter 31, Parks and Wildlife
6 Code, relating to the certificates of title for vessels and
7 outboard motors; Chapter 1201, Occupations Code [~~the Texas~~
8 ~~Manufactured Housing Standards Act (Article 5221f, Vernon's Texas~~
9 ~~Civil Statutes)~~], relating to the documents of title for
10 manufactured homes; or Subchapter A, Chapter 35, relating to
11 utility security instruments; or

12 (3) a certificate of title statute of another
13 jurisdiction that provides for a security interest to be indicated
14 on the certificate as a condition or result of the security
15 interest's obtaining priority over the rights of a lien creditor
16 with respect to the property.

17 SECTION 14A.755. Section 33.017, Civil Practice and
18 Remedies Code, is amended to read as follows:

19 Sec. 33.017. PRESERVATION OF EXISTING RIGHTS OF INDEMNITY.
20 Nothing in this chapter shall be construed to affect any rights of
21 indemnity granted to a seller eligible for indemnity by Chapter 82
22 of this code, Chapter 2301, Occupations Code, [~~the Texas Motor~~
23 ~~Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil~~
24 ~~Statutes)~~], or any other statute, nor shall it affect rights of
25 indemnity granted by contract or at common law. To the extent of
26 any conflict between this chapter and any right to indemnification
27 granted by Section 82.002 of this code, Chapter 2301, Occupations

1 Code, [~~the Texas Motor Vehicle Commission Code (Article 4413(36),~~
2 ~~Vernon's Texas Civil Statutes)~~], or any other statute, contract, or
3 common law, those rights of indemnification shall prevail over the
4 provisions of this chapter.

5 SECTION 14A.756. Sections 44.0315(1) and (3), Education
6 Code, are amended to read as follows:

7 (1) "Architect" means an individual registered as an
8 architect under Chapter 1051, Occupations Code [~~478, Acts of the~~
9 ~~45th Legislature, Regular Session, 1937 (Article 249a, Vernon's~~
10 ~~Texas Civil Statutes)~~].

11 (3) "Engineer" means an individual licensed
12 [~~registered~~] as an an [~~a professional~~] engineer under Chapter 1001,
13 Occupations Code [~~The Texas Engineering Practice Act (Article~~
14 ~~3271a, Vernon's Texas Civil Statutes)~~].

15 SECTION 14A.757. Sections 44.036(d) and (g), Education
16 Code, are amended to read as follows:

17 (d) The district shall prepare a request for qualifications
18 that includes general information on the project site, project
19 scope, budget, special systems, selection criteria, and other
20 information that may assist potential design-build firms in
21 submitting proposals for the project. The district shall also
22 prepare the design criteria package that includes more detailed
23 information on the project. If the preparation of the design
24 criteria package requires engineering or architectural services
25 that constitute the practice of engineering within the meaning of
26 Chapter 1001, Occupations Code, [~~The Texas Engineering Practice Act~~
27 ~~(Article 3271a, Vernon's Texas Civil Statutes)~~] or the practice of

1 architecture within the meaning of Chapter 1051, Occupations Code
2 [~~478, Acts of the 45th Legislature, Regular Session, 1937 (Article~~
3 ~~249a, Vernon's Texas Civil Statutes)~~], those services shall be
4 provided in accordance with the applicable law.

5 (g) An engineer shall have responsibility for compliance
6 with the engineering design requirements and all other applicable
7 requirements of Chapter 1001, Occupations Code [~~The Texas~~
8 ~~Engineering Practice Act (Article 3271a, Vernon's Texas Civil~~
9 ~~Statutes)~~]. An architect shall have responsibility for compliance
10 with the requirements of Chapter 1051, Occupations Code [~~478, Acts~~
11 ~~of the 45th Legislature, Regular Session, 1937 (Article 249a,~~
12 ~~Vernon's Texas Civil Statutes)~~].

13 SECTION 14A.758. Section 44.037(c), Education Code, is
14 amended to read as follows:

15 (c) Before or concurrently with selecting a construction
16 manager-agent, the district shall select or designate an engineer
17 or architect who shall prepare the construction documents for the
18 project and who has full responsibility for complying with Chapter
19 1001 or 1051, Occupations Code [~~The Texas Engineering Practice Act~~
20 ~~(Article 3271a, Vernon's Texas Civil Statutes) or Chapter 478, Acts~~
21 ~~of the 45th Legislature, Regular Session, 1937 (Article 249a,~~
22 ~~Vernon's Texas Civil Statutes)~~], as applicable. If the engineer or
23 architect is not a full-time employee of the district, the district
24 shall select the engineer or architect on the basis of demonstrated
25 competence and qualifications as provided by Section 2254.004,
26 Government Code. The district's engineer or architect may not
27 serve, alone or in combination with another person, as the

1 construction manager-agent unless the engineer or architect is
2 hired to serve as the construction manager-agent under a separate
3 or concurrent procurement conducted in accordance with this
4 subchapter. This subsection does not prohibit the district's
5 engineer or architect from providing customary construction phase
6 services under the engineer's or architect's original professional
7 service agreement in accordance with applicable licensing laws.

8 SECTION 14A.759. Section 44.038(c), Education Code, is
9 amended to read as follows:

10 (c) Before or concurrently with selecting a construction
11 manager-at-risk, the district shall select or designate an engineer
12 or architect who shall prepare the construction documents for the
13 project and who has full responsibility for complying with Chapter
14 1001 or 1051, Occupations Code [~~The Texas Engineering Practice Act~~
15 ~~(Article 3271a, Vernon's Texas Civil Statutes) or Chapter 478, Acts~~
16 ~~of the 45th Legislature, Regular Session, 1937 (Article 249a,~~
17 ~~Vernon's Texas Civil Statutes)] , as applicable. If the engineer or
18 architect is not a full-time employee of the district, the district
19 shall select the engineer or architect on the basis of demonstrated
20 competence and qualifications as provided by Section 2254.004,
21 Government Code. The district's engineer, architect, or
22 construction manager-agent for a project may not serve, alone or in
23 combination with another, as the construction manager-at-risk.~~

24 SECTION 14A.760. Section 44.039(b), Education Code, is
25 amended to read as follows:

26 (b) The district shall select or designate an engineer or
27 architect to prepare construction documents for the project. The

1 selected or designated engineer or architect has full
2 responsibility for complying with Chapter 1001 or 1051, Occupations
3 Code [~~The Texas Engineering Practice Act (Article 3271a, Vernon's~~
4 ~~Texas Civil Statutes) or Chapter 478, Acts of the 45th Legislature,~~
5 ~~Regular Session, 1937 (Article 249a, Vernon's Texas Civil~~
6 ~~Statutes)]~~, as applicable. If the engineer or architect is not a
7 full-time employee of the district, the district shall select the
8 engineer or architect on the basis of demonstrated competence and
9 qualifications as provided by Section 2254.004, Government Code.

10 SECTION 14A.761. Section 44.041(i), Education Code, is
11 amended to read as follows:

12 (i) If a job order contract or an order issued under the
13 contract requires engineering or architectural services that
14 constitute the practice of engineering within the meaning of
15 Chapter 1001, Occupations Code, [~~The Texas Engineering Practice Act~~
16 ~~(Article 3271a, Vernon's Texas Civil Statutes)] or the practice of
17 architecture within the meaning of Chapter 1051, Occupations Code
18 [~~478, Acts of the 45th Legislature, Regular Session, 1937 (Article~~
19 ~~249a, Vernon's Texas Civil Statutes)]~~, those services shall be
20 provided in accordance with applicable law.~~

21 SECTION 14A.762. Section 45.0031(c), Education Code, is
22 amended to read as follows:

23 (c) A district may demonstrate the ability to comply with
24 Subsection (a) by using a projected future taxable value of
25 property in the district anticipated for the earlier of the tax year
26 five years after the current tax year or the tax year in which the
27 final payment is due for the bonds submitted to the attorney

1 general, combined with state assistance to which the district is
2 entitled under Chapter 42 or 46 that may be lawfully used for the
3 payment of bonds. The district must submit to the attorney general
4 a certification of the district's projected taxable value of
5 property that is prepared by a registered professional appraiser
6 certified under Chapter 1151, Occupations Code, [~~The Property~~
7 ~~Taxation Professional Certification Act (Article 8885, Revised~~
8 ~~Statutes)~~] who has demonstrated professional experience in
9 projecting taxable values of property or who can by contract obtain
10 any necessary assistance from a person who has that experience. To
11 demonstrate the professional experience required by this
12 subsection, a registered professional appraiser must provide to the
13 district written documentation relating to two previous projects
14 for which the appraiser projected taxable values of property.
15 Until the bonds submitted to the attorney general are approved or
16 disapproved, the district must maintain the documentation and on
17 request provide the documentation to the attorney general or
18 comptroller. The certification of the district's projected taxable
19 value of property must be signed by the district's superintendent.
20 The attorney general must base a determination of whether the
21 district has complied with Subsection (a) on a taxable value of
22 property that is equal to 90 percent of the value certified under
23 this subsection.

24 SECTION 14A.763. Sections 51.776(1) and (4), Education
25 Code, are amended to read as follows:

26 (1) "Architect" means an individual registered as an
27 architect under Chapter 1051, Occupations Code [~~478, Acts of the~~

1 ~~45th Legislature, Regular Session, 1937 (Article 249a, Vernon's~~
2 ~~Texas Civil Statutes)].~~

3 (4) "Engineer" means an individual licensed
4 ~~[registered]~~ as an ~~[a professional]~~ engineer under Chapter 1001,
5 Occupations Code ~~[The Texas Engineering Practice Act (Article~~
6 ~~3271a, Vernon's Texas Civil Statutes)].~~

7 SECTION 14A.764. Sections 51.780(d) and (h), Education
8 Code, are amended to read as follows:

9 (d) The institution shall prepare a request for
10 qualifications that includes general information on the project
11 site, project scope, budget, special systems, selection criteria,
12 and other information that may assist potential design-build firms
13 in submitting proposals for the project. The institution shall
14 also prepare the design criteria package that includes more
15 detailed information on the project. If the preparation of the
16 design criteria package requires engineering or architectural
17 services that constitute the practice of engineering within the
18 meaning of Chapter 1001, Occupations Code, ~~[The Texas Engineering~~
19 ~~Practice Act (Article 3271a, Vernon's Texas Civil Statutes)]~~ or the
20 practice of architecture within the meaning of Chapter 1051,
21 Occupations Code ~~[478, Acts of the 45th Legislature, Regular~~
22 ~~Session, 1937 (Article 249a, Vernon's Texas Civil Statutes)]~~, those
23 services shall be provided in accordance with the applicable law.

24 (h) An engineer shall have responsibility for compliance
25 with the engineering design requirements and all other applicable
26 requirements of Chapter 1001, Occupations Code ~~[The Texas~~
27 ~~Engineering Practice Act (Article 3271a, Vernon's Texas Civil~~

1 ~~Statutes)~~]. An architect shall have responsibility for compliance
2 with the requirements of Chapter 1051, Occupations Code [~~478, Acts~~
3 ~~of the 45th Legislature, Regular Session, 1937 (Article 249a,~~
4 ~~Vernon's Texas Civil Statutes)~~].

5 SECTION 14A.765. Section 51.781(c), Education Code, is
6 amended to read as follows:

7 (c) Before or concurrently with selecting a construction
8 manager-agent, the board shall select or designate an engineer or
9 architect who shall prepare the construction documents for the
10 project and who has full responsibility for complying with Chapter
11 1001 or 1051, Occupations Code [~~The Texas Engineering Practice Act~~
12 ~~(Article 3271a, Vernon's Texas Civil Statutes) or Chapter 478, Acts~~
13 ~~of the 45th Legislature, Regular Session, 1937 (Article 249a,~~
14 ~~Vernon's Texas Civil Statutes)~~], as applicable. If the engineer or
15 architect is not a full-time employee of the institution, the board
16 shall select the engineer or architect on the basis of demonstrated
17 competence and qualifications as provided by Section 2254.004,
18 Government Code. The institution's engineer or architect may not
19 serve, alone or in combination with another person, as the
20 construction manager-agent unless the engineer or architect is
21 hired to serve as the construction manager-agent under a separate
22 or concurrent procurement conducted in accordance with this
23 subchapter. This subsection does not prohibit the institution's
24 engineer or architect from providing customary construction phase
25 services under the engineer's or architect's original professional
26 service agreement in accordance with applicable licensing laws.

27 SECTION 14A.766. Section 51.782(c), Education Code, is

1 amended to read as follows:

2 (c) Before or concurrently with selecting a construction
3 manager-at-risk, the board shall select or designate an engineer or
4 architect who shall prepare the construction documents for the
5 project and who has full responsibility for complying with Chapter
6 1001 or 1051, Occupations Code [~~The Texas Engineering Practice Act~~
7 ~~(Article 3271a, Vernon's Texas Civil Statutes)~~ or ~~Chapter 478, Acts~~
8 ~~of the 45th Legislature, Regular Session, 1937 (Article 249a,~~
9 ~~Vernon's Texas Civil Statutes)~~], as applicable. If the engineer or
10 architect is not a full-time employee of the institution, the board
11 shall select the engineer or architect on the basis of demonstrated
12 competence and qualifications as provided by Section 2254.004,
13 Government Code. The institution's engineer, architect, or
14 construction manager-agent for a project may not serve, alone or in
15 combination with another, as the construction manager-at-risk.

16 SECTION 14A.767. Section 51.783(b), Education Code, is
17 amended to read as follows:

18 (b) The board shall select or designate an engineer or
19 architect to prepare construction documents for the project. The
20 selected or designated engineer or architect has full
21 responsibility for complying with Chapter 1001 or 1051, Occupations
22 Code [~~The Texas Engineering Practice Act (Article 3271a, Vernon's~~
23 ~~Texas Civil Statutes)~~ or ~~Chapter 478, Acts of the 45th Legislature,~~
24 ~~Regular Session, 1937 (Article 249a, Vernon's Texas Civil~~
25 ~~Statutes)~~], as applicable. If the engineer or architect is not a
26 full-time employee of the institution, the board shall select the
27 engineer or architect on the basis of demonstrated competence and

1 qualifications as provided by Section 2254.004, Government Code.

2 SECTION 14A.768. Section 51.784(i), Education Code, is
3 amended to read as follows:

4 (i) If a job order contract or an order issued under the
5 contract requires engineering or architectural services that
6 constitute the practice of engineering within the meaning of
7 Chapter 1001, Occupations Code, [~~The Texas Engineering Practice Act~~
8 ~~(Article 3271a, Vernon's Texas Civil Statutes)~~] or the practice of
9 architecture within the meaning of Chapter 1051, Occupations Code
10 [~~478, Acts of the 45th Legislature, Regular Session, 1937 (Article~~
11 ~~249a, Vernon's Texas Civil Statutes)~~], those services shall be
12 provided in accordance with applicable law.

13 SECTION 14A.769. Section 61.0822, Education Code, is
14 amended to read as follows:

15 Sec. 61.0822. CONTRACT WITH TEXAS BOARD OF ARCHITECTURAL
16 EXAMINERS. The board may contract with the Texas Board of
17 Architectural Examiners to administer the examination fee
18 scholarship program established under Section 1051.206,
19 Occupations Code [~~7A, Chapter 478, Acts of the 45th Legislature,~~
20 ~~Regular Session, 1937 (Article 249a, Vernon's Texas Civil~~
21 ~~Statutes)~~].

22 SECTION 14A.770. Section 132.002(a), Education Code, is
23 amended to read as follows:

24 (a) The following schools or educational institutions are
25 specifically exempt from this chapter and are not within the
26 definition of "proprietary school":

27 (1) a school or educational institution supported by

1 taxation from either a local or state source;

2 (2) nonprofit schools owned, controlled, operated,
3 and conducted by bona fide religious, denominational,
4 eleemosynary, or similar public institutions exempt from property
5 taxation under the laws of this state, but such schools may choose
6 to apply for a certificate of approval hereunder, and upon approval
7 and issuance, are subject to this chapter as determined by the
8 commission;

9 (3) a school or training program that offers
10 instruction of purely avocational or recreational subjects as
11 determined by the commission;

12 (4) a course or courses of instruction or study
13 sponsored by an employer for the training and preparation of its own
14 employees, and for which no tuition fee is charged to the student;

15 (5) a course or courses of study or instruction
16 sponsored by a recognized trade, business, or professional
17 organization for the instruction of the members of the organization
18 with a closed membership;

19 (6) private colleges or universities that award a
20 recognized baccalaureate, or higher degree, and that maintain and
21 operate educational programs for which a majority of the credits
22 given are transferable to a college, junior college, or university
23 supported entirely or partly by taxation from either a local or
24 state source;

25 (7) a school or course that is otherwise regulated and
26 approved under and pursuant to any other law or rulemaking process
27 of this state or approved for continuing education credit by an

1 organization that accredits courses for the maintenance of a
2 license, except as provided by Subsection (c);

3 (8) aviation schools or instructors approved by and
4 under the supervision of the Federal Aviation Administration;

5 (9) a school that offers intensive review of a
6 student's acquired education, training, or experience to prepare
7 the student for an examination, other than a high school
8 equivalency examination, that the student by law may not take
9 unless the student has completed or substantially completed a
10 particular degree program, or that the student is required to take
11 as a precondition for enrollment in or admission to a particular
12 degree program;

13 (10) a private school offering primary or secondary
14 education, which may include a kindergarten or prekindergarten
15 program, and that satisfies the compulsory attendance requirements
16 of Section 25.085 pursuant to Section 25.086(a)(1);

17 (11) a course or courses of instruction by bona fide
18 electrical trade associations for the purpose of preparing students
19 for electrical tests required for licensing and for the purpose of
20 providing continuing education to students for the renewal of
21 electrical licenses;

22 (12) a nonprofit arts organization that has as its
23 primary purpose the provision of instruction in the dramatic arts
24 and the communications media to persons younger than 19 years of
25 age;

26 (13) a course or training program conducted by a
27 nonprofit association of air conditioning and refrigeration

1 contractors approved by the Air Conditioning and Refrigeration
2 Contractors Advisory Board to provide instruction for technical,
3 business, or license examination preparation programs relating to
4 air conditioning and refrigeration contracting, as that term is
5 defined by Chapter 1302, Occupations Code [~~the Air Conditioning and~~
6 ~~Refrigeration Contractor License Law (Article 8861, Vernon's Texas~~
7 ~~Civil Statutes)~~];

8 (14) a course of instruction by a plumbing trade
9 association to prepare students for a plumbing test or program
10 required for licensing, certification, or endorsement or to provide
11 continuing education approved by the Texas State Board of Plumbing
12 Examiners; and

13 (15) a course of instruction in the use of
14 technological hardware or software if the course is offered to a
15 purchaser of the hardware or software or to the purchaser's
16 employee by a person who manufactures and sells, or develops and
17 sells, the hardware or software, and if the seller is not primarily
18 in the business of providing courses of instruction in the use of
19 the hardware or software, as determined by the commission.

20 SECTION 14A.771. Section 156.204(a), Finance Code, is
21 amended to read as follows:

22 (a) To be eligible to be licensed as a mortgage broker a
23 person must:

24 (1) be an individual who is at least 18 years of age;
25 (2) be a citizen of the United States or a lawfully
26 admitted alien;

27 (3) maintain a physical office in this state and

1 designate that office in the application;

2 (4) provide the commissioner with satisfactory
3 evidence that the applicant satisfies one of the following:

4 (A) the person has received a bachelor's degree
5 in an area relating to finance, banking, or business administration
6 from an accredited college or university and has 18 months of
7 experience in the mortgage or lending field as evidenced by
8 documentary proof of full-time employment as a mortgage broker or
9 loan officer with a mortgage broker or a person exempt under Section
10 156.202;

11 (B) the person is licensed in this state as:

12 (i) an active real estate broker under
13 Chapter 1101, Occupations Code [~~The Real Estate License Act~~
14 ~~(Article 6573a, Vernon's Texas Civil Statutes)~~];

15 (ii) an active attorney; or

16 (iii) a local recording agent or insurance
17 solicitor or agent for a legal reserve life insurance company under
18 Chapter 21, Insurance Code, or holds an equivalent license under
19 Chapter 21, Insurance Code; or

20 (C) the person has three years of experience in
21 the mortgage lending field as evidenced by documentary proof of
22 full-time employment as a loan officer with a mortgage broker or a
23 person exempt under Section 156.202;

24 (5) demonstrate evidence of compliance with the
25 financial requirements of this chapter; and

26 (6) not have been convicted of a criminal offense that
27 the commissioner determines directly relates to the occupation of a

1 mortgage broker under Chapter 53, Occupations Code.

2 SECTION 14A.772. Section 306.001(9), Finance Code, is
3 amended to read as follows:

4 (9) "Qualified commercial loan":

5 (A) means:

6 (i) a commercial loan in which one or more
7 persons as part of the same transaction lends, advances, borrows,
8 or receives, or is obligated to lend or advance or entitled to
9 borrow or receive, money or credit with an aggregate value of:

10 (a) \$3 million or more if the
11 commercial loan is secured by real property; or

12 (b) \$250,000 or more if the commercial
13 loan is not secured by real property and, if the aggregate value of
14 the commercial loan is less than \$500,000, the loan documents
15 contain a written certification from the borrower that:

16 (1) the borrower has been
17 advised by the lender to seek the advice of an attorney and an
18 accountant in connection with the commercial loan; and

19 (2) the borrower has had the
20 opportunity to seek the advice of an attorney and accountant of the
21 borrower's choice in connection with the commercial loan; and

22 (ii) a renewal or extension of a commercial
23 loan described by Paragraph (A), regardless of the principal amount
24 of the loan at the time of the renewal or extension; and

25 (B) does not include a commercial loan made for
26 the purpose of financing a business licensed by the Motor Vehicle
27 Board of the Texas Department of Transportation under Section

1 2301.251(a), Occupations Code [~~4.01(a), Texas Motor Vehicle~~
2 ~~Commission Code (Article 4413(36), Vernon's Texas Civil~~
3 ~~Statutes)]~~.

4 SECTION 14A.773. Sections 347.002(a)(4) and (5), Finance
5 Code, are amended to read as follows:

6 (4) "Creditor" means a:

7 (A) person who extends credit or arranges for the
8 extension of credit in a credit transaction; or

9 (B) retailer or broker, as defined by Section
10 1201.003, Occupations Code [~~Section 3, Texas Manufactured Housing~~
11 ~~Standards Act (Article 5221f, Vernon's Texas Civil Statutes)]~~, who
12 participates in arranging for the extension of credit in a credit
13 transaction.

14 (5) "Manufactured home" has the meaning assigned by
15 Section 1201.003, Occupations Code [~~3, Texas Manufactured Housing~~
16 ~~Standards Act (Article 5221f, Vernon's Texas Civil Statutes)]~~. The
17 term includes furniture, appliances, drapes, carpets, wall
18 coverings, and other items that are:

19 (A) attached to or contained in the structure;
20 and

21 (B) included in the cash price and sold with the
22 structure.

23 SECTION 14A.774. Section 348.123(b), Finance Code, is
24 amended to read as follows:

25 (b) This section does not apply to:

26 (1) a lease;

27 (2) a retail installment transaction for a vehicle

1 that is to be used primarily for a purpose other than personal,
2 family, or household use;

3 (3) a transaction for which the payment schedule is
4 adjusted to the seasonal or irregular income or scheduled payments
5 or obligations of the buyer;

6 (4) a transaction of a type that the commissioner
7 determines does not require the protection for the buyer provided
8 by this section; or

9 (5) a retail installment transaction in which:

10 (A) the seller is a franchised dealer licensed
11 under Chapter 2301, Occupations Code [~~the Texas Motor Vehicle~~
12 ~~Commission Code (Article 4413(36), Vernon's Texas Civil~~
13 ~~Statutes)]; and~~

14 (B) the buyer is entitled, at the end of the term
15 of the retail installment contract, to choose one of the following:

16 (i) sell the vehicle back to the holder
17 according to a written agreement:

18 (a) entered into between the buyer and
19 holder concurrently with or as a part of the transaction; and

20 (b) under which the buyer will be
21 released from liability or obligation for the final scheduled
22 payment under the contract on compliance with the agreement;

23 (ii) pay the final scheduled payment under
24 the contract; or

25 (iii) if the buyer is not in default under
26 the contract, refinance the final scheduled payment with the holder
27 for repayment in not fewer than 24 equal monthly installments or on

1 other terms agreed to by the buyer and holder at the time of
2 refinancing and at a rate of time price differential not to exceed
3 the lesser of:

4 (a) a rate equal to the maximum rate
5 authorized under this subchapter; or

6 (b) an annual percentage rate of five
7 percent a year more than the annual percentage rate of the original
8 contract.

9 SECTION 14A.775. Section 393.002(a), Finance Code, is
10 amended to read as follows:

11 (a) This chapter does not apply to:

12 (1) a person:

13 (A) authorized to make a loan or grant an
14 extension of consumer credit under the laws of this state or the
15 United States; and

16 (B) subject to regulation and supervision by this
17 state or the United States;

18 (2) a lender approved by the United States secretary
19 of housing and urban development for participation in a mortgage
20 insurance program under the National Housing Act (12 U.S.C. Section
21 1701 et seq.);

22 (3) a bank or savings association the deposits or
23 accounts of which are eligible to be insured by the Federal Deposit
24 Insurance Corporation or a subsidiary of the bank or association;

25 (4) a credit union doing business in this state;

26 (5) a nonprofit organization exempt from taxation
27 under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C.

1 Section 501(c)(3));

2 (6) a real estate broker or salesperson [~~salesman~~]
3 licensed under Chapter 1101, Occupations Code, [~~The Real Estate~~
4 ~~License Act (Article 6573a, Vernon's Texas Civil Statutes)~~] who is
5 acting within the course and scope of that license;

6 (7) an individual licensed to practice law in this
7 state who is acting within the course and scope of the individual's
8 practice as an attorney;

9 (8) a broker-dealer registered with the Securities and
10 Exchange Commission or the Commodity Futures Trading Commission
11 acting within the course and scope of that regulation;

12 (9) a consumer reporting agency;

13 (10) a person whose primary business is making loans
14 secured by liens on real property; or

15 (11) a mortgage broker or loan officer licensed under
16 Chapter 156, Finance Code, who is acting within the course and scope
17 of that license.

18 SECTION 14A.776. Section 83.001(b), Government Code, is
19 amended to read as follows:

20 (b) This section does not apply to:

21 (1) an attorney licensed in this state;

22 (2) a licensed real estate broker or salesperson
23 [~~salesman~~] performing the acts of a real estate broker pursuant to
24 Chapter 1101, Occupations Code [~~The Real Estate License Act~~
25 ~~(Article 6573a, Vernon's Texas Civil Statutes)~~]; or

26 (3) a person performing acts relating to a transaction
27 for the lease, sale, or transfer of any mineral or mining interest

1 in real property.

2 SECTION 14A.777. Section 411.101, Government Code, is
3 amended to read as follows:

4 Sec. 411.101. ACCESS TO CRIMINAL HISTORY RECORD
5 INFORMATION: TEXAS STRUCTURAL PEST CONTROL BOARD. The Texas
6 Structural Pest Control Board is entitled to obtain from the
7 department criminal history record information maintained by the
8 department that relates to a person who is:

9 (1) an applicant for a structural pest control
10 business license under Chapter 1951, Occupations Code [~~the Texas~~
11 ~~Structural Pest Control Act (Article 135b-6, Vernon's Texas Civil~~
12 ~~Statutes)];~~

13 (2) an applicant for a certified applicator's license
14 under that chapter [~~Act~~]; or

15 (3) a holder of a structural pest control business
16 license or a certified applicator's license under that chapter
17 [~~Act~~].

18 SECTION 14A.778. Section 2166.001(6), Government Code, is
19 amended to read as follows:

20 (6) "Design professional" means an individual
21 registered as an architect under Chapter 1051, Occupations Code
22 [~~478, Acts of the 45th Legislature, Regular Session, 1937 (Article~~
23 ~~249a, Vernon's Texas Civil Statutes)]], or a person licensed
24 [~~registered~~] as an [~~a professional~~] engineer under Chapter 1001,
25 Occupations Code [~~The Texas Engineering Practice Act (Article~~
26 ~~3271a, Vernon's Texas Civil Statutes)]]:~~~~

27 (A) who provides professional architectural or

1 engineering services and has overall responsibility for the design
2 of a building construction undertaking; and

3 (B) who:

4 (i) is employed on a salary basis; or

5 (ii) is in private practice and is retained
6 for a specific project under a contract with the commission.

7 SECTION 14A.779. Section 2166.202(b), Government Code, is
8 amended to properly reflect the name of the agency to which the
9 section refers to read as follows:

10 (b) The commission, in consultation with the Texas Board of
11 Architectural Examiners and the Texas [~~State~~] Board of
12 [~~Registration for~~] Professional Engineers, shall adopt by rule
13 criteria to evaluate the competence and qualifications of a
14 prospective private design professional.

15 SECTION 14A.780. Sections 2166.2511(1) and (3), Government
16 Code, are amended to read as follows:

17 (1) "Architect" means an individual registered as an
18 architect under Chapter 1051, Occupations Code [~~478, Acts of the~~
19 ~~45th Legislature, Regular Session, 1937 (Article 249a, Vernon's~~
20 ~~Texas Civil Statutes)~~].

21 (3) "Engineer" means an individual licensed
22 [~~registered~~] as an [~~a professional~~] engineer under Chapter 1001,
23 Occupations Code [~~The Texas Engineering Practice Act (Article~~
24 ~~3271a, Vernon's Texas Civil Statutes)~~].

25 SECTION 14A.781. Sections 2166.2531(d) and (h), Government
26 Code, are amended to read as follows:

27 (d) The commission shall prepare a request for

1 qualifications that includes general information on the project
2 site, project scope, budget, special systems, selection criteria,
3 and other information that may assist potential design-build firms
4 in submitting proposals for the project. The commission shall also
5 prepare a design criteria package that includes more detailed
6 information on the project. If the preparation of the design
7 criteria package requires engineering or architectural services
8 that constitute the practice of engineering within the meaning of
9 Chapter 1001, Occupations Code, [~~The Texas Engineering Practice Act~~
10 ~~(Article 3271a, Vernon's Texas Civil Statutes)~~] or the practice of
11 architecture within the meaning of Chapter 1051, Occupations Code
12 [~~478, Acts of the 45th Legislature, Regular Session, 1937 (Article~~
13 ~~249a, Vernon's Texas Civil Statutes)~~], those services shall be
14 provided in accordance with the applicable law.

15 (h) An engineer shall have responsibility for compliance
16 with the engineering design requirements and all other applicable
17 requirements of Chapter 1001, Occupations Code [~~The Texas~~
18 ~~Engineering Practice Act (Article 3271a, Vernon's Texas Civil~~
19 ~~Statutes)~~]. An architect shall have responsibility for compliance
20 with the requirements of Chapter 1051, Occupations Code [~~478, Acts~~
21 ~~of the 45th Legislature, Regular Session, 1937 (Article 249a,~~
22 ~~Vernon's Texas Civil Statutes)~~].

23 SECTION 14A.782. Section 2166.2532(c), Government Code, is
24 amended to read as follows:

25 (c) Before or concurrently with selecting a construction
26 manager-at-risk, the commission shall select or designate an
27 engineer or architect who shall prepare the construction documents

1 for the project and who has full responsibility for complying with
2 Chapter 1001 or 1051, Occupations Code [~~The Texas Engineering~~
3 ~~Practice Act (Article 3271a, Vernon's Texas Civil Statutes) or~~
4 ~~Chapter 478, Acts of the 45th Legislature, Regular Session, 1937~~
5 ~~(Article 249a, Vernon's Texas Civil Statutes)]~~, as applicable. If
6 the engineer or architect is not a full-time employee of the
7 commission, the commission shall select the engineer or architect
8 on the basis of demonstrated competence and qualifications as
9 provided by Section 2254.004. The commission's engineer or
10 architect for a project may not serve, alone or in combination with
11 another, as the construction manager-at-risk.

12 SECTION 14A.783. Section 2166.2533(b), Government Code, is
13 amended to read as follows:

14 (b) The commission shall select or designate an engineer or
15 architect to prepare construction documents for the project. The
16 selected or designated engineer or architect has full
17 responsibility for complying with Chapter 1001 or 1051, Occupations
18 Code [~~The Texas Engineering Practice Act (Article 3271a, Vernon's~~
19 ~~Texas Civil Statutes) or Chapter 478, Acts of the 45th Legislature,~~
20 ~~Regular Session, 1937 (Article 249a, Vernon's Texas Civil~~
21 ~~Statutes)]~~, as applicable. If the engineer or architect is not a
22 full-time employee of the commission, the commission shall select
23 the engineer or architect on the basis of demonstrated competence
24 and qualifications as provided by Section 2254.004.

25 SECTION 14A.784. Section 2306.6002, Government Code, is
26 amended to read as follows:

27 Sec. 2306.6002. REGULATION AND ENFORCEMENT. The department

1 shall administer and enforce Chapter 1201, Occupations Code, [~~the~~
2 ~~Texas Manufactured Housing Standards Act (Article 5221f, Vernon's~~
3 ~~Texas Civil Statutes)~~] through the division. The Manufactured
4 Housing Board and the division director shall exercise authority
5 and responsibilities assigned to them under that chapter [~~Act~~].

6 SECTION 14A.785. Section 2306.6023(s), Government Code, is
7 amended to read as follows:

8 (s) If it appears that a person is in violation of, or is
9 threatening to violate, any provision of Chapter 1201, Occupations
10 Code [~~the Texas Manufactured Housing Standards Act (Article 5221f,~~
11 ~~Vernon's Texas Civil Statutes)~~], or a rule or order related to the
12 administration and enforcement of the manufactured housing
13 program, the attorney general or the division director may
14 institute an action for injunctive relief to restrain the person
15 from continuing the violation and for civil penalties not to exceed
16 \$1,000 for each violation and not exceeding \$250,000 in the
17 aggregate. A civil action filed under this subsection shall be
18 filed in district court in Travis County. The attorney general and
19 the division director may recover reasonable expenses incurred in
20 obtaining injunctive relief under this subsection, including court
21 costs, reasonable attorney's fees, investigative costs, witness
22 fees, and deposition expenses.

23 SECTION 14A.786. Section 341.105(c), Health and Safety
24 Code, is amended to read as follows:

25 (c) A person who holds a license under Chapter 1301,
26 Occupations Code, [~~The Plumbing License Law (Article 6243-101,~~
27 ~~Vernon's Texas Civil Statutes)~~] is exempt from the requirements of

1 this subchapter.

2 SECTION 14A.787. Section 372.0035(f), Health and Safety
3 Code, is amended to read as follows:

4 (f) If a person licensed under Chapter 1301, Occupations
5 Code, [~~The Plumbing License Law (Article 6243-101, Vernon's Texas~~
6 ~~Civil Statutes)~~] violates this section, the Texas State Board of
7 Plumbing Examiners may discipline the person under Subchapter I
8 [~~Section 9~~] of that chapter [~~Act~~] as if a violation of this section
9 were a violation of that chapter [~~Act~~].

10 SECTION 14A.788. Sections 201.072 and 406.094, Labor Code,
11 are amended to read as follows:

12 Sec. 201.072. SERVICE AS REAL ESTATE BROKER. In this
13 subtitle, "employment" does not include:

14 (1) service performed by an individual as a real
15 estate broker or salesperson [~~salesman~~] if:

16 (A) the individual engages in activity described
17 by the definition of "~~real estate~~ broker" in Section 1101.002,
18 Occupations Code [~~2, The Real Estate License Act (Article 6573a,~~
19 ~~Vernon's Texas Civil Statutes)~~];

20 (B) the individual is licensed as a [~~real estate~~]
21 broker or salesperson [~~salesman~~] by the Texas Real Estate
22 Commission;

23 (C) substantially all remuneration for the
24 service, whether in cash or other form of payment, is directly
25 related to sales or other output, including the performance of the
26 service, and not to the number of hours worked; and

27 (D) the service is performed under a written

1 contract between the individual and the person for whom the service
2 is performed, and the contract provides that the individual is not
3 treated as an employee with respect to the service for federal tax
4 purposes; or

5 (2) service performed by an individual as an
6 instructor of a person licensed or seeking a license as a real
7 estate broker or salesperson [~~salesman~~] if:

8 (A) the individual instructs in an educational
9 program or course approved by the Texas Real Estate Commission; and

10 (B) the service is performed under a written
11 contract between the individual and the person for whom the service
12 is performed and the contract provides that the individual is not
13 treated as an employee with respect to the service for federal tax
14 purposes.

15 Sec. 406.094. CERTAIN PERSONS LICENSED BY TEXAS REAL ESTATE
16 COMMISSION. (a) An employer who elects to provide workers'
17 compensation insurance coverage may include in the coverage a real
18 estate salesperson [~~salesman~~] or broker who is:

19 (1) licensed under Chapter 1101, Occupations Code [~~The~~
20 ~~Real Estate License Act (Article 6573a, Vernon's Texas Civil~~
21 ~~Statutes)]]; and~~

22 (2) compensated solely by commissions.

23 (b) If coverage is elected by the employer, the insurance
24 policy must specifically name the salesperson [~~salesman~~] or broker.
25 The coverage continues while the policy is in effect and the named
26 salesperson [~~salesman~~] or broker is endorsed on the policy.

27 SECTION 14A.789. Section 234.001(1), Local Government Code,

1 is amended to read as follows:

2 (1) "Automotive wrecking and salvage yard" means a
3 business, other than a business classified as a salvage pool
4 operator under Chapter 2302, Occupations Code [~~Article 6687-1a,~~
5 ~~Revised Statutes~~], that stores three or more wrecked vehicles
6 outdoors for the purpose of:

7 (A) selling the vehicles whole; or

8 (B) dismantling or otherwise wrecking the
9 vehicles to remove parts for sale or for use in an automotive repair
10 or rebuilding business.

11 SECTION 14A.790. Section 263.008, Local Government Code, is
12 amended to read as follows:

13 Sec. 263.008. [~~REAL ESTATE~~] BROKER AGREEMENTS AND FEES FOR
14 THE SALE OF REAL PROPERTY. (a) In this section, "[~~real estate~~]
15 broker" means a person licensed as a [~~real estate~~] broker under
16 Chapter 1101, Occupations Code [~~The Real Estate License Act~~
17 ~~(Article 6573a, Vernon's Texas Civil Statutes)~~].

18 (b) The commissioners court of a county may contract with a
19 [~~real estate~~] broker to sell a tract of real property that is owned
20 by the county.

21 (c) The commissioners court of a county may pay a fee if a
22 [~~real estate~~] broker produces a ready, willing, and able buyer to
23 purchase a tract of real property.

24 (d) If a contract made under Subsection (b) requires a [~~real~~
25 ~~estate~~] broker to list the tract of real property for sale for at
26 least 30 days with a multiple-listing service used by other [~~real~~
27 ~~estate~~] brokers in the county, the commissioners court on or after

1 the 30th day after the date the property is listed may sell the
2 tract of real property to a ready, willing, and able buyer who is
3 produced by any [~~real estate~~] broker using the multiple-listing
4 service and who submits the highest cash offer.

5 (e) The commissioners court may sell a tract of real
6 property under this section without complying with the requirements
7 for conducting a public auction, including the requirements
8 prescribed by Section 263.001.

9 SECTION 14A.791. Sections 271.111(1) and (6), Local
10 Government Code, are amended to read as follows:

11 (1) "Architect" means an individual registered as an
12 architect under Chapter 1051, Occupations Code [~~478, Acts of the~~
13 ~~45th Legislature, Regular Session, 1937 (Article 249a, Vernon's~~
14 ~~Texas Civil Statutes)~~].

15 (6) "Engineer" means an individual licensed
16 [~~registered~~] as an an [~~a professional~~] engineer under Chapter 1001,
17 Occupations Code [~~The Texas Engineering Practice Act (Article~~
18 ~~3271a, Vernon's Texas Civil Statutes)~~].

19 SECTION 14A.792. Section 271.116(b), Local Government Code,
20 is amended to read as follows:

21 (b) The governmental entity shall select or designate an
22 engineer or architect to prepare construction documents for the
23 project. The selected or designated engineer or architect has full
24 responsibility for complying with Chapter 1001 or 1051, Occupations
25 Code [~~The Texas Engineering Practice Act (Article 3271a, Vernon's~~
26 ~~Texas Civil Statutes) or Chapter 478, Acts of the 45th Legislature,~~
27 ~~Regular Session, 1937 (Article 249a, Vernon's Texas Civil~~

1 ~~Statutes)]~~, as applicable. If the engineer or architect is not a
2 full-time employee of the governmental entity, the governmental
3 entity shall select the engineer or architect on the basis of
4 demonstrated competence and qualifications as provided by Section
5 2254.004, Government Code.

6 SECTION 14A.793. Section 271.117(c), Local Government Code,
7 is amended to read as follows:

8 (c) Before or concurrently with selecting a construction
9 manager-agent, the governmental entity shall select or designate an
10 engineer or architect who shall prepare the construction documents
11 for the project and who has full responsibility for complying with
12 Chapter 1001 or 1051, Occupations Code [~~The Texas Engineering~~
13 ~~Practice Act (Article 3271a, Vernon's Texas Civil Statutes) or~~
14 ~~Chapter 478, Acts of the 45th Legislature, Regular Session, 1937~~
15 ~~(Article 249a, Vernon's Texas Civil Statutes)]], as applicable. If
16 the engineer or architect is not a full-time employee of the
17 governmental entity, the governmental entity shall select the
18 engineer or architect on the basis of demonstrated competence and
19 qualifications as provided by Section 2254.004, Government Code.
20 The governmental entity's engineer or architect may not serve,
21 alone or in combination with another person, as the construction
22 manager-agent unless the engineer or architect is hired to serve as
23 the construction manager-agent under a separate or concurrent
24 procurement conducted in accordance with this subchapter. This
25 subsection does not prohibit the governmental entity's engineer or
26 architect from providing customary construction phase services
27 under the engineer's or architect's original professional service~~

1 agreement in accordance with applicable licensing laws.

2 SECTION 14A.794. Section 271.118(c), Local Government Code,
3 is amended to read as follows:

4 (c) Before or concurrently with selecting a construction
5 manager-at-risk, the governmental entity shall select or designate
6 an engineer or architect who shall prepare the construction
7 documents for the project and who has full responsibility for
8 complying with Chapter 1001 or 1051, Occupations Code [~~The Texas~~
9 ~~Engineering Practice Act (Article 3271a, Vernon's Texas Civil~~
10 ~~Statutes) or Chapter 478, Acts of the 45th Legislature, Regular~~
11 ~~Session, 1937 (Article 249a, Vernon's Texas Civil Statutes)], as
12 applicable. If the engineer or architect is not a full-time
13 employee of the governmental entity, the governmental entity shall
14 select the engineer or architect on the basis of demonstrated
15 competence and qualifications as provided by Section 2254.004,
16 Government Code. The governmental entity's engineer, architect, or
17 construction manager-agent for a project may not serve, alone or in
18 combination with another, as the construction manager-at-risk
19 unless the engineer or architect is hired to serve as the
20 construction manager-at-risk under a separate or concurrent
21 procurement conducted in accordance with this subchapter.~~

22 SECTION 14A.795. Sections 271.119(c) and (f), Local
23 Government Code, are amended to read as follows:

24 (c) The governmental entity shall prepare a request for
25 qualifications that includes general information on the project
26 site, project scope, budget, special systems, selection criteria,
27 and other information that may assist potential design-build firms

1 in submitting proposals for the project. The governmental entity
2 shall also prepare a design criteria package that includes more
3 detailed information on the project. If the preparation of the
4 design criteria package requires engineering or architectural
5 services that constitute the practice of engineering within the
6 meaning of Chapter 1001, Occupations Code, [~~The Texas Engineering~~
7 ~~Practice Act (Article 3271a, Vernon's Texas Civil Statutes)~~] or the
8 practice of architecture within the meaning of Chapter 1051,
9 Occupations Code [~~478, Acts of the 45th Legislature, Regular~~
10 ~~Session, 1937 (Article 249a, Vernon's Texas Civil Statutes)~~], those
11 services shall be provided in accordance with the applicable law.

12 (f) An engineer shall have responsibility for compliance
13 with the engineering design requirements and all other applicable
14 requirements of Chapter 1001, Occupations Code [~~The Texas~~
15 ~~Engineering Practice Act (Article 3271a, Vernon's Texas Civil~~
16 ~~Statutes)~~]. An architect shall have responsibility for compliance
17 with the requirements of Chapter 1051, Occupations Code [~~478, Acts~~
18 ~~of the 45th Legislature, Regular Session, 1937 (Article 249a,~~
19 ~~Vernon's Texas Civil Statutes)~~].

20 SECTION 14A.796. Section 271.120(i), Local Government Code,
21 is amended to read as follows:

22 (i) If a job order contract or an order issued under the
23 contract requires engineering or architectural services that
24 constitute the practice of engineering within the meaning of
25 Chapter 1001, Occupations Code, [~~The Texas Engineering Practice Act~~
26 ~~(Article 3271a, Vernon's Texas Civil Statutes)~~] or the practice of
27 architecture within the meaning of Chapter 1051, Occupations Code

1 ~~[478, Acts of the 45th Legislature, Regular Session, 1937 (Article~~
2 ~~249a, Vernon's Texas Civil Statutes)]~~, those services shall be
3 provided in accordance with applicable law.

4 SECTION 14A.797. Sections 113.081(c), (d), and (e), Natural
5 Resources Code, are amended to read as follows:

6 (c) A mobile home park operator will not be deemed to be a
7 person engaged in business as provided in Section 113.082 of this
8 code if such mobile home park operator obtains no possessory rights
9 to LP-gas products, and utilizes only LP-gas licensees in the
10 installation and maintenance of the LP-gas containers and system.
11 For purposes of this subsection, the term "mobile home park
12 operator" means an individual or business entity owning or
13 operating a place, divided into sites, at which the primary
14 business is the rental or leasing of the sites to persons for use in
15 occupying mobile homes as dwellings. "Mobile home" has the meaning
16 set out in Chapter 1201, Occupations Code ~~[the Texas Manufactured~~
17 ~~Housing Standards Act (Article 5221f, Vernon's Texas Civil~~
18 ~~Statutes)]~~.

19 (d) The commission by rule may exempt from Section
20 113.082(a)(4) ~~[113.082(D)]~~ of this code journeymen or master
21 plumbers licensed by the Texas State Board of Plumbing Examiners.

22 (e) The commission by rule may exempt from Section
23 113.082(a)(4) ~~[113.082(D)]~~ of this code a person licensed under
24 Chapter 1302, Occupations Code ~~[the Air Conditioning and~~
25 ~~Refrigeration Contractor License Law (Article 8861, Vernon's Texas~~
26 ~~Civil Statutes)]~~.

27 SECTION 14A.798. Section 113.087(o), Natural Resources

1 Code, is amended to read as follows:

2 (o) The commission by rule may exempt from any provision of
3 this section:

4 (1) a journeyman or master plumber licensed by the
5 Texas State Board of Plumbing Examiners;

6 (2) a person licensed under Chapter 1302, Occupations
7 Code [~~the Air Conditioning and Refrigeration Contractor License Law~~
8 ~~(Article 8861, Vernon's Texas Civil Statutes)~~]; or

9 (3) company representatives, operations supervisors,
10 or employees of a testing laboratory that was registered under
11 Section 113.135 prior to the effective date of this subsection.

12 SECTION 14A.799. Section 113.097(j), Natural Resources
13 Code, is amended to read as follows:

14 (j) The commission by rule may exempt from the insurance
15 requirements of this section or adopt a reasonable alternative to
16 those requirements for:

17 (1) a master or journeyman plumber licensed by the
18 Texas State Board of Plumbing Examiners; or

19 (2) a person licensed under Chapter 1302, Occupations
20 Code [~~the Air Conditioning and Refrigeration Contractor License Law~~
21 ~~(Article 8861, Vernon's Texas Civil Statutes)~~].

22 SECTION 14A.800. Section 503.058, Occupations Code, is
23 amended to read as follows:

24 Sec. 503.058. CERTIFIED CAREER COUNSELING. This chapter
25 does not apply to a person who owns, operates, or is employed by a
26 certified career counseling service regulated under Chapter 2502
27 [~~222, Acts of the 70th Legislature, Regular Session, 1987 (Article~~

1 ~~5221a-8, Vernon's Texas Civil Statutes~~].

2 SECTION 14A.801. Section 1702.324(b), Occupations Code, is
3 amended to read as follows:

4 (b) This chapter does not apply to:

5 (1) a manufacturer or a manufacturer's authorized
6 distributor who sells equipment to a license holder that is used in
7 the operations for which the person is required to be licensed;

8 (2) a person engaged exclusively in the business of
9 obtaining and providing information to:

10 (A) determine creditworthiness;

11 (B) collect debts; or

12 (C) ascertain the reliability of information
13 provided by an applicant for property, life, or disability
14 insurance or an indemnity or surety bond;

15 (3) a person engaged exclusively in the business of
16 repossessing property that is secured by a mortgage or other
17 security interest;

18 (4) a locksmith who:

19 (A) does not install or service detection
20 devices;

21 (B) does not conduct investigations; and

22 (C) is not a security services contractor;

23 (5) a person who:

24 (A) is engaged in the business of psychological
25 testing or other testing and interviewing services, including
26 services to determine attitudes, honesty, intelligence,
27 personality, and skills, for preemployment purposes; and

1 (B) does not perform any other service that
2 requires a license under this chapter;

3 (6) a person who:

4 (A) is engaged in obtaining information that is a
5 public record under Chapter 552, Government Code, regardless of
6 whether the person receives compensation;

7 (B) is not a full-time employee, as defined by
8 Section 61.001, Labor Code, of a person licensed under this
9 chapter; and

10 (C) does not perform any other act that requires
11 a license under this chapter;

12 (7) a licensed [~~professional~~] engineer practicing
13 engineering or directly supervising engineering practice under
14 Chapter 1001 [~~The Texas Engineering Practice Act (Article 3271a,~~
15 ~~Vernon's Texas Civil Statutes)~~], including forensic analysis,
16 burglar alarm system engineering, and necessary data collection;

17 (8) an employee of a cattle association who inspects
18 livestock brands under the authority granted to the cattle
19 association by the Grain Inspection, Packers and Stockyards
20 Administration of the United States Department of Agriculture;

21 (9) a landman performing activities in the course and
22 scope of the landman's business;

23 (10) an attorney while engaged in the practice of law;

24 (11) a person who obtains a document for use in
25 litigation under an authorization or subpoena issued for a written
26 or oral deposition; or

27 (12) an admitted insurer, insurance adjuster, agent,

1 or insurance broker licensed by the state, performing duties in
2 connection with insurance transacted by that person.

3 SECTION 14A.802. Sections 2.001(c), (e), (f), (g), and (i),
4 Property Code, are amended to read as follows:

5 (c) In this section, "consumer," "document of title,"
6 "first retail sale," "manufactured home," and "mobile home" have
7 the meanings assigned by Chapter 1201, Occupations Code [~~the Texas~~
8 ~~Manufactured Housing Standards Act (Article 5221f, Vernon's Texas~~
9 ~~Civil Statutes)]~~.

10 (e) The Texas Department of Housing and Community Affairs
11 may not issue a document of title for a new and untitled
12 manufactured home at the first retail sale of the home if the home
13 is to be permanently installed by a retailer directly on real
14 property titled in the name of the consumer under a deed or contract
15 for sale. Before installation, the consumer must provide the
16 retailer with a legible copy of the deed containing a legal
17 description of the real property. The retailer is not required to
18 determine the validity of the legal description of the real
19 property. A title company or attorney at law conducting the closing
20 of a transaction under Section 1201.222, Occupations Code [~~19A,~~
21 ~~Texas Manufactured Housing Standards Act (Article 5221f, Vernon's~~
22 ~~Texas Civil Statutes)]~~, or the retailer or retailer's agent shall
23 file in the public land records for the county in which the real
24 property is located a notice of installation not later than the 30th
25 working day after the date the installation is completed and shall
26 forward the manufacturer's certificate of origin and a copy of the
27 notice of installation to the Texas Department of Housing and

1 Community Affairs. The notice of installation serves as a
2 completed cancellation application.

3 (f) For a manufactured home that is being resold by a
4 financial institution or a retailer and that is to be permanently
5 installed directly on real property titled in the name of the
6 consumer under a deed or contract for sale, a title company or
7 attorney at law conducting the closing of a transaction under
8 Section 1201.222, Occupations Code [~~19A, Texas Manufactured~~
9 ~~Housing Standards Act (Article 5221f, Vernon's Texas Civil~~
10 ~~Statutes)~~], or the retailer or retailer's agent shall file in the
11 public land records for the county in which the real property is
12 located a notice of installation not later than the 30th working day
13 after the date the installation is completed and shall forward the
14 document of title and a copy of the notice of installation to the
15 Texas Department of Housing and Community Affairs. The notice of
16 installation serves as a completed cancellation application.

17 (g) A notice of installation filed under this section must:

18 (1) be notarized;

19 (2) be on a form prescribed by the Texas Department of
20 Housing and Community Affairs;

21 (3) contain a description of the manufactured home,
22 including, as applicable, the home's make, model, dimensions,
23 federal label number, state seal number, and identification or
24 serial number;

25 (4) include a verification of the installation of the
26 manufactured home as prescribed by Section 1201.222(c),
27 Occupations Code [~~19A(c), Texas Manufactured Housing Standards Act~~

1 ~~(Article 5221f, Vernon's Texas Civil Statutes)];~~

2 (5) include the wind zone designation of the county in
3 which the manufactured home was installed, if known; and

4 (6) be signed by:

5 (A) the retailer, for a manufactured home
6 described by Subsection (e); or

7 (B) the installer, for a manufactured home
8 described by Subsection (f).

9 (i) This section does not require a retailer or retailer's
10 agent to obtain a license under Chapter 1101, Occupations Code [~~The~~
11 ~~Real Estate License Act (Article 6573a, Vernon's Texas Civil~~
12 ~~Statutes)]].~~

13 SECTION 14A.803. Sections 62.003(1) and (6), Property Code,
14 are amended to read as follows:

15 (1) "Broker" means a person who:

16 (A) is licensed as a [~~real estate~~] broker under
17 Chapter 1101, Occupations Code, [~~The Real Estate License Act~~
18 ~~(Article 6573a, Vernon's Texas Civil Statutes)] and is not acting
19 as a residential rental locator as defined by Section 1101.002,
20 Occupations Code [~~24, The Real Estate License Act (Article 6573a,~~
21 ~~Vernon's Texas Civil Statutes)]]; or~~~~

22 (B) is licensed or certified as a real estate
23 appraiser under Chapter 1103, Occupations Code [~~the Texas Appraiser~~
24 ~~Licensing and Certification Act (Article 6573a.2, Vernon's Texas~~
25 ~~Civil Statutes)]].~~

26 (6) "Real estate" has the meaning assigned by Section
27 1101.002, Occupations Code [~~2, The Real Estate License Act (Article~~

1 ~~6573a, Vernon's Texas Civil Statutes~~].

2 SECTION 14A.804. Section 62.141(d), Property Code, is
3 amended to read as follows:

4 (d) If the court finds that a broker is liable to an owner or
5 tenant under Subsection (c), the court may award the owner or
6 tenant:

7 (1) actual damages, including attorney's fees and
8 court costs, incurred by the owner or tenant that are proximately
9 caused by the broker's failure to execute, acknowledge, and return
10 the subordination agreement or release the lien; and

11 (2) a civil penalty in an amount not to exceed three
12 times the amount of the claimed commission if the court finds that
13 the broker acted with gross negligence or acted in bad faith in
14 violation of Chapter 1101, Occupations Code [~~The Real Estate
15 License Act (Article 6573a, Vernon's Texas Civil Statutes)~~].

16 SECTION 14A.805. Section 63.001, Property Code, is amended
17 to read as follows:

18 Sec. 63.001. MANUFACTURED HOMES. In this chapter,
19 "manufactured home" has the meaning assigned by Chapter 1201,
20 Occupations Code [~~the Texas Manufactured Housing Standards Act
21 (Article 5221f, Vernon's Texas Civil Statutes)~~].

22 SECTION 14A.806. Section 63.005(a), Property Code, is
23 amended to read as follows:

24 (a) A manufactured home becomes a new improvement to the
25 homestead of a family or of a single adult person upon the filing of
26 the certificate of attachment as provided in Chapter 1201,
27 Occupations Code [~~the Texas Manufactured Housing Standards Act~~

1 ~~(Article 5221f, Vernon's Texas Civil Statutes)~~. As such, if the
2 debt for the manufactured home was contracted for in writing, that
3 debt is considered to be for work and materials used in constructing
4 new improvements thereon and thus constitutes a valid lien on the
5 homestead when the certificate of attachment is filed in the
6 Official Public Records of Real Property in the county in which the
7 land is located.

8 SECTION 14A.807. Section 70.001(g), Property Code, is
9 amended to read as follows:

10 (g) A motor vehicle that is repossessed under this section
11 shall be promptly delivered to the location where the repair was
12 performed or a vehicle storage facility licensed under Chapter
13 2303, Occupations Code [~~the Vehicle Storage Facility Act (Article~~
14 ~~6687-9a, Revised Statutes)~~]. The motor vehicle must remain at the
15 repair location or a licensed vehicle storage facility at all times
16 until the motor vehicle is lawfully returned to the motor vehicle's
17 owner or a lienholder or is disposed of as provided by this
18 subchapter.

19 SECTION 14A.808. Section 94.001(3), Property Code, is
20 amended to read as follows:

21 (3) "Manufactured home" has the meaning assigned by
22 Section 1201.003, Occupations Code [~~3, Texas Manufactured Housing~~
23 ~~Standards Act (Article 5221f, Vernon's Texas Civil Statutes)~~], and
24 for purposes of this chapter, a reference to a manufactured home
25 includes a recreational vehicle.

26 SECTION 14A.809. Section 221.011(c), Property Code, is
27 amended to read as follows:

1 (c) Any timeshare interest created under this section is an
2 interest in real property [~~land~~] within the meaning of Section
3 1101.002(5), Occupations Code [~~Subdivision (1), Section 2, The Real~~
4 ~~Estate License Act (Article 6573a, Vernon's Texas Civil Statutes)~~],
5 but Sections 1101.351(a)(1) and (c), Occupations Code, do
6 [~~Subsection (b), Section 1, The Real Estate License Act, does~~] not
7 apply to the acts of an exchange company in exchanging timeshare
8 periods under a timeshare program.

9 SECTION 14A.810. Section 301.041(a), Property Code, is
10 amended to read as follows:

11 (a) Subchapter B does not apply to:

12 (1) the sale or rental of a single-family house sold or
13 rented by the owner if:

14 (A) the owner does not:

15 (i) own more than three single-family
16 houses at any one time; or

17 (ii) own any interest in, nor is there owned
18 or reserved on the person's behalf, under any express or voluntary
19 agreement, title to or any right to any part of the proceeds from
20 the sale or rental of more than three single-family houses at any
21 one time; and

22 (B) the house is sold or rented without:

23 (i) the use of the sales or rental
24 facilities or services of a [~~real estate~~] broker, agent, or
25 salesperson [~~salesman~~] licensed under Chapter 1101, Occupations
26 Code [~~The Real Estate License Act (Article 6573a, Vernon's Texas~~
27 ~~Civil Statutes)~~], or of an employee or agent of a licensed broker,

1 agent, or salesperson [~~salesman~~], or the facilities or services of
2 the owner of a dwelling designed or intended for occupancy by five
3 or more families; or

4 (ii) the publication, posting, or mailing
5 of a notice, statement, or advertisement prohibited by Section
6 301.022; or

7 (2) the sale or rental of the rooms or units in a
8 dwelling containing living quarters occupied by or intended to be
9 occupied by not more than four families living independently of
10 each other, if the owner maintains and occupies one of the living
11 quarters as the owner's residence.

12 SECTION 14A.811. Sections 11.432(a) and (c), Tax Code, are
13 amended to read as follows:

14 (a) For a manufactured home to qualify for an exemption
15 under Section 11.13 of this code, the application for the exemption
16 must be accompanied by a copy of a document of title to the
17 manufactured home issued by the Texas Department of Housing and
18 Community Affairs [~~Licensing and Regulation~~] under Subchapter E,
19 Chapter 1201, Occupations Code [~~Section 19, Texas Manufactured~~
20 ~~Housing Standards Act (Article 5221f, Vernon's Texas Civil~~
21 ~~Statutes)~~], showing that the individual applying for the exemption
22 is the owner of the manufactured home or be accompanied by a
23 verified copy of the purchase contract showing that the applicant
24 is the purchaser of the manufactured home.

25 (c) In this section, "manufactured home" has the meaning
26 assigned by Section 1201.003, Occupations Code [~~Subsection (s),~~
27 ~~Section 3, Texas Manufactured Housing Standards Act (Article 5221f,~~

1 ~~Vernon's Texas Civil Statutes~~]; however, the term does not apply
2 to any manufactured home which has been attached to real estate and
3 for which the document of title has been canceled pursuant to
4 Section 1201.217 [~~Subsection (j) of Section 19~~] of that code [~~said~~
5 ~~Act~~].

6 SECTION 14A.812. Sections 23.127(a)(5), (7), and (10), Tax
7 Code, are amended to read as follows:

8 (5) "HUD-code manufactured home" has the meaning
9 assigned by Section 1201.003, Occupations Code [~~3, Texas~~
10 ~~Manufactured Housing Standards Act (Article 5221f, Vernon's Texas~~
11 ~~Civil Statutes)~~].

12 (7) "Mobile home" has the meaning assigned by Section
13 1201.003, Occupations Code [~~3, Texas Manufactured Housing~~
14 ~~Standards Act (Article 5221f, Vernon's Texas Civil Statutes)~~].

15 (10) "Retailer" has the meaning assigned by Section
16 1201.003, Occupations Code [~~3, Texas Manufactured Housing~~
17 ~~Standards Act (Article 5221f, Vernon's Texas Civil Statutes)~~].

18 SECTION 14A.813. Section 32.014(c), Tax Code, is amended to
19 read as follows:

20 (c) In this section, "manufactured home" has the meaning
21 assigned by Section 1201.003, Occupations Code [~~3, Texas~~
22 ~~Manufactured Housing Standards Act (Article 5221f, Vernon's Texas~~
23 ~~Civil Statutes)~~].

24 SECTION 14A.814. Section 32.015(b), Tax Code, is amended to
25 read as follows:

26 (b) In this section, "department" and "manufactured home"
27 have the meanings assigned by Section 1201.003, Occupations Code

1 ~~[3, Texas Manufactured Housing Standards Act (Article 5221f,~~
2 ~~Vernon's Texas Civil Statutes)]~~; however, the term "manufactured
3 home" does not include a manufactured home that has been attached to
4 real property and for which the document of title has been canceled
5 under Section 1201.217 ~~[19(1)]~~ of that code ~~[Act]~~.

6 SECTION 14A.815. Section 151.0048(a), Tax Code, is amended
7 to read as follows:

8 (a) Except as provided by Subsection (b), "real property
9 service" means:

10 (1) landscaping;

11 (2) the care and maintenance of lawns, yards, or
12 ornamental trees or other plants;

13 (3) the removal or collection of garbage, rubbish, or
14 other solid waste other than:

15 (A) hazardous waste;

16 (B) industrial solid waste;

17 (C) waste material that results from an activity
18 associated with the exploration, development, or production of oil,
19 gas, geothermal resources, or any other substance or material
20 regulated by the Railroad Commission of Texas under Section 91.101,
21 Natural Resources Code;

22 (D) domestic sewage or an irrigation return flow,
23 to the extent the sewage or return flow does not constitute garbage
24 or rubbish; and

25 (E) industrial discharges subject to regulation
26 by permit issued pursuant to Chapter 26, Water Code;

27 (4) building or grounds cleaning, janitorial, or

1 custodial services;

2 (5) a structural pest control service covered by
3 Section 1951.003, Occupations Code [~~2, Texas Structural Pest~~
4 ~~Control Act (Article 135b-6, Vernon's Texas Civil Statutes)~~]; or

5 (6) the surveying of real property.

6 SECTION 14A.816. Section 152.002(d), Tax Code, is amended to
7 read as follows:

8 (d) A person who holds a vehicle lessor license under
9 Chapter 2301, Occupations Code, [~~the Texas Motor Vehicle Commission~~
10 ~~Code (Article 4413(36), Vernon's Texas Civil Statutes)~~] or is
11 specifically not required to obtain a lessor license under Section
12 2301.254(a) [~~4.01(a)~~] of that code [~~Act~~] may deduct the fair market
13 value of a replaced motor vehicle that has been leased for longer
14 than 180 days and is titled to another person if:

15 (1) either person:

16 (A) holds a beneficial ownership interest in the
17 other person of at least 80 percent; or

18 (B) acquires all of its vehicles exclusively from
19 franchised dealers whose franchisor shares common ownership with
20 the other person; and

21 (2) the replaced motor vehicle is offered for sale.

22 SECTION 14A.817. Section 152.0411(e), Tax Code, is amended
23 to read as follows:

24 (e) This section applies only to a sale in which the seller
25 is a motor vehicle dealer who holds a dealer license issued under
26 Chapter 503, Transportation Code, or Chapter 2301, Occupations Code
27 [~~the Texas Motor Vehicle Commission Code (Article 4413(36),~~

1 ~~Vernon's Texas Civil Statutes~~).

2 SECTION 14A.818. Sections 158.002 and 158.054, Tax Code, are
3 amended to read as follows:

4 Sec. 158.002. DEFINITIONS. In this chapter, "manufactured
5 home," "manufacturer," "retailer," and "person" have the same
6 meanings as they are given by Chapter 1201, Occupations Code [~~the~~
7 ~~Texas Manufactured Housing Standards Act, as amended (Article~~
8 ~~5221f, Vernon's Texas Civil Statutes)~~]. In addition, the term
9 "manufactured home" also includes and means "industrialized
10 housing" as defined by Chapter 1202, Occupations Code [~~Article~~
11 ~~5221f-1, Revised Statutes~~].

12 Sec. 158.054. PERMITS. Every manufacturer engaged in
13 business in this state shall file with the comptroller an
14 application for a permit authorizing the manufacturer to sell,
15 ship, or consign manufactured homes to persons in this state. The
16 application must be on a form prescribed by the comptroller and
17 contain the information that the comptroller requires. The
18 application must be executed by the owner of a sole proprietorship,
19 by an officer or partner of an association or partnership, or by an
20 executive officer, or other person who is expressly authorized, of
21 a corporation. A manufacturer may not be issued a permit unless the
22 manufacturer is duly licensed [~~registered~~] and bonded under Chapter
23 1201, Occupations Code [~~the Texas Manufactured Housing Standards~~
24 ~~Act, as amended (Article 5221f, Vernon's Texas Civil Statutes)~~].

25 SECTION 14A.819. Section 201.931(2), Transportation Code,
26 is amended to read as follows:

27 (2) "License" includes:

1 (A) a permit issued by the department that
2 authorizes the operation of a vehicle and its load or a combination
3 of vehicles and load exceeding size or weight limitations;

4 (B) a motor carrier registration issued under
5 Chapter 643 [~~Article 6675c, Revised Statutes~~];

6 (C) a vehicle storage facility license issued
7 under Chapter 2303, Occupations Code [~~Article 6687-9a, Revised~~
8 ~~Statutes~~];

9 (D) a license or permit for outdoor advertising
10 issued under Chapter 391 or 394;

11 (E) a salvage [~~motor~~] vehicle dealer or [~~and~~]
12 agent license issued under Chapter 2302, Occupations Code [~~Article~~
13 ~~6687-1a, Revised Statutes~~];

14 (F) specially designated or specialized license
15 plates issued under Subchapters E and F, Chapter 502; and

16 (G) an apportioned registration issued according
17 to the International Registration Plan under Section 502.054.

18 SECTION 14A.820. Sections 223.151 and 391.127,
19 Transportation Code, are amended to read as follows:

20 Sec. 223.151. APPLICABILITY. This subchapter:

21 (1) applies to services of a technical expert,
22 including an archeologist, biologist, geologist, or historian, to
23 conduct an environmental or cultural assessment required by state
24 or federal law for a transportation project under the authority or
25 jurisdiction of the department; and

26 (2) does not apply to services defined as engineering
27 by the Texas [~~State~~] Board of [~~Registration for~~] Professional

1 Engineers under Chapter 1001, Occupations Code [~~The Texas~~
2 ~~Engineering Practice Act (Article 3271a, Vernon's Texas Civil~~
3 ~~Statutes)]].~~

4 Sec. 391.127. SALVAGE VEHICLE DEALER LICENSE. The
5 commission may revoke or suspend a license issued under Chapter
6 2302, Occupations Code [~~Article 6687-1a, Revised Statutes~~], or
7 place on probation a license holder whose license is suspended, if
8 the license holder violates this chapter or a rule adopted under
9 this chapter.

10 SECTION 14A.821. Section 501.002(10), Transportation Code,
11 is amended to read as follows:

12 (10) "Manufactured housing" has the meaning assigned
13 by Chapter 1201, Occupations Code [~~the Texas Manufactured Housing~~
14 ~~Standards Act (Article 5221f, Vernon's Texas Civil Statutes)]].~~

15 SECTION 14A.822. Section 501.0234(a), Transportation Code,
16 is amended to read as follows:

17 (a) A person who sells at the first or a subsequent sale a
18 motor vehicle and who holds a general distinguishing number issued
19 under Chapter 503 of this code or Chapter 2301, Occupations Code,
20 [~~the Texas Motor Vehicle Commission Code (Article 4413(36),~~
21 ~~Vernon's Texas Civil Statutes)] shall:~~

22 (1) in the time and manner provided by law, apply, in
23 the name of the purchaser of the vehicle, for the registration of
24 the vehicle, if the vehicle is to be registered, and a certificate
25 of title for the vehicle and file with the appropriate designated
26 agent each document necessary to transfer title to or register the
27 vehicle; and at the same time

1 (2) remit any required motor vehicle sales tax.

2 SECTION 14A.823. Section 501.0911(a)(15), Transportation
3 Code, is amended to read as follows:

4 (15) "Salvage vehicle dealer" has the meaning assigned
5 by Section 2302.001, Occupations Code [~~1.01, Article 6687-1a,~~
6 ~~Revised Statutes~~].

7 SECTION 14A.824. Section 501.0912(d), Transportation Code,
8 is amended to read as follows:

9 (d) An insurance company may sell a late model salvage motor
10 vehicle to which this section applies, or assign a salvage motor
11 vehicle certificate of title or a nonrepairable motor vehicle
12 certificate of title for the vehicle, only to a salvage vehicle
13 dealer, an out-of-state buyer, a buyer in a casual sale at auction,
14 or a person described by Section 2302.003, Occupations Code
15 [~~Subsection (g), Article 6687-2b, Revised Statutes~~]. If the
16 vehicle is not a late model salvage motor vehicle or a nonrepairable
17 motor vehicle, the insurance company is not required to surrender
18 the regular certificate of title for the vehicle or to be issued a
19 salvage motor vehicle certificate of title or a nonrepairable motor
20 vehicle certificate of title for the vehicle.

21 SECTION 14A.825. Section 501.0919, Transportation Code, is
22 amended to read as follows:

23 Sec. 501.0919. SALE OF CERTAIN LATE MODEL SALVAGE MOTOR
24 VEHICLES. The owner of a late model salvage motor vehicle that has
25 been issued a salvage motor vehicle certificate of title or a
26 nonrepairable motor vehicle certificate of title may sell the
27 vehicle only to a salvage vehicle dealer in this state, an

1 out-of-state buyer, a buyer in a casual sale at auction, or a person
2 described by Section 2302.003, Occupations Code [~~Subsection (g),~~
3 ~~Article 6687-2b, Revised Statutes~~].

4 SECTION 14A.826. Sections 501.0931(a), (b), and (c),
5 Transportation Code, are amended to read as follows:

6 (a) This subchapter does not apply to, and does not preclude
7 or prohibit a sale to, purchase by, or other transaction by or with,
8 a person described by Section 2302.003, Occupations Code
9 [~~Subsection (g), Article 6687-2b, Revised Statutes~~], except as
10 provided by Subsections (b) and (c).

11 (b) A person described by Section 2302.003, Occupations
12 Code [~~Subsection (g), Article 6687-2b, Revised Statutes~~], shall
13 submit to the department the certificate of title or equivalent
14 document that the person receives in conjunction with the purchase
15 of a motor vehicle not later than the 60th day after the date the
16 person receives the certificate of title or equivalent document.

17 (c) This subchapter applies to a transaction with a person
18 described by Section 2302.003, Occupations Code [~~Subsection (g),~~
19 ~~Article 6687-2b, Revised Statutes~~], in which a motor vehicle is
20 sold or delivered to the person for the purpose of reuse or resale
21 as a motor vehicle or as motor vehicle parts if the motor vehicle is
22 so used.

23 SECTION 14A.827. Section 502.285, Transportation Code, is
24 amended to read as follows:

25 Sec. 502.285. MANUFACTURED HOUSING. Manufactured housing,
26 as defined by Chapter 1201, Occupations Code [~~the Texas~~
27 ~~Manufactured Housing Standards Act (Article 5221f, Vernon's Texas~~

1 ~~Civil Statutes~~], is not a vehicle subject to this chapter.

2 SECTION 14A.828. Sections 503.001(1), (3), and (7),
3 Transportation Code, are amended to read as follows:

4 (1) "Board" has the meaning assigned by Chapter 2301,
5 Occupations Code [~~the Texas Motor Vehicle Commission Code (Article~~
6 ~~4413(36), Vernon's Texas Civil Statutes~~)].

7 (3) "Converter" has the meaning assigned by Chapter
8 2301, Occupations Code [~~the Texas Motor Vehicle Commission Code~~
9 ~~(Article 4413(36), Vernon's Texas Civil Statutes)~~].

10 (7) "Franchise" has the meaning assigned by Chapter
11 2301, Occupations Code [~~the Texas Motor Vehicle Commission Code~~
12 ~~(Article 4413(36), Vernon's Texas Civil Statutes)~~].

13 SECTION 14A.829. Section 503.0618(a), Transportation Code,
14 is amended to read as follows:

15 (a) In this section, "converter" means a person who holds a
16 converter's license issued under Chapter 2301, Occupations Code
17 [~~the Texas Motor Vehicle Commission Code (Article 4413(36),~~
18 ~~Vernon's Texas Civil Statutes)~~].

19 SECTION 14A.830. Section 503.0625(a), Transportation Code,
20 is amended to read as follows:

21 (a) In this section, "converter" means a person who holds a
22 converter's license issued under Chapter 2301, Occupations Code
23 [~~the Texas Motor Vehicle Commission Code (Article 4413(36),~~
24 ~~Vernon's Texas Civil Statutes)~~].

25 SECTION 14A.831. Section 503.064(a), Transportation Code,
26 is amended to read as follows:

27 (a) Instead of registering a new vehicle that a manufacturer

1 intends to test on a public street or highway or to loan to a
2 consumer for the purpose described by Section 2301.605, Occupations
3 Code [~~6.07(d), Texas Motor Vehicle Commission Code (Article~~
4 ~~4413(36), Vernon's Texas Civil Statutes)~~], the manufacturer may
5 apply for, receive, and attach manufacturer's license plates to the
6 vehicle.

7 SECTION 14A.832. Section 520.063, Transportation Code, is
8 amended to read as follows:

9 Sec. 520.063. EXEMPTIONS. The following persons and their
10 agents are exempt from the licensing and other requirements
11 established by this subchapter:

12 (1) a franchised motor vehicle dealer or independent
13 motor vehicle dealer who holds a general distinguishing number
14 issued by the department under Chapter 503;

15 (2) a [~~motor~~] vehicle lessor holding a license issued
16 by the Motor Vehicle Board under Chapter 2301, Occupations Code,
17 [~~the Texas Motor Vehicle Commission Code (Article 4413(36),~~
18 ~~Vernon's Texas Civil Statutes)~~] or a trust or other entity that is
19 specifically not required to obtain a lessor license under Section
20 2301.254(a) [~~4.01(a)~~] of that code [~~Act~~]; and

21 (3) a vehicle lease facilitator holding a license
22 issued by the Motor Vehicle Board under Chapter 2301, Occupations
23 Code [~~the Texas Motor Vehicle Commission Code (Article 4413(36),~~
24 ~~Vernon's Texas Civil Statutes)~~].

25 SECTION 14A.833. Section 541.201(23), Transportation Code,
26 is amended to read as follows:

27 (23) "Vehicle" means a device that can be used to

1 transport or draw persons or property on a highway. The term does
2 not include:

3 (A) a device exclusively used on stationary rails
4 or tracks; or

5 (B) manufactured housing as that term is defined
6 by Chapter 1201, Occupations Code [~~the Texas Manufactured Housing~~
7 ~~Standards Act (Article 5221f, Vernon's Texas Civil Statutes)~~].

8 SECTION 14A.834. Section 548.3011(a), Transportation Code,
9 is amended to read as follows:

10 (a) This section applies only to a vehicle:

11 (1) the most recent certificate of title for which or
12 registration of which was issued in a county without a motor vehicle
13 emissions inspection and maintenance program; and

14 (2) the ownership of which has changed and which has
15 been the subject of a retail sale as defined by Section 2301.002,
16 Occupations Code [~~1.03, Texas Motor Vehicle Commission Code~~
17 ~~(Article 4413(36), Vernon's Texas Civil Statutes)~~].

18 SECTION 14A.835. Section 621.001(9), Transportation Code,
19 is amended to read as follows:

20 (9) "Vehicle" means a mechanical device, other than a
21 device moved by human power or used exclusively upon stationary
22 rails or tracks, in, on, or by which a person or property can be
23 transported on a public highway. The term includes a motor vehicle,
24 commercial motor vehicle, truck-tractor, trailer, or semitrailer
25 but does not include manufactured housing as defined by Chapter
26 1201, Occupations Code [~~the Texas Manufactured Housing Standards~~
27 ~~Act (Article 5221f, Vernon's Texas Civil Statutes)~~].

1 SECTION 14A.836. Section 623.091, Transportation Code, is
2 amended to read as follows:

3 Sec. 623.091. DEFINITION. In this subchapter,
4 "manufactured house" means "industrialized building" as defined by
5 Chapter 1202, Occupations Code [~~Article 5221f-1, Revised~~
6 ~~Statutes~~], "industrialized housing" as defined by Chapter 1202,
7 Occupations Code [~~Article 5221f-1, Revised Statutes~~], or
8 "manufactured home" as defined by Chapter 1201, Occupations Code
9 [~~the Texas Manufactured Housing Standards Act (Article 5221f,~~
10 ~~Vernon's Texas Civil Statutes)~~]. The term includes a temporary
11 chassis system or returnable undercarriage used for the
12 transportation of a manufactured house and a transportable section
13 of a manufactured house that is transported on a chassis system or
14 returnable undercarriage and that is constructed so that it cannot,
15 without dismantling or destruction, be transported within the legal
16 size limits for a motor vehicle.

17 SECTION 14A.837. Section 623.093(d), Transportation Code,
18 is amended to read as follows:

19 (d) In this subsection, "consumer," "manufacturer," and
20 "retailer" have the meanings assigned by Chapter 1201, Occupations
21 Code [~~the Texas Manufactured Housing Standards Act (Article 5221f,~~
22 ~~Vernon's Texas Civil Statutes)~~]. If the application is for a permit
23 to transport a manufactured house from a location other than the
24 location of the manufacturer or from the location of the retailer of
25 the manufactured house pursuant to the original sale, exchange, or
26 lease-purchase of the manufactured house to a consumer, the
27 application for a permit must be accompanied by a written statement

1 from the chief appraiser of the appraisal district established for
2 the county in which the manufactured house is located that states
3 that no unpaid ad valorem taxes have been reported on the
4 manufactured house due any taxing unit for which the appraisal
5 district appraises property. If the manufactured house is not
6 listed on the most recent appraisal roll of the appraisal district
7 established for the county in which the manufactured house is
8 located, the application for the permit must be accompanied by:

9 (1) evidence showing that the manufactured house was
10 moved into the county after January 1 of the current year; or

11 (2) a certificate from the appraisal district
12 established for the county in which the manufactured house is
13 located that states that the owner of the manufactured house or
14 another person has provided that appraisal district with
15 information sufficient to list the manufactured house in the
16 supplemental appraisal records of that appraisal district.

17 SECTION 14A.838. Section 643.202(a), Transportation Code,
18 is amended to read as follows:

19 (a) The department shall appoint a rules advisory committee
20 to advise the department on adoption of rules regarding:

21 (1) the application of this chapter to tow trucks; and

22 (2) the administration by the department of Chapter
23 2303, Occupations Code [~~the Vehicle Storage Facility Act (Article~~
24 ~~6687-9a, Revised Statutes)~~].

25 SECTION 14A.839. Section 684.001(8), Transportation Code,
26 is amended to read as follows:

27 (8) "Vehicle storage facility" means a facility

1 operated by a person licensed under Chapter 2303, Occupations Code
2 [~~Article 6687-9a, Revised Statutes~~].

3 SECTION 14A.840. Section 685.001(1), Transportation Code,
4 is amended to read as follows:

5 (1) "Vehicle storage facility" has the meaning
6 assigned by Chapter 2303, Occupations Code [~~the Vehicle Storage~~
7 ~~Facility Act, Article 6687-9a, Revised Statutes~~].

8 SECTION 14A.841. Section 685.005(b), Transportation Code,
9 is amended to read as follows:

10 (b) The operator of a vehicle storage facility that sends a
11 notice under Subchapter D, Chapter 2303, Occupations Code [~~Section~~
12 ~~13, Vehicle Storage Facility Act (Article 6687-9a, Revised~~
13 ~~Statutes)~~], shall include with that notice a notice of the person's
14 rights under this chapter.

15 SECTION 14A.842. Section 5.2291(a), Water Code, is amended
16 to read as follows:

17 (a) In this section, "scientific and technical
18 environmental services" means services, other than engineering
19 services, of a scientific or technical nature the conduct of which
20 requires technical training and professional judgment. The term
21 includes modeling, risk assessment, site characterization and
22 assessment, studies of the magnitude, source, and extent of
23 contamination, contaminant fate and transport analysis, watershed
24 assessment and analysis, total maximum daily load studies,
25 scientific data analysis, and similar tasks, to the extent those
26 tasks are not defined as the "practice of engineering" under
27 Chapter 1001, Occupations Code [~~The Texas Engineering Practice Act~~

1 (~~Article 3271a, Vernon's Texas Civil Statutes~~).

2 SECTION 14A.843. Section 7.052(a), Water Code, is amended to
3 read as follows:

4 (a) The amount of the penalty for a violation of Chapter
5 [~~34, or~~] 37 of this code, [or] Chapter 366, 371, or 372, Health and
6 Safety Code, or Chapter 1903, Occupations Code, may not exceed
7 \$2,500 a day for each violation.

8 SECTION 14A.844. Section 7.102, Water Code, is amended to
9 read as follows:

10 Sec. 7.102. MAXIMUM PENALTY. A person who causes, suffers,
11 allows, or permits a violation of a statute, rule, order, or permit
12 relating to Chapter [~~34, or~~] 37 of this code, [or] Chapter 366, 371,
13 or 372, Health and Safety Code, or Chapter 1903, Occupations Code,
14 shall be assessed for each violation a civil penalty not less than
15 \$50 nor greater than \$5,000 for each day of each violation as the
16 court or jury considers proper. A person who causes, suffers,
17 allows, or permits a violation of a statute, rule, order, or permit
18 relating to any other matter within the commission's jurisdiction
19 to enforce, other than violations of Chapter 11, 12, 13, 16, or 36
20 of this code, or Chapter 341, Health and Safety Code, shall be
21 assessed for each violation a civil penalty not less than \$50 nor
22 greater than \$25,000 for each day of each violation as the court or
23 jury considers proper. Each day of a continuing violation is a
24 separate violation.

25 SECTION 14A.845. Section 7.351(a), Water Code, is amended to
26 read as follows:

27 (a) If it appears that a violation or threat of violation of

1 Chapter 16, 26, or 28~~[, or 34]~~ of this code, ~~[or]~~ Chapter 361, 371,
2 372, or 382, Health and Safety Code, ~~[or]~~ a provision of Chapter
3 401, Health and Safety Code, under the commission's jurisdiction,
4 or Chapter 1903, Occupations Code, or a rule adopted or an order or
5 a permit issued under those chapters or provisions has occurred or
6 is occurring in the jurisdiction of a local government, the local
7 government or, in the case of a violation of Chapter 401, Health and
8 Safety Code, a person affected as defined in that chapter, may
9 institute a civil suit under Subchapter D in the same manner as the
10 commission in a district court by its own attorney for the
11 injunctive relief or civil penalty, or both, as authorized by this
12 chapter against the person who committed, is committing, or is
13 threatening to commit the violation.

14 SECTION 14A.846. Section 7.358, Water Code, is amended to
15 read as follows:

16 Sec. 7.358. OTHER REQUIREMENTS. In the case of a violation
17 of Chapter 1903, Occupations Code ~~[34]~~, the regulatory authority of
18 any local government may require compliance with any reasonable
19 inspection requirements or ordinances or regulations designed to
20 protect the public water supply and pay any reasonable fees imposed
21 by the local government relating to work performed within its
22 jurisdiction.

23 SECTION 14A.847. Section 26.135(b), Water Code, is amended
24 to read as follows:

25 (b) The commission shall continue to exercise the authority
26 granted to it in Chapter 1901, Occupations Code ~~[32 of this code]~~.

27 SECTION 14A.848. Sections 37.002 and 37.003, Water Code, are

1 amended to read as follows:

2 Sec. 37.002. RULES. The commission shall adopt any rules
3 necessary to:

4 (1) establish occupational licenses and registrations
5 prescribed by Sections 26.0301, 26.3573, 26.452, and 26.456[~~, and~~
6 ~~34.007~~] of this code, [~~and~~] Sections 341.033, 341.034, 361.027, and
7 366.071, Health and Safety Code, and Section 1903.251, Occupations
8 Code;

9 (2) establish classes and terms of occupational
10 licenses and registrations; and

11 (3) administer the provisions of this chapter and
12 other laws governing occupational licenses and registrations under
13 the commission's jurisdiction.

14 Sec. 37.003. LICENSE OR REGISTRATION REQUIRED. A person
15 may not engage in a business, occupation, or profession described
16 by Section 26.0301, 26.3573, 26.452, or 26.456[~~, or 34.007~~] of this
17 code, [~~or~~] Section 341.033, 341.034, 361.027, 366.014, or 366.071,
18 Health and Safety Code, or Section 1903.251, Occupations Code,
19 unless the person holds the appropriate license or registration
20 issued by the commission.

21 ARTICLE 14B. CHANGES RELATING TO PENAL CODE

22 SECTION 14B.001. Section 30.05(b)(3), Penal Code, is
23 amended to correct a reference to read as follows:

24 (3) "Shelter center" has the meaning assigned by
25 Section 51.002 [~~51.002(1)~~], Human Resources Code.

26 ARTICLE 15. CHANGES RELATING TO

27 TAX CODE

1 SECTION 15.001. (a) Section 11.43(b), Tax Code, is amended
2 to correct a reference to read as follows:

3 (b) Except as provided by Subsection (c) and by Sections
4 11.184 and 11.437 [~~11.436~~], a person required to apply for an
5 exemption must apply each year the person claims entitlement to the
6 exemption.

7 (b) Section 22.01(e), Tax Code, is amended to correct a
8 reference to read as follows:

9 (e) Notwithstanding Subsections (a) and (b), a person is not
10 required to render for taxation cotton that:

11 (1) the person manages and controls as a fiduciary;

12 (2) is stored in a warehouse for which an exemption for
13 cotton has been granted under Section 11.437 [~~11.436~~]; and

14 (3) the person intends to transport outside of the
15 state within the time permitted by Article VIII, Section 1-j, of the
16 Texas Constitution for cotton to qualify for an exemption under
17 that section.

18 (c) Section 22.04(c), Tax Code, is amended to correct a
19 reference to read as follows:

20 (c) This section does not apply to a warehouse for which an
21 exemption for cotton has been granted under Section 11.437
22 [~~11.436~~].

23 SECTION 15.002. Section 33.06(a), Tax Code, as amended by
24 Chapters 892 and 1430, Acts of the 77th Legislature, Regular
25 Session, 2001, is reenacted to read as follows:

26 (a) An individual is entitled to defer or abate a suit to
27 collect a delinquent tax if the individual:

1 (1) is 65 years of age or older or is disabled as
2 defined by Section 11.13(m); and

3 (2) the tax was imposed against property that the
4 individual owns and occupies as a residence homestead.

5 SECTION 15.003. Section 153.205, Tax Code, as amended by
6 Chapters 1263 and 1444, Acts of the 77th Legislature, Regular
7 Session, 2001, is reenacted to read as follows:

8 Sec. 153.205. STATEMENT FOR PURCHASE OF DIESEL FUEL TAX
9 FREE. (a) The first sale or use of diesel fuel in this state is
10 taxable, except that sales of dyed diesel fuel, or of undyed diesel
11 fuel if the fuel will be used for an agricultural nonhighway
12 purpose, may be made without collecting the tax if the purchaser
13 furnishes to a permitted supplier a signed statement, including an
14 end user number or agricultural exemption number issued by the
15 comptroller. A person who wants to use a signed statement to
16 purchase dyed diesel fuel must apply to the comptroller for an end
17 user number to be used in conjunction with a signed statement. A
18 person who wants to use a signed statement to purchase dyed or
19 undyed diesel fuel for an agricultural nonhighway purpose must
20 apply to the comptroller for an agricultural exemption number to be
21 used in conjunction with a signed statement. A supplier may not
22 make a tax-free sale of any diesel fuel to a purchaser using a
23 signed statement unless the purchaser has an end user number or
24 agricultural exemption number issued by the comptroller under this
25 section.

26 (b) A sale of dyed diesel fuel may be made without
27 collecting the tax if the purchaser furnishes to a permitted

1 supplier a signed statement, including an end user number issued by
2 the comptroller, that stipulates that:

3 (1) none of the diesel fuel purchased on the signed
4 statement is of a type that may legally be used on the public
5 highway;

6 (2) all of the dyed diesel fuel purchased on the signed
7 statement will be consumed by the purchaser, or all of the diesel
8 fuel will be consumed by the purchaser in oil or gas production, as
9 applicable, and will not be resold; and

10 (3) none of the dyed diesel fuel purchased on the
11 signed statement will be delivered or permitted to be delivered
12 into the fuel supply tank of a motor vehicle operated on the public
13 highways of this state.

14 (c) A sale of dyed or undyed diesel fuel for an agricultural
15 nonhighway use may be made without collecting the tax if the
16 purchaser furnishes to a permitted supplier a signed statement,
17 including an agricultural exemption number issued by the
18 comptroller, that stipulates that:

19 (1) all of the dyed and undyed diesel fuel purchased on
20 the signed statement will be used exclusively in agricultural
21 nonhighway equipment;

22 (2) all of the dyed and undyed diesel fuel purchased on
23 the signed statement will be consumed by the purchaser and will not
24 be resold; and

25 (3) none of the dyed or undyed diesel fuel purchased on
26 the signed statement will be delivered or permitted to be delivered
27 into the fuel supply tank of a motor vehicle operated on the public

1 highways of this state.

2 (d) A person may not make a tax-free purchase of any diesel
3 fuel under this section using a signed statement:

4 (1) for the purchase of more than 7,400 gallons of dyed
5 or undyed diesel fuel in a single transaction or delivery; or

6 (2) in a calendar month in which the person has
7 previously purchased more than:

8 (A) 10,000 gallons of dyed diesel fuel from all
9 sources;

10 (B) 25,000 gallons of dyed diesel fuel from all
11 sources if the purchaser stipulates in the signed statement that
12 all of the fuel will be consumed by the purchaser in oil or gas
13 production; or

14 (C) 25,000 gallons of dyed or undyed diesel fuel
15 from all sources if purchased for agricultural purposes by a person
16 who furnishes to the permitted supplier, in conjunction with the
17 signed statement, an agricultural exemption number issued by the
18 comptroller.

19 (e) Any gallons purchased in excess of the limitations
20 prescribed by Subsection (d) constitute a taxable purchase. The
21 purchaser paying the tax on dyed or undyed diesel fuel in excess of
22 the limitations prescribed by Subsection (d) may claim a refund of
23 the tax paid on any dyed or undyed diesel fuel used for nonhighway
24 purposes under Section 153.222.

25 (f) A supplier may not make a tax-free sale of any diesel
26 fuel under this section to a purchaser using a signed statement:

27 (1) for the sale of more than 7,400 gallons of dyed or

1 undyed diesel fuel in a single transaction or delivery; or

2 (2) in a calendar month in which the supplier has
3 previously sold more than:

4 (A) 10,000 gallons of dyed diesel fuel to the
5 purchaser;

6 (B) 25,000 gallons of dyed diesel fuel to the
7 purchaser if the purchaser stipulates in the signed statement that
8 all of the fuel will be consumed by the purchaser in oil or gas
9 production; or

10 (C) 25,000 gallons of dyed or undyed diesel fuel
11 to the purchaser if the purchaser furnishes to the permitted
12 supplier, in conjunction with the signed statement, an agricultural
13 exemption number issued by the comptroller.

14 (g) Any gallons sold in excess of the limitations prescribed
15 by Subsection (f) constitute a taxable sale. The purchaser paying
16 the tax on dyed or undyed diesel fuel in excess of the limitations
17 prescribed by Subsection (f) may claim a refund of the tax paid on
18 any dyed or undyed diesel fuel used for nonhighway purposes under
19 Section 153.222.

20 (h) The signed statement and end user number or agricultural
21 exemption number from the purchaser as provided by this section
22 relieves the permitted supplier from the burden of proof that the
23 sale of dyed diesel fuel or of undyed diesel fuel for an
24 agricultural nonhighway purpose was not taxable to the purchaser
25 and remains in effect unless:

26 (1) the statement is revoked in writing by the
27 purchaser or supplier; or

1 (2) the comptroller notifies the supplier in writing
2 that the purchaser may no longer make tax-free purchases.

3 (i) A taxable use of any part of the dyed or undyed diesel
4 fuel purchased under a signed statement shall, in addition to any
5 criminal penalty, forfeit the right of the person to purchase dyed
6 or undyed diesel fuel tax free for a period of one year from the date
7 of the offense, and any tax, interest, and penalty found to be due
8 through false or erroneous execution or continuance of a promissory
9 statement by the purchaser, if assessed to the supplier, is a debt
10 of the purchaser to the supplier until paid, and is recoverable at
11 law in the same manner as the purchase price of the fuel. The person
12 may, however, claim a refund of the tax paid on any dyed or undyed
13 diesel fuel used for nonhighway purposes under Section 153.222.

14 ARTICLE 16. CHANGES RELATING TO
15 TRANSPORTATION CODE

16 SECTION 16.001. (a) Subtitle A, Title 6, Transportation
17 Code, is amended to codify Chapter 193, Acts of the 56th
18 Legislature, Regular Session, 1959 (Article 6144e, Vernon's Texas
19 Civil Statutes), by adding Chapter 204 to read as follows:

20 CHAPTER 204. TRAVEL INFORMATION

21 Sec. 204.001. INFORMATION FOR PUBLIC; MAPS. (a) To provide
22 information relating to highway construction, repair, and
23 maintenance and to advertise and attract traffic to the highways of
24 this state, the department may prepare and publish for
25 distribution, in the manner and form the department considers best,
26 documents the department considers necessary and expedient to
27 publicize and provide information concerning:

1 (1) the highways of this state;

2 (2) public parks, recreational areas, scenic areas,
3 and other public places and objects of interest;

4 (3) distances;

5 (4) historical facts; and

6 (5) other matters of interest and value to the public
7 and highway users.

8 (b) The department periodically may prepare a map showing:

9 (1) the highways of this state; and

10 (2) municipalities and other places of interest served
11 by those highways.

12 (c) The department may distribute the documents and maps in
13 the manner and to the extent the department considers will best
14 serve the motoring public and highway users.

15 Sec. 204.002. CHARGE FOR MATERIALS. (a) The department
16 shall provide a single copy of a document or map distributed under
17 Section 204.001 without charge.

18 (b) The department by rule may:

19 (1) require payment for large quantities of the
20 material; and

21 (2) authorize distribution without charge of multiple
22 copies of the material if the distribution will maximize the
23 department's resources available to advertise the highways of this
24 state and promote travel to and within this state.

25 (c) Payment required under Subsection (b)(1) must be in an
26 amount sufficient to recover the department's direct and indirect
27 production costs. Money received by the department under this

1 section shall be deposited to the credit of the state highway fund
2 and used by the department to produce travel material. Section
3 403.095, Government Code, does not apply to money deposited under
4 this subsection.

5 (d) If this section conflicts with a license agreement
6 entered into under Section 201.205, the license agreement prevails
7 to the extent of that conflict.

8 Sec. 204.003. TRAVEL INFORMATION CENTERS. The department
9 shall maintain and operate travel information centers at the
10 principal gateways to this state to provide highway information,
11 travel guidance, and descriptive material designed to assist the
12 traveling public and stimulate travel to and within this state.

13 Sec. 204.004. PAYMENT OF COSTS. The department may pay from
14 highway revenues the cost, including the administration and
15 operation cost, of:

16 (1) developing, publishing, and distributing
17 material; and

18 (2) maintaining and operating travel information
19 centers.

20 Sec. 204.005. PURCHASE OF BROADCASTING AND PERIODICAL
21 ADVERTISING. The department may purchase advertising space in a
22 periodical of national circulation and time on a broadcasting
23 facility from money appropriated from the general revenue fund and
24 administered by the department for that specific purpose.

25 Sec. 204.006. CONTRACTS FOR ADVERTISING, MOVIES, AND
26 PHOTOGRAPHS. (a) The department may enter into a contract with:

27 (1) a recognized and financially responsible

1 advertising agency that has at least five years' experience
2 handling similar accounts for the contracting of space in
3 newspapers and periodicals for the publication of advertising
4 information, historical facts, statistics, and pictures that will
5 be useful and informative to persons outside this state; and

6 (2) motion picture producers and other persons for
7 making movies or taking photographs in this state and for the
8 showing of those movies and photographs.

9 (b) The department may join with another agency of this
10 state in publishing informational publicity material under this
11 section.

12 Sec. 204.007. PRIVATE CONTRIBUTIONS. (a) The department
13 may accept a contribution from a private source for a purpose under
14 Sections 204.001-204.006.

15 (b) The department may deposit the contribution in one or
16 more banks and use the contribution at its discretion according to
17 the contributor's wishes.

18 Sec. 204.008. PRODUCTION, MARKETING, AND DISTRIBUTION
19 CONTRACTS. (a) The department may contract with a private entity
20 to produce, market, and distribute material published under
21 Sections 204.001-204.006 on the terms, including terms providing
22 cost savings, the department considers beneficial to this state.

23 (b) A contract may:

24 (1) include cooperative strategies the department
25 considers to provide cost benefits; and

26 (2) provide for acceptance of paid advertising in the
27 material if the quality and quantity of the material are

1 maintained.

2 Sec. 204.009. SALE OF PROMOTIONAL ITEMS. (a) The
3 department may sell promotional items such as calendars, books,
4 prints, caps, light clothing, or other items approved by the
5 commission that advertise the resources of this state.

6 (b) All proceeds from the sale of the items shall be
7 deposited to the credit of the state highway fund for the
8 department's use in its travel and information operations.

9 (c) Section 403.095, Government Code, does not apply to
10 money deposited under this section.

11 Sec. 204.010. TRAVEL MAGAZINE. (a) The department shall
12 publish the official travel magazine of this state, "Texas
13 Highways."

14 (b) The department shall set subscription rates and other
15 charges for the magazine at a level that generates receipts
16 approximately sufficient to cover the cost of producing and
17 distributing the magazine.

18 Sec. 204.011. SUBSCRIBER OR PURCHASER INFORMATION. (a)
19 Except as provided by this section or a rule adopted by the
20 commission under this section, the department may not disclose to
21 any person the name, address, telephone number, social security
22 account number, driver's license number, bank account number,
23 credit or debit card number, or charge account number of a person
24 who:

25 (1) is or has been a subscriber to "Texas Highways"; or

26 (2) has purchased from the department a promotional
27 item described by Section 204.009.

1 (b) Chapter 552, Government Code, does not apply to
2 subscriber or purchaser information described by Subsection (a).

3 (c) The commission by rule shall establish policies
4 relating to:

5 (1) the release of subscriber or purchaser
6 information;

7 (2) the use by the department of subscriber and
8 purchaser information; and

9 (3) the sale of a mailing list containing the names and
10 addresses of subscribers or purchasers.

11 (d) The policies must:

12 (1) include a method by which a subscriber or
13 purchaser may require the department to exclude information about
14 the person from a mailing list that is sold; and

15 (2) provide that subscriber or purchaser information
16 be disclosed to an agency of this state or the United States only if
17 that agency certifies that the information is necessary for the
18 performance of that agency's duties.

19 (e) The department is immune from civil or criminal
20 liability if the department unintentionally violates this section
21 or a rule adopted under this section.

22 (f) In this section, a reference to the department includes
23 an officer, employee, or agent of the department.

24 (b) Chapter 193, Acts of the 56th Legislature, Regular
25 Session, 1959 (Article 6144e, Vernon's Texas Civil Statutes), is
26 repealed.

27 SECTION 16.002. Section 361.031, Transportation Code, as

1 amended by Chapters 920 and 1237, Acts of the 77th Legislature,
2 Regular Session, 2001, is reenacted and amended to read as follows:

3 Sec. 361.031. TEXAS TURNPIKE AUTHORITY. (a) The Texas
4 Turnpike Authority is a division of the Texas Department of
5 Transportation that has full authority to exercise all powers
6 granted to it under this chapter. Powers granted to the department
7 under this chapter and Chapter 362 to study, design, construct,
8 operate, expand, enlarge, or extend a turnpike project as a part of
9 the state highway system shall be exercised by the department
10 acting by and through the authority.

11 (b) ~~[(The authority may perform, procure from other~~
12 ~~divisions of the department with the consent of the department, or~~
13 ~~procure from outside service providers any portion of the services~~
14 ~~the authority requires for:~~

15 ~~[(1) right-of-way acquisition,~~

16 ~~[(2) roadway finance, design, and construction,~~

17 ~~[(3) environmental affairs,~~

18 ~~[(4) legal services,~~

19 ~~[(5) roadway maintenance,~~

20 ~~[(6) toll revenue collection, or~~

21 ~~[(7) traffic operations.~~

22 ~~[(c) To perform its functions under this chapter, the~~
23 ~~authority may use the facilities and personnel of the department in~~
24 ~~the same manner as other divisions of the department.~~

25 ~~[(d) If the comptroller assigns numbers to state agencies~~
26 ~~for accounting purposes, the comptroller shall assign a separate~~
27 ~~agency number to the authority.~~

1 ~~[(e)]~~ The exercise by the authority of the powers conferred
2 by this chapter in the construction, operation, and maintenance of
3 a turnpike project is:

4 (1) in all respects for the benefit of the people of
5 this state, for the increase of their commerce and prosperity, and
6 for the improvement of their health and living conditions and
7 public safety; and

8 (2) an essential governmental function of the state.

9 ~~[(f) The commission shall employ a director of the authority
10 who serves as the authority's chief administrative officer. The
11 director serves at the pleasure of the commission.]~~

12 SECTION 16.003. Section 521.003, Transportation Code, is
13 amended to correct a reference to the Central Education Agency to
14 read as follows:

15 Sec. 521.003. ENROLLMENT AND ATTENDANCE VERIFICATION. The
16 Texas ~~[Central]~~ Education Agency shall design a standard form for
17 use by public and private schools to verify a student's enrollment
18 and attendance for purposes of this chapter. The form must be
19 approved by the department.

20 SECTION 16.004. Sections 622.136 and 623.165,
21 Transportation Code, as amended by Chapters 941 and 942, Acts of the
22 77th Legislature, Regular Session, 2001, are reenacted and amended
23 to read as follows:

24 Sec. 622.136. PENALTY ~~[PENALTIES]~~. ~~[(b) Except as
25 provided by Subsections (c) and (d), an offense under this section
26 is a misdemeanor punishable:~~

27 ~~[(1) by a fine not to exceed \$200,~~

1 ~~[(2) on conviction within one year after the date of a~~
2 ~~prior conviction under this section that was punishable under~~
3 ~~Subdivision (1), by a fine not to exceed \$500, by confinement in the~~
4 ~~county jail for not more than 60 days, or by both the fine and~~
5 ~~confinement, or~~

6 ~~[(3) on conviction within one year after the date of a~~
7 ~~prior conviction under this section that was punishable under~~
8 ~~Subdivision (2), by a fine not to exceed \$1,000, by confinement in~~
9 ~~the county jail for not more than six months, or by both the fine and~~
10 ~~confinement.~~

11 ~~[(d)]~~ A person commits an offense if the person fails in
12 violation of Section 622.134(d) to carry or present the copy of the
13 bond filed with the department. An offense under this section
14 ~~[subsection]~~ is a misdemeanor punishable by a fine not to exceed
15 \$200.

16 Sec. 623.165. PENALTY ~~[PENALTIES]~~. ~~[(b) Except as~~
17 ~~provided by Subsections (c) and (d), an offense under this section~~
18 ~~is a misdemeanor punishable:~~

19 ~~[(1) by a fine of not more than \$200,~~

20 ~~[(2) on conviction within one year after the date of a~~
21 ~~prior conviction under this section that was punishable under~~
22 ~~Subdivision (1), by a fine of not more than \$500, by confinement in~~
23 ~~the county jail for not more than 60 days, or by both the fine and~~
24 ~~the confinement, or~~

25 ~~[(3) on conviction within one year after the date of a~~
26 ~~prior conviction under this section that was punishable under~~
27 ~~Subdivision (2) or this subdivision, by a fine of not more than~~

1 ~~\$1,000, by confinement in the county jail for not more than six~~
2 ~~months, or by both the fine and the confinement.~~

3 ~~[(d)]~~ A person commits an offense if the person fails in
4 violation of Section 623.163(d) to carry or present the copy of the
5 bond filed with the department. An offense under this section
6 ~~[subsection]~~ is a misdemeanor punishable by a fine not to exceed
7 \$200.

8 ARTICLE 17. CHANGES RELATING

9 TO UTILITIES CODE

10 SECTION 17.001. Section 56.021, Utilities Code, as amended
11 by Chapters 651 and 1451, Acts of the 77th Legislature, Regular
12 Session, 2001, is reenacted to read as follows:

13 Sec. 56.021. UNIVERSAL SERVICE FUND ESTABLISHED. The
14 commission shall adopt and enforce rules requiring local exchange
15 companies to establish a universal service fund to:

16 (1) assist telecommunications providers in providing
17 basic local telecommunications service at reasonable rates in high
18 cost rural areas;

19 (2) reimburse the telecommunications carrier that
20 provides the statewide telecommunications relay access service
21 under Subchapter D;

22 (3) finance the specialized telecommunications
23 assistance program established under Subchapter E;

24 (4) reimburse the department, the Texas Commission for
25 the Deaf and Hard of Hearing, and the commission for costs incurred
26 in implementing this chapter and Chapter 57;

27 (5) reimburse a telecommunications carrier providing

1 lifeline service as provided by 47 C.F.R. Part 54, Subpart E, as
2 amended;

3 (6) finance the implementation and administration of
4 an integrated eligibility process created under Section 17.007 for
5 customer service discounts relating to telecommunications
6 services, including outreach expenses the commission determines
7 are reasonable and necessary; and

8 (7) reimburse a designated provider under Subchapter
9 F.

10 SECTION 17.002. Section 57.047(a), Utilities Code, as
11 amended by Chapters 959, 1220, and 1255, Acts of the 77th
12 Legislature, Regular Session, 2001, is reenacted and amended to
13 read as follows:

14 (a) The board may award a grant to a project or proposal
15 that:

16 (1) provides equipment and infrastructure necessary
17 for:

- 18 (A) distance learning;
- 19 (B) an information sharing program of a library;
- 20 (C) telemedicine medical services;
- 21 (D) telehealth services; or
- 22 (E) [~~(D)~~] a telepharmacy system;

23 (2) develops and implements the initial or
24 prototypical delivery of a course or other distance learning
25 material;

26 (3) trains teachers, faculty, librarians, or
27 technicians in the use of distance learning or information sharing

1 materials and equipment;

2 (4) develops a curriculum or instructional material
3 specially suited for telecommunications delivery;

4 (5) provides electronic information; or

5 (6) establishes or carries out an information sharing
6 program.

7 SECTION 17.003. Section 57.0471, Utilities Code, as added by
8 Chapters 661 and 959, Acts of the 77th Legislature, Regular
9 Session, 2001, is reenacted to read as follows:

10 Sec. 57.0471. GRANTS TO CERTAIN HEALTH CARE FACILITIES.

11 (a) A physician, health care professional, or health care facility
12 providing telemedicine medical services or telehealth services and
13 participating in a pilot program under Section 531.02171,
14 Government Code, is eligible to receive a grant under Section
15 57.047.

16 (b) The physician, health care professional, or health care
17 facility providing telemedicine medical services or telehealth
18 services and participating in a pilot program under Section
19 531.02171, Government Code, is not eligible to receive private
20 network services under Section 58.253(a), except with respect to a
21 project that would have been eligible to be funded by the
22 telecommunications infrastructure fund under this subchapter as it
23 existed on January 1, 2001.

24 SECTION 17.004. (a) Section 251.004(b), Utilities Code, is
25 amended to conform to Section 1, Chapter 1256, Acts of the 76th
26 Legislature, Regular Session, 1999, to read as follows:

27 (b) Excavation by an employee of the Texas Department of

1 Transportation on a segment of the state highway system is not
2 subject to this chapter if the excavation is[+]

3 ~~[(1) less than 24 inches in depth, and~~
4 ~~[(2) no]~~ more than 10 feet from the right-of-way line.

5 (b) Section 1, Chapter 1256, Acts of the 76th Legislature,
6 Regular Session, 1999, is repealed.

7 ARTICLE 18. CHANGES RELATING
8 TO WATER CODE

9 SECTION 18.001. Section 7.303, Water Code, as amended by
10 Chapters 376 and 880, Acts of the 77th Legislature, Regular
11 Session, 2001, is reenacted and amended to read as follows:

12 Sec. 7.303. GROUNDS FOR REVOCATION OR SUSPENSION OF
13 LICENSE, CERTIFICATE, OR REGISTRATION. (a) This section applies
14 to a license, certificate, or registration issued:

- 15 (1) by the commission under:
- 16 (A) Section 26.0301;
- 17 (B) Chapter ~~[34 or]~~ 37;
- 18 (C) Section 361.0861, 361.092, or 361.112,
19 Health and Safety Code; ~~[or]~~
- 20 (D) Chapter 366, 371, or 401, Health and Safety
21 Code; or
- 22 (E) Chapter 1903, Occupations Code;

23 (2) by a county under Subchapter E, Chapter 361,
24 Health and Safety Code; or

25 (3) under a rule adopted under any of those
26 provisions.

27 (b) After notice and hearing, the commission may suspend or

1 revoke a license, certificate, or registration the commission or a
2 county has issued, place on probation a person whose license,
3 certificate, or registration has been suspended, reprimand the
4 holder of a license, certificate, or registration, or refuse to
5 renew or reissue a license, certificate, or registration on any of
6 the following grounds:

7 (1) having a record of environmental violations in the
8 preceding five years;

9 (2) committing fraud or deceit in obtaining the
10 license, certificate, or registration;

11 (3) demonstrating gross negligence, incompetency, or
12 misconduct while acting as holder of a license, certificate, or
13 registration;

14 (4) making an intentional misstatement or
15 misrepresentation of fact in information required to be maintained
16 or submitted to the commission by the holder of the license,
17 certificate, or registration;

18 (5) failing to keep and transmit records as required
19 by a statute within the commission's jurisdiction or a rule adopted
20 under such a statute;

21 (6) being indebted to the state for a fee, payment of a
22 penalty, or a tax imposed by a statute within the commission's
23 jurisdiction or a rule adopted under such a statute;

24 (7) with respect to a license or registration issued
25 under Section 26.0301 or Chapter 37, violating a discharge permit
26 of a sewage treatment plant, unless:

27 (A) the holder of the license or registration is

1 unable to properly operate the sewage treatment or collection
2 facility due to the refusal of the permit holder to authorize
3 necessary expenditures to operate the sewage treatment or
4 collection facility properly; or

5 (B) failure of the sewage treatment or collection
6 facility to comply with its discharge permit results from faulty
7 design of the facility;

8 (8) with respect to a license or registration issued
9 under Chapter 37 of this code or Chapter 366, Health and Safety
10 Code, violating either chapter or a rule adopted under either
11 chapter; or

12 (9) with respect to a license issued under Subchapter
13 E, Chapter 361, Health and Safety Code, violating that chapter or
14 another applicable law or a commission rule governing the
15 processing, storage, or disposal of solid waste.

16 SECTION 18.002. Section 15.011(b), Water Code, as amended
17 by Chapters 966 and 1234, Acts of the 77th Legislature, Regular
18 Session, 2001, is reenacted and amended to read as follows:

19 (b) After notice and hearing and subject to any limitations
20 established by the General Appropriations Act, the board may
21 transfer money from the fund to the loan fund created under
22 Subchapter C, the storage acquisition fund created under Subchapter
23 E, the research and planning fund created under Subchapter F, the
24 hydrographic survey account created under Subchapter M, provided
25 the hydrographic survey account transfer does not exceed \$425,000,
26 the aquatic vegetation management fund created under Subchapter N,
27 the rural community water and wastewater loan fund created under

1 Subchapter O [~~of this chapter~~], [~~and~~] the colonia self-help account
2 created under Subchapter P [~~of this chapter~~], and the rural water
3 assistance fund created under Subchapter R [~~P~~].

4 SECTION 18.003. Section 15.102(b), Water Code, as amended
5 by Chapters 966, 1234, and 1367, Acts of the 77th Legislature,
6 Regular Session, 2001, is reenacted and amended to read as follows:

7 (b) The loan fund may also be used by the board to provide:

8 (1) grants or loans for[~~+(1)~~] projects that include
9 supplying water and wastewater services in economically distressed
10 areas or nonborder colonias as provided by legislative
11 appropriations, this chapter, and board rules, including projects
12 involving retail distribution of those services; and

13 (2) grants for:

14 (A) [~~(2)~~] projects for which federal grant funds
15 are placed in the loan fund;

16 (B) [~~(3)~~] projects, on specific legislative
17 appropriation for those projects; or

18 (C) [~~(4)~~] desalination, brush control, weather
19 modification, regionalization, and projects providing regional
20 water quality enhancement services as defined by board rule,
21 including regional conveyance systems.

22 SECTION 18.004. Section 15.603(a), Water Code, as amended by
23 Chapters 966 and 1234, Acts of the 77th Legislature, Regular
24 Session, 2001, is reenacted and amended to read as follows:

25 (a) The revolving fund is held separately from other funds
26 by the board outside the State Treasury to provide financial
27 assistance to political subdivisions for construction of treatment

1 works and to persons for estuary management projects and for
2 nonpoint source pollution control and abatement projects under
3 Subsection (h).

4 SECTION 18.005. Section 26.0286(c), Water Code, as amended
5 by Chapters 681 and 966, Acts of the 77th Legislature, Regular
6 Session, 2001, is reenacted to read as follows:

7 (c) For the purposes of this section only, when adopting
8 rules under Section 26.023 to set water quality standards for water
9 in the state, the commission by rule shall designate a surface water
10 body as a sole-source surface drinking water supply if that surface
11 water body is identified as a public water supply in rules adopted
12 by the commission under Section 26.023 and is the sole source of
13 supply of a public water supply system, exclusive of emergency
14 water connections. At the same time, the commission shall
15 designate as a protection zone any area within the watershed of a
16 sole-source surface drinking water supply that is:

17 (1) within two miles of the normal pool elevation of a
18 body of surface water that is a sole-source surface drinking water
19 supply;

20 (2) within two miles of that part of a perennial stream
21 that is:

22 (A) a tributary of a sole-source surface drinking
23 water supply; and

24 (B) within three linear miles upstream of the
25 normal pool elevation of a sole-source surface drinking water
26 supply; or

27 (3) within two miles of that part of a stream that is a

1 sole-source surface drinking water supply, extending three linear
2 miles upstream from the water supply intake.

3 SECTION 18.006. Section 36.116, Water Code, as amended by
4 Chapters 966 and 1164, Acts of the 77th Legislature, Regular
5 Session, 2001, is reenacted to read as follows:

6 Sec. 36.116. REGULATION OF SPACING AND PRODUCTION. (a) In
7 order to minimize as far as practicable the drawdown of the water
8 table or the reduction of artesian pressure, to control subsidence,
9 to prevent interference between wells, to prevent degradation of
10 water quality, or to prevent waste, a district by rule may regulate:

11 (1) the spacing of water wells by:

12 (A) requiring all water wells to be spaced a
13 certain distance from property lines or adjoining wells;

14 (B) requiring wells with a certain production
15 capacity, pump size, or other characteristic related to the
16 construction or operation of and production from a well to be spaced
17 a certain distance from property lines or adjoining wells; or

18 (C) imposing spacing requirements adopted by the
19 board; and

20 (2) the production of groundwater by:

21 (A) setting production limits on wells;

22 (B) limiting the amount of water produced based
23 on acreage or tract size;

24 (C) limiting the amount of water that may be
25 produced from a defined number of acres assigned to an authorized
26 well site;

27 (D) limiting the maximum amount of water that may

1 be produced on the basis of acre-feet per acre or gallons per minute
2 per well site per acre; or

3 (E) any combination of the methods listed above
4 in Paragraphs (A) through (D).

5 (b) In promulgating any rules limiting groundwater
6 production, the district may preserve historic use before the
7 effective date of the rules to the maximum extent practicable
8 consistent with the district's comprehensive management plan under
9 Section 36.1071.

10 (c) In regulating the production of groundwater based on
11 tract size or acreage, a district may consider the service needs or
12 service area of a retail water utility. For the purposes of this
13 subsection, "retail water utility" shall have the meaning provided
14 at Section 13.002.

15 SECTION 18.007. Section 49.054(d), Water Code, as amended by
16 Chapter 1423, Acts of the 77th Legislature, Regular Session, 2001,
17 is repealed to conform to Chapter 69, Acts of the 77th Legislature,
18 Regular Session, 2001.

19 SECTION 18.008. Section 49.057(a), Water Code, as amended by
20 Chapters 69 and 1423, Acts of the 77th Legislature, Regular
21 Session, 2001, is reenacted to read as follows:

22 (a) The board shall be responsible for the management of all
23 the affairs of the district. The district shall employ or contract
24 with all persons, firms, partnerships, corporations, or other
25 entities, public or private, deemed necessary by the board for the
26 conduct of the affairs of the district, including, but not limited
27 to, engineers, attorneys, financial advisors, operators,

1 bookkeepers, tax assessors and collectors, auditors, and
2 administrative staff.

3 SECTION 18.009. Section 49.218, Water Code, as amended by
4 Chapters 71 and 1423, Acts of the 77th Legislature, Regular
5 Session, 2001, is reenacted and amended to read as follows:

6 Sec. 49.218. ACQUISITION OF PROPERTY. (a) A district or a
7 water supply corporation may acquire land, an interest in land,
8 materials, waste grounds, easements, rights-of-way, equipment,
9 contract or permit rights or interests, and other property, real or
10 personal, considered necessary for the purpose of accomplishing any
11 one or more of the district's or water supply corporation's purposes
12 provided in this code or in any other law.

13 (b) A district or water supply corporation shall have the
14 right to acquire property by gift, grant, or purchase, and the right
15 to acquire property shall include property considered necessary for
16 the construction, improvement, extension, enlargement, operation,
17 or maintenance of the plants, works, improvements, facilities,
18 equipment, or appliances of a district or a water supply
19 corporation.

20 (c) A district or water supply corporation may acquire
21 either the fee simple title to or an easement on all land, both
22 public and private, either inside or outside its boundaries and may
23 acquire the title to or an easement on property other than land held
24 in fee.

25 (d) A district or water supply corporation may require, as a
26 condition for service, that an applicant for service grant to the
27 district or water supply corporation a permanent recorded easement

1 that:

2 (1) is dedicated to the district or water supply
3 corporation; and

4 (2) will provide a reasonable right of access and use
5 to allow the district or water supply corporation to construct,
6 install, maintain, replace, upgrade, inspect, or test any facility
7 necessary to serve that applicant as well as the district's or water
8 supply corporation's purposes in providing system-wide service.

9 (e) A district or water supply corporation may not, under
10 Subsection (d), require an applicant to provide an easement for a
11 service line for the sole benefit of another applicant.

12 (f) As a condition of service to a new subdivision, a
13 district or water supply corporation may require a developer to
14 provide permanent recorded easements to and throughout the
15 subdivision sufficient to construct, install, maintain, replace,
16 upgrade, inspect, or test any facility necessary to serve the
17 subdivision's anticipated service demands when the subdivision is
18 fully occupied.

19 (g) A district or water supply corporation may also lease
20 property from others for its use on such terms and conditions as the
21 board of the district or the board of directors of the water supply
22 corporation may determine to be advantageous.

23 (h) Property acquired under this section, or any other law
24 allowing the acquisition of property by a district or water supply
25 corporation, and owned by a district or water supply corporation is
26 not subject to assessments, charges, fees, or dues imposed by a
27 nonprofit corporation under Chapter 204, Property Code.

1 SECTION 18.010. Section 51.149(a), Water Code, as added by
2 Chapters 965 and 966, Acts of the 77th Legislature, Regular
3 Session, 2001, is reenacted to read as follows:

4 (a) Notwithstanding Section 49.108(e), no approval other
5 than that specified in Subsection (c) need be obtained in order for
6 a contract between a district and a municipality to be valid,
7 binding, and enforceable against all parties to the contract.
8 After approval by a majority of the electors voting at an election
9 conducted in the manner of a bond election, a district may make
10 payments under a contract from taxes for debt that does not exceed
11 30 years.

12 ARTICLE 19. EFFECTIVE DATE

13 SECTION 19.001. This Act takes effect September 1, 2003.