

1-1 By: Jackson S.B. No. 279  
1-2 (In the Senate - Filed March 6, 2003; March 11, 2003, read  
1-3 first time and referred to Committee on Government Organization;  
1-4 April 23, 2003, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 5, Nays 1; April 23, 2003,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 279 By: Armbrister

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the continuation and functions of the Texas Department  
1-11 of Licensing and Regulation, including certain functions  
1-12 transferred to the department from the Texas Department of  
1-13 Insurance and the Texas Commission on Environmental Quality and  
1-14 including certain functions transferred from the department to the  
1-15 Department of Public Safety of the State of Texas.

1-16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-17 ARTICLE 1. TEXAS DEPARTMENT OF LICENSING AND REGULATION

1-18 SECTION 1.001. Section 51.002, Occupations Code, is amended  
1-19 to read as follows:

1-20 Sec. 51.002. APPLICATION OF SUNSET ACT. The Texas  
1-21 Commission of Licensing and Regulation and the Texas Department of  
1-22 Licensing and Regulation are subject to Chapter 325, Government  
1-23 Code (Texas Sunset Act). Unless continued in existence as provided  
1-24 by that chapter, the commission and the department are abolished  
1-25 September 1, 2015 [2003].

1-26 SECTION 1.002. Subchapter A, Chapter 51, Occupations Code,  
1-27 is amended by adding Section 51.003 to read as follows:

1-28 Sec. 51.003. APPLICABILITY. This chapter applies to each  
1-29 regulatory program administered by the department, including any  
1-30 program under which a license is issued by the department.

1-31 SECTION 1.003. Subsection (a), Section 51.052, Occupations  
1-32 Code, is amended to read as follows:

1-33 (a) The commission consists of seven [~~six~~] members  
1-34 appointed by the governor with the advice and consent of the senate.

1-35 SECTION 1.004. Subsection (b), Section 51.053, Occupations  
1-36 Code, is amended to read as follows:

1-37 (b) A person is not eligible for appointment as a member of  
1-38 the commission if the person or the person's spouse:

1-39 (1) is regulated by the department;

1-40 (2) is employed by or participates in the management  
1-41 of a business entity or other organization regulated by or  
1-42 receiving funds from the department;

1-43 (3) owns or controls, directly or indirectly, more  
1-44 than a 10 percent interest in a business entity or other  
1-45 organization regulated by or receiving funds from the department;

1-46 (4) uses or receives a substantial amount of tangible  
1-47 goods, services, or funds from the department, other than  
1-48 compensation or reimbursement authorized by law for commission  
1-49 membership, attendance, or expenses; or

1-50 (5) [~~is an officer, employee, or paid consultant of a~~  
1-51 ~~trade association in a field regulated by the department,~~

1-52 [~~(6)~~] is an employee of the department[, ~~or~~

1-53 [~~(7)~~ is required to register as a lobbyist under  
1-54 Chapter 305, Government Code, because of the person's activities  
1-55 for compensation on behalf of a profession related to the operation  
1-56 of the commission or department].

1-57 SECTION 1.005. Subchapter B, Chapter 51, Occupations Code,  
1-58 is amended by adding Section 51.0535 to read as follows:

1-59 Sec. 51.0535. CONFLICT OF INTEREST. (a) In this section,  
1-60 "Texas trade association" means a cooperative and voluntarily  
1-61 joined statewide association of business or professional  
1-62 competitors in this state designed to assist its members and its  
1-63 industry or profession in dealing with mutual business or

2-1 professional problems and in promoting their common interest.

2-2 (b) A person may not be a member of the commission and may  
 2-3 not be a department employee employed in a "bona fide executive,  
 2-4 administrative, or professional capacity," as that phrase is used  
 2-5 for purposes of establishing an exemption to the overtime  
 2-6 provisions of the federal Fair Labor Standards Act of 1938 (29  
 2-7 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

2-8 (1) the person is an officer, employee, or paid  
 2-9 consultant of a Texas trade association in a field regulated by the  
 2-10 department; or

2-11 (2) the person's spouse is an officer, manager, or paid  
 2-12 consultant of a Texas trade association in a field regulated by the  
 2-13 department.

2-14 (c) A person may not be a member of the commission or act as  
 2-15 the general counsel to the commission or the department if the  
 2-16 person is required to register as a lobbyist under Chapter 305,  
 2-17 Government Code, because of the person's activities for  
 2-18 compensation on behalf of a profession related to the operation of  
 2-19 the department.

2-20 SECTION 1.006. Subchapter B, Chapter 51, Occupations Code,  
 2-21 is amended by adding Section 51.054 to read as follows:

2-22 Sec. 51.054. TRAINING. (a) A person who is appointed to  
 2-23 and qualifies for office as a member of the commission may not vote,  
 2-24 deliberate, or be counted as a member in attendance at a meeting of  
 2-25 the commission until the person completes a training program that  
 2-26 complies with this section.

2-27 (b) The training program must provide the person with  
 2-28 information regarding:

2-29 (1) the legislation that created the department and  
 2-30 the commission;

2-31 (2) the programs operated by the department;

2-32 (3) the role and functions of the department;

2-33 (4) the rules of the department, with an emphasis on  
 2-34 the rules that relate to disciplinary and investigatory authority;

2-35 (5) the current budget for the department;

2-36 (6) the results of the most recent formal audit of the  
 2-37 department;

2-38 (7) the requirements of:

2-39 (A) the open meetings law, Chapter 551,  
 2-40 Government Code;

2-41 (B) the public information law, Chapter 552,  
 2-42 Government Code;

2-43 (C) the administrative procedure law, Chapter  
 2-44 2001, Government Code; and

2-45 (D) other laws relating to public officials,  
 2-46 including conflict-of-interest laws; and

2-47 (8) any applicable ethics policies adopted by the  
 2-48 department or the Texas Ethics Commission.

2-49 (c) A person appointed to the commission is entitled to  
 2-50 reimbursement, as provided by the General Appropriations Act, for  
 2-51 the travel expenses incurred in attending the training program  
 2-52 regardless of whether the attendance at the program occurs before  
 2-53 or after the person qualifies for office.

2-54 SECTION 1.007. Subsection (a), Section 51.055, Occupations  
 2-55 Code, is amended to read as follows:

2-56 (a) Members of the commission serve staggered six-year  
 2-57 terms. The terms of one or two members expire on February 1 of each  
 2-58 odd-numbered year.

2-59 SECTION 1.008. Subsection (a), Section 51.056, Occupations  
 2-60 Code, is amended to read as follows:

2-61 (a) The governor shall designate a member of the commission  
 2-62 as the presiding officer of the commission to serve in that capacity  
 2-63 at the pleasure of the governor [~~commission shall elect one of its~~  
 2-64 ~~members as presiding officer. The presiding officer serves in that~~  
 2-65 ~~capacity for a period of two years].~~

2-66 SECTION 1.009. Subsections (a) and (c), Section 51.057,  
 2-67 Occupations Code, are amended to read as follows:

2-68 (a) It is a ground for removal from the commission that a  
 2-69 member:

3-1 (1) does not have at the time of taking office  
3-2 ~~[appointment]~~ the qualifications required by Section 51.053 ~~[for~~  
3-3 ~~appointment to the commission]~~;

3-4 (2) does not maintain during service on the commission  
3-5 the qualifications required by Section 51.053 ~~[for appointment to~~  
3-6 ~~the commission]~~;

3-7 (3) is ineligible for membership under ~~[violates a~~  
3-8 ~~prohibition established by]~~ Section 51.0535 ~~[51.053]; [or]~~

3-9 (4) cannot, because of illness or disability,  
3-10 discharge the member's duties for a substantial part of the member's  
3-11 term; or

3-12 (5) is absent from more than half of the regularly  
3-13 scheduled commission meetings that the member is eligible to attend  
3-14 during a calendar year without an excuse approved ~~[unless the~~  
3-15 ~~absence is excused]~~ by a majority vote of the commission.

3-16 (c) If ~~[a commission member or]~~ the executive director has  
3-17 knowledge that a potential ground for removal exists, the ~~[member~~  
3-18 ~~or]~~ executive director shall notify the presiding officer of the  
3-19 commission of the potential ground. The presiding officer shall  
3-20 then notify the governor and the attorney general that a potential  
3-21 ground for removal exists. If the potential ground for removal  
3-22 involves the presiding officer, the executive director shall notify  
3-23 the next highest ranking officer of the commission, who shall then  
3-24 notify the governor and the attorney general that a potential  
3-25 ground for removal exists.

3-26 SECTION 1.010. Section 51.105, Occupations Code, is amended  
3-27 to read as follows:

3-28 Sec. 51.105. DIVISION OF RESPONSIBILITIES. The commission  
3-29 shall develop and implement policies that clearly separate the  
3-30 policy-making ~~[define the respective]~~ responsibilities of the  
3-31 commission and the management responsibilities of ~~[r]~~ the executive  
3-32 director ~~[r]~~ and the staff of the department.

3-33 SECTION 1.011. Subchapter C, Chapter 51, Occupations Code,  
3-34 is amended by adding Section 51.106 to read as follows:

3-35 Sec. 51.106. INFORMATION ON STANDARDS OF CONDUCT. The  
3-36 executive director or the executive director's designee shall  
3-37 provide to members of the commission and to department employees,  
3-38 as often as necessary, information regarding the requirements for  
3-39 office or employment under this chapter, including information  
3-40 regarding a person's responsibilities under applicable laws  
3-41 relating to standards of conduct for state officers or employees.

3-42 SECTION 1.012. Section 51.108, Occupations Code, is amended  
3-43 to read as follows:

3-44 Sec. 51.108. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The  
3-45 executive director or the executive director's designee shall  
3-46 prepare and maintain a written policy statement that implements a  
3-47 program of ~~[to assure implementation of an]~~ equal employment  
3-48 opportunity to ensure that ~~[program under which]~~ all personnel  
3-49 decisions ~~[transactions]~~ are made without regard to race, color,  
3-50 disability, sex, religion, age, or national origin.

3-51 (b) The policy statement must include:

3-52 (1) personnel policies, including policies relating  
3-53 ~~[related]~~ to recruitment, evaluation, selection, ~~[appointment,~~  
3-54 training, and promotion of personnel, that show the intent of the  
3-55 department to avoid the unlawful employment practices described by  
3-56 Chapter 21, Labor Code; and

3-57 (2) an analysis of the extent to which the composition  
3-58 of the department's personnel is in accordance with state and  
3-59 federal law and a description of reasonable methods to achieve  
3-60 compliance with state and federal law ~~[a comprehensive analysis of~~  
3-61 ~~the department workforce that meets federal and state guidelines;~~

3-62 ~~[(3) procedures by which a determination can be made~~  
3-63 ~~of significant underuse in the department workforce of all persons~~  
3-64 ~~for whom federal or state guidelines encourage a more equitable~~  
3-65 ~~balance; and~~

3-66 ~~[(4) reasonable methods to appropriately address~~  
3-67 ~~those areas of significant underuse].~~

3-68 (c) The ~~[(b) A]~~ policy statement ~~[prepared under~~  
3-69 Subsection (a)] must:

4-1 (1) [~~cover an annual period,~~] be updated [~~at least~~]  
4-2 annually;

4-3 (2) be reviewed by the state Commission on Human  
4-4 Rights for compliance with Subsection (b)(1);~~[7]~~ and

4-5 (3) be filed with the governor's office [~~governor~~].

4-6 SECTION 1.013. Subchapter C, Chapter 51, Occupations Code,  
4-7 is amended by adding Section 51.109 to read as follows:

4-8 Sec. 51.109. STATE EMPLOYEE INCENTIVE PROGRAM. The  
4-9 executive director or the executive director's designee shall  
4-10 provide to department employees information and training on the  
4-11 benefits and methods of participation in the state employee  
4-12 incentive program.

4-13 SECTION 1.014. Sections 51.203 and 51.204, Occupations  
4-14 Code, are amended to read as follows:

4-15 Sec. 51.203. RULES REGARDING PROGRAMS REGULATED BY  
4-16 DEPARTMENT [ADOPTED BY EXECUTIVE DIRECTOR]. The commission  
4-17 [executive director] shall adopt rules as necessary to implement  
4-18 each law establishing a program regulated by the department.

4-19 Sec. 51.204. RULES RESTRICTING ADVERTISING OR COMPETITIVE  
4-20 BIDDING. (a) The commission [executive director] may not adopt  
4-21 rules restricting advertising or competitive bidding by a license  
4-22 holder except to prohibit false, misleading, or deceptive  
4-23 practices.

4-24 (b) The commission [~~executive director~~] may not include in  
4-25 rules to prohibit false, misleading, or deceptive practices by a  
4-26 license holder a rule that:

4-27 (1) restricts the use of any advertising medium;

4-28 (2) restricts the license holder's personal appearance  
4-29 or the use of the license holder's voice in an advertisement;

4-30 (3) relates to the size or duration of an  
4-31 advertisement; or

4-32 (4) restricts the use of a trade name in advertising.

4-33 SECTION 1.015. Subchapter D, Chapter 51, Occupations Code,  
4-34 is amended by adding Sections 51.207 and 51.208 to read as follows:

4-35 Sec. 51.207. USE OF TECHNOLOGY. The commission shall  
4-36 develop and implement a policy requiring the executive director and  
4-37 department employees to research and propose appropriate  
4-38 technological solutions to improve the department's ability to  
4-39 perform its functions. The technological solutions must:

4-40 (1) ensure that the public is able to easily find  
4-41 information about the department on the Internet;

4-42 (2) ensure that persons who want to use the  
4-43 department's services are able to:

4-44 (A) interact with the department through the  
4-45 Internet; and

4-46 (B) access any service that can be provided  
4-47 effectively through the Internet; and

4-48 (3) be cost-effective and developed through the  
4-49 department's planning processes.

4-50 Sec. 51.208. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE  
4-51 RESOLUTION PROCEDURES. (a) The commission shall develop and  
4-52 implement a policy to encourage the use of:

4-53 (1) negotiated rulemaking procedures under Chapter  
4-54 2008, Government Code, for the adoption of department rules; and

4-55 (2) appropriate alternative dispute resolution  
4-56 procedures under Chapter 2009, Government Code, to assist in the  
4-57 resolution of internal and external disputes under the department's  
4-58 jurisdiction.

4-59 (b) The department's procedures relating to alternative  
4-60 dispute resolution must conform, to the extent possible, to any  
4-61 model guidelines issued by the State Office of Administrative  
4-62 Hearings for the use of alternative dispute resolution by state  
4-63 agencies.

4-64 (c) The commission shall designate a trained person to:

4-65 (1) coordinate the implementation of the policy  
4-66 adopted under Subsection (a);

4-67 (2) serve as a resource for any training needed to  
4-68 implement the procedures for negotiated rulemaking or alternative  
4-69 dispute resolution; and

5-1                   (3) collect data concerning the effectiveness of those  
 5-2 procedures, as implemented by the department.

5-3                   SECTION 1.016. Section 51.252, Occupations Code, is amended  
 5-4 to read as follows:

5-5                   Sec. 51.252. COMPLAINTS. (a) The executive director shall  
 5-6 establish methods by which consumers and service recipients are  
 5-7 notified of the name, mailing address, and telephone number of the  
 5-8 department for the purpose of directing complaints to the  
 5-9 department. The department shall provide to the person filing the  
 5-10 complaint and to each person who is a subject of the complaint  
 5-11 information about the department's policies and procedures  
 5-12 relating to complaint investigation and resolution.

5-13                   (b) The department shall maintain a ~~[keep an information]~~  
 5-14 file on ~~[about]~~ each written complaint filed with the department  
 5-15 ~~[that the commission or executive director has authority to~~  
 5-16 ~~resolve].~~ The file must include:

5-17                   (1) the name of the person who filed the complaint;  
 5-18                   (2) the date the complaint is received by the  
 5-19 department;

5-20                   (3) the subject matter of the complaint;  
 5-21                   (4) the name of each person contacted in relation to  
 5-22 the complaint;

5-23                   (5) a summary of the results of the review or  
 5-24 investigation of the complaint; and

5-25                   (6) an explanation of the reason the file was closed,  
 5-26 if the department closed the file without taking action other than  
 5-27 to investigate the complaint.

5-28                   (c) ~~The [If a written complaint is filed that the commission~~  
 5-29 ~~or executive director has authority to resolve, the] department, at~~  
 5-30 ~~least quarterly and until final disposition of the complaint, shall~~  
 5-31 ~~notify the person filing [parties to] the complaint and each person~~  
 5-32 ~~who is a subject of the complaint of the status of the investigation~~  
 5-33 ~~[complaint] unless the notice would jeopardize an~~ undercover  
 5-34 investigation.

5-35                   (d) The commission shall adopt a procedure for documenting  
 5-36 complaints to the department from the time of the submission of the  
 5-37 initial complaint to the final disposition of the complaint. The  
 5-38 commission shall publish the procedure in the Texas Register.

5-39                   SECTION 1.017. Section 51.302, Occupations Code, is amended  
 5-40 by adding Subsection (c) to read as follows:

5-41                   (c) The commission shall by rule or by procedure published  
 5-42 in the Texas Register establish a written enforcement plan that  
 5-43 provides notice to license holders of the specific ranges of  
 5-44 penalties that apply to specific alleged violations and the  
 5-45 criteria by which the department determines the amount of a  
 5-46 proposed administrative penalty.

5-47                   SECTION 1.018. Section 51.353, Occupations Code, is amended  
 5-48 to read as follows:

5-49                   Sec. 51.353. ADMINISTRATIVE SANCTIONS. (a) The  
 5-50 commission shall revoke, suspend, or refuse to renew a license or  
 5-51 shall reprimand a license holder for a violation of this chapter,  
 5-52 ~~[executive director shall adopt rules relating to administrative~~  
 5-53 ~~sanctions that may be enforced against a license holder regulated~~  
 5-54 ~~by the department. If a license holder violates] a law establishing~~  
 5-55 ~~a regulatory program administered by the department, or a rule or~~  
 5-56 ~~order of the commission [or executive director, the executive~~  
 5-57 ~~director may:~~

5-58                   ~~[(1) issue a written reprimand to the license holder,~~  
 5-59                   ~~(2) revoke or suspend the license holder's license,~~

5-60 ~~or~~  
 5-61                   ~~[(3) place the license holder on probation if the~~  
 5-62 ~~person's license has been suspended].~~

5-63                   (b) The commission may place on probation a person whose  
 5-64 license is suspended. If a license suspension is probated, the  
 5-65 commission ~~[executive director]~~ may require the person ~~[license~~  
 5-66 ~~holder]~~ to:

5-67                   (1) report regularly to the department on matters that  
 5-68 are the basis of the probation;

5-69                   (2) limit practice to the areas prescribed by the

6-1 commission [~~executive director~~]; or  
 6-2 (3) continue or renew professional education [~~in those~~  
 6-3 areas that are the basis for the probation] until the person  
 6-4 [~~license holder~~] attains a degree of skill satisfactory to the  
 6-5 commission in those areas that are the basis for the probation  
 6-6 [~~executive director~~].

6-7 SECTION 1.019. Chapter 51, Occupations Code, is amended by  
 6-8 adding Subchapter H to read as follows:

6-9 SUBCHAPTER H. LICENSE REQUIREMENTS

6-10 Sec. 51.401. LICENSE EXPIRATION AND RENEWAL. (a) A person  
 6-11 who is otherwise eligible to renew a license may renew an unexpired  
 6-12 license by paying the required renewal fee to the department before  
 6-13 the expiration date of the license. A person whose license has  
 6-14 expired may not engage in activities that require a license until  
 6-15 the license has been renewed.

6-16 (b) A person whose license has been expired for 90 days or  
 6-17 less may renew the license by paying to the department a renewal fee  
 6-18 that is equal to 1-1/2 times the normally required renewal fee.

6-19 (c) A person whose license has been expired for more than 90  
 6-20 days but less than one year may renew the license by paying to the  
 6-21 department a renewal fee that is equal to two times the normally  
 6-22 required renewal fee.

6-23 (d) A person whose license has been expired for one year or  
 6-24 more may not renew the license. The person may obtain a new license  
 6-25 by complying with the requirements and procedures, including the  
 6-26 examination requirements, for obtaining an original license.

6-27 (e) A person who was licensed in this state, moved to  
 6-28 another state, and is currently licensed and has been in practice in  
 6-29 the other state for the two years preceding the date of application  
 6-30 may obtain a new license without reexamination. The person must pay  
 6-31 to the department a fee that is equal to two times the normally  
 6-32 required renewal fee for the license.

6-33 (f) Not later than the 30th day before the date a person's  
 6-34 license is scheduled to expire, the department shall send written  
 6-35 notice of the impending expiration to the person at the person's  
 6-36 last known address according to the records of the department.

6-37 Sec. 51.402. EXAMINATIONS. (a) Not later than the 30th  
 6-38 day after the date a person takes a license examination, the  
 6-39 department shall notify the person of the results of the  
 6-40 examination.

6-41 (b) If the examination is graded or reviewed by a testing  
 6-42 service:

6-43 (1) the department shall notify the person of the  
 6-44 results of the examination not later than the 14th day after the  
 6-45 date the department receives the results from the testing service;  
 6-46 and

6-47 (2) if notice of the examination results will be  
 6-48 delayed for longer than 90 days after the examination date, the  
 6-49 department shall notify the person of the reason for the delay  
 6-50 before the 90th day.

6-51 (c) The department may require a testing service to notify a  
 6-52 person of the results of the person's examination.

6-53 (d) If requested in writing by a person who fails a license  
 6-54 examination, the department shall furnish the person with an  
 6-55 analysis of the person's performance on the examination.

6-56 Sec. 51.403. EXAMINATION FEE REFUND. (a) The department  
 6-57 may refund a license examination fee to a person who is unable to  
 6-58 take the examination if the person:

6-59 (1) provides reasonable advance notice to the  
 6-60 department; or

6-61 (2) cannot take the examination because of an  
 6-62 emergency.

6-63 (b) The commission by rule shall define what constitutes  
 6-64 reasonable notice and an emergency under this section.

6-65 Sec. 51.404. ENDORSEMENT; RECIPROCITY. (a) The  
 6-66 commission may waive any prerequisite to obtaining a license for an  
 6-67 applicant after reviewing the applicant's credentials and  
 6-68 determining that the applicant holds a license issued by another  
 6-69 jurisdiction that has licensing requirements substantially

7-1 equivalent to those of this state.

7-2 (b) The commission may waive any prerequisite to obtaining a  
 7-3 license for an applicant who holds a license issued by another  
 7-4 jurisdiction with which this state has a reciprocity agreement.  
 7-5 The commission may make an agreement, subject to the approval of the  
 7-6 governor, with another state to allow for licensing by reciprocity.

7-7 Sec. 51.405. CONTINUING EDUCATION. The commission shall  
 7-8 recognize, prepare, or administer continuing education programs  
 7-9 for license holders. A license holder must participate in the  
 7-10 programs to the extent required by the commission to keep the  
 7-11 person's license.

7-12 SECTION 1.020. Section 51.205, Occupations Code, is  
 7-13 renumbered as Section 51.406, Occupations Code, and amended to read  
 7-14 as follows:

7-15 Sec. 51.406 [51.205]. STAGGERED [LICENSE EXPIRATION AND]  
 7-16 RENEWAL OF LICENSES. [~~(a)~~] The commission by rule [~~executive~~  
 7-17 director] may adopt a system under which licenses expire on various  
 7-18 dates during the year. For the year in which the license expiration  
 7-19 date is changed, the department shall prorate license fees on a  
 7-20 monthly basis so that each license holder pays only that portion of  
 7-21 the license fee that is allocable to the number of months during  
 7-22 which the license is valid. On renewal of the license on the new  
 7-23 expiration date, the total license renewal fee is payable [annually  
 7-24 and may provide for a renewal period that exceeds 12 months.

7-25 [~~(b) The executive director shall notify a person regulated~~  
 7-26 by the department of the impending expiration of the person's  
 7-27 license].

7-28 SECTION 1.021. Chapter 51, Occupations Code, is amended by  
 7-29 adding Subchapter I to read as follows:

7-30 SUBCHAPTER I. TELEPHONE INFORMATION SYSTEM

7-31 Sec. 51.451. DEFINITION. In this subchapter, "licensing  
 7-32 entity" means a department, commission, board, office, authority,  
 7-33 or other agency or governmental entity of this state that issues an  
 7-34 occupational license.

7-35 Sec. 51.452. TELEPHONE INFORMATION SYSTEM. The department  
 7-36 shall establish and operate a toll-free telephone information  
 7-37 system to provide assistance and referral services for persons who  
 7-38 inquire about a program regulated by a licensing entity.

7-39 Sec. 51.453. TELEPHONE LISTING. A licensing entity shall  
 7-40 list the toll-free telephone number of the information system with  
 7-41 the entity's regular telephone number.

7-42 Sec. 51.454. FEES. The department shall charge licensing  
 7-43 entities fees in amounts sufficient to cover the cost of  
 7-44 implementing this subchapter, including fees on a subscription  
 7-45 basis, on the basis of each transaction, or on another service  
 7-46 basis.

7-47 SECTION 1.022. (a) The changes in law made by this article  
 7-48 in the prohibitions or qualifications applying to members of the  
 7-49 Texas Commission of Licensing and Regulation do not affect the  
 7-50 entitlement of a member serving on the commission immediately  
 7-51 before September 1, 2003, to continue to serve and function as a  
 7-52 member of the commission for the remainder of the member's term.  
 7-53 Those changes in law apply only to a member appointed on or after  
 7-54 September 1, 2003.

7-55 (b) Not later than November 1, 2003, the governor shall  
 7-56 appoint an additional member to serve on the Texas Commission of  
 7-57 Licensing and Regulation, as required by Subsection (a), Section  
 7-58 51.052, Occupations Code, as amended by this article. The new  
 7-59 member's term shall expire on February 1, 2007.

7-60 SECTION 1.023. Not later than September 1, 2004, the Texas  
 7-61 Department of Licensing and Regulation shall implement the  
 7-62 toll-free telephone information system required by Section 51.452,  
 7-63 Occupations Code, as added by this article.

7-64 SECTION 1.024. (a) In this section:

7-65 (1) "Department" means the Texas Department of  
 7-66 Licensing and Regulation.

7-67 (2) "Licensing entity" means a department,  
 7-68 commission, board, office, authority, or other agency or  
 7-69 governmental entity of this state that issues an occupational

8-1 license.

8-2 (3) "TexasOnline" means the project implemented under  
8-3 Subchapter I, Chapter 2054, Government Code, as added by Chapter  
8-4 342, Acts of the 77th Legislature, Regular Session, 2001.

8-5 (b) Not later than March 1, 2004, the department shall  
8-6 identify licensing entities that do not use TexasOnline.

8-7 (c) Not later than September 1, 2004, the department shall  
8-8 assist those entities to develop websites for, and to convert to,  
8-9 TexasOnline.

8-10 (d) Licensing entities shall cooperate with the department  
8-11 to implement this section.

8-12 SECTION 1.025. Not later than March 1, 2004, the Texas  
8-13 Commission of Licensing and Regulation shall adopt the rules  
8-14 required by Subsection (c), Section 51.302, Occupations Code, as  
8-15 added by this article.

8-16 SECTION 1.026. Subsection (c), Section 51.053, Occupations  
8-17 Code, is repealed.

8-18 SECTION 1.027. Section 51.252, Occupations Code, as amended  
8-19 by this article, takes effect January 1, 2004.

8-20 ARTICLE 2. AIR CONDITIONING AND REFRIGERATION CONTRACTORS

8-21 SECTION 2.001. Section 1302.002, Occupations Code, is  
8-22 amended by amending Subdivision (5) and adding Subdivision (11-a)  
8-23 to read as follows:

8-24 (5) "Air conditioning and refrigeration maintenance  
8-25 work" means all work, including repair work, required for the  
8-26 continued normal performance of an environmental air conditioning  
8-27 system, a process cooling or heating system, a commercial  
8-28 refrigeration system, or commercial refrigeration equipment. The  
8-29 term does not include:

8-30 (A) the total replacement of a system; or

8-31 (B) the installation or repair of a boiler or  
8-32 pressure vessel that must be installed in accordance with rules  
8-33 adopted by the commission [~~commissioner~~] under Chapter 755, Health  
8-34 and Safety Code.

8-35 (11-a) "Executive director" means the executive  
8-36 director of the department.

8-37 SECTION 2.002. The heading to Subchapter C, Chapter 1302,  
8-38 Occupations Code, is amended to read as follows:

8-39 SUBCHAPTER C. [~~COMMISSIONER AND DEPARTMENT~~] POWERS AND DUTIES

8-40 SECTION 2.003. Section 1302.101, Occupations Code, is  
8-41 amended to conform to Section 2, Chapter 790, Acts of the 77th  
8-42 Legislature, Regular Session, 2001, and is further amended to read  
8-43 as follows:

8-44 Sec. 1302.101. GENERAL POWERS AND DUTIES [~~OF COMMISSIONER~~].

8-45 (a) The commission [~~commissioner~~] shall[+]

8-46 [~~(1)~~] adopt rules for the practice of air conditioning  
8-47 and refrigeration contracting that are at least as strict as the  
8-48 standards provided by:

8-49 (1) [~~(A)~~] the Uniform Mechanical Code [~~published~~  
8-50 ~~jointly by the International Conference of Building Officials and~~  
8-51 ~~the International Association of Plumbing and Mechanical~~  
8-52 ~~Officials, as that code exists at the time the rules are adopted];~~  
8-53 ~~and [or]~~

8-54 (2) [~~(B)~~] the International [~~Standard~~] Mechanical  
8-55 Code.

8-56 (b) The executive director shall [~~published by the Southern~~  
8-57 ~~Building Code Congress International, Inc., as that code exists at~~  
8-58 ~~the time the rules are adopted,~~

8-59 [~~(2)~~] prescribe the design of an original and a  
8-60 renewal license.

8-61 (c) The commission shall[, and

8-62 [~~(3)~~] maintain a record of the commission's  
8-63 [~~commissioner's~~] proceedings under this chapter.

8-64 (d) [~~(b)~~] The executive director [~~commissioner~~] may  
8-65 authorize disbursements necessary to implement this chapter,  
8-66 including disbursements for office expenses, equipment costs, and  
8-67 other necessary facilities.

8-68 SECTION 2.004. Section 1302.103, Occupations Code, is  
8-69 amended to read as follows:



9-1           Sec. 1302.103. RULES REGARDING USE AND DISPLAY OF LICENSE.  
 9-2 The commission [~~commissioner~~], with the advice of the advisory  
 9-3 board, shall adopt rules relating to the use, display, and  
 9-4 advertisement of a license.

9-5           SECTION 2.005. Section 1302.201, Occupations Code, is  
 9-6 amended to read as follows:

9-7           Sec. 1302.201. ADVISORY BOARD MEMBERSHIP. The air  
 9-8 conditioning and refrigeration contractors advisory board consists  
 9-9 of six members appointed by the presiding officer of the  
 9-10 commission, with the commission's approval, [~~governor with the~~  
 9-11 ~~advice and consent of the senate~~] and two ex officio nonvoting  
 9-12 members.

9-13           SECTION 2.006. Subsection (a), Section 1302.204,  
 9-14 Occupations Code, is amended to read as follows:

9-15           (a) The advisory board shall advise the commission  
 9-16 [~~commissioner~~] in adopting rules and in administering and enforcing  
 9-17 this chapter.

9-18           SECTION 2.007. Subsection (b), Section 1302.205,  
 9-19 Occupations Code, is amended to read as follows:

9-20           (b) If a vacancy occurs during an appointed member's term,  
 9-21 the presiding officer of the commission, with the commission's  
 9-22 approval, [~~governor~~] shall fill the vacancy for the remainder of  
 9-23 the unexpired term with a person who represents the same interests  
 9-24 as the predecessor.

9-25           SECTION 2.008. Section 1302.206, Occupations Code, is  
 9-26 amended to read as follows:

9-27           Sec. 1302.206. PRESIDING OFFICER. The presiding officer of  
 9-28 the commission, with the commission's approval, [~~governor~~] shall  
 9-29 designate one member of the advisory board to serve as presiding  
 9-30 officer of the board for two years.

9-31           SECTION 2.009. Section 1302.261, Occupations Code, is  
 9-32 amended to read as follows:

9-33           Sec. 1302.261. TEMPORARY LICENSE. The commission  
 9-34 [~~commissioner~~] by rule may provide for the issuance of a temporary  
 9-35 air conditioning and refrigeration contracting license to an  
 9-36 applicant who:

9-37           (1) submits to the executive director [~~commissioner~~]  
 9-38 an application on a form prescribed by the executive director  
 9-39 [~~commissioner~~]; and

9-40           (2) pays the required fees.

9-41           SECTION 2.010. Subsection (b), Section 1302.354,  
 9-42 Occupations Code, is amended to read as follows:

9-43           (b) The commission [~~commissioner~~] by rule shall adopt  
 9-44 requirements governing the registration and issuance of a  
 9-45 certificate of registration.

9-46           SECTION 2.011. Subsection (c), Section 1302.355,  
 9-47 Occupations Code, is amended to read as follows:

9-48           (c) The commission [~~commissioner~~] by rule shall establish  
 9-49 requirements for evidence that satisfies this section.

9-50           SECTION 2.012. The following laws are repealed:

9-51           (1) Subdivision (8), Section 1302.002, Occupations  
 9-52 Code;

9-53           (2) Section 1302.107, Occupations Code;

9-54           (3) Section 1302.152, Occupations Code;

9-55           (4) Section 1302.258, Occupations Code;

9-56           (5) Section 1302.259, Occupations Code; and

9-57           (6) Chapter 790, Acts of the 77th Legislature, Regular  
 9-58 Session, 2001.

9-59           SECTION 2.013. The changes in law made by this article  
 9-60 applying to members of the air conditioning and refrigeration  
 9-61 contractors advisory board do not affect the entitlement of a  
 9-62 member serving on the board immediately before September 1, 2003,  
 9-63 to continue to serve and function as a member of the board for the  
 9-64 remainder of the member's term. Those changes in law apply only to  
 9-65 a member appointed on or after September 1, 2003.

9-66           ARTICLE 3. ARCHITECTURAL BARRIERS

9-67           SECTION 3.001. Section 4, Article 9102, Revised Statutes,  
 9-68 is amended by adding Subdivision (6-a) to read as follows:

9-69           (6-a) "Executive director" means the executive

10-1 director of the department.

10-2 SECTION 3.002. Article 9102, Revised Statutes, is amended  
10-3 by adding Section 4A to read as follows:

10-4 Sec. 4A. APPLICABILITY OF OTHER LAW. Section 51.404,  
10-5 Occupations Code, does not apply to this article.

10-6 SECTION 3.003. Subsections (c) through (h) and (j), Section  
10-7 5A, Article 9102, Revised Statutes, are amended to read as follows:

10-8 (c) An applicant for a certificate of registration must file  
10-9 with the commission an application on a form prescribed by the  
10-10 executive director [~~commissioner~~].

10-11 (d) To be eligible for a certificate of registration, an  
10-12 applicant must satisfy any requirements adopted by the commission  
10-13 [~~commissioner~~] by rule, including education and examination  
10-14 requirements.

10-15 (e) The executive director [~~commissioner~~] may issue a  
10-16 certificate of registration to perform review functions of the  
10-17 commission, inspection functions of the commission, or both review  
10-18 and inspection functions.

10-19 (f) The executive director [~~commissioner~~] may administer  
10-20 separate examinations for applicants for certificates of  
10-21 registration to perform review functions, inspection functions, or  
10-22 both review and inspection functions. [~~Not later than the 30th day~~  
10-23 ~~after the examination date, the commissioner shall notify each~~  
10-24 ~~examinee of the results of the examination.~~]

10-25 (g) The executive director [~~commissioner~~] shall issue an  
10-26 appropriate certificate of registration to an applicant who meets  
10-27 the requirements for a certificate.

10-28 (h) The commission [~~commissioner~~] by rule shall specify the  
10-29 term of a certificate of registration issued under this section.

10-30 (j) A certificate holder shall perform a review or  
10-31 inspection function of the commission in a competent and  
10-32 professional manner and in compliance with:

10-33 (1) standards and specifications adopted by the  
10-34 commission under this article; and

10-35 (2) rules adopted by the commission [~~commissioner~~]  
10-36 under this article.

10-37 SECTION 3.004. Section 7, Article 9102, Revised Statutes,  
10-38 is amended to read as follows:

10-39 Sec. 7. ADVISORY COMMITTEE; REVIEW OF AND COMMENT ON RULES.

10-40 (a) The presiding officer of the commission, with the commission's  
10-41 approval, shall appoint an advisory committee for the architectural  
10-42 barriers program. The committee shall be composed of building  
10-43 professionals and persons with disabilities who are familiar with  
10-44 architectural barrier problems and solutions. The committee shall  
10-45 be composed of at least eight members. Persons with disabilities  
10-46 must make up a majority of the membership.

10-47 (b) A committee member serves at the will of the presiding  
10-48 officer of the commission. A member may not receive compensation  
10-49 for service on the committee but is entitled to reimbursement for  
10-50 actual and necessary expenses incurred in performing functions as a  
10-51 member.

10-52 (c) The presiding officer of the commission, with the  
10-53 commission's approval, [~~committee~~] shall appoint [~~elect~~] a member  
10-54 of the committee as chair for two years. The committee shall meet  
10-55 at least twice each calendar year at the call of the committee chair  
10-56 or at the call of the commission [~~commissioner~~].

10-57 (d) The committee periodically shall review the rules  
10-58 relating to the architectural barriers program and recommend  
10-59 changes in the rules to the commission [~~and the commissioner~~]. The  
10-60 commission shall submit all proposed changes to rules and  
10-61 procedures that relate to the architectural barriers program to the  
10-62 committee for review and comment before adoption or implementation  
10-63 of the new or amended rule or procedure.

10-64 SECTION 3.005. Article 9102, Revised Statutes, is amended  
10-65 by adding Section 9 to read as follows:

10-66 Sec. 9. COMPLAINTS. (a) A complaint made under Section  
10-67 51.252, Occupations Code, that alleges that a building or facility  
10-68 is not in compliance with the standards and specifications adopted  
10-69 by the commission under this article is not eligible for final

11-1 disposition until the commission determines that:

11-2 (1) the building or facility has been brought into  
 11-3 compliance or cannot be brought into compliance; or

11-4 (2) the building or facility is exempt from compliance  
 11-5 by statute or rule.

11-6 (b) If the building or facility cannot be brought into  
 11-7 compliance or if the building or facility is exempt, the department  
 11-8 shall, before final disposition of the complaint, notify the person  
 11-9 filing the complaint that the building or facility cannot be  
 11-10 brought into compliance or provide a reference to any rule or law  
 11-11 that states an applicable exemption.

11-12 SECTION 3.006. The following laws are repealed:

11-13 (1) Subdivision (3), Section 4, Article 9102, Revised  
 11-14 Statutes; and

11-15 (2) Subsection (i), Section 5A, Article 9102, Revised  
 11-16 Statutes.

11-17 SECTION 3.007. The changes in law made by this article  
 11-18 applying to members of the advisory committee for the program for  
 11-19 the elimination of architectural barriers do not affect the  
 11-20 entitlement of a member serving on the committee immediately before  
 11-21 September 1, 2003, to continue to serve and function as a member of  
 11-22 the committee for the remainder of the member's term. Those changes  
 11-23 in law apply only to a member appointed on or after September 1,  
 11-24 2003.

#### 11-25 ARTICLE 4. AUCTIONEERS

11-26 SECTION 4.001. Section 1802.001, Occupations Code, is  
 11-27 amended by adding Subdivision (8-a) to read as follows:

11-28 (8-a) "Executive director" means the executive  
 11-29 director of the department.

11-30 SECTION 4.002. Subsections (a), (b), and (d), Section  
 11-31 1802.059, Occupations Code, are amended to read as follows:

11-32 (a) An applicant for an auctioneer's license who is not a  
 11-33 resident of this state but is licensed as an auctioneer in another  
 11-34 state must submit to the executive director [~~commissioner~~]:

11-35 (1) a license application;  
 11-36 (2) a certified copy of the auctioneer's license  
 11-37 issued to the applicant by the state or political subdivision in  
 11-38 which the applicant resides; and

11-39 (3) proof that the state or political subdivision in  
 11-40 which the applicant is licensed has competency standards equivalent  
 11-41 to or stricter than those of this state.

11-42 (b) The executive director [~~commissioner~~] shall accept the  
 11-43 applicant's auctioneer's license submitted under Subsection (a)(2)  
 11-44 as proof of the applicant's professional competence and waive the  
 11-45 examination and training requirements of Section 1802.052 if the  
 11-46 state or political subdivision that issued the nonresident a  
 11-47 license extends similar recognition and courtesies to this state.

11-48 (d) A nonresident applicant must submit with the  
 11-49 application a written irrevocable consent to service of process.  
 11-50 The consent must be in the form and supported by additional  
 11-51 information that the commission [~~commissioner~~] by rule requires.  
 11-52 The consent must:

11-53 (1) provide that an action relating to any transaction  
 11-54 subject to this chapter may be commenced against the license holder  
 11-55 in the proper court of any county of this state in which the cause of  
 11-56 action may arise or in which the plaintiff may reside by service of  
 11-57 process on the executive director [~~commissioner~~] as the license  
 11-58 holder's agent; and

11-59 (2) include a statement stipulating and agreeing that  
 11-60 service provided by this section is as valid and binding as if  
 11-61 service had been made on the person according to the laws of this or  
 11-62 any other state.

11-63 SECTION 4.003. Section 1802.101, Occupations Code, is  
 11-64 amended to read as follows:

11-65 Sec. 1802.101. AUCTIONEER EDUCATION ADVISORY BOARD. The  
 11-66 advisory board shall advise the commission [~~commissioner~~] on  
 11-67 educational matters.

11-68 SECTION 4.004. Subsections (a) and (b), Section 1802.102,  
 11-69 Occupations Code, are amended to read as follows:

12-1 (a) The advisory board consists of five members appointed as  
12-2 follows:

12-3 (1) three members who are licensed auctioneers  
12-4 appointed by the presiding officer of the commission, with the  
12-5 commission's approval [~~commissioner~~];

12-6 (2) the executive director of the Texas Department of  
12-7 Economic Development or the director's designee; and

12-8 (3) the commissioner of education or the  
12-9 commissioner's designee.

12-10 (b) In appointing advisory board members under Subsection  
12-11 (a)(1), the presiding officer of the commission [~~commissioner~~] may  
12-12 not appoint members who reside in contiguous senatorial districts.

12-13 SECTION 4.005. Subsection (a), Section 1802.103,  
12-14 Occupations Code, is amended to read as follows:

12-15 (a) The members appointed under Section 1802.102(a)(1)  
12-16 serve two-year terms that expire on September 1. If a vacancy  
12-17 occurs during the term of such a member, the presiding officer of  
12-18 the commission, with the commission's approval, [~~commissioner~~]  
12-19 shall appoint a replacement to serve for the remainder of the term.

12-20 SECTION 4.006. Section 1802.104, Occupations Code, is  
12-21 amended to read as follows:

12-22 Sec. 1802.104. PRESIDING OFFICER. The presiding officer of  
12-23 the commission, with the commission's approval, shall appoint a  
12-24 member of the advisory board to serve [~~shall designate one of its~~  
12-25 ~~members~~] as presiding officer of the board. The presiding officer  
12-26 serves for two years.

12-27 SECTION 4.007. Section 1802.109, Occupations Code, is  
12-28 amended to read as follows:

12-29 Sec. 1802.109. AUCTIONEER EDUCATION PROGRAMS. (a) The  
12-30 advisory board shall:

12-31 (1) evaluate educational programs, seminars, and  
12-32 training projects; and

12-33 (2) make recommendations to the commission  
12-34 [~~commissioner~~] on their usefulness and merit as continuing  
12-35 education tools.

12-36 (b) On the recommendation of the advisory board, the  
12-37 commission [~~commissioner~~] may fund or underwrite specific classes,  
12-38 seminars, or events for the education and advancement of the  
12-39 auctioneering profession in this state.

12-40 SECTION 4.008. Subsection (a), Section 1802.153,  
12-41 Occupations Code, is amended to read as follows:

12-42 (a) In addition to any other fees required by this chapter,  
12-43 an applicant entitled to receive a license under this chapter must  
12-44 pay a fee [~~of \$100~~] before the executive director [~~commissioner~~]  
12-45 issues the license.

12-46 SECTION 4.009. Section 1802.201, Occupations Code, is  
12-47 amended to read as follows:

12-48 Sec. 1802.201. INVESTIGATION OF COMPLAINTS. The executive  
12-49 director [~~commissioner~~] may, on the executive director's  
12-50 [~~commissioner's~~] motion, and shall, on the written [~~and verified~~]  
12-51 complaint of a person aggrieved by the actions of an auctioneer in  
12-52 an auction, investigate an alleged violation of this chapter by a  
12-53 licensed or unlicensed auctioneer or an applicant.

12-54 SECTION 4.010. Subsections (a) and (b), Section 1802.202,  
12-55 Occupations Code, are amended to read as follows:

12-56 (a) A person who deals with an auctioneer licensed under  
12-57 this chapter and who is aggrieved by an action of the auctioneer as  
12-58 a result of a violation of a contract made with the auctioneer may  
12-59 initiate a claim against the fund by [+  
12-60

12-61 [~~(1)~~] filing with the department a [~~sworn~~] complaint  
12-62 against the auctioneer [~~, and~~

12-63 [~~(2)~~] ~~paying to the department a filing fee of \$50~~].

12-64 (b) The executive director [~~commissioner~~] may not pay a  
12-65 claim against an auctioneer who was not licensed at the time of the  
12-66 transaction on which the claim is based.

12-67 SECTION 4.011. Subsection (c), Section 1802.203,  
12-68 Occupations Code, is amended to read as follows:

12-69 (c) After the hearing, the hearings examiner shall prepare a  
proposal for decision for the commission [~~commissioner~~].

13-1 SECTION 4.012. Section 1802.204, Occupations Code, is  
13-2 amended to read as follows:

13-3 Sec. 1802.204. APPEAL. A party may appeal a decision of the  
13-4 commission [~~commissioner~~] in the manner provided for a contested  
13-5 case under Chapter 2001, Government Code.

13-6 SECTION 4.013. Section 1802.207, Occupations Code, is  
13-7 amended to read as follows:

13-8 Sec. 1802.207. REIMBURSEMENT; INTEREST. (a) If the  
13-9 executive director [~~commissioner~~] pays a claim against an  
13-10 auctioneer, the auctioneer shall:

13-11 (1) reimburse the fund immediately or agree in writing  
13-12 to reimburse the fund on a schedule to be determined by rule of the  
13-13 commission [~~commissioner~~]; and

13-14 (2) immediately pay the aggrieved party any amount due  
13-15 to that party or agree in writing to pay the party on a schedule to  
13-16 be determined by rule of the commission [~~commissioner~~].

13-17 (b) Payments made by an auctioneer to the fund or to an  
13-18 aggrieved party under this section include interest accruing at the  
13-19 rate of eight percent a year beginning on the date the executive  
13-20 director [~~commissioner~~] pays the claim.

13-21 SECTION 4.014. Subsection (a), Section 1802.209,  
13-22 Occupations Code, is amended to read as follows:

13-23 (a) This subchapter and Section 1802.252 do not limit the  
13-24 commission's [~~commissioner's~~] authority to take disciplinary  
13-25 action against a license holder for a violation of this chapter or a  
13-26 rule adopted under this chapter.

13-27 SECTION 4.015. Section 1802.251, Occupations Code, is  
13-28 amended to read as follows:

13-29 Sec. 1802.251. DENIAL OF APPLICATION; SUSPENSION OR  
13-30 REVOCATION OF LICENSE. The commission [~~commissioner~~] may deny an  
13-31 application for a license or suspend or revoke the license of any  
13-32 auctioneer for:

13-33 (1) violating this chapter or a rule adopted under  
13-34 this chapter;

13-35 (2) obtaining a license through false or fraudulent  
13-36 representation;

13-37 (3) making a substantial misrepresentation in an  
13-38 application for an auctioneer's license;

13-39 (4) engaging in a continued and flagrant course of  
13-40 misrepresentation or making false promises through an agent,  
13-41 advertising, or otherwise;

13-42 (5) failing to account for or remit, within a  
13-43 reasonable time, money belonging to another that is in the  
13-44 auctioneer's possession and commingling funds of another with the  
13-45 auctioneer's funds or failing to keep the funds of another in an  
13-46 escrow or trust account; or

13-47 (6) [~~being convicted in a court of this state or~~  
13-48 ~~another state of a criminal offense involving moral turpitude or a~~  
13-49 ~~felony; or~~

13-50 [~~(7)~~] violating the Business & Commerce Code in  
13-51 conducting an auction.

13-52 SECTION 4.016. Section 1802.252, Occupations Code, is  
13-53 amended to read as follows:

13-54 Sec. 1802.252. REVOCATION FOR CLAIM ON FUND. (a) The  
13-55 commission [~~commissioner~~] may revoke a license issued under this  
13-56 chapter if the executive director [~~commissioner~~] makes a payment  
13-57 from the fund as the result of an action of the license holder.

13-58 (b) The commission [~~commissioner~~] may probate an order  
13-59 revoking a license.

13-60 (c) An auctioneer is not eligible for a new license until  
13-61 the auctioneer has repaid in full the amount paid from the fund on  
13-62 the auctioneer's account, including interest, unless:

13-63 (1) a hearing is held; and

13-64 (2) the executive director [~~commissioner~~] issues a new  
13-65 probated license.

13-66 SECTION 4.017. Section 1802.253, Occupations Code, is  
13-67 amended to read as follows:

13-68 Sec. 1802.253. HEARING. (a) Before denying an application  
13-69 for a license [~~or suspending or revoking a license~~], the commission

14-1 [~~commissioner~~] shall:

14-2 (1) set the matter for a hearing; and  
 14-3 (2) before the [~~30th day before the~~] hearing date,  
 14-4 notify the applicant [~~or license holder~~] in writing of:

14-5 (A) the charges alleged or the question to be  
 14-6 determined at the hearing; and

14-7 (B) the date and location of the hearing.

14-8 (b) At a hearing under this section, the applicant [~~or~~  
 14-9 ~~license holder~~] may:

14-10 (1) be present and be heard in person or by counsel;  
 14-11 and

14-12 (2) have an opportunity to offer evidence by oral  
 14-13 testimony, affidavit, or deposition.

14-14 (c) Written notice may be served by personal delivery to the  
 14-15 applicant [~~or license holder~~] or by certified mail to the last known  
 14-16 mailing address of the applicant [~~or license holder~~].

14-17 (d) If the applicant [~~or license holder~~] who is the subject  
 14-18 of the hearing is an associate auctioneer, the commission  
 14-19 [~~commissioner~~] shall provide written notice to the auctioneer who  
 14-20 employs the associate auctioneer or who has agreed to employ the  
 14-21 associate auctioneer by mailing the notice by certified mail to the  
 14-22 auctioneer's last known mailing address.

14-23 SECTION 4.018. Subsection (a), Section 1802.303,  
 14-24 Occupations Code, is amended to read as follows:

14-25 (a) A person commits an offense if the person violates a  
 14-26 provision of this chapter or a rule adopted by the commission  
 14-27 [~~commissioner~~] under this chapter for which a penalty is not  
 14-28 provided.

14-29 SECTION 4.019. The following laws are repealed:

14-30 (1) Subdivision (7), Section 1802.001, Occupations  
 14-31 Code;

14-32 (2) Section 1802.057, Occupations Code;

14-33 (3) Section 1802.061, Occupations Code; and

14-34 (4) Section 1802.254, Occupations Code.

14-35 SECTION 4.020. The changes in law made by this article  
 14-36 applying to members of the Auctioneer Education Advisory Board do  
 14-37 not affect the entitlement of a member serving on the board  
 14-38 immediately before September 1, 2003, to continue to serve and  
 14-39 function as a member of the board for the remainder of the member's  
 14-40 term. Those changes in law apply only to a member appointed on or  
 14-41 after September 1, 2003.

#### 14-42 ARTICLE 5. BACKFLOW PREVENTION ASSEMBLY TESTERS

14-43 SECTION 5.001. Subsection (c), Section 341.034, Health and  
 14-44 Safety Code, is amended to read as follows:

14-45 (c) A person who repairs or tests the installation or  
 14-46 operation of backflow prevention assemblies must hold a license  
 14-47 issued by the Texas Department of Licensing and Regulation  
 14-48 [~~commission~~] under Chapter 51, Occupations [~~37, Water~~] Code.

14-49 SECTION 5.002. (a) On November 1, 2003:

14-50 (1) all functions and activities relating to  
 14-51 Subsection (c), Section 341.034, Health and Safety Code, performed  
 14-52 by the Texas Commission on Environmental Quality immediately before  
 14-53 that date are transferred to the Texas Department of Licensing and  
 14-54 Regulation;

14-55 (2) a rule or form adopted by the Texas Commission on  
 14-56 Environmental Quality that relates to Subsection (c), Section  
 14-57 341.034, Health and Safety Code, is a rule or form of the Texas  
 14-58 Department of Licensing and Regulation and remains in effect until  
 14-59 amended or replaced by that department;

14-60 (3) a license or other document issued by the Texas  
 14-61 Commission on Environmental Quality that relates to Subsection (c),  
 14-62 Section 341.034, Health and Safety Code, is considered a license or  
 14-63 other document issued by the Texas Department of Licensing and  
 14-64 Regulation and remains in effect until amended or replaced by that  
 14-65 department;

14-66 (4) a reference in law or an administrative rule to the  
 14-67 Texas Commission on Environmental Quality that relates to  
 14-68 Subsection (c), Section 341.034, Health and Safety Code, means the  
 14-69 Texas Department of Licensing and Regulation;

15-1 (5) a complaint, investigation, or other proceeding  
 15-2 before the Texas Commission on Environmental Quality that is  
 15-3 related to Subsection (c), Section 341.034, Health and Safety Code,  
 15-4 is transferred without change in status to the Texas Department of  
 15-5 Licensing and Regulation, and the Texas Department of Licensing and  
 15-6 Regulation assumes, as appropriate and without a change in status,  
 15-7 the position of the Texas Commission on Environmental Quality in an  
 15-8 action or proceeding to which the Texas Commission on Environmental  
 15-9 Quality is a party;

15-10 (6) all money, contracts, leases, property, and  
 15-11 obligations of the Texas Commission on Environmental Quality  
 15-12 related to Subsection (c), Section 341.034, Health and Safety Code,  
 15-13 are transferred to the Texas Department of Licensing and  
 15-14 Regulation;

15-15 (7) all property in the custody of the Texas  
 15-16 Commission on Environmental Quality related to Subsection (c),  
 15-17 Section 341.034, Health and Safety Code, is transferred to the  
 15-18 Texas Department of Licensing and Regulation; and

15-19 (8) the unexpended and unobligated balance of any  
 15-20 money appropriated by the legislature for the Texas Commission on  
 15-21 Environmental Quality related to Subsection (c), Section 341.034,  
 15-22 Health and Safety Code, is transferred to the Texas Department of  
 15-23 Licensing and Regulation.

15-24 (b) Before November 1, 2003, the Texas Commission on  
 15-25 Environmental Quality may agree with the Texas Department of  
 15-26 Licensing and Regulation to transfer any property of the Texas  
 15-27 Commission on Environmental Quality to the Texas Department of  
 15-28 Licensing and Regulation to implement the transfer required by this  
 15-29 article.

15-30 (c) In the period beginning on the effective date of this  
 15-31 Act and ending on November 1, 2003, the Texas Commission on  
 15-32 Environmental Quality shall continue to perform functions and  
 15-33 activities under Subsection (c), Section 341.034, Health and Safety  
 15-34 Code, as if that section had not been amended by this Act, and the  
 15-35 former law is continued in effect for that purpose.

#### 15-36 ARTICLE 6. BOILERS

15-37 SECTION 6.001. Section 755.001, Health and Safety Code, is  
 15-38 amended by amending Subdivisions (5), (6), and (23) and adding  
 15-39 Subdivision (7-a) to read as follows:

15-40 (5) "Certificate of operation" means a certificate  
 15-41 issued by the executive director [~~commissioner~~] to allow the  
 15-42 operation of a boiler.

15-43 (6) "Commission" [~~"Commissioner"~~] means the Texas  
 15-44 Commission of Licensing and Regulation [~~commissioner of licensing~~  
 15-45 ~~and regulation~~].

15-46 (7-a) "Executive director" means the executive  
 15-47 director of the department.

15-48 (23) "Standard boiler" means a boiler that bears a  
 15-49 Texas stamp, the stamp of a nationally recognized engineering  
 15-50 professional society, or the stamp of any jurisdiction that has  
 15-51 adopted a standard of construction equivalent to the standard  
 15-52 required by the executive director [~~commissioner~~].

15-53 SECTION 6.002. Subsections (b) and (d), Section 755.011,  
 15-54 Health and Safety Code, are amended to read as follows:

15-55 (b) The board is composed of the following nine members  
 15-56 appointed by the presiding officer of the commission, with the  
 15-57 commission's approval [~~commissioner~~]:

15-58 (1) three members representing persons who own or use  
 15-59 boilers in this state;

15-60 (2) three members representing companies that insure  
 15-61 boilers in this state;

15-62 (3) one member representing boiler manufacturers or  
 15-63 installers;

15-64 (4) one member who is a mechanical engineer and a  
 15-65 member of the faculty of a recognized college of engineering in this  
 15-66 state; and

15-67 (5) one member representing a labor union.

15-68 (d) The executive director [~~commissioner~~] serves as an ex  
 15-69 officio board member.

16-1 SECTION 6.003. Section 755.013, Health and Safety Code, is  
 16-2 amended to read as follows:

16-3 Sec. 755.013. PRESIDING OFFICER [~~CHAIRMAN~~]. The chief  
 16-4 inspector serves as presiding officer [~~chairman~~] of the board.

16-5 SECTION 6.004. Section 755.014, Health and Safety Code, is  
 16-6 amended to read as follows:

16-7 Sec. 755.014. REMOVAL OF BOARD MEMBERS; VACANCY. (a) The  
 16-8 commission [~~commissioner~~] may remove a board member for  
 16-9 inefficiency or neglect of official duty.

16-10 (b) A board member's office becomes vacant on the  
 16-11 resignation, death, suspension, or incapacity of the member. The  
 16-12 presiding officer of the commission [~~commissioner~~] shall appoint,  
 16-13 in the same manner as the original appointment, a person to serve  
 16-14 for the remainder of the unexpired term.

16-15 SECTION 6.005. Section 755.016, Health and Safety Code, is  
 16-16 amended to read as follows:

16-17 Sec. 755.016. MEETINGS. The board shall meet at least twice  
 16-18 each year at the call of the presiding officer [~~chairman~~] at a place  
 16-19 designated by the board.

16-20 SECTION 6.006. Section 755.017, Health and Safety Code, is  
 16-21 amended to read as follows:

16-22 Sec. 755.017. POWERS AND DUTIES. The board shall advise the  
 16-23 commission [~~commissioner~~] in the adoption of definitions and rules  
 16-24 relating to the safe construction, installation, inspection,  
 16-25 operating limits, alteration, and repair of boilers and their  
 16-26 appurtenances.

16-27 SECTION 6.007. Subsection (a), Section 755.030, Health and  
 16-28 Safety Code, is amended to read as follows:

16-29 (a) In addition to the fees described by Section 51.202,  
 16-30 Occupations Code, the commission may authorize the collection of  
 16-31 fees for:

16-32 (1) boiler inspections, including fees for special  
 16-33 inspections; and

16-34 (2) other activities administered by the boiler  
 16-35 inspection section and authorized by rule of the commission  
 16-36 [~~executive director of the department~~].

16-37 SECTION 6.008. Section 755.032, Health and Safety Code, is  
 16-38 amended to read as follows:

16-39 Sec. 755.032. RULES. (a) The commission [~~commissioner~~]  
 16-40 may adopt and enforce rules, in accordance with standard boiler  
 16-41 usage, for the construction, inspection, installation, use,  
 16-42 maintenance, repair, alteration, and operation of boilers.

16-43 (b) The executive director [~~commissioner~~] may exchange  
 16-44 information, including data on experience, with other authorities  
 16-45 that inspect boilers or their appurtenances, to obtain information  
 16-46 necessary to adopt rules.

16-47 (c) The executive director [~~commissioner~~] or a department  
 16-48 employee may not prescribe the make, brand, or kind of boilers or  
 16-49 any appurtenances on the boiler to purchase.

16-50 (d) The executive director [~~commissioner~~] or a department  
 16-51 employee may not prescribe the make, brand, or kind of boilers to  
 16-52 purchase.

16-53 SECTION 6.009. Section 755.033, Health and Safety Code, is  
 16-54 amended to read as follows:

16-55 Sec. 755.033. INTERAGENCY INSPECTION AGREEMENTS. (a) The  
 16-56 executive director [~~commissioner~~] shall enter into interagency  
 16-57 agreements with the Texas Department of Health, the Texas  
 16-58 Commission on Fire Protection, and the Texas Department [~~State  
 16-59 Board~~] of Insurance under which inspectors, marshals, or  
 16-60 investigators from those agencies who discover unsafe or  
 16-61 unregistered boilers in the course and scope of inspections  
 16-62 conducted as part of regulatory or safety programs administered by  
 16-63 those agencies are required to report the unsafe or unregistered  
 16-64 boilers to the executive director [~~commissioner~~].

16-65 (b) The executive director [~~commissioner~~] may enter into  
 16-66 analogous agreements with local fire marshals.

16-67 (c) The commission [~~commissioner~~] shall adopt rules  
 16-68 relating to the terms and conditions of an interagency agreement  
 16-69 entered into under this section.



17-1 SECTION 6.010. Subsections (b) and (d), Section 755.041,  
 17-2 Health and Safety Code, are amended to read as follows:

17-3 (b) On written request, an owner or operator who does not  
 17-4 comply with a preliminary order is entitled to a hearing before the  
 17-5 executive director [commissioner] to show cause for not enforcing  
 17-6 the preliminary order. If, after the hearing, the executive  
 17-7 director [commissioner] determines that the boiler is unsafe and  
 17-8 that the preliminary order should be enforced, or that other acts  
 17-9 are necessary to make the boiler safe, the executive director  
 17-10 [commissioner] may order or confirm the withholding of the  
 17-11 certificate of operation for that boiler, and may impose additional  
 17-12 requirements as necessary for the repair or alteration of the  
 17-13 boiler or the correction of the unsafe conditions.

17-14 (d) This section does not limit the executive director's  
 17-15 [commissioner's] authority under Section 755.028 or the  
 17-16 commissioner's authority under Section 755.032.

17-17 SECTION 6.011. Subsection (a), Section 755.043, Health and  
 17-18 Safety Code, is amended to read as follows:

17-19 (a) A person, firm, or corporation commits an offense if:

17-20 (1) the person, firm, or corporation owns a boiler in  
 17-21 this state, has the custody, management, use, or operation of a  
 17-22 boiler in this state, or is otherwise subject to this chapter or a  
 17-23 rule adopted under this chapter; and

17-24 (2) the person, firm, or corporation violates this  
 17-25 chapter, a rule adopted under this chapter, or an order issued by  
 17-26 the commission, the executive director, [commissioner] or a  
 17-27 regularly employed inspector authorized to enforce this chapter and  
 17-28 rules and orders.

17-29 SECTION 6.012. Section 755.045, Health and Safety Code, is  
 17-30 amended to read as follows:

17-31 Sec. 755.045. NOTICE OF RULE OR ORDER REQUIRED BEFORE  
 17-32 PROSECUTION. A criminal action may not be maintained against any  
 17-33 person relating to the violation of a rule adopted or an order  
 17-34 issued under this chapter until the commission [commissioner] gives  
 17-35 notice of the rule or order.

17-36 SECTION 6.013. Section 755.046, Health and Safety Code, is  
 17-37 amended to read as follows:

17-38 Sec. 755.046. AFFIDAVIT OF ORDERS. An affidavit is  
 17-39 admissible as evidence in any civil or criminal action involving an  
 17-40 order adopted by the commission or the executive director  
 17-41 [commissioner] and the publication of the order, without further  
 17-42 proof of the order's issuance or publication or of the contents of  
 17-43 the order, if the affidavit:

17-44 (1) is issued under the seal of the commission or the  
 17-45 executive director [commissioner];

17-46 (2) is executed by the commission, the executive  
 17-47 director [commissioner], the chief inspector, or a deputy  
 17-48 inspector;

17-49 (3) states the terms of the order;

17-50 (4) states that the order was issued and published;  
 17-51 and

17-52 (5) states that the order was in effect during the  
 17-53 period specified by the affidavit.

17-54 SECTION 6.014. The following laws are repealed:

17-55 (1) Subsections (c), (d), (e), and (h), Section  
 17-56 755.024, Health and Safety Code; and

17-57 (2) Section 755.031, Health and Safety Code.

17-58 SECTION 6.015. The changes in law made by this article  
 17-59 applying to members of the board of boiler rules do not affect the  
 17-60 entitlement of a member serving on the board immediately before  
 17-61 September 1, 2003, to continue to serve and function as a member of  
 17-62 the board for the remainder of the member's term. Those changes in  
 17-63 law apply only to a member appointed on or after September 1, 2003.

17-64 ARTICLE 7. CAREER COUNSELING SERVICES

17-65 SECTION 7.001. Section 2502.001, Occupations Code, is  
 17-66 amended by amending Subdivision (3) and adding Subdivision (4-a) to  
 17-67 read as follows:

17-68 (3) "Commission" [Commissioner] means the Texas  
 17-69 Commission of Licensing and Regulation [commissioner of licensing

18-1 ~~and regulation].~~

18-2 (4-a) "Executive director" means the executive  
18-3 director of the department.

18-4 SECTION 7.002. Section 2502.056, Occupations Code, is  
18-5 amended to read as follows:

18-6 Sec. 2502.056. RULES. The commission [~~commissioner~~] may  
18-7 adopt rules relating to the administration and enforcement of the  
18-8 certificate of authority program created under this subchapter.

18-9 SECTION 7.003. Subchapter B, Chapter 2502, Occupations  
18-10 Code, is amended by adding Section 2502.058 to read as follows:

18-11 Sec. 2502.058. APPLICABILITY OF OTHER LAW. Section 51.404  
18-12 does not apply to this chapter.

18-13 SECTION 7.004. Subsection (b), Section 2502.202,  
18-14 Occupations Code, is amended to read as follows:

18-15 (b) Not later than 10 days [~~48 hours~~] after a career  
18-16 counseling service receives a written complaint, the service shall  
18-17 respond to the complaint. Not later than the 30th [~~10th~~] day after  
18-18 the date the complaint is received, the service shall resolve the  
18-19 complaint.

18-20 SECTION 7.005. Subsection (a), Section 2502.203,  
18-21 Occupations Code, is amended to read as follows:

18-22 (a) If a career counseling service cannot resolve a  
18-23 complaint within the period described by Section 2502.202, the  
18-24 service shall:

18-25 (1) refer the complaint to a qualified independent  
18-26 arbitration organization recognized by the department; and

18-27 (2) resolve the complaint not later than the 60th  
18-28 [~~30th~~] day after the date the arbitration begins [~~complaint is~~  
18-29 ~~referred for arbitration~~].

18-30 SECTION 7.006. Section 2502.252, Occupations Code, is  
18-31 amended to read as follows:

18-32 Sec. 2502.252. COMPLAINT AND INVESTIGATION. (a) A person  
18-33 [~~by sworn affidavit~~] may file with the executive director  
18-34 [~~commissioner~~] a complaint alleging a violation of this chapter.

18-35 (b) On receipt of the complaint, the executive director  
18-36 [~~commissioner~~] shall investigate the alleged violation and may:

18-37 (1) inspect any record relevant to the complaint; and

18-38 (2) subpoena the record and any necessary witness.

18-39 SECTION 7.007. Subsections (a) and (c), Section 2502.253,  
18-40 Occupations Code, are amended to read as follows:

18-41 (a) If the executive director [~~commissioner~~] determines as  
18-42 a result of an investigation that a violation of this chapter may  
18-43 have occurred, the executive director [~~commissioner~~] shall hold a  
18-44 hearing [~~not later than the 45th day after the date the complaint~~  
18-45 ~~was filed under Section 2502.252~~].

18-46 (c) The executive director [~~commissioner~~] shall render a  
18-47 decision on the alleged violation [~~not later than the eighth day~~  
18-48 ~~after [the date] the hearing is concluded~~].

18-49 SECTION 7.008. Section 2502.254, Occupations Code, is  
18-50 amended to read as follows:

18-51 Sec. 2502.254. SANCTIONS. (a) If, after a hearing, the  
18-52 commission [~~commissioner~~] determines that a career counseling  
18-53 service has violated this chapter, the commission [~~commissioner~~]  
18-54 may, as appropriate:

18-55 (1) issue a warning to the service; or

18-56 (2) suspend or revoke the certificate of authority  
18-57 issued to the service.

18-58 (b) If, after a hearing, the commission [~~commissioner~~]  
18-59 determines that a career counseling service has violated this  
18-60 chapter, the executive director [~~commissioner~~] may award the  
18-61 complainant an amount equal to the amount of the fee charged by the  
18-62 service.

18-63 SECTION 7.009. Section 2502.255, Occupations Code, is  
18-64 amended to read as follows:

18-65 Sec. 2502.255. REISSUANCE OF CERTIFICATE AFTER REVOCATION.  
18-66 If the commission [~~commissioner~~] revokes the certificate of  
18-67 authority of a career counseling service under Section 2502.254,  
18-68 the service and any owner of that service may not apply for a new  
18-69 certificate until after the third anniversary of the date the

19-1 certificate was revoked.

19-2 SECTION 7.010. Sections 2502.057 and 2502.101, Occupations  
19-3 Code, are repealed.

19-4 ARTICLE 8. COMBATIVE SPORTS

19-5 SECTION 8.001. Section 2052.002, Occupations Code, is  
19-6 amended by amending Subdivision (4) and adding Subdivision (8-a) to  
19-7 read as follows:

19-8 (4) "Commission" [~~"Commissioner"~~] means the Texas  
19-9 Commission of Licensing and Regulation [~~commissioner of licensing~~  
19-10 ~~and regulation or the commissioner's designated representative~~].

19-11 (8-a) "Executive director" means the executive  
19-12 director of the department.

19-13 SECTION 8.002. Subchapter A, Chapter 2052, Occupations  
19-14 Code, is amended by adding Section 2052.003 to read as follows:

19-15 Sec. 2052.003. APPLICABILITY OF OTHER LAW. Section 51.401  
19-16 does not apply to this chapter.

19-17 SECTION 8.003. The heading to Subchapter B, Chapter 2052,  
19-18 Occupations Code, is amended to read as follows:

19-19 SUBCHAPTER B. POWERS AND DUTIES [~~OF DEPARTMENT AND COMMISSIONER~~]

19-20 SECTION 8.004. Section 2052.052, Occupations Code, is  
19-21 amended to read as follows:

19-22 Sec. 2052.052. RULES. (a) The commission [~~commissioner~~]  
19-23 shall adopt reasonable and necessary rules to administer this  
19-24 chapter.

19-25 (b) The commission [~~commissioner~~] may adopt rules:

19-26 (1) governing professional kickboxing contests and  
19-27 exhibitions; and

19-28 (2) establishing reasonable qualifications for an  
19-29 applicant seeking a license from the department under this chapter.

19-30 SECTION 8.005. Section 2052.054, Occupations Code, is  
19-31 amended by amending Subsection (a) and adding Subsection (c) to  
19-32 read as follows:

19-33 (a) The commission [~~commissioner~~] may recognize, prepare,  
19-34 or administer continuing education programs for persons licensed  
19-35 under this chapter.

19-36 (c) Section 51.405 does not apply to this chapter.

19-37 SECTION 8.006. Section 2052.103, Occupations Code, is  
19-38 amended to read as follows:

19-39 Sec. 2052.103. ELIMINATION TOURNAMENT BOXING PROMOTER  
19-40 LICENSE APPLICATION REQUIREMENTS. (a) An applicant for an  
19-41 elimination tournament boxing promoter's license under this  
19-42 chapter must apply on a form furnished by the executive director  
19-43 [~~commissioner~~].

19-44 (b) An application must be accompanied by an application fee  
19-45 [~~of not more than \$1,000~~] and, if the applicant charges a fee for  
19-46 admission to the elimination tournament or awards a trophy, prize,  
19-47 including a prize of money, or other item of value of more than \$50  
19-48 to a contestant winning the elimination tournament:

19-49 (1) a \$50,000 surety bond subject to approval by the  
19-50 executive director [~~commissioner~~] and conditioned on the  
19-51 applicant's payment of:

19-52 (A) the tax imposed under Section 2052.151; and

19-53 (B) a claim against the applicant as described by  
19-54 Section 2052.109(a)(3); and

19-55 (2) proof of not less than \$10,000 accidental death or  
19-56 injury insurance coverage for each contestant participating in the  
19-57 elimination tournament.

19-58 SECTION 8.007. Section 2052.251, Occupations Code, is  
19-59 amended to read as follows:

19-60 Sec. 2052.251. BOXING GLOVES. A boxing event contestant,  
19-61 other than an elimination tournament contestant under Subchapter E,  
19-62 shall wear eight-ounce boxing gloves, unless the commission  
19-63 [~~commissioner~~] by rule requires or permits a contestant to wear  
19-64 heavier gloves.

19-65 SECTION 8.008. The following laws are repealed:

19-66 (1) Section 2052.104, Occupations Code;

19-67 (2) Section 2052.112, Occupations Code; and

19-68 (3) Section 2052.301, Occupations Code.

19-

## ARTICLE 9. COURT INTERPRETERS

SECTION 9.001. Section 57.041, Government Code, is amended by adding Subdivision (4-a) to read as follows:

(4-a) "Executive director" means the executive director of the department.

SECTION 9.002. Subsections (a), (c), (e), and (g), Section 57.042, Government Code, are amended to read as follows:

(a) The licensed court interpreter advisory board is established as an advisory board to the commission [~~department~~]. The board is composed of nine members appointed by the presiding officer of the commission, with the commission's approval [~~governor~~]. Members of the board serve staggered six-year terms, with the terms of one-third of the members expiring on February 1 of each odd-numbered year.

(c) The presiding officer of the commission, with the commission's approval, [~~At the initial meeting of the board and at the first meeting after new members take office, the board~~] shall select from the board [~~its~~] members a presiding officer of the board to serve for two years.

(e) The presiding officer of the commission, with the commission's approval, [~~commissioner~~] may remove a member of the board for inefficiency or neglect of duty in office. If a vacancy occurs on the board, the presiding officer of the commission, with the commission's approval, [~~governor~~] shall appoint a member who represents the same interests as the former member to serve the unexpired term.

(g) The board shall advise the commission [~~commissioner~~] regarding the adoption of rules and the design of a licensing examination.

SECTION 9.003. Subsections (a) and (b), Section 57.043, Government Code, are amended to read as follows:

(a) The executive director [~~commissioner~~] shall issue a court interpreter license to an applicant who:

(1) can interpret for an individual who can hear but who does not comprehend English or communicate in English;

(2) passes the appropriate examination prescribed by the executive director [~~commissioner~~]; and

(3) possesses the other qualifications for the license required by this subchapter or by rules adopted under this subchapter.

(b) The commission [~~commissioner~~] shall ~~+~~ [~~(1)~~] adopt rules relating to licensing under this subchapter ~~+~~ and the executive director shall [~~(2)~~] prescribe all forms required under this subchapter.

SECTION 9.004. Section 57.048, Government Code, is amended to read as follows:

Sec. 57.048. SUSPENSION AND REVOCATION OF LICENSES; REISSUANCE. (a) After a hearing, the commission [~~commissioner~~] shall suspend or revoke a court interpreter license on a finding that the individual:

(1) made a material misstatement in an application for a license;

(2) [~~wilfully~~] disregarded or violated this subchapter or a rule adopted under this subchapter; or

(3) [~~has been convicted of a felony or of any crime in which an essential element of the offense is misstatement, fraud, or dishonesty, or~~

~~(4)~~ engaged in dishonorable or unethical conduct likely to deceive, defraud, or harm the public or a person for whom the interpreter interprets.

(b) The executive director [~~commissioner~~] may reissue a license to an individual whose license has been revoked if the individual applies in writing to the department and shows good cause to justify reissuance of the license.

SECTION 9.005. Subdivision (3), Section 57.041, Government Code, is repealed.

SECTION 9.006. The changes in law made by this article applying to members of the licensed court interpreter advisory

21-1 board do not affect the entitlement of a member serving on the board  
21-2 immediately before September 1, 2003, to continue to serve and  
21-3 function as a member of the board for the remainder of the member's  
21-4 term. Those changes in law apply only to a member appointed on or  
21-5 after September 1, 2003.

21-6 ARTICLE 10. CUSTOMER SERVICE INSPECTORS

21-7 SECTION 10.001. Subsection (d), Section 341.034, Health and  
21-8 Safety Code, is amended to read as follows:

21-9 (d) A person who inspects homes and businesses to identify  
21-10 potential or actual cross-connections or other contaminant hazards  
21-11 in public water systems must hold a license issued by the Texas  
21-12 Department of Licensing and Regulation [~~commission~~] under Chapter  
21-13 51, Occupations [~~37, Water~~] Code, unless the person is licensed by  
21-14 the Texas State Board of Plumbing Examiners as a plumbing inspector  
21-15 or water supply protection specialist.

21-16 SECTION 10.002. (a) On November 1, 2003:

21-17 (1) all functions and activities relating to  
21-18 Subsection (d), Section 341.034, Health and Safety Code, performed  
21-19 by the Texas Commission on Environmental Quality immediately before  
21-20 that date are transferred to the Texas Department of Licensing and  
21-21 Regulation;

21-22 (2) a rule or form adopted by the Texas Commission on  
21-23 Environmental Quality that relates to Subsection (d), Section  
21-24 341.034, Health and Safety Code, is a rule or form of the Texas  
21-25 Department of Licensing and Regulation and remains in effect until  
21-26 amended or replaced by that department;

21-27 (3) a license or other document issued by the Texas  
21-28 Commission on Environmental Quality that relates to Subsection (d),  
21-29 Section 341.034, Health and Safety Code, is considered a license or  
21-30 other document issued by the Texas Department of Licensing and  
21-31 Regulation and remains in effect until amended or replaced by that  
21-32 department;

21-33 (4) a reference in law or an administrative rule to the  
21-34 Texas Commission on Environmental Quality that relates to  
21-35 Subsection (d), Section 341.034, Health and Safety Code, means the  
21-36 Texas Department of Licensing and Regulation;

21-37 (5) a complaint, investigation, or other proceeding  
21-38 before the Texas Commission on Environmental Quality that is  
21-39 related to Subsection (d), Section 341.034, Health and Safety Code,  
21-40 is transferred without change in status to the Texas Department of  
21-41 Licensing and Regulation, and the Texas Department of Licensing and  
21-42 Regulation assumes, as appropriate and without a change in status,  
21-43 the position of the Texas Commission on Environmental Quality in an  
21-44 action or proceeding to which the Texas Commission on Environmental  
21-45 Quality is a party;

21-46 (6) all money, contracts, leases, property, and  
21-47 obligations of the Texas Commission on Environmental Quality  
21-48 related to Subsection (d), Section 341.034, Health and Safety Code,  
21-49 are transferred to the Texas Department of Licensing and  
21-50 Regulation;

21-51 (7) all property in the custody of the Texas  
21-52 Commission on Environmental Quality related to Subsection (d),  
21-53 Section 341.034, Health and Safety Code, is transferred to the  
21-54 Texas Department of Licensing and Regulation; and

21-55 (8) the unexpended and unobligated balance of any  
21-56 money appropriated by the legislature for the Texas Commission on  
21-57 Environmental Quality related to Subsection (d), Section 341.034,  
21-58 Health and Safety Code, is transferred to the Texas Department of  
21-59 Licensing and Regulation.

21-60 (b) Before November 1, 2003, the Texas Commission on  
21-61 Environmental Quality may agree with the Texas Department of  
21-62 Licensing and Regulation to transfer any property of the Texas  
21-63 Commission on Environmental Quality to the Texas Department of  
21-64 Licensing and Regulation to implement the transfer required by this  
21-65 article.

21-66 (c) In the period beginning on the effective date of this  
21-67 Act and ending on November 1, 2003, the Texas Commission on  
21-68 Environmental Quality shall continue to perform functions and  
21-69 activities under Subsection (d), Section 341.034, Health and Safety

22-1 Code, as if that section had not been amended by this Act, and the  
 22-2 former law is continued in effect for that purpose.

22-3 ARTICLE 11. ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT

22-4 SECTION 11.001. Section 754.011, Health and Safety Code, is  
 22-5 amended by adding Subdivision (6-a) to read as follows:

22-6 (6-a) "Executive director" means the executive  
 22-7 director of the department.

22-8 SECTION 11.002. Subsections (a), (b), and (c), Section  
 22-9 754.012, Health and Safety Code, are amended to read as follows:

22-10 (a) The elevator advisory board is composed of nine members  
 22-11 appointed by the presiding officer of the commission, with the  
 22-12 commission's approval, [commissioner] as follows:

22-13 (1) a representative of the insurance industry or a  
 22-14 certified elevator inspector;

22-15 (2) a representative of elevator, escalator, and  
 22-16 related equipment constructors;

22-17 (3) a representative of owners or managers of  
 22-18 buildings having fewer than six stories and having an elevator, an  
 22-19 escalator, or related equipment;

22-20 (4) a representative of owners or managers of  
 22-21 buildings having six stories or more and having an elevator, an  
 22-22 escalator, or related equipment;

22-23 (5) a representative of independent elevator,  
 22-24 escalator, and related equipment maintenance companies;

22-25 (6) a representative of elevator, escalator, and  
 22-26 related equipment manufacturers;

22-27 (7) a representative of professional engineers or  
 22-28 architects;

22-29 (8) a public member; and

22-30 (9) a public member with a physical disability.

22-31 (b) Board members serve at the will of the commission  
 22-32 [commissioner].

22-33 (c) The presiding officer of the commission, with the  
 22-34 commission's approval, [commissioner] shall appoint a presiding  
 22-35 officer of the board to serve for two years.

22-36 SECTION 11.003. Section 754.013, Health and Safety Code, is  
 22-37 amended to read as follows:

22-38 Sec. 754.013. BOARD DUTIES. To protect public safety and to  
 22-39 identify and correct potential hazards, the board shall advise the  
 22-40 commission [commissioner] on:

22-41 (1) the adoption of appropriate standards for the  
 22-42 installation, alteration, operation, and inspection of elevators,  
 22-43 escalators, and related equipment;

22-44 (2) the status of elevators, escalators, and related  
 22-45 equipment used by the public in this state; and

22-46 (3) any other matter considered relevant by the  
 22-47 commission [commissioner].

22-48 SECTION 11.004. The heading to Section 754.014, Health and  
 22-49 Safety Code, is amended to read as follows:

22-50 Sec. 754.014. STANDARDS ADOPTED BY COMMISSION  
 22-51 [COMMISSIONER].

22-52 SECTION 11.005. Subsections (a) through (h) and (j),  
 22-53 Section 754.014, Health and Safety Code, are amended to read as  
 22-54 follows:

22-55 (a) The commission [commissioner] shall adopt standards for  
 22-56 the installation, alteration, operation, and inspection of  
 22-57 elevators, escalators, and related equipment used by the public:

22-58 (1) buildings owned or operated by the state, a  
 22-59 state-owned institution or agency, or a political subdivision of  
 22-60 the state; and

22-61 (2) buildings that contain an elevator, an escalator,  
 22-62 or related equipment that is open to the general public, including a  
 22-63 hotel, motel, apartment house, boardinghouse, church, office  
 22-64 building, shopping center, or other commercial establishment.

22-65 (b) Standards adopted by the commission [commissioner] may  
 22-66 not contain requirements in addition to the requirements in the  
 22-67 ASME Code A17.1 or ASME Code A17.3.

22-68 (c) Standards adopted by the commission [commissioner] must  
 22-69 require elevators, escalators, and related equipment to comply with

23-1 the installation requirements of the following, whichever is the  
23-2 least restrictive:

23-3 (1) the ASME Code A17.1 that was in effect on the date  
23-4 of installation of the elevators, escalators, and related  
23-5 equipment; or

23-6 (2) an applicable municipal ordinance governing the  
23-7 installation of elevators, escalators, and related equipment that  
23-8 was in effect on the date of installation.

23-9 (d) Standards adopted by the commission [~~commissioner~~] must  
23-10 require elevators, escalators, and related equipment to comply with  
23-11 the installation requirements of the 1994 ASME Code A17.3 that  
23-12 contains minimum safety standards for all elevators, escalators,  
23-13 and related equipment, regardless of the date of installation.

23-14 (e) On written request, the executive director  
23-15 [~~commissioner~~] shall grant a delay for compliance with the  
23-16 applicable ASME Code A17.1 or the 1994 ASME Code A17.3 until a  
23-17 specified time if compliance is not readily achievable, as that  
23-18 phrase is defined in the Americans with Disabilities Act (42 U.S.C.  
23-19 Section 12101 et seq.), or regulations adopted under that Act.

23-20 (f) On written request, the executive director  
23-21 [~~commissioner~~] shall grant a delay until September 1, 2005, for  
23-22 compliance with the requirements for door restrictors or  
23-23 firefighter's service in the 1994 ASME Code A17.3 if those  
23-24 requirements were not included in the ASME Code A17.1 that was in  
23-25 effect on the date of installation of the elevator, escalator, or  
23-26 related equipment and that equipment was not subsequently installed  
23-27 by an owner of the elevator, escalator, or related equipment.

23-28 (g) The executive director [~~commissioner~~] may grant a  
23-29 waiver of compliance with the applicable ASME Code A17.1 or the 1994  
23-30 ASME Code A17.3 if the executive director [~~commissioner~~] finds  
23-31 that:

23-32 (1) the building in which the elevator, escalator, or  
23-33 related equipment is located is a qualified historic building or  
23-34 facility or the noncompliance is due to structural components of  
23-35 the building; and

23-36 (2) noncompliance will not constitute a significant  
23-37 threat to passenger safety.

23-38 (h) The executive director [~~commissioner~~] may grant a  
23-39 waiver of compliance with the firefighter's service provisions of  
23-40 the ASME Code A17.1 or the 1994 ASME Code A17.3 in an elevator that  
23-41 exclusively serves a vehicle parking garage in a building that:

23-42 (1) is used only for parking;

23-43 (2) is constructed of noncombustible materials; and

23-44 (3) is not greater than 75 feet in height.

23-45 (j) The executive director [~~commissioner~~] may charge a  
23-46 reasonable fee as set by the commission for an application for  
23-47 waiver or delay. One application for a waiver or delay may contain  
23-48 all requests related to a particular building. A delay may not be  
23-49 granted indefinitely but must be granted to a specified time.

23-50 SECTION 11.006. Section 754.015, Health and Safety Code, is  
23-51 amended to read as follows:

23-52 Sec. 754.015. RULES. (a) The commission [~~commissioner~~] by  
23-53 rule shall provide for:

23-54 (1) the inspection and certification once each  
23-55 calendar year of elevators, escalators, and related equipment  
23-56 covered by standards adopted under this subchapter;

23-57 (2) the enforcement of those standards;

23-58 (3) the certification of qualified persons as  
23-59 inspectors for the purposes of this subchapter; and

23-60 (4) the form of the inspection report and certificate  
23-61 of compliance.

23-62 (b) The commission [~~commissioner~~] by rule may not require  
23-63 that:

23-64 (1) inspection be made more often than once per year of  
23-65 elevators, escalators, and related equipment; or

23-66 (2) persons post a bond or furnish insurance as a  
23-67 condition of certification; ~~and~~

23-68 ~~[(3) inspection reports or certificates of compliance  
23-69 be placed in locations other than one provided in Section~~

24-1 ~~754.019(4)]~~.

24-2 SECTION 11.007. Section 754.016, Health and Safety Code, is  
24-3 amended to read as follows:

24-4 Sec. 754.016. INSPECTION REPORTS [REPORT] AND CERTIFICATES  
24-5 [CERTIFICATE] OF COMPLIANCE. (a) Inspection reports [An  
24-6 inspection report] and certificates [a certificate] of compliance  
24-7 required under this subchapter must cover all elevators,  
24-8 escalators, and related equipment in a building or structure  
24-9 appurtenant to the building, including a parking facility, that are  
24-10 owned by the same person or persons. ~~[There shall be only one~~  
24-11 ~~inspection report and one certificate of compliance for each~~  
24-12 ~~building.]~~

24-13 (b) An inspector shall date and sign an inspection report  
24-14 and shall issue the report to the building owner. The inspection  
24-15 report shall be on forms designated by the executive director  
24-16 ~~[commissioner]~~.

24-17 (c) The executive director [commissioner] shall date and  
24-18 sign a certificate of compliance and shall issue the certificate to  
24-19 the building owner. The certificate of compliance shall state:

24-20 (1) that the elevators, escalators, and related  
24-21 equipment have been inspected by a certified inspector and found by  
24-22 the inspector to be in compliance, except for any delays or waivers  
24-23 granted by the executive director [commissioner] and stated in the  
24-24 certificate;

24-25 (2) the date of the last inspection and the due date  
24-26 for the next inspection; and

24-27 (3) contact information at the department to report a  
24-28 violation of this subchapter.

24-29 (d) The commission by rule shall:

24-30 (1) specify what information must be contained in a  
24-31 certificate of compliance;

24-32 (2) describe the procedure by which a certificate of  
24-33 compliance is issued;

24-34 (3) require that a certificate of compliance related  
24-35 to an elevator be posted in a publicly visible area of the building;  
24-36 and

24-37 (4) determine what constitutes a "publicly visible  
24-38 area" under Subdivision (3).

24-39 SECTION 11.008. Subsections (b) and (c), Section 754.017,  
24-40 Health and Safety Code, are amended to read as follows:

24-41 (b) The commission [commissioner] may not by rule prohibit  
24-42 an ASME-QEI-1 certified inspector who is registered with the  
24-43 department from inspecting under this subchapter an elevator, an  
24-44 escalator, or related equipment. A person assisting a certified  
24-45 inspector is not required to be ASME-QEI-1 certified.

24-46 (c) The executive director [commissioner] may charge a  
24-47 ~~[\$15]~~ fee to certified inspectors for registering with the  
24-48 department.

24-49 SECTION 11.009. Subsections (a), (b), (d), and (e), Section  
24-50 754.019, Health and Safety Code, are amended to read as follows:

24-51 (a) The owner of real property on which an elevator, an  
24-52 escalator, or related equipment covered by this subchapter is  
24-53 located shall:

24-54 (1) have the elevator, escalator, or related equipment  
24-55 inspected by an ASME-QEI-1 certified inspector in accordance with  
24-56 the commission's [commissioner's] rules;

24-57 (2) obtain inspection reports [an inspection report]  
24-58 from the inspector evidencing that all elevators, escalators, and  
24-59 related equipment in a building on the real property were inspected  
24-60 in accordance with this subchapter and rules adopted under this  
24-61 subchapter;

24-62 (3) file with the executive director [commissioner] a  
24-63 copy of each inspection report and a ~~[\$20]~~ filing fee for each  
24-64 report, plus a fee ~~[\$5]~~ for each elevator, escalator, or related  
24-65 equipment not later than the 60th day after the date on which an  
24-66 inspection is made under this subchapter;

24-67 (4) display the certificate of compliance:

24-68 (A) in a publicly visible area of the building,  
24-69 as determined by commission rule under Section 754.016, [the



25-1 ~~elevator mechanical room~~] if the certificate relates to an  
 25-2 elevator;

25-3 (B) in the escalator box if the certificate  
 25-4 relates to an escalator; or

25-5 (C) in a place designated by the executive  
 25-6 director [~~commissioner~~] if the certificate relates to related  
 25-7 equipment; and

25-8 (5) display the inspection report at the locations  
 25-9 designated in Subdivision (4) until a certificate of compliance is  
 25-10 issued by the executive director [~~commissioner~~].

25-11 (b) When an inspection report is filed with the executive  
 25-12 director [~~commissioner~~], the owner shall submit to the executive  
 25-13 director [~~commissioner~~]:

25-14 (1) verification that any deficiencies in the  
 25-15 inspector's report have been remedied or that a bona fide contract  
 25-16 to remedy the deficiencies has been entered into; or

25-17 (2) any application for delay or waiver of an  
 25-18 applicable standard.

25-19 (d) For the purpose of determining timely filing under  
 25-20 Subsection (a)(3), an inspection report and fee are considered  
 25-21 filed on the date of mailing by United States mail if properly  
 25-22 addressed to the executive director [~~commissioner~~].

25-23 (e) If the inspection report and fee required by Subsection  
 25-24 (a)(3) are not timely filed, the executive director [~~commissioner~~]  
 25-25 may charge the owner of the real property on which the elevator,  
 25-26 escalator, or related equipment is located an additional [~~\$100~~] fee  
 25-27 for late filing.

25-28 SECTION 11.010. Section 754.023, Health and Safety Code, is  
 25-29 amended to read as follows:

25-30 Sec. 754.023. INVESTIGATION; LICENSE PROCEEDINGS;  
 25-31 INJUNCTION. (a) If there is good cause for the executive director  
 25-32 [~~commissioner~~] to believe that an elevator, an escalator, or  
 25-33 related equipment on real property is dangerous or that an accident  
 25-34 involving an elevator, an escalator, or related equipment occurred  
 25-35 on the property and serious bodily injury or property damage  
 25-36 resulted, the executive director [~~commissioner~~] may enter the  
 25-37 property during regular business hours after notice to the owner,  
 25-38 operator, or person in charge of the property to inspect the  
 25-39 elevator, escalator, or related equipment or investigate the  
 25-40 accident at no cost to the owner.

25-41 (b) The executive director [~~commissioner~~] may enter real  
 25-42 property during regular business hours after notice to the owner,  
 25-43 operator, or person in charge of the property to verify, at no cost  
 25-44 to the owner, whether an inspection report or certificate of  
 25-45 compliance has been displayed as required under Section 754.019(a).

25-46 (c) The commission [~~commissioner~~] may deny, suspend, or  
 25-47 revoke the registration of any ASME-QEI-1 certified inspector for:

25-48 (1) obtaining registration with the executive  
 25-49 director [~~commissioner~~] by fraud or false representation;

25-50 (2) falsifying any inspection report submitted to the  
 25-51 executive director [~~commissioner~~]; or

25-52 (3) violating this subchapter or a rule adopted under  
 25-53 this subchapter.

25-54 (d) The executive director [~~commissioner~~] is entitled to  
 25-55 appropriate injunctive relief to prevent a violation or threatened  
 25-56 violation of this subchapter or a rule adopted under this  
 25-57 subchapter.

25-58 (e) The executive director [~~commissioner~~] may bring suit in  
 25-59 a district court in Travis County or in the county in which the  
 25-60 violation or threatened violation occurs. If requested, the  
 25-61 attorney general shall represent the executive director  
 25-62 [~~commissioner~~] in the suit.

25-63 SECTION 11.011. Subchapter B, Chapter 754, Health and  
 25-64 Safety Code, is amended by adding Section 754.025 to read as  
 25-65 follows:

25-66 Sec. 754.025. APPLICABILITY OF OTHER LAW. Sections 51.401  
 25-67 and 51.404, Occupations Code, do not apply to this subchapter.

25-68 SECTION 11.012. The following laws are repealed:

25-69 (1) Subdivision (5), Section 754.011, Health and

26-1 Safety Code; and

26-2 (2) Subsection (f), Section 754.019, Health and Safety  
26-3 Code.

26-4 SECTION 11.013. Not later than March 1, 2004, the Texas  
26-5 Commission of Licensing and Regulation shall adopt the rules  
26-6 required by Section 754.016 and Subsection (a), Section 754.019,  
26-7 Health and Safety Code, as amended by this article.

26-8 SECTION 11.014. The changes in law made by this article apply  
26-9 only to an inspection report or certificate of compliance issued on  
26-10 or after the effective date of this Act. An inspection report or  
26-11 certificate issued before the effective date of this Act is covered  
26-12 by the law in effect when the report or certificate was issued and  
26-13 is valid until the renewal date of that report or certificate under  
26-14 the terms of the former law, and the former law is continued in  
26-15 effect for that purpose. On renewal, an inspection report or  
26-16 certificate is subject to Chapter 754, Health and Safety Code, as  
26-17 amended by this article.

26-18 SECTION 11.015. The changes in law made by this article  
26-19 applying to members of the elevator advisory board do not affect the  
26-20 entitlement of a member serving on the board immediately before  
26-21 September 1, 2003, to continue to serve and function as a member of  
26-22 the board for the remainder of the member's term. Those changes in  
26-23 law apply only to a member appointed on or after September 1, 2003.

26-24 ARTICLE 12. INDUSTRIALIZED HOUSING AND BUILDINGS

26-25 SECTION 12.001. Section 1202.001, Occupations Code, is  
26-26 amended by amending Subdivision (2) and adding Subdivision (4-a) to  
26-27 read as follows:

26-28 (2) "Construction site office building" means a  
26-29 commercial structure that is:

26-30 (A) not open to the public; and  
26-31 (B) used as an office at a commercial site by a  
26-32 person constructing a building, road, bridge, utility, or other  
26-33 infrastructure or improvement to real property ["Commissioner"  
26-34 means the commissioner of licensing and regulation].

26-35 (4-a) "Executive director" means the executive  
26-36 director of the department.

26-37 SECTION 12.002. Section 1202.003, Occupations Code, is  
26-38 amended by amending Subsection (a) and adding Subsection (d) to  
26-39 read as follows:

26-40 (a) An industrialized building is a commercial structure  
26-41 that is:

26-42 (1) constructed in one or more modules or constructed  
26-43 using one or more modular components built at a location other than  
26-44 the commercial [permanent] site; and

26-45 (2) designed to be used as a commercial building when  
26-46 the module or the modular component is transported to the  
26-47 commercial [permanent] site and erected or installed [on a  
26-48 permanent foundation system].

26-49 (d) An industrialized building includes a permanent  
26-50 commercial structure and a commercial structure designed to be  
26-51 transported from one commercial site to another commercial site.

26-52 SECTION 12.003. Section 1202.101, Occupations Code, is  
26-53 amended to read as follows:

26-54 Sec. 1202.101. RULES; ORDERS. (a) The commission  
26-55 [commissioner] shall adopt rules and issue orders as necessary to:

26-56 (1) ensure compliance with the purposes of this  
26-57 chapter; and

26-58 (2) provide for uniform enforcement of this chapter.

26-59 (b) The commission [commissioner] shall adopt rules as  
26-60 appropriate to implement the council's actions, decisions,  
26-61 interpretations, and instructions.

26-62 SECTION 12.004. Section 1202.102, Occupations Code, is  
26-63 amended to read as follows:

26-64 Sec. 1202.102. RULES PROVIDING FOR REGISTRATION AND  
26-65 REGULATION. The commission [commissioner] by rule shall provide  
26-66 for registration and regulation of manufacturers or builders of  
26-67 industrialized housing or buildings.

26-68 SECTION 12.005. Subsection (a), Section 1202.104,  
26-69 Occupations Code, is amended to read as follows:

27-1 (a) The commission shall set fees, in amounts sufficient to  
 27-2 cover the costs of the inspections described by this chapter and the  
 27-3 administration of this chapter, for:

27-4 (1) the registration of manufacturers or builders of  
 27-5 industrialized housing or buildings;

27-6 (2) the inspection of industrialized housing or  
 27-7 buildings [~~at the manufacturing facility~~]; and

27-8 (3) the issuance of decals or insignia required under  
 27-9 Section 1202.204 or 1202.206.

27-10 SECTION 12.006. Subchapter C, Chapter 1202, Occupations  
 27-11 Code, is amended by adding Section 1202.106 to read as follows:

27-12 Sec. 1202.106. APPLICABILITY OF OTHER LAW. Sections 51.401  
 27-13 and 51.404 do not apply to this chapter.

27-14 SECTION 12.007. Subchapter D, Chapter 1202, Occupations  
 27-15 Code, is amended by adding Section 1202.1535 to read as follows:

27-16 Sec. 1202.1535. EFFECT OF BUILDING CODE AMENDMENT. (a) An  
 27-17 industrialized building that bears an approved decal or insignia  
 27-18 indicating that the building complies with the mandatory building  
 27-19 codes and that has not been modified or altered is considered to be  
 27-20 in compliance with a new mandatory building code adopted by the  
 27-21 council or an amendment to a code approved by the council under  
 27-22 Section 1202.152 or 1202.153.

27-23 (b) The owner of an industrialized building that bears an  
 27-24 approved decal or insignia indicating the building complies with  
 27-25 the mandatory building codes and that is modified or altered after  
 27-26 the date the council adopts a new mandatory building code or the  
 27-27 council approves a building code amendment must ensure:

27-28 (1) the entire building complies with the mandatory  
 27-29 building code or building code amendment if the cost of the  
 27-30 modification or alteration to the building is at least 50 percent of  
 27-31 the value of the modules or modular components used in the  
 27-32 construction of the building; or

27-33 (2) the modified or altered portion of the building  
 27-34 complies with the mandatory building code or building code  
 27-35 amendment if the cost of the modification or alteration is less than  
 27-36 50 percent of the value of the modules or modular components.

27-37 SECTION 12.008. Section 1202.154, Occupations Code, is  
 27-38 amended to read as follows:

27-39 Sec. 1202.154. DESIGN REVIEW. To ensure compliance with  
 27-40 the mandatory building [~~construction~~] codes, the department or  
 27-41 approved design review agency shall review all designs, plans, and  
 27-42 specifications of industrialized housing and buildings in  
 27-43 accordance with council interpretations and instructions.

27-44 SECTION 12.009. Subsection (b), Section 1202.156,  
 27-45 Occupations Code, is amended to read as follows:

27-46 (b) With reference to the standards and requirements of the  
 27-47 mandatory building [~~construction~~] codes, the council shall  
 27-48 determine, from an engineering performance standpoint, all  
 27-49 questions concerning:

27-50 (1) code equivalency; or

27-51 (2) alternative materials or methods of construction.

27-52 SECTION 12.010. Section 1202.202, Occupations Code, is  
 27-53 amended to read as follows:

27-54 Sec. 1202.202. DEPARTMENT [~~IN-PLANT~~] INSPECTIONS. (a) To  
 27-55 ensure compliance with the mandatory building codes or approved  
 27-56 designs, plans, and specifications, the department shall inspect  
 27-57 the construction of industrialized housing and buildings [~~at the~~  
 27-58 ~~manufacturing facility~~]. The executive director [~~commissioner~~]  
 27-59 may designate approved third-party inspectors to perform the  
 27-60 inspections subject to the rules of the commission [~~commissioner~~].

27-61 (b) Local building officials may witness department  
 27-62 [~~in-plant~~] inspections to enable the local officials to make  
 27-63 recommendations on inspection procedures to the council.

27-64 SECTION 12.011. Section 1202.203, Occupations Code, is  
 27-65 amended by amending Subsection (a) and adding Subsection (c) to  
 27-66 read as follows:

27-67 (a) A municipal building official shall inspect all  
 27-68 construction involving [~~at the permanent site of~~] industrialized  
 27-69 housing and buildings to be located in the municipality to ensure

28-1 compliance with designs, plans, and specifications, including  
28-2 inspection of:

28-3 (1) the construction of the foundation system; and  
28-4 (2) the erection and installation of the modules or  
28-5 modular components on the [~~permanent~~] foundation.

28-6 (c) An inspection under Subsection (a) shall be conducted:  
28-7 (1) at the permanent site, if the inspection is of  
28-8 industrialized housing; and

28-9 (2) at the commercial site, if the inspection is of  
28-10 industrialized buildings.

28-11 SECTION 12.012. Section 1202.204, Occupations Code, is  
28-12 amended to read as follows:

28-13 Sec. 1202.204. RULES PROVIDING FOR DECALS OR INSIGNIA.  
28-14 (a) The commission [~~commissioner~~] by rule shall provide for the  
28-15 placement of decals or insignia on each transportable modular  
28-16 section or modular component to indicate compliance with the  
28-17 mandatory building [~~construction~~] codes.

28-18 (b) The commission by rule shall exempt a construction site  
28-19 office building from the requirements of this section.

28-20 SECTION 12.013. Section 1202.205, Occupations Code, is  
28-21 amended to read as follows:

28-22 Sec. 1202.205. RECIPROcity. (a) The commission  
28-23 [~~commissioner~~] by rule may authorize an inspection of  
28-24 industrialized housing or buildings constructed in another state to  
28-25 be performed by an inspector of the equivalent regulatory agency of  
28-26 the other state.

28-27 (b) The commission [~~commissioner~~] by rule may authorize an  
28-28 inspection of industrialized housing or buildings constructed in  
28-29 this state for use in another state.

28-30 (c) The commission [~~commissioner~~] shall enter into a  
28-31 reciprocity agreement with the equivalent regulatory agency of the  
28-32 other state as necessary to implement this section.

28-33 SECTION 12.014. Section 1202.252, Occupations Code, is  
28-34 amended to read as follows:

28-35 Sec. 1202.252. MUNICIPAL REGULATION OF INDUSTRIALIZED  
28-36 HOUSING AND BUILDINGS. (a) A municipality that regulates the  
28-37 on-site construction or installation of industrialized housing and  
28-38 buildings may:

28-39 (1) require and review, for compliance with mandatory  
28-40 building [~~construction~~] codes, a complete set of designs, plans,  
28-41 and specifications bearing the council's stamp of approval for each  
28-42 installation of industrialized housing or buildings in the  
28-43 municipality;

28-44 (2) require that all applicable local permits and  
28-45 licenses be obtained before construction begins on a building site;

28-46 (3) require, in accordance with commission  
28-47 [~~commissioner~~] rules, that all modules or modular components bear  
28-48 an approved decal or insignia indicating inspection by the  
28-49 department [~~at the manufacturing facility~~]; and

28-50 (4) establish procedures for the inspection of:  
28-51 (A) the erection and installation of  
28-52 industrialized housing or buildings to be located in the  
28-53 municipality, to ensure compliance with mandatory building  
28-54 [~~construction~~] codes and commission [~~commissioner~~] rules; and

28-55 (B) all foundation and other on-site  
28-56 construction, to ensure compliance with approved designs, plans,  
28-57 and specifications.

28-58 (b) Procedures described by Subsection (a)(4) may require:

28-59 (1) before occupancy, a final inspection or test in  
28-60 accordance with mandatory building [~~construction~~] codes; and

28-61 (2) correction of any deficiency identified by the  
28-62 test or discovered in the final inspection.

28-63 SECTION 12.015. Subsection (b), Section 1202.301,  
28-64 Occupations Code, is amended to read as follows:

28-65 (b) A person may not construct, sell or offer to sell, lease  
28-66 or offer to lease, or transport over a street or highway of this  
28-67 state any industrialized housing or building, or modular section or  
28-68 component of a modular section, in violation of this chapter or a  
28-69 rule of the commission or order of the commission or executive

29-1 director [~~commissioner~~].

29-2 SECTION 12.016. Section 1202.302, Occupations Code, is  
29-3 amended to read as follows:

29-4 Sec. 1202.302. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.  
29-5 In addition to imposing sanctions allowed under Section 51.353, the  
29-6 commission [~~The commissioner~~] may deny, permanently revoke, or  
29-7 suspend for a definite period and specified location or geographic  
29-8 area a certificate of registration if the commission [~~commissioner~~]  
29-9 finds that the applicant or registrant:

29-10 (1) provided false information on an application or  
29-11 other document filed with the department;

29-12 (2) failed to pay a fee or file a report required by  
29-13 the department for the administration or enforcement of this  
29-14 chapter;

29-15 (3) engaged in a false, misleading, or deceptive act  
29-16 or practice as described by Subchapter E, Chapter 17, Business &  
29-17 Commerce Code; or

29-18 (4) violated:  
29-19 (A) this chapter;  
29-20 (B) a rule adopted by the commission or order  
29-21 issued by the commission or the executive director [~~commissioner~~]  
29-22 under this chapter; or

29-23 (C) a decision, action, or interpretation of the  
29-24 council.

29-25 SECTION 12.017. Subsection (b), Section 1202.351,  
29-26 Occupations Code, is amended to read as follows:

29-27 (b) A person commits an offense if the person [~~knowingly and~~  
29-28 ~~wilfully~~] violates this chapter or a published rule of the  
29-29 commission or order of the commission or the executive director  
29-30 [~~commissioner~~].

29-31 SECTION 12.018. The following laws are repealed:

29-32 (1) Subdivision (2), Section 1202.001, Occupations  
29-33 Code; and

29-34 (2) Section 1202.103, Occupations Code.

29-35 ARTICLE 13. PERSONNEL EMPLOYMENT SERVICES

29-36 SECTION 13.001. Section 2501.001, Occupations Code, is  
29-37 amended by amending Subdivision (2) and adding Subdivisions (3-a)  
29-38 and (4-a) to read as follows:

29-39 (2) "Commission" [~~"Commissioner"~~] means the Texas  
29-40 Commission of Licensing and Regulation [~~commissioner of licensing~~  
29-41 ~~and regulation~~].

29-42 (3-a) "Department" means the Texas Department of  
29-43 Licensing and Regulation.

29-44 (4-a) "Executive director" means the executive  
29-45 director of the department.

29-46 SECTION 13.002. Section 2501.152, Occupations Code, is  
29-47 amended to read as follows:

29-48 Sec. 2501.152. COMPLAINT AND INVESTIGATION. (a) A person  
29-49 [~~by sworn affidavit~~] may file with the executive director  
29-50 [~~commissioner~~] a complaint alleging a violation of Section  
29-51 2501.102.

29-52 (b) On receipt of a complaint, the executive director  
29-53 [~~commissioner~~] shall investigate the alleged violation and may:

29-54 (1) inspect any records relevant to the complaint; and

29-55 (2) subpoena those records and any necessary  
29-56 witnesses.

29-57 SECTION 13.003. Subsections (a) and (c), Section 2501.153,  
29-58 Occupations Code, are amended to read as follows:

29-59 (a) If the executive director [~~commissioner~~] determines as  
29-60 a result of an investigation that a violation of Section 2501.102  
29-61 may have occurred, the commission [~~commissioner~~] shall hold a  
29-62 hearing [~~not later than the 45th day after the date the complaint~~  
29-63 ~~was filed under Section 2501.152~~].

29-64 (c) The commission [~~commissioner~~] shall render a decision  
29-65 on the alleged violation [~~not later than the eighth day~~] after [~~the~~  
29-66 ~~date~~] the hearing is concluded.

29-67 SECTION 13.004. Section 2501.154, Occupations Code, is  
29-68 amended to read as follows:

29-69 Sec. 2501.154. SANCTIONS. (a) If, after a hearing, the

30-1 commission [~~commissioner~~] determines that a personnel service has  
 30-2 violated Section 2501.102, the commission [~~commissioner~~] may, as  
 30-3 appropriate:

- 30-4 (1) issue a warning to the personnel service; or
- 30-5 (2) suspend or revoke the certificate of authority  
 30-6 issued to the personnel service.

30-7 (b) If, after a hearing, the commission [~~commissioner~~]  
 30-8 determines that a personnel service has violated Section 2501.102,  
 30-9 the commission [~~commissioner~~] may award the complainant an amount  
 30-10 equal to the amount of the fee charged by the personnel service.

30-11 SECTION 13.005. Sections 2501.058 and 2501.155,  
 30-12 Occupations Code, are repealed.

30-13 ARTICLE 14. PROPERTY TAX CONSULTANTS

30-14 SECTION 14.001. Section 1152.001, Occupations Code, is  
 30-15 amended by adding Subdivision (3-a) to read as follows:

30-16 (3-a) "Executive director" means the executive  
 30-17 director of the department.

30-18 SECTION 14.002. The heading to Subchapter B, Chapter 1152,  
 30-19 Occupations Code, is amended to read as follows:

30-20 SUBCHAPTER B. DUTIES OF COMMISSION, EXECUTIVE DIRECTOR,  
 30-21 [COMMISSIONER] AND DEPARTMENT

30-22 SECTION 14.003. Section 1152.051, Occupations Code, is  
 30-23 amended to read as follows:

30-24 Sec. 1152.051. STANDARDS OF CONDUCT FOR REGISTRANTS. The  
 30-25 commission [~~commissioner~~] by rule shall establish standards of  
 30-26 practice, conduct, and ethics for registrants.

30-27 SECTION 14.004. Subsections (a) and (b), Section 1152.102,  
 30-28 Occupations Code, are amended to read as follows:

30-29 (a) The council is composed of six members appointed by the  
 30-30 presiding officer of the commission, with the commission's  
 30-31 approval.

30-32 (b) The presiding officer of the commission may appoint not  
 30-33 more than two members who are qualified for an exemption under  
 30-34 Section 1152.002(a)(3).

30-35 SECTION 14.005. Subsection (b), Section 1152.104,  
 30-36 Occupations Code, is amended to read as follows:

30-37 (b) If a vacancy occurs during a member's term, the  
 30-38 presiding officer of the commission, with the commission's  
 30-39 approval, [~~commissioner~~] shall appoint to fill the unexpired part  
 30-40 of the term a replacement who meets the qualifications of the  
 30-41 vacated office.

30-42 SECTION 14.006. Section 1152.105, Occupations Code, is  
 30-43 amended to read as follows:

30-44 Sec. 1152.105. PRESIDING OFFICER. The presiding officer of  
 30-45 the commission, with the commission's approval, [~~Before March 1 of~~  
 30-46 each year, the council] shall appoint [~~elect~~] a member of the  
 30-47 council to serve as presiding officer of the council for two years  
 30-48 [~~until the last day of February of the following year~~].

30-49 SECTION 14.007. Section 1152.108, Occupations Code, is  
 30-50 amended to read as follows:

30-51 Sec. 1152.108. COUNCIL POWERS. The council shall:

30-52 (1) recommend to the commission [~~commissioner~~]  
 30-53 standards of practice, conduct, and ethics for registrants to be  
 30-54 adopted under this chapter;

30-55 (2) recommend to the commission amounts for the fees  
 30-56 it may set under this chapter;

30-57 (3) recommend to the commission [~~commissioner~~]  
 30-58 contents for the senior property tax consultant registration  
 30-59 examination and standards of acceptable performance;

30-60 (4) assist and advise the commission [~~commissioner~~] in  
 30-61 recognizing continuing education programs and educational courses  
 30-62 for registrants; and

30-63 (5) advise the commission [~~commissioner~~] in  
 30-64 establishing educational requirements for initial applicants.

30-65 SECTION 14.008. Subsection (a), Section 1152.155,  
 30-66 Occupations Code, is amended to read as follows:

30-67 (a) To be eligible for registration, an applicant must:

- 30-68 (1) be at least 18 years of age;
- 30-69 (2) hold a high school diploma or its equivalent;

31-1 (3) pay the fees required by the commission;  
 31-2 (4) have a place of business in this state or designate  
 31-3 a resident of this state as the applicant's agent for service of  
 31-4 process; and

31-5 (5) meet any additional qualifications required by  
 31-6 this chapter or by the commission [~~commissioner~~] under this chapter  
 31-7 or Chapter 51.

31-8 SECTION 14.009. Section 1152.160, Occupations Code, is  
 31-9 amended to read as follows:

31-10 Sec. 1152.160. SENIOR PROPERTY TAX CONSULTANT REGISTRATION  
 31-11 EXAMINATION. (a) The executive director [~~commissioner~~] shall:

31-12 (1) adopt an examination for registration as a senior  
 31-13 property tax consultant; and

31-14 (2) establish the standards for passing the  
 31-15 examination.

31-16 (b) The department shall offer the examination at times and  
 31-17 places designated by the executive director [~~commissioner~~].

31-18 (c) To be eligible to take the examination, an applicant  
 31-19 must pay to the department an examination fee. [~~The commissioner by~~  
 31-20 ~~rule may establish conditions for refunding the examination fee to~~  
 31-21 ~~an applicant who does not take the examination.~~]

31-22 (d) The examination must:

31-23 (1) test the applicant's knowledge of:

- 31-24 (A) property taxation;
- 31-25 (B) the property tax system;
- 31-26 (C) property tax administration;
- 31-27 (D) ethical standards; and
- 31-28 (E) general principles of appraisal, accounting,

31-29 and law as they relate to property tax consulting services; and

31-30 (2) be graded according to rules adopted by the  
 31-31 commission [~~commissioner~~].

31-32 SECTION 14.010. Section 1152.201, Occupations Code, is  
 31-33 amended to read as follows:

31-34 Sec. 1152.201. TERM OF CERTIFICATE OF REGISTRATION. Except  
 31-35 as otherwise provided by the commission, a certificate of  
 31-36 registration expires on the first [~~second~~] anniversary of the date  
 31-37 of issuance.

31-38 SECTION 14.011. Subsection (a), Section 1152.202,  
 31-39 Occupations Code, is amended to read as follows:

31-40 (a) The executive director [~~commissioner~~] shall issue to an  
 31-41 eligible registrant a certificate of renewal of registration on the  
 31-42 timely receipt of the required renewal fee. [~~The certificate~~  
 31-43 ~~expires on the second anniversary of the date of issuance.~~]

31-44 SECTION 14.012. Section 1152.204, Occupations Code, is  
 31-45 amended to read as follows:

31-46 Sec. 1152.204. RECOGNITION OF EDUCATIONAL PROGRAMS AND  
 31-47 COURSES. (a) The commission [~~commissioner~~] by rule shall  
 31-48 recognize appropriate continuing education programs for  
 31-49 registrants.

31-50 (b) The commission [~~commissioner~~] shall recognize a  
 31-51 continuing education course, including a course on the legal issues  
 31-52 and law related to property tax consulting services, that is:

31-53 (1) approved by the Texas Real Estate Commission or  
 31-54 the Texas Appraiser Licensing and Certification Board; and

31-55 (2) completed by a registrant who also holds:  
 31-56 (A) an active real estate broker license or an  
 31-57 active real estate salesperson license under Chapter 1101; or

31-58 (B) an active real estate appraiser license or  
 31-59 certificate under Chapter 1103.

31-60 (c) The commission [~~commissioner~~] may recognize an  
 31-61 educational program or course:

31-62 (1) related to property tax consulting services; and

31-63 (2) offered or sponsored by a public provider or a  
 31-64 recognized private provider, including:

- 31-65 (A) the comptroller;
- 31-66 (B) the State Bar of Texas;
- 31-67 (C) the Texas Real Estate Commission;
- 31-68 (D) an institution of higher education that meets  
 31-69 program and accreditation standards comparable to those for public

institutions of higher education as determined by the Texas Higher Education Coordinating Board; or

(E) a nonprofit and voluntary trade association, institute, or organization:

(i) whose membership consists primarily of persons who represent property owners in property tax or transactional tax matters;

(ii) that has written experience and examination requirements for membership or for granting professional designation to its members; and

(iii) that subscribes to a code of professional conduct or ethics.

(d) The commission [~~commissioner~~] may recognize a private provider of an educational program or course if the provider:

(1) applies to the department on a printed form prescribed by the executive director [~~commissioner~~]; and

(2) pays in the amounts set by the commission:

(A) a nonrefundable application fee; and

(B) an educational provider's fee.

(e) The department shall refund the educational provider's fee if the commission [~~commissioner~~] does not recognize the provider's educational program or course.

SECTION 14.013. Section 1152.251, Occupations Code, is amended to read as follows:

Sec. 1152.251. DISCIPLINARY POWERS OF COMMISSION [~~COMMISSIONER~~]. After a hearing, the commission [~~commissioner~~] may deny a certificate of registration and may impose an administrative sanction or penalty and seek injunctive relief and a civil penalty against a registrant as provided by Chapter 51 for:

(1) a violation of this chapter or a rule applicable to the registrant adopted by the commission [~~commissioner~~] under this chapter;

(2) gross incompetency in the performance of property tax consulting services;

(3) dishonesty or fraud committed while performing property tax consulting services; or

(4) a violation of the standards of ethics adopted by the commission [~~commissioner~~].

SECTION 14.014. The following laws are repealed:

(1) Subdivision (2), Section 1152.001, Occupations Code;

(2) Section 1152.161, Occupations Code;

(3) Section 1152.163, Occupations Code;

(4) Subsections (b) and (c), Section 1152.202, Occupations Code; and

(5) effective March 1, 2004, Section 1152.203, Occupations Code.

SECTION 14.015. The change in law made by this article to Section 1152.201, Occupations Code, applies only to a certificate of registration issued or renewed on or after the effective date of this Act. A certificate of registration issued or renewed before the effective date of this Act is governed by that section as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 14.016. The changes in law made by this article applying to members of the Property Tax Consultants Advisory Council do not affect the entitlement of a member serving on the council immediately before September 1, 2003, to continue to serve and function as a member of the council for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 15. SERVICE CONTRACT PROVIDERS

SECTION 15.001. Section 1304.002, Occupations Code, is amended by adding Subdivision (5-a) to read as follows:

(5-a) "Executive director" means the executive director of the department.

SECTION 15.002. Section 1304.051, Occupations Code, is amended to read as follows:

Sec. 1304.051. SERVICE CONTRACT PROVIDERS ADVISORY BOARD.



33-1 (a) The Service Contract Providers Advisory Board consists of six  
 33-2 members appointed by the presiding officer of the commission, with  
 33-3 the commission's approval, [commissioner] and one ex officio  
 33-4 nonvoting member.

33-5 (b) Of the appointed members:

33-6 (1) two must be officers, directors, or employees of a  
 33-7 provider of service contracts that have been approved by the  
 33-8 executive director [commissioner];

33-9 (2) two must be officers, directors, or employees of a  
 33-10 retail outlet or other entity in this state that provides to  
 33-11 consumers service contracts approved by the executive director  
 33-12 [commissioner] for sale to consumers;

33-13 (3) one must be an officer, director, or employee of an  
 33-14 entity authorized by the Texas Department of Insurance to sell  
 33-15 reimbursement insurance policies; and

33-16 (4) one must be a resident of this state who holds, as  
 33-17 a consumer, a service contract that is in force in this state on the  
 33-18 date of the member's appointment and was issued by a provider  
 33-19 registered under this chapter.

33-20 (c) The executive director [commissioner] or the executive  
 33-21 director's [commissioner's] designee serves as an ex officio  
 33-22 nonvoting member of the advisory board.

33-23 SECTION 15.003. Subsection (a), Section 1304.052,  
 33-24 Occupations Code, is amended to read as follows:

33-25 (a) The advisory board shall advise the commission  
 33-26 [commissioner] in adopting rules and in administering and enforcing  
 33-27 this chapter.

33-28 SECTION 15.004. Subsection (b), Section 1304.053,  
 33-29 Occupations Code, is amended to read as follows:

33-30 (b) If a vacancy occurs during an appointed member's term,  
 33-31 the presiding officer of the commission [commissioner] shall fill  
 33-32 the vacancy for the remainder of the unexpired term with a person  
 33-33 who represents the same interests as the predecessor.

33-34 SECTION 15.005. Section 1304.054, Occupations Code, is  
 33-35 amended to read as follows:

33-36 Sec. 1304.054. PRESIDING OFFICER. The presiding officer of  
 33-37 the commission, with the commission's approval, [commissioner]  
 33-38 shall designate one member of the advisory board to serve as  
 33-39 presiding officer of the board for two years.

33-40 SECTION 15.006. Subsections (a) and (b), Section 1304.103,  
 33-41 Occupations Code, are amended to read as follows:

33-42 (a) The executive director [commissioner] shall develop a  
 33-43 tiered schedule of annual registration fees under which a  
 33-44 provider's registration fee is based on the number of service  
 33-45 contracts the provider sold in this state during the preceding  
 33-46 12-month period.

33-47 (b) The commission shall set the amounts of the fees to  
 33-48 cover the costs of administering this chapter. [~~The maximum fee may~~  
 33-49 ~~not exceed \$2,000.~~]

33-50 SECTION 15.007. Subchapter C, Chapter 1304, Occupations  
 33-51 Code, is amended by adding Section 1304.105 to read as follows:

33-52 Sec. 1304.105. RENEWAL. The commission shall adopt rules  
 33-53 regarding the renewal of a registration issued under this chapter.

33-54 SECTION 15.008. Subsections (a), (b), (c), and (e), Section  
 33-55 1304.151, Occupations Code, are amended to read as follows:

33-56 (a) To ensure the faithful performance of a provider's  
 33-57 obligations to its service contract holders, each provider must:

33-58 (1) insure the provider's service contracts under a  
 33-59 reimbursement insurance policy issued by an insurer authorized to  
 33-60 transact insurance in this state or by a surplus lines insurer  
 33-61 eligible to place coverage in this state under Chapter 981 [Article  
 33-62 1.14-2], Insurance Code;

33-63 (2) maintain a funded reserve account covering the  
 33-64 provider's obligations under its service contracts that are issued  
 33-65 and outstanding in this state and place in trust with the executive  
 33-66 director [commissioner] a financial security deposit consisting  
 33-67 of:

33-68 (A) a surety bond issued by an authorized surety;

33-69 (B) securities of the type eligible for deposit

34-1 by an authorized insurer in this state;

34-2 (C) a statutory deposit of cash or cash  
34-3 equivalents;

34-4 (D) a letter of credit issued by a qualified  
34-5 financial institution; or

34-6 (E) another form of security prescribed by rules  
34-7 adopted by the commission [~~commissioner~~]; or

34-8 (3) maintain, or have a parent company that maintains,  
34-9 a net worth or stockholders' equity of at least \$100 million.

34-10 (b) If the provider ensures its obligations under  
34-11 Subsection (a)(2), the amount maintained in the reserve account may  
34-12 not be less than an amount equal to 40 percent of the gross  
34-13 consideration the provider received from consumers from the sale of  
34-14 all service contracts issued and outstanding in this state, minus  
34-15 any claims paid. The executive director [~~commissioner~~] may review  
34-16 and examine the reserve account. The amount of the security deposit  
34-17 may not be less than the greater of:

34-18 (1) \$25,000; or

34-19 (2) an amount equal to five percent of the gross  
34-20 consideration the provider received from consumers from the sale of  
34-21 all service contracts issued and outstanding in this state, minus  
34-22 any claims paid.

34-23 (c) If the provider ensures its obligations under  
34-24 Subsection (a)(3), the provider must give to the executive director  
34-25 [~~commissioner~~] on request:

34-26 (1) a copy of the provider's or the provider's parent  
34-27 company's most recent Form 10-K or Form 20-F filed with the  
34-28 Securities and Exchange Commission within the preceding calendar  
34-29 year; or

34-30 (2) if the provider or the provider's parent company  
34-31 does not file with the Securities and Exchange Commission, a copy of  
34-32 the provider's or the provider's parent company's audited financial  
34-33 statements showing a net worth of the provider or its parent company  
34-34 of at least \$100 million.

34-35 (e) The executive director [~~commissioner~~] may not require a  
34-36 provider to meet any additional financial security requirement.

34-37 SECTION 15.009. Subsection (a), Section 1304.201,  
34-38 Occupations Code, is amended to read as follows:

34-39 (a) On a finding that a ground for disciplinary action  
34-40 exists under this chapter, the commission [~~commissioner~~] may impose  
34-41 an administrative sanction, including an administrative penalty,  
34-42 as provided by Chapter 51.

34-43 SECTION 15.010. The following laws are repealed:

34-44 (1) Subdivision (3), Section 1304.002, Occupations  
34-45 Code; and

34-46 (2) Subsection (b), Section 1304.201, Occupations  
34-47 Code.

34-48 SECTION 15.011. The changes in law made by this article  
34-49 applying to members of the Service Contract Providers Advisory  
34-50 Board do not affect the entitlement of a member serving on the board  
34-51 immediately before September 1, 2003, to continue to serve and  
34-52 function as a member of the board for the remainder of the member's  
34-53 term. Those changes in law apply only to a member appointed on or  
34-54 after September 1, 2003.

#### 34-55 ARTICLE 16. STAFF LEASING SERVICES

34-56 SECTION 16.001. Section 91.001, Labor Code, is amended by  
34-57 adding Subdivision (8-a) to read as follows:

34-58 (8-a) "Executive director" means the executive  
34-59 director of the department.

34-60 SECTION 16.002. Subsections (a) and (b), Section 91.002,  
34-61 Labor Code, are amended to read as follows:

34-62 (a) The commission [~~commissioner~~] shall adopt rules as  
34-63 necessary to administer this chapter.

34-64 (b) Each person who offers staff leasing services is subject  
34-65 to this chapter and the rules adopted by the commission  
34-66 [~~commissioner~~].

34-67 SECTION 16.003. Subchapter A, Chapter 91, Labor Code, is  
34-68 amended by adding Section 91.008 to read as follows:

34-69 Sec. 91.008. APPLICABILITY OF CONTINUING EDUCATION LAW.

35-1 Section 51.405, Occupations Code, does not apply to this chapter.

35-2 SECTION 16.004. Subsection (b), Section 91.016, Labor Code,  
35-3 is amended to read as follows:

35-4 (b) A license issued or renewed by the department under this  
35-5 chapter is valid for one year [~~two years~~] from the date of the  
35-6 issuance or renewal. The department shall renew a license on  
35-7 receipt of a complete renewal application form and payment of the  
35-8 license renewal fee.

35-9 SECTION 16.005. Subsection (a), Section 91.017, Labor Code,  
35-10 is amended to read as follows:

35-11 (a) Each applicant for an original or renewal staff leasing  
35-12 services company license shall pay to the department before the  
35-13 issuance of the license or license renewal a fee set by the  
35-14 commission by rule [~~in an amount not to exceed \$6,000 for the~~  
35-15 ~~two-year license period~~].

35-16 SECTION 16.006. Subsections (b) and (d), Section 91.018,  
35-17 Labor Code, are amended to read as follows:

35-18 (b) A license holder may change the license holder's  
35-19 licensed name at any time by notifying the department and paying a  
35-20 fee for each change of name. The commission by rule shall set the  
35-21 fee for a name change [~~in an amount not to exceed \$50~~]. A license  
35-22 holder may change the license holder's name on renewal of the  
35-23 license without the payment of the name change fee.

35-24 (d) A license holder may amend the name specified in its  
35-25 license to add a trade name, trademark, service mark, or parent  
35-26 company name. An amendment made under this subsection must comply  
35-27 with the requirements imposed under Subsection (a). The department  
35-28 may charge a fee [~~not to exceed \$50~~] for processing of such an  
35-29 amendment.

35-30 SECTION 16.007. Subsection (a), Section 91.019, Labor Code,  
35-31 is amended to read as follows:

35-32 (a) The commission [~~commissioner~~] by rule shall provide for  
35-33 the issuance of a limited license to a person who seeks to offer  
35-34 limited staff leasing services in this state.

35-35 SECTION 16.008. Section 91.020, Labor Code, is amended to  
35-36 read as follows:

35-37 Sec. 91.020. GROUNDS FOR DISCIPLINARY ACTION. [~~(a)~~] The  
35-38 department may take disciplinary action against a license holder on  
35-39 any of the following grounds:

35-40 (1) [~~being convicted or having a controlling person of~~  
35-41 ~~the license holder who is convicted of:~~

35-42 [~~(A) bribery, fraud, or intentional or material~~  
35-43 ~~misrepresentation in obtaining, attempting to obtain, or renewing a~~  
35-44 ~~license;~~

35-45 [~~(B) a crime that relates to the operation of a~~  
35-46 ~~staff leasing service or the ability of the license holder or any~~  
35-47 ~~controlling person of the license holder to operate a staff leasing~~  
35-48 ~~service;~~

35-49 [~~(C) a crime that relates to the classification,~~  
35-50 ~~misclassification, or under-reporting of employees under Subtitle~~  
35-51 ~~A, Title 5;~~

35-52 [~~(D) a crime that relates to the establishment or~~  
35-53 ~~maintenance of a self-insurance program, whether health insurance,~~  
35-54 ~~workers' compensation insurance, or other insurance; or~~

35-55 [~~(E) a crime that relates to fraud, deceit, or~~  
35-56 ~~misconduct in the operation of a staff leasing service;~~

35-57 [~~(2)~~] engaging in staff leasing services or offering  
35-58 to engage in the provision of staff leasing services without a  
35-59 license;

35-60 (2) [~~(3)~~] transferring or attempting to transfer a  
35-61 license issued under this chapter;

35-62 (3) [~~(4)~~] violating this chapter or any order or rule  
35-63 issued by the executive director [~~department~~] or commission  
35-64 [~~commissioner~~] under this chapter;

35-65 (4) [~~(5)~~] failing after the 31st day after the date on  
35-66 which a felony conviction of a controlling person is final to notify  
35-67 the department in writing of the conviction;

35-68 (5) [~~(6)~~] failing to cooperate with an investigation,  
35-69 examination, or audit of the license holder's records conducted by

36-1 the license holder's insurance company or the insurance company's  
 36-2 designee, as allowed by the insurance contract or as authorized by  
 36-3 law by the Texas Department of Insurance;

36-4 (6) ~~[(7)]~~ failing after the 31st day after the  
 36-5 effective date of a change in ownership, principal business  
 36-6 address, or the address of accounts and records to notify the  
 36-7 department and the Texas Department of Insurance of the change;

36-8 (7) ~~[(8)]~~ failing to correct any tax filings or  
 36-9 payment deficiencies within a reasonable time as determined by the  
 36-10 executive director ~~[commissioner]~~;

36-11 (8) ~~[(9)]~~ refusing, after reasonable notice, to meet  
 36-12 reasonable health and safety requirements within the license  
 36-13 holder's control and made known to the license holder by a federal  
 36-14 or state agency;

36-15 (9) ~~[(10)]~~ being delinquent in the payment of the  
 36-16 license holder's insurance premiums other than those subject to a  
 36-17 legitimate dispute;

36-18 (10) ~~[(11)]~~ being delinquent in the payment of any  
 36-19 employee benefit plan premiums or contributions other than those  
 36-20 subject to a legitimate dispute;

36-21 (11) ~~[(12)]~~ knowingly making a material  
 36-22 misrepresentation to an insurance company or to the department or  
 36-23 other governmental agency;

36-24 (12) ~~[(13)]~~ failing to maintain the net worth  
 36-25 requirements required under Section 91.014; or

36-26 (13) ~~[(14)]~~ using staff leasing services to avert or  
 36-27 avoid an existing collective bargaining agreement.

36-28 ~~[(b) For purposes of this section, "conviction" includes a~~  
 36-29 ~~plea of nolo contendere or a finding of guilt, regardless of~~  
 36-30 ~~adjudication.]~~

36-31 SECTION 16.009. Subsection (c), Section 91.041, Labor Code,  
 36-32 is amended to read as follows:

36-33 (c) The commission ~~[commissioner]~~ by rule may require a  
 36-34 license holder to file other reports that are reasonably necessary  
 36-35 for the implementation of this chapter.

36-36 SECTION 16.010. The following laws are repealed:

- 36-37 (1) Subdivision (5), Section 91.001, Labor Code; and
- 36-38 (2) Section 91.021, Labor Code.

36-39 SECTION 16.011. The change in law made by this article to  
 36-40 Subsection (b), Section 91.016, Labor Code, applies only to a  
 36-41 license issued or renewed on or after January 1, 2004. A license  
 36-42 issued or renewed before January 1, 2004, is governed by that  
 36-43 subsection as it existed immediately before that date, and that law  
 36-44 is continued in effect for that purpose.

36-45 ARTICLE 17. TALENT AGENCIES

36-46 SECTION 17.001. Section 2105.001, Occupations Code, is  
 36-47 amended by amending Subdivision (2) and adding Subdivision (3-a) to  
 36-48 read as follows:

36-49 (2) "Commission" ~~["Commissioner"]~~ means the Texas  
 36-50 Commission of Licensing and Regulation ~~[commissioner of licensing~~  
 36-51 ~~and regulation]~~.

36-52 (3-a) "Executive director" means the executive  
 36-53 director of the department.

36-54 SECTION 17.002. Section 2105.002, Occupations Code, is  
 36-55 amended to read as follows:

36-56 Sec. 2105.002. POWERS AND DUTIES ~~[OF DEPARTMENT]~~. (a) The  
 36-57 executive director ~~[department]~~ shall~~+~~

36-58 ~~[(1)]~~ prescribe application forms for original and  
 36-59 renewal certificates of registration.

36-60 (b) The commission shall:~~+~~

36-61 (1) ~~[(2)]~~ set application and registration fees in  
 36-62 amounts that are reasonable and necessary to defray the costs of  
 36-63 administering this chapter; and

36-64 (2) ~~[(3)]~~ adopt rules as necessary to implement this  
 36-65 chapter.

36-66 (c) ~~[(b)]~~ The commission ~~[department]~~ may~~+~~

36-67 ~~[(1)]~~ adopt rules as necessary to administer the  
 36-68 registration program created under this chapter.

36-69 (d) The department may~~+, and~~

[~~2~~] take other action as necessary to enforce this chapter.

SECTION 17.003. Subchapter A, Chapter 2105, Occupations Code, is amended by adding Section 2105.003 to read as follows:

Sec. 2105.003. APPLICABILITY OF OTHER LAW. Section 51.405 does not apply to this chapter.

SECTION 17.004. Section 2105.053, Occupations Code, is amended to read as follows:

Sec. 2105.053. REGISTRATION FEE. The department may charge a talent agency a reasonable fee [~~not to exceed \$100~~] to cover the cost of filing a registration statement or an update of a registration statement.

SECTION 17.005. Section 2105.104, Occupations Code, is amended to read as follows:

Sec. 2105.104. AGENCY RECORDS. A certificate holder shall maintain records relating to the operation of the talent agency as required by commission [~~department~~] rule.

SECTION 17.006. Subsection (b), Section 2105.105, Occupations Code, is amended to read as follows:

(b) Funds deposited under this section may be disbursed only as prescribed by commission [~~department~~] rule.

SECTION 17.007. The following laws are repealed:

(1) Subsections (b) and (c), Section 2105.055, Occupations Code;

(2) Subsections (a), (b), and (c), Section 2105.056, Occupations Code; and

(3) Section 2105.252, Occupations Code.

ARTICLE 18. TEMPORARY COMMON WORKER EMPLOYERS

SECTION 18.001. Section 92.002, Labor Code, is amended by adding Subdivision (4-a) to read as follows:

(4-a) "Executive director" means the executive director of the department.

SECTION 18.002. Subchapter A, Chapter 92, Labor Code, is amended by adding Section 92.004 to read as follows:

Sec. 92.004. APPLICABILITY OF OTHER LAW. Section 51.405, Occupations Code, does not apply to this chapter.

SECTION 18.003. Subsection (c), Section 92.022, Labor Code, is amended to read as follows:

(c) Information received by the commission [~~commissioner~~] or department under this section is privileged and confidential and is for the exclusive use of the commission [~~commissioner~~] or department. The information may not be disclosed to any other person except on the entry of a court order requiring disclosure or on the written consent of a person under investigation who is the subject of the records.

SECTION 18.004. The following laws are repealed:

(1) Subdivision (2), Section 92.002, Labor Code; and

(2) Subsections (b) and (c), Section 92.015, Labor Code.

ARTICLE 19. TRANSPORTATION SERVICE PROVIDERS

SECTION 19.001. Subdivision (2), Section 2401.001, Occupations Code, is amended to read as follows:

(2) "Department" means the [~~Texas~~] Department of Public Safety [~~Licensing and Regulation~~].

SECTION 19.002. The heading to Subchapter B, Chapter 2401, Occupations Code, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES [~~OF COMMISSION, COMMISSIONER, AND DEPARTMENT~~]

SECTION 19.003. Section 2401.052, Occupations Code, is amended to read as follows:

Sec. 2401.052. EXAMINATION OR AUDIT. (a) To administer this chapter, the department may:

(1) examine:

(A) a record maintained under Section 2401.152;

or

(B) a record or object the department determines is necessary to conduct a complete examination; or

(2) question under oath any person who [+]

[~~A~~] is associated with the business of a

38-1 transportation service provider [~~or~~  
 38-2 [~~(B) claims the person was negatively affected by~~  
 38-3 ~~a violation of this chapter committed by a transportation service~~  
 38-4 ~~provider~~].

38-5 (b) The department may periodically audit the business  
 38-6 records of a transportation service provider [~~registered under this~~  
 38-7 ~~chapter~~].

38-8 SECTION 19.004. Section 2401.251, Occupations Code, is  
 38-9 amended to read as follows:

38-10 Sec. 2401.251. CIVIL PENALTY. A transportation service  
 38-11 provider who knowingly violates this chapter [~~or a rule adopted~~  
 38-12 ~~under this chapter~~] is liable for a civil penalty of not less than  
 38-13 \$100 or more than \$500 for each violation.

38-14 SECTION 19.005. Section 2401.253, Occupations Code, is  
 38-15 amended to read as follows:

38-16 Sec. 2401.253. AUTHORITY TO INVESTIGATE AND FILE COMPLAINT.

38-17 (a) The department [~~commissioner, with the assistance of the Texas~~  
 38-18 ~~Department of Public Safety,~~] may investigate a violation of this  
 38-19 chapter [~~or a rule adopted under this chapter~~].

38-20 (b) Any [~~The commissioner or any~~] law enforcement agency may  
 38-21 file a complaint with:

- 38-22 (1) the district attorney of Travis County; or
- 38-23 (2) the prosecuting attorney of the county in which a  
 38-24 violation is alleged to have occurred.

38-25 SECTION 19.006. The following laws are repealed:

- 38-26 (1) Subdivision (1), Section 2401.001, Occupations  
 38-27 Code;
- 38-28 (2) Section 2401.051, Occupations Code;
- 38-29 (3) Section 2401.053, Occupations Code;
- 38-30 (4) Section 2401.054, Occupations Code;
- 38-31 (5) Subchapter C, Chapter 2401, Occupations Code;
- 38-32 (6) Section 2401.151, Occupations Code; and
- 38-33 (7) Subchapter E, Chapter 2401, Occupations Code.

38-34 SECTION 19.007. (a) On November 1, 2003:

38-35 (1) all functions and activities relating to Chapter  
 38-36 2401, Occupations Code, performed by the Texas Department of  
 38-37 Licensing and Regulation immediately before that date are  
 38-38 transferred to the Department of Public Safety of the State of  
 38-39 Texas;

38-40 (2) a reference in law or an administrative rule to the  
 38-41 Texas Department of Licensing and Regulation that relates to  
 38-42 Chapter 2401, Occupations Code, means the Department of Public  
 38-43 Safety;

38-44 (3) a complaint, investigation, or other proceeding  
 38-45 before the Texas Department of Licensing and Regulation that is  
 38-46 related to Chapter 2401, Occupations Code, is transferred without  
 38-47 change in status to the Department of Public Safety, and the  
 38-48 Department of Public Safety assumes, as appropriate and without a  
 38-49 change in status, the position of the Texas Department of Licensing  
 38-50 and Regulation in an action or proceeding to which the Texas  
 38-51 Department of Licensing and Regulation is a party;

38-52 (4) all money, contracts, leases, property, and  
 38-53 obligations of the Texas Department of Licensing and Regulation  
 38-54 related to Chapter 2401, Occupations Code, are transferred to the  
 38-55 Department of Public Safety;

38-56 (5) all property in the custody of the Texas  
 38-57 Department of Licensing and Regulation related to Chapter 2401,  
 38-58 Occupations Code, is transferred to the Department of Public  
 38-59 Safety; and

38-60 (6) the unexpended and unobligated balance of any  
 38-61 money appropriated by the legislature for the Texas Department of  
 38-62 Licensing and Regulation related to Chapter 2401, Occupations Code,  
 38-63 is transferred to the Department of Public Safety.

38-64 (b) An offense or other violation related to Chapter 2401,  
 38-65 Occupations Code, committed before the effective date of this Act  
 38-66 is covered by the law as it existed on the date on which the offense  
 38-67 or other violation was committed, and the former law is continued in  
 38-68 effect for that purpose.

38-69 (c) Before November 1, 2003, the Texas Department of

Licensing and Regulation may agree with the Department of Public Safety of the State of Texas to transfer any property of the Texas Department of Licensing and Regulation to the Department of Public Safety to implement the transfer required by this article.

(d) In the period beginning on the effective date of this Act and ending on November 1, 2003, the Texas Department of Licensing and Regulation shall continue to perform functions and activities under Chapter 2401, Occupations Code, as if that chapter had not been amended by this Act, and the former law is continued in effect for that purpose.

ARTICLE 20. UNDERGROUND STORAGE TANK OPERATORS

SECTION 20.001. Section 26.451, Water Code, is amended by adding Subdivision (3-a) to read as follows:

(3-a) "Department" means the Texas Department of Licensing and Regulation.

SECTION 20.002. Subsections (a) and (b), Section 26.452, Water Code, are amended to read as follows:

(a) A person who offers to undertake, represents that the person is able to undertake, or undertakes to install, repair, or remove an underground storage tank must hold a registration issued by the department [~~commission~~] under Chapter 51, Occupations Code [~~37~~]. If the person is a partnership or joint venture, it need not register in its own name if each partner or joint venture is registered.

(b) An underground storage tank contractor must have an on-site supervisor who is licensed by the department [~~commission~~] under Chapter 51, Occupations Code, [~~37~~] at the site at all times during the critical junctures of the installation, repair, or removal.

SECTION 20.003. Subsection (a), Section 26.456, Water Code, is amended to read as follows:

(a) A person supervising the installation, repair, or removal of an underground storage tank must hold a license issued by the department [~~commission~~] under Chapter 51, Occupations Code [~~37~~].

SECTION 20.004. (a) On November 1, 2003:

(1) all functions and activities relating to Subchapter K, Chapter 26, Water Code, performed by the Texas Commission on Environmental Quality immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Commission on Environmental Quality that relates to Subchapter K, Chapter 26, Water Code, is a rule or form of the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(3) a license or other document issued by the Texas Commission on Environmental Quality that relates to Subchapter K, Chapter 26, Water Code, is considered a license or other document issued by the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(4) a reference in law or an administrative rule to the Texas Commission on Environmental Quality that relates to Subchapter K, Chapter 26, Water Code, means the Texas Department of Licensing and Regulation;

(5) a complaint, investigation, or other proceeding before the Texas Commission on Environmental Quality that is related to Subchapter K, Chapter 26, Water Code, is transferred without change in status to the Texas Department of Licensing and Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Commission on Environmental Quality in an action or proceeding to which the Texas Commission on Environmental Quality is a party;

(6) all money, contracts, leases, property, and obligations of the Texas Commission on Environmental Quality related to Subchapter K, Chapter 26, Water Code, are transferred to the Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas

40-1 Commission on Environmental Quality related to Subchapter K,  
40-2 Chapter 26, Water Code, is transferred to the Texas Department of  
40-3 Licensing and Regulation; and

40-4 (8) the unexpended and unobligated balance of any  
40-5 money appropriated by the legislature for the Texas Commission on  
40-6 Environmental Quality related to Subchapter K, Chapter 26, Water  
40-7 Code, is transferred to the Texas Department of Licensing and  
40-8 Regulation.

40-9 (b) Before November 1, 2003, the Texas Commission on  
40-10 Environmental Quality may agree with the Texas Department of  
40-11 Licensing and Regulation to transfer any property of the Texas  
40-12 Commission on Environmental Quality to the Texas Department of  
40-13 Licensing and Regulation to implement the transfer required by this  
40-14 article.

40-15 (c) In the period beginning on the effective date of this  
40-16 Act and ending on November 1, 2003, the Texas Commission on  
40-17 Environmental Quality shall continue to perform functions and  
40-18 activities under Subchapter K, Chapter 26, Water Code, as if that  
40-19 subchapter had not been amended by this Act, and the former law is  
40-20 continued in effect for that purpose.

40-21 ARTICLE 21. VEHICLE PROTECTION PRODUCT WARRANTORS

40-22 SECTION 21.001. Section 2, Article 9035, Revised Statutes,  
40-23 is amended by adding Subdivision (4-a) to read as follows:

40-24 (4-a) "Executive director" means the executive  
40-25 director of the department.

40-26 SECTION 21.002. Article 9035, Revised Statutes, is amended  
40-27 by adding Section 3A to read as follows:

40-28 Sec. 3A. APPLICABILITY OF OTHER LAW. Section 51.405,  
40-29 Occupations Code, does not apply to this article.

40-30 SECTION 21.003. Section 4, Article 9035, Revised Statutes,  
40-31 is amended to read as follows:

40-32 Sec. 4. POWERS AND DUTIES [OF COMMISSIONER]. (a) The  
40-33 commission [commissioner] may adopt rules as necessary to implement  
40-34 this article.

40-35 (b) The executive director [commissioner] may conduct  
40-36 investigations of warrantors or other persons as reasonably  
40-37 necessary to enforce this article and to protect consumers in this  
40-38 state. On request of the executive director [commissioner], a  
40-39 warrantor shall make the warrantor's records maintained under  
40-40 Section 10 of this article regarding vehicle protection products  
40-41 sold by the warrantor available to the department as necessary to  
40-42 enable the department to reasonably determine compliance with this  
40-43 article.

40-44 SECTION 21.004. Subsections (a) through (g), Section 5,  
40-45 Article 9035, Revised Statutes, are amended to read as follows:

40-46 (a) The Vehicle Protection Product Warrantor Advisory Board  
40-47 is an advisory body to the commission [department]. The advisory  
40-48 board shall advise~~+~~

40-49 ~~[(1)]~~ the commission [commissioner] on adopting  
40-50 rules, ~~[and]~~ enforcing and administering this article, ~~[+]~~ and

40-51 ~~[(2) the commission on]~~ setting fees.

40-52 (b) The advisory board consists of six members appointed by  
40-53 the presiding officer of the commission, with the commission's  
40-54 approval, [commissioner] as follows:

40-55 (1) two members who are officers, directors, or  
40-56 employees of a warrantor who has been approved or expects to be  
40-57 approved by the department;

40-58 (2) two members who are officers, directors, or  
40-59 employees of a retail outlet or other entity located in this state  
40-60 that sells vehicle protection products and is approved or expected  
40-61 to be approved by the department; and

40-62 (3) two members who are residents of this state and, at  
40-63 the time of appointment, are consumers of vehicle protection  
40-64 products issued by warrantors registered or expected to be  
40-65 registered under this article.

40-66 (c) Members of the advisory board serve staggered six-year  
40-67 terms, with the terms of two members expiring on February 1 of each  
40-68 odd-numbered year. ~~[The commissioner shall appoint the initial six~~  
40-69 ~~board members to terms of six years or less in order to create~~



41-1 ~~staggered terms for the subsequent members of the advisory board.]~~

41-2 (d) The presiding officer of the commission, with the  
41-3 commission's approval, [commissioner] shall designate one member  
41-4 of the advisory board to serve as presiding officer of the board for  
41-5 two years.

41-6 (e) The executive director [commissioner] or the executive  
41-7 director's [commissioner's] designee serves as an ex officio  
41-8 nonvoting member of the advisory board.

41-9 (f) The presiding officer of the commission, with the  
41-10 commission's approval, [commissioner] shall fill any vacancy on the  
41-11 advisory board by appointing an individual who meets the  
41-12 qualifications for the vacant advisory board position to serve the  
41-13 remainder of the unexpired term.

41-14 (g) The advisory board shall meet at least every six months  
41-15 and may meet at other times at the call of the presiding officer of  
41-16 the board or the presiding officer of the commission  
41-17 [commissioner]. The advisory board shall meet at a location in this  
41-18 state designated by the [advisory] board.

41-19 SECTION 21.005. Subsections (c) and (d), Section 6, Article  
41-20 9035, Revised Statutes, are amended to read as follows:

41-21 (c) Each registered warrantor shall pay an annual  
41-22 registration fee ~~[not to exceed \$2,500]~~ as set by the commission to  
41-23 cover the costs of administering this article. The department  
41-24 shall develop a tiered fee structure under which registration fees  
41-25 are assessed on warrantors based on the number of vehicle  
41-26 protection products sold within this state in the 12 months  
41-27 preceding the date of registration. The information submitted to  
41-28 the department under this section regarding the number of vehicle  
41-29 protection products sold by a warrantor may only be used by the  
41-30 department in determining the tiered fee structure. Information  
41-31 concerning the number of vehicle protection products sold by a  
41-32 warrantor submitted under this section is a trade secret and  
41-33 subject to Section 552.110, Government Code.

41-34 (d) The commission [commissioner] shall adopt rules  
41-35 providing for the renewal of a warrantor's registration.

41-36 SECTION 21.006. Subsection (e), Section 10, Article 9035,  
41-37 Revised Statutes, is amended to read as follows:

41-38 (e) The commission [commissioner] shall adopt rules  
41-39 governing how a warrantor shall protect nonpublic personal  
41-40 information provided by a consumer to the warrantor.

41-41 SECTION 21.007. Subsections (a) and (c), Section 16,  
41-42 Article 9035, Revised Statutes, are amended to read as follows:

41-43 (a) The executive director [commissioner] may bring an  
41-44 action against a warrantor for injunctive relief under Section  
41-45 51.352, Occupations Code, for a threatened or existing violation of  
41-46 this article or of the ~~[commissioner's]~~ orders or rules adopted  
41-47 under this article.

41-48 (c) For purposes of this section ~~[and Section 15 of this~~  
41-49 ~~article]~~, violations are of a similar nature if the violations  
41-50 consist of the same or a similar course of conduct, action, or  
41-51 practice, regardless of the number of times the conduct, act, or  
41-52 practice determined to be a violation of this article occurred.

41-53 SECTION 21.008. The following laws are repealed:

41-54 (1) Subdivision (2), Section 2, Article 9035, Revised  
41-55 Statutes; and

41-56 (2) Section 15, Article 9035, Revised Statutes.

41-57 SECTION 21.009. The changes in law made by this article  
41-58 applying to members of the Vehicle Protection Product Warrantor  
41-59 Advisory Board do not affect the entitlement of a member serving on  
41-60 the board immediately before September 1, 2003, to continue to  
41-61 serve and function as a member of the board for the remainder of the  
41-62 member's term. Those changes in law apply only to a member  
41-63 appointed on or after September 1, 2003.

#### 41-64 ARTICLE 22. WATER TREATMENT SPECIALISTS

41-65 SECTION 22.001. Subsection (e), Section 341.034, Health and  
41-66 Safety Code, is amended to read as follows:

41-67 (e) Unless the person is licensed by the Texas State Board  
41-68 of Plumbing Examiners, a person must hold a license issued by the  
41-69 Texas Department of Licensing and Regulation [commission] under

Chapter 51, Occupations [~~37, Water~~] Code, if, under a contract, the person:

(1) installs, exchanges, connects, maintains, or services potable water treatment equipment and appliances in public or private water systems; or

(2) analyzes water to determine how to treat influent or effluent water, alter or purify water, or add or remove a mineral, chemical, or bacterial content or substance as part of the complete installation, exchange, connection, maintenance, or service of potable water treatment equipment and appliances.

SECTION 22.002. Section 341.101, Health and Safety Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Commission" means the Texas [~~Natural Resource Conservation~~] Commission of Licensing and Regulation.

(1-a) "Department" means the Texas Department of Licensing and Regulation.

SECTION 22.003. Section 341.103, Health and Safety Code, is amended to read as follows:

Sec. 341.103. CERTIFICATION REQUIRED. A person may not engage in water treatment unless the person first obtains a certificate from the department [~~commission~~] under the program established under this subchapter.

SECTION 22.004. Section 341.104, Health and Safety Code, is amended to read as follows:

Sec. 341.104. APPLICATION FOR CERTIFICATION. A person desiring to obtain certification under the program established under this subchapter shall file with the department [~~commission~~]:

(1) an application in the form prescribed by the department [~~commission~~] and containing the information required by the department [~~commission~~]; and

(2) the appropriate certification fee.

SECTION 22.005. Subsection (a), Section 341.105, Health and Safety Code, is amended to read as follows:

(a) On receipt of an application that meets department [~~commission~~] requirements and the required fee, the department [~~commission~~] shall issue to a person who meets department [~~commission~~] standards for certification a certificate stating that the person is qualified to install, exchange, service, and repair residential, commercial, or industrial water treatment facilities.

SECTION 22.006. Section 3, Chapter 504, Acts of the 77th Legislature, Regular Session, 2001, is repealed.

SECTION 22.007. (a) On November 1, 2003:

(1) all functions and activities relating to Subsection (e), Section 341.034, Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, performed by the Texas Commission on Environmental Quality immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Commission on Environmental Quality that relates to Subsection (e), Section 341.034, Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, is a rule or form of the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(3) a license or other document issued by the Texas Commission on Environmental Quality that relates to Subsection (e), Section 341.034, Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, is considered a license or other document issued by the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(4) a reference in law or an administrative rule to the Texas Commission on Environmental Quality that relates to Subsection (e), Section 341.034, Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, means the Texas Department of Licensing and Regulation;

(5) a complaint, investigation, or other proceeding before the Texas Commission on Environmental Quality that is

43-1 related to Subsection (e), Section 341.034, Health and Safety Code,  
 43-2 or Subchapter G, Chapter 341, Health and Safety Code, is  
 43-3 transferred without change in status to the Texas Department of  
 43-4 Licensing and Regulation, and the Texas Department of Licensing and  
 43-5 Regulation assumes, as appropriate and without a change in status,  
 43-6 the position of the Texas Commission on Environmental Quality in an  
 43-7 action or proceeding to which the Texas Commission on Environmental  
 43-8 Quality is a party;

43-9 (6) all money, contracts, leases, property, and  
 43-10 obligations of the Texas Commission on Environmental Quality  
 43-11 related to Subsection (e), Section 341.034, Health and Safety Code,  
 43-12 or Subchapter G, Chapter 341, Health and Safety Code, are  
 43-13 transferred to the Texas Department of Licensing and Regulation;

43-14 (7) all property in the custody of the Texas  
 43-15 Commission on Environmental Quality related to Subsection (e),  
 43-16 Section 341.034, Health and Safety Code, or Subchapter G, Chapter  
 43-17 341, Health and Safety Code, is transferred to the Texas Department  
 43-18 of Licensing and Regulation; and

43-19 (8) the unexpended and unobligated balance of any  
 43-20 money appropriated by the legislature for the Texas Commission on  
 43-21 Environmental Quality related to Subsection (e), Section 341.034,  
 43-22 Health and Safety Code, or Subchapter G, Chapter 341, Health and  
 43-23 Safety Code, is transferred to the Texas Department of Licensing  
 43-24 and Regulation.

43-25 (b) Before November 1, 2003, the Texas Commission on  
 43-26 Environmental Quality may agree with the Texas Department of  
 43-27 Licensing and Regulation to transfer any property of the Texas  
 43-28 Commission on Environmental Quality to the Texas Department of  
 43-29 Licensing and Regulation to implement the transfer required by this  
 43-30 article.

43-31 (c) In the period beginning on the effective date of this  
 43-32 Act and ending on November 1, 2003, the Texas Commission on  
 43-33 Environmental Quality shall continue to perform functions and  
 43-34 activities under Subsection (e), Section 341.034, Health and Safety  
 43-35 Code, or Subchapter G, Chapter 341, Health and Safety Code, as if  
 43-36 those provisions had not been amended by this Act, and the former  
 43-37 law is continued in effect for that purpose.

#### 43-38 ARTICLE 23. WATER WELL DRILLERS

43-39 SECTION 23.001. Section 1901.001, Occupations Code, is  
 43-40 amended by adding Subdivisions (7-a) and (7-b) to read as follows:

43-41 (7-a) "Executive director" means the executive  
 43-42 director of the department.

43-43 (7-b) "Groundwater conservation district" means a  
 43-44 district to which Chapter 36, Water Code, applies.

43-45 SECTION 23.002. Section 1901.051, Occupations Code, is  
 43-46 amended to read as follows:

43-47 Sec. 1901.051. LICENSING. (a) The department, with the  
 43-48 advice of the council, shall prepare licensing examinations.

43-49 (b) The department shall ~~and~~ evaluate the qualifications  
 43-50 of license applicants.

43-51 (c) ~~(b)~~ The executive director ~~[commissioner]~~ shall issue  
 43-52 licenses to applicants who qualify.

43-53 SECTION 23.003. Section 1901.052, Occupations Code, is  
 43-54 amended to read as follows:

43-55 Sec. 1901.052. RULES. (a) The commission ~~[commissioner,~~  
 43-56 ~~with advice and comment from the Texas Natural Resource~~  
 43-57 ~~Conservation Commission]~~ shall adopt rules as necessary to enforce  
 43-58 this chapter, including rules governing:

- 43-59 (1) license applications;
- 43-60 (2) qualifications of applicants;
- 43-61 (3) standards of conduct for drillers, including  
 43-62 standards for marking well drilling rigs and equipment; and
- 43-63 (4) procedures and practices before the department.

43-64 (b) The commission ~~[commissioner]~~ may not adopt a rule under  
 43-65 this chapter that:

43-66 (1) regulates the installation or repair of well pumps  
 43-67 and equipment by:

43-68 (A) a person on property the person owns or  
 43-69 controls for the person's own use;

44-1 (B) an employee of a person described by  
44-2 Paragraph (A); or

44-3 (C) a person who is not hired or compensated and  
44-4 who acts on behalf of a person described by Paragraph (A); or

44-5 (2) requires a person who owns or controls property or  
44-6 possesses a well to complete, repair, or retrofit the well to any  
44-7 standard other than a standard in effect at the time the well was  
44-8 originally completed unless the well is found to be a threat to  
44-9 public health and safety or to water quality.

44-10 SECTION 23.004. Subsection (a), Section 1901.101,  
44-11 Occupations Code, is amended to read as follows:

44-12 (a) The Texas Water Well Drillers Advisory Council consists  
44-13 of nine members appointed by the presiding officer of the  
44-14 commission, with the commission's approval, [department] as  
44-15 follows:

44-16 (1) six members who are drillers experienced in the  
44-17 well drilling business and familiar with well drilling, completion,  
44-18 and plugging methods and techniques; and

44-19 (2) three public members.

44-20 SECTION 23.005. Section 1901.105, Occupations Code, is  
44-21 amended to read as follows:

44-22 Sec. 1901.105. PRESIDING OFFICER. The presiding officer of  
44-23 the commission, with the commission's approval, [council] shall  
44-24 appoint [elect] a member of the council to serve as presiding  
44-25 officer of the council for two years [by a majority vote at the  
44-26 first meeting each year].

44-27 SECTION 23.006. Subsections (a) and (d), Section 1901.109,  
44-28 Occupations Code, are amended to read as follows:

44-29 (a) The council may propose rules for adoption by the  
44-30 commission [commissioner] relating to the regulation of drillers  
44-31 registered under this chapter.

44-32 (d) The council shall assist the commission [department] in  
44-33 evaluating continuing education programs.

44-34 SECTION 23.007. Subsection (b), Section 1901.152,  
44-35 Occupations Code, is amended to read as follows:

44-36 (b) An applicant must pay to the department an [a  
44-37 nonrefundable] examination fee at the time the application is  
44-38 submitted.

44-39 SECTION 23.008. Section 1901.162, Occupations Code, is  
44-40 amended to read as follows:

44-41 Sec. 1901.162. WAIVER FOR APPLICANT LICENSED IN ANOTHER  
44-42 STATE. The commission [commissioner] may adopt rules allowing  
44-43 waiver of a license requirement for an applicant who is licensed in  
44-44 another state that has license requirements substantially  
44-45 equivalent to those of this state.

44-46 SECTION 23.009. Subsection (a), Section 1901.251,  
44-47 Occupations Code, is amended to read as follows:

44-48 (a) Each driller who drills, deepens, or otherwise alters a  
44-49 water well in this state shall make and keep a legible and accurate  
44-50 well log in accordance with rules adopted by the commission and on  
44-51 forms prescribed by the executive director [commissioner]. The  
44-52 well log shall be recorded at the time of drilling, deepening, or  
44-53 otherwise altering the well and must contain:

44-54 (1) the depth, thickness, and character of the strata  
44-55 penetrated;

44-56 (2) the location of water-bearing strata;

44-57 (3) the depth, size, and character of casing  
44-58 installed; and

44-59 (4) any other information required by rules adopted by  
44-60 the commission [commissioner].

44-61 SECTION 23.010. Subsection (b), Section 1901.252,  
44-62 Occupations Code, is amended to read as follows:

44-63 (b) The commission [commissioner] shall adopt rules  
44-64 specifying the manner for marking a rig.

44-65 SECTION 23.011. Section 1901.253, Occupations Code, is  
44-66 amended to read as follows:

44-67 Sec. 1901.253. COMPLETING WATER WELL. A driller shall  
44-68 complete a well under standards and procedures adopted by the  
44-69 commission [commissioner].

45-1 SECTION 23.012. Subsection (b), Section 1901.254,  
45-2 Occupations Code, is amended to read as follows:

45-3 (b) The driller shall ensure that the well is plugged,  
45-4 repaired, or properly completed under standards and procedures  
45-5 adopted by the commission [commissioner].

45-6 SECTION 23.013. Section 1901.255, Occupations Code, is  
45-7 amended by amending Subsections (c) and (d) and adding Subsection  
45-8 (e) to read as follows:

45-9 (c) Not later than the 180th day after the date a landowner  
45-10 or other person who possesses an abandoned or deteriorated well  
45-11 learns of its condition, the landowner or other person shall have  
45-12 the well plugged or capped under standards and procedures adopted  
45-13 by the commission [commissioner].

45-14 (d) Not later than the 30th day after the date the well is  
45-15 plugged, a [A] driller, licensed pump installer, or well owner who  
45-16 plugs an abandoned or deteriorated well shall submit a plugging  
45-17 report to:

45-18 (1) the board of directors of the groundwater  
45-19 conservation district in which the well is located, if the well is  
45-20 located in the boundaries of a groundwater conservation district;  
45-21 and

45-22 (2) the executive director [commissioner not later  
45-23 than the 30th day after the date the well is plugged].

45-24 (e) The department or the groundwater conservation district  
45-25 in which the well is located shall furnish plugging report forms on  
45-26 request. The executive director shall prescribe the content of the  
45-27 forms.

45-28 SECTION 23.014. Subchapter F, Chapter 1901, Occupations  
45-29 Code, is amended by adding Section 1901.256 to read as follows:

45-30 Sec. 1901.256. ENFORCEMENT BY GROUNDWATER CONSERVATION  
45-31 DISTRICT. (a) This section applies only to a violation related to  
45-32 a well located in the boundaries of the groundwater conservation  
45-33 district seeking to bring an action under this section.

45-34 (b) A groundwater conservation district shall enforce  
45-35 compliance with Section 1901.255 related to wells located in the  
45-36 boundaries of the district.

45-37 (c) A groundwater conservation district may bring an action  
45-38 to enjoin a person from violating Section 1901.255.

45-39 (d) A groundwater conservation district may enforce by  
45-40 injunction or other appropriate remedy in a court any rule,  
45-41 decision, determination, or order adopted or entered under this  
45-42 chapter that is related to Section 1901.255.

45-43 (e) A groundwater conservation district may bring an action  
45-44 to recover a civil penalty under Section 1901.401 for a violation of  
45-45 this chapter or a rule adopted under this chapter related to Section  
45-46 1901.255.

45-47 (f) The groundwater conservation district may bring the  
45-48 action in the county in which:

45-49 (1) the offending activity occurred; or

45-50 (2) the person engaging in the activity resides.

45-51 SECTION 23.015. Subchapter F, Chapter 1901, Occupations  
45-52 Code, is amended by adding Section 1901.257 to read as follows:

45-53 Sec. 1901.257. MEMORANDUM OF UNDERSTANDING REGARDING  
45-54 ABANDONED WELLS. (a) In this section, "abandoned well" and  
45-55 "deteriorated well" have the meanings assigned by Section 1901.255.

45-56 (b) The Texas Commission on Environmental Quality and the  
45-57 department shall by rule adopt or revise a joint memorandum of  
45-58 understanding to coordinate the efforts of the department,  
45-59 groundwater conservation districts, and the field offices of the  
45-60 Texas Commission on Environmental Quality relating to  
45-61 investigative procedures for referrals of complaints regarding  
45-62 abandoned and deteriorated wells.

45-63 (c) Each groundwater conservation district in which an  
45-64 abandoned or deteriorated well is located shall join the memorandum  
45-65 of understanding adopted under Subsection (b).

45-66 SECTION 23.016. Section 1901.301, Occupations Code, is  
45-67 amended to read as follows:

45-68 Sec. 1901.301. GROUNDS FOR DISCIPLINARY ACTION. The  
45-69 commission [commissioner] may discipline a person under Section

46-1 51.353 for a violation of this chapter or a rule adopted under this  
46-2 chapter, including:

46-3 (1) an intentional misstatement or misrepresentation  
46-4 of a fact on an application or well log or to a person for whom a  
46-5 well is being drilled, deepened, or otherwise altered;

46-6 (2) the failure to keep, deliver, or send a well log as  
46-7 required by Section 1901.251;

46-8 (3) the failure to advise a person for whom a well is  
46-9 being drilled that:

46-10 (A) injurious water has been encountered;

46-11 (B) the water is a pollution hazard; and

46-12 (C) the well must be immediately plugged in an  
46-13 acceptable manner; or

46-14 (4) the failure to complete a well in accordance with  
46-15 standards and procedures adopted by the commission [~~commissioner~~].

46-16 SECTION 23.017. The following laws are repealed:

46-17 (1) Subdivision (2), Section 1901.001, Occupations  
46-18 Code;

46-19 (2) Subsection (e), Section 1901.109, Occupations  
46-20 Code;

46-21 (3) Subsection (b), Section 1901.155, Occupations  
46-22 Code;

46-23 (4) Section 1901.156, Occupations Code;

46-24 (5) Section 1901.157, Occupations Code;

46-25 (6) Section 1901.160, Occupations Code;

46-26 (7) Section 1901.205, Occupations Code;

46-27 (8) Section 1901.302, Occupations Code;

46-28 (9) Section 1901.303, Occupations Code;

46-29 (10) Section 1901.304, Occupations Code; and

46-30 (11) Subchapter H, Chapter 1901, Occupations Code.

46-31 SECTION 23.018. The changes in law made to Section  
46-32 1901.255, Occupations Code, by this article do not affect the  
46-33 status of a complaint, investigation, or other proceeding that  
46-34 commenced before September 1, 2003. A groundwater conservation  
46-35 district, as appropriate and without a change in status, assumes  
46-36 the position of the executive director of the Texas Department of  
46-37 Licensing and Regulation in an action or proceeding relating to a  
46-38 well located in the boundaries of that groundwater conservation  
46-39 district.

46-40 SECTION 23.019. The changes in law made by this article  
46-41 applying to members of the Texas Water Well Drillers Advisory  
46-42 Council do not affect the entitlement of a member serving on the  
46-43 council immediately before September 1, 2003, to continue to serve  
46-44 and function as a member of the council for the remainder of the  
46-45 member's term. Those changes in law apply only to a member  
46-46 appointed on or after September 1, 2003.

#### 46-47 ARTICLE 24. WATER WELL PUMP INSTALLERS

46-48 SECTION 24.001. Section 1902.001, Occupations Code, is  
46-49 amended by adding Subdivision (4-a) to read as follows:

46-50 (4-a) "Executive director" means the executive  
46-51 director of the department.

46-52 SECTION 24.002. Section 1902.051, Occupations Code, is  
46-53 amended to read as follows:

46-54 Sec. 1902.051. LICENSING. (a) The department, with the  
46-55 advice of the council, shall prepare licensing examinations.

46-56 (b) The department shall [~~and~~] evaluate the qualifications  
46-57 of license applicants.

46-58 (c) [~~(b)~~] The executive director [~~commissioner~~] shall issue  
46-59 licenses to applicants who qualify.

46-60 SECTION 24.003. Section 1902.052, Occupations Code, is  
46-61 amended to read as follows:

46-62 Sec. 1902.052. RULES. (a) The commission [~~commissioner~~]  
46-63 shall adopt rules as necessary to enforce this chapter.

46-64 (b) The commission [~~commissioner~~] may not adopt a rule under  
46-65 this chapter that:

46-66 (1) regulates the installation or repair of well pumps  
46-67 and equipment by:

46-68 (A) a person on property the person owns or  
46-69 controls for the person's own use;

47-1 (B) an employee of a person described by  
47-2 Paragraph (A); or

47-3 (C) a person who is not hired or compensated and  
47-4 who acts on behalf of a person described by Paragraph (A); or

47-5 (2) requires a person who owns or controls property or  
47-6 possesses a well to complete, repair, or retrofit the well to any  
47-7 standard other than a standard in effect at the time the well was  
47-8 originally completed unless the well is found to be a threat to  
47-9 public health and safety or to water quality.

47-10 SECTION 24.004. Subsection (b), Section 1902.152,  
47-11 Occupations Code, is amended to read as follows:

47-12 (b) An applicant must pay to the department an [~~a~~  
47-13 ~~nonrefundable~~] examination fee at the time the application is  
47-14 submitted.

47-15 SECTION 24.005. Section 1902.162, Occupations Code, is  
47-16 amended to read as follows:

47-17 Sec. 1902.162. WAIVER FOR APPLICANT LICENSED IN ANOTHER  
47-18 STATE. The commission [~~commissioner~~] may adopt rules allowing  
47-19 waiver of a license requirement for an applicant who is licensed in  
47-20 another state that has license requirements substantially  
47-21 equivalent to those of this state.

47-22 SECTION 24.006. Section 1902.251, Occupations Code, is  
47-23 amended to read as follows:

47-24 Sec. 1902.251. INSTALLING AND REPAIRING PUMPS. An  
47-25 installer shall install or repair pumps under standards and  
47-26 procedures adopted by the commission [~~commissioner~~] with the advice  
47-27 of the council.

47-28 SECTION 24.007. Subsection (b), Section 1902.252,  
47-29 Occupations Code, is amended to read as follows:

47-30 (b) To avoid injury or pollution, the installer shall repair  
47-31 or properly complete the well under standards and procedures  
47-32 adopted by the commission [~~commissioner~~].

47-33 SECTION 24.008. The following laws are repealed:

- 47-34 (1) Subdivision (2), Section 1902.001, Occupations  
47-35 Code;
- 47-36 (2) Section 1902.101, Occupations Code;
- 47-37 (3) Subsection (b), Section 1902.155, Occupations  
47-38 Code;
- 47-39 (4) Section 1902.156, Occupations Code;
- 47-40 (5) Section 1902.157, Occupations Code;
- 47-41 (6) Section 1902.160, Occupations Code;
- 47-42 (7) Section 1902.204, Occupations Code; and
- 47-43 (8) Subchapters G and H, Chapter 1902, Occupations  
47-44 Code.

47-45 ARTICLE 25. WEATHER MODIFICATION

47-46 SECTION 25.001. Section 1.01, Chapter 376, Acts of the 77th  
47-47 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
47-48 Civil Statutes), is amended by amending Subdivision (1) and adding  
47-49 Subdivision (2-a) to read as follows:

47-50 (1) "Commission" [~~"Commissioner"~~] has the meaning  
47-51 assigned by Section 51.001, Occupations Code.

47-52 (2-a) "Executive director" means the executive  
47-53 director of the department.

47-54 SECTION 25.002. Article 1, Chapter 376, Acts of the 77th  
47-55 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
47-56 Civil Statutes), is amended by adding Section 1.02 to read as  
47-57 follows:

47-58 Sec. 1.02. APPLICABILITY OF OTHER LAW. Sections 51.404 and  
47-59 51.405, Occupations Code, do not apply to this article.

47-60 SECTION 25.003. Section 1.11, Chapter 376, Acts of the 77th  
47-61 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
47-62 Civil Statutes), is amended to read as follows:

47-63 Sec. 1.11. RULES. The commission [~~department~~] may adopt  
47-64 rules necessary to:

- 47-65 (1) exercise the powers and perform the duties under  
47-66 this article;
- 47-67 (2) establish procedures and conditions for the  
47-68 issuance of licenses and permits under this article; and
- 47-69 (3) establish standards and instructions to govern the

48-1 carrying out of research or projects in weather modification and  
 48-2 control that the commission [~~department~~] considers necessary or  
 48-3 desirable to minimize danger to health or property.

48-4 SECTION 25.004. Section 1.13, Chapter 376, Acts of the 77th  
 48-5 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
 48-6 Civil Statutes), is amended to read as follows:

48-7 Sec. 1.13. ADVISORY COMMITTEES. The commission  
 48-8 [~~department~~] may establish advisory committees to advise the  
 48-9 commission [~~department~~] and to make recommendations to the  
 48-10 commission [~~department~~] concerning legislation, policies,  
 48-11 administration, research, and other matters related to the  
 48-12 department's duties, powers, or functions under this article. If  
 48-13 the commission establishes an advisory committee under this  
 48-14 section, the presiding officer of the commission, with the  
 48-15 commission's approval, shall appoint a member of the committee to  
 48-16 serve as the presiding officer of the committee for a two-year term.

48-17 SECTION 25.005. Section 1.16, Chapter 376, Acts of the 77th  
 48-18 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
 48-19 Civil Statutes), is amended to read as follows:

48-20 Sec. 1.16. INTERSTATE COMPACTS. The commission  
 48-21 [~~commissioner~~] may represent the state in matters pertaining to  
 48-22 plans, procedures, or negotiations for interstate compacts  
 48-23 relating to weather modification and control.

48-24 SECTION 25.006. Subsection (b), Section 1.18, Chapter 376,  
 48-25 Acts of the 77th Legislature, Regular Session, 2001 (Article 165c,  
 48-26 Vernon's Texas Civil Statutes), is amended to read as follows:

48-27 (b) The department with approval of the commission  
 48-28 [~~commissioner~~] may conduct and may contract for research and  
 48-29 development activities relating to the purposes of this section.

48-30 SECTION 25.007. Section 1.31, Chapter 376, Acts of the 77th  
 48-31 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
 48-32 Civil Statutes), is amended to read as follows:

48-33 Sec. 1.31. LICENSE AND PERMIT REQUIRED. Except as provided  
 48-34 by rule of the commission [~~department~~] under Section 1.32 of this  
 48-35 article, a person may not engage in activities for weather  
 48-36 modification and control:

48-37 (1) without a weather modification license and weather  
 48-38 modification permit issued by the department; or

48-39 (2) in violation of any term or condition of the  
 48-40 license or permit.

48-41 SECTION 25.008. Section 1.32, Chapter 376, Acts of the 77th  
 48-42 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
 48-43 Civil Statutes), is amended to read as follows:

48-44 Sec. 1.32. EXEMPTIONS. (a) The commission [~~department~~] by  
 48-45 rule, to the extent it considers exemptions practical, shall  
 48-46 provide for exempting the following activities from the license and  
 48-47 permit requirements of this article:

48-48 (1) research, development, and experiments conducted  
 48-49 by state and federal agencies, institutions of higher learning, and  
 48-50 bona fide nonprofit research organizations;

48-51 (2) laboratory research and experiments;

48-52 (3) activities of an emergent nature for protection  
 48-53 against fire, frost, sleet, or fog; and

48-54 (4) activities normally conducted for purposes other  
 48-55 than inducing, increasing, decreasing, or preventing precipitation  
 48-56 or hail.

48-57 (b) The commission [~~department~~] by rule may modify or revoke  
 48-58 an exemption.

48-59 SECTION 25.009. Subsection (v), Section 1.41, Chapter 376,  
 48-60 Acts of the 77th Legislature, Regular Session, 2001 (Article 165c,  
 48-61 Vernon's Texas Civil Statutes), is amended to read as follows:

48-62 (v) The commission [~~department~~] by rule shall define hail  
 48-63 suppression as used in this section, using the most current  
 48-64 scientifically accepted technological concepts.

48-65 SECTION 25.010. Section 1.64, Chapter 376, Acts of the 77th  
 48-66 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
 48-67 Civil Statutes), is amended to read as follows:

48-68 Sec. 1.64. PROCEDURES. The commission [~~department~~] by rule  
 48-69 shall establish procedures for public notice and any public hearing



49-1 under this subchapter.

49-2 SECTION 25.011. Section 1.65, Chapter 376, Acts of the 77th  
 49-3 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
 49-4 Civil Statutes), is amended to read as follows:

49-5 Sec. 1.65. HEARINGS. A hearing under this article  
 49-6 [~~subchapter~~] shall be conducted in accordance with the hearing  
 49-7 rules adopted by the commission [~~department~~] and the applicable  
 49-8 provisions of Chapters 51, Occupations Code, and [~~Chapter~~] 2001,  
 49-9 Government Code.

49-10 SECTION 25.012. Section 1.66, Chapter 376, Acts of the 77th  
 49-11 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
 49-12 Civil Statutes), is amended to read as follows:

49-13 Sec. 1.66. CONSENT. If a permit holder or license holder  
 49-14 requests or consents to the revocation or suspension of the permit  
 49-15 or license, the commission [~~commissioner~~] may revoke or suspend the  
 49-16 permit or license without a hearing.

49-17 SECTION 25.013. The following laws are repealed:

49-18 (1) Section 1.34, Chapter 376, Acts of the 77th  
 49-19 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
 49-20 Civil Statutes);

49-21 (2) Section 1.38, Chapter 376, Acts of the 77th  
 49-22 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
 49-23 Civil Statutes); and

49-24 (3) Section 1.68, Chapter 376, Acts of the 77th  
 49-25 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
 49-26 Civil Statutes).

49-27 ARTICLE 26. CONFORMING AMENDMENTS RELATED TO CERTAIN PROGRAMS  
 49-28 TRANSFERRED FROM THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

49-29 SECTION 26.001. The heading to Chapter 37, Water Code, is  
 49-30 amended to read as follows:

49-31 CHAPTER 37. OCCUPATIONAL LICENSING AND REGISTRATION PROGRAMS  
 49-32 ADMINISTERED BY TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

49-33 SECTION 26.002. Section 37.002, Water Code, is amended to  
 49-34 read as follows:

49-35 Sec. 37.002. RULES. The commission shall adopt any rules  
 49-36 necessary to:

49-37 (1) establish occupational licenses and registrations  
 49-38 prescribed by Sections 26.0301 and [~~7~~] 26.3573 [~~, 26.452, 26.456, and~~  
 49-39 ~~34.007~~] of this code and Sections 341.033, 341.034(a) and (b)  
 49-40 [~~341.034~~], 361.027, and 366.071, Health and Safety Code;

49-41 (2) establish classes and terms of occupational  
 49-42 licenses and registrations; and

49-43 (3) administer the provisions of this chapter and  
 49-44 other laws governing occupational licenses and registrations under  
 49-45 the commission's jurisdiction.

49-46 SECTION 26.003. Section 37.003, Water Code, is amended to  
 49-47 read as follows:

49-48 Sec. 37.003. LICENSE OR REGISTRATION REQUIRED. A person  
 49-49 may not engage in a business, occupation, or profession described  
 49-50 by Section 26.0301 or [~~7~~] 26.3573 [~~, 26.452, 26.456, or 34.007~~] of  
 49-51 this code or Section 341.033, 341.034(a) or (b) [~~341.034~~], 361.027,  
 49-52 366.014, or 366.071, Health and Safety Code, unless the person  
 49-53 holds the appropriate license or registration issued by the  
 49-54 commission.

49-55 SECTION 26.004. Subtitle F, Title 2, Water Code, is amended  
 49-56 by adding Chapter 38 to read as follows:

49-57 CHAPTER 38. OCCUPATIONAL LICENSING PROGRAMS ADMINISTERED BY TEXAS  
 49-58 DEPARTMENT OF LICENSING AND REGULATION  
 49-59 SUBCHAPTER A. GENERAL PROVISIONS

49-60 Sec. 38.001. DEFINITIONS. In this chapter, terms have the  
 49-61 meanings assigned by Section 51.001, Occupations Code.

49-62 [Sections 38.002-38.050 reserved for expansion]

49-63 SUBCHAPTER B. POWERS AND DUTIES

49-64 Sec. 38.051. ADMINISTRATION. The department shall  
 49-65 administer this chapter.

49-66 Sec. 38.052. RULES. The commission shall adopt any rules  
 49-67 necessary to:

49-68 (1) establish occupational licenses prescribed by  
 49-69 Sections 26.452 and 26.456 of this code and Sections 341.034(c),

(d), and (e), Health and Safety Code; and  
 (2) establish classes and terms of occupational licenses.

Sec. 38.053. CONTRACTS. The department may contract with persons to provide services required by this chapter. The department may authorize contractors to collect reasonable fees for the services provided.

Sec. 38.054. COMPLIANCE INFORMATION. In administering this chapter, the department may require a person to provide information about any other occupational license held by the person, including:

- (1) the state in which the license was issued;
- (2) the current status of the license; and
- (3) whether the license was ever denied, suspended, revoked, surrendered, or withdrawn.

Sec. 38.055. ROSTER OF LICENSE HOLDERS. The department shall maintain and make available to the public a roster of persons who hold licenses issued under this chapter.

[Sections 38.056-38.100 reserved for expansion]

#### SUBCHAPTER C. LICENSE REQUIREMENTS

Sec. 38.101. LICENSE REQUIRED. A person may not engage in a business, occupation, or profession described by Section 26.452 or 26.456 of this code or Section 341.034(c), (d), or (e), Health and Safety Code, unless the person holds the appropriate license.

Sec. 38.102. QUALIFICATIONS. The commission may establish qualifications for each license issued under this chapter.

Sec. 38.103. ISSUANCE AND DENIAL OF LICENSES. (a) The commission shall establish requirements and uniform procedures for issuing licenses under this chapter.

(b) After notice and hearing, the commission may deny an application for a license by an applicant who:

- (1) has a record in the preceding five years of continuing violations of statutes or rules adopted under statutes;
- (2) has engaged in fraud or deceit in obtaining or applying for a license;
- (3) has demonstrated gross negligence, incompetence, or misconduct in the performance of activities authorized by a license;
- (4) made an intentional misstatement or misrepresentation of fact in information required to be maintained or submitted to the commission by the license holder;
- (5) failed to keep and transmit records as required by a statute or a rule adopted under a statute; or
- (6) at the time the application is submitted, is indebted to the state for a fee, penalty, or tax imposed by a statute or a rule adopted under a statute.

Sec. 38.104. RENEWAL OF LICENSE. The commission shall establish requirements and uniform procedures for renewing licenses.

Sec. 38.105. LICENSING EXAMINATIONS. (a) The department shall prescribe the content of licensing examinations. The department shall base the examinations on laws, rules, job duties, and standards relating to licenses issued under this chapter.

(b) The department shall determine the location and frequency of examinations.

(c) The department shall ensure that an otherwise qualified person with a physical, mental, or developmental disability is provided with a reasonable opportunity to take a licensing examination.

#### ARTICLE 27. FOR-PROFIT LEGAL SERVICE CONTRACT COMPANIES

SECTION 27.001. Subtitle B, Title 5, Occupations Code, is amended by adding Chapter 953 to read as follows:

#### CHAPTER 953. REGULATION OF FOR-PROFIT LEGAL SERVICE CONTRACT COMPANIES

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 953.001. DEFINITIONS. In this chapter:

- (1) "Administrator" means the person responsible for the administration of a legal service contract. The term includes a person responsible for any filing required by this chapter.
- (2) "Company" means a person who:

51-1 (A) is contractually obligated to a legal service  
51-2 contract holder under the terms of a legal service contract;

51-3 (B) enters into a contract with a contracting  
51-4 attorney to provide or obtain covered legal services for a legal  
51-5 service contract holder; and

51-6 (C) operates as a for-profit legal service  
51-7 contract company.

51-8 (3) "Contracting attorney" means an attorney who has  
51-9 entered into a contract with a company to provide or obtain covered  
51-10 legal services for a legal service contract holder.

51-11 (4) "Department" means the Texas Department of  
51-12 Licensing and Regulation.

51-13 (5) "Executive director" means the executive director  
51-14 of the Texas Department of Licensing and Regulation or the  
51-15 executive director's designee.

51-16 (6) "Financial security" means a surety bond, a  
51-17 certificate of deposit, or any other item approved by the executive  
51-18 director.

51-19 (7) "Legal service contract" means an agreement:

51-20 (A) that is entered into for a separately stated  
51-21 consideration; and

51-22 (B) under which the company obtains legal  
51-23 services for a legal service contract holder through a contracting  
51-24 attorney.

51-25 (8) "Legal service contract holder" means the person  
51-26 who purchases or otherwise holds a legal service contract or who is  
51-27 covered under a group legal service contract.

51-28 (9) "Person" means an individual or a partnership,  
51-29 company, corporation, association, or other private group.

51-30 (10) "Sales representative" means a person who sells  
51-31 or solicits legal service contracts to a person on behalf of a  
51-32 company.

51-33 Sec. 953.002. EXEMPTIONS. This chapter does not apply to:

51-34 (1) a nonprofit legal services corporation under  
51-35 Chapter 961, Insurance Code;

51-36 (2) an automobile club supplying services under  
51-37 Chapter 722, Transportation Code;

51-38 (3) a prepaid legal services program under Chapter  
51-39 951;

51-40 (4) a lawyer referral service under Chapter 952;

51-41 (5) a retainer contract between an attorney and a  
51-42 client, and similar contracts made with a group of clients involved  
51-43 in the same or closely related legal matters; or

51-44 (6) a contingency fee contract between an attorney and  
51-45 a client.

51-46 Sec. 953.003. EXEMPTIONS FROM CERTAIN OTHER LAWS. The acts  
51-47 of marketing, selling, offering for sale, issuing, making,  
51-48 proposing to make, and administering a legal service contract that  
51-49 is regulated by this chapter are exempt from the Insurance Code and  
51-50 other laws of this state regulating the business of insurance.

51-51 Sec. 953.004. PREPAID LEGAL SERVICE CONTRACT PROGRAMS.

51-52 (a) An insurer that issues or renews prepaid legal service  
51-53 contracts under Article 5.13-1, Insurance Code, shall notify the  
51-54 commissioner of insurance in writing not later than the 60th day  
51-55 before transferring regulation of the insurer's legal service  
51-56 contracts from the Texas Department of Insurance to the Texas  
51-57 Department of Licensing and Regulation. An insurer that complies  
51-58 with this section is exempt from the requirements of:

51-59 (1) Articles 21.49-2, 21.49-2A, 21.49-2B, 21.49-2D,  
51-60 and 21.49-2E, Insurance Code; and

51-61 (2) Chapter 827, Insurance Code.

51-62 (b) The exemptions described by Subsection (a) begin on the  
51-63 date the commissioner of insurance receives the notice under  
51-64 Subsection (a) and apply until the insurer registers with the  
51-65 department as required by Section 953.052.

51-66 Sec. 953.005. POWERS AND DUTIES OF EXECUTIVE DIRECTOR.

51-67 (a) The executive director may investigate a company,  
51-68 administrator, sales representative, or other person as necessary  
51-69 to enforce this chapter and protect legal service contract holders

52-1 in this state.

52-2 (b) On request of the executive director, a company or sales  
 52-3 representative shall make the records relevant to the regulation of  
 52-4 legal service contracts in this state available to the executive  
 52-5 director as necessary to enable the executive director to  
 52-6 reasonably determine compliance with this chapter.

52-7 (c) After contacting the company that has contracted with  
 52-8 the contracting attorney, the executive director may refer a  
 52-9 complaint received by the department concerning the performance of  
 52-10 a contracting attorney to:

52-11 (1) the State Bar of Texas;  
 52-12 (2) the appropriate licensing agency of another  
 52-13 jurisdiction, if applicable; or

52-14 (3) any person designated by law to receive complaints  
 52-15 from the public concerning the performance of an attorney.

52-16 (d) The executive director may adopt rules as necessary to  
 52-17 implement this chapter.

52-18 [Sections 953.006-953.050 reserved for expansion]

52-19 SUBCHAPTER B. REGISTRATION REQUIREMENTS

52-20 Sec. 953.051. REGISTRATION REQUIRED. (a) A person may not  
 52-21 operate as a company or sales representative of legal service  
 52-22 contracts sold in this state unless the person is registered with  
 52-23 the department. A company's contract may be sold only by a sales  
 52-24 representative who is registered with the department.

52-25 (b) A person who collects commissions for the sale of legal  
 52-26 service contracts but who does not actively sell or solicit legal  
 52-27 service contracts is not required to register under this  
 52-28 subchapter.

52-29 Sec. 953.052. APPLICATION FOR REGISTRATION. (a) An  
 52-30 applicant for registration must submit an application to the  
 52-31 department. The application must be in the form prescribed by the  
 52-32 executive director.

52-33 (b) An application for registration as a company must  
 52-34 include evidence satisfactory to the executive director of  
 52-35 compliance with the applicable financial security requirements  
 52-36 prescribed by Subchapter C.

52-37 (c) An application for registration as a sales  
 52-38 representative must include a list of the companies for which the  
 52-39 sales representative will sell or solicit legal service contracts.

52-40 Sec. 953.053. FEES. (a) The executive director shall  
 52-41 develop a tiered fee schedule of annual registration fees under  
 52-42 which a company's registration fee is based on the number of legal  
 52-43 service contracts the company sold in this state during the  
 52-44 preceding 12-month period. The executive director shall set the  
 52-45 amounts of the fees required by this subsection to cover the costs  
 52-46 of administering this chapter.

52-47 (b) In addition to the annual registration fee required by  
 52-48 Subsection (a), the executive director shall collect from each  
 52-49 company a fee equal to 1.7 percent of the annual price of each legal  
 52-50 service contract the company sells in this state. The executive  
 52-51 director shall establish a schedule and procedure for collecting  
 52-52 this fee.

52-53 (c) To be registered, a company must pay the appropriate  
 52-54 fees required by this section.

52-55 Sec. 953.054. INFORMATION CONCERNING NUMBER OF LEGAL  
 52-56 SERVICE CONTRACTS SOLD. Information concerning the number of legal  
 52-57 service contracts sold by a company that is submitted under Section  
 52-58 953.053 is a trade secret to which Section 552.110, Government  
 52-59 Code, applies.

52-60 Sec. 953.055. ADDITIONAL REQUIREMENTS FOR SALES  
 52-61 REPRESENTATIVES. (a) The executive director may deny an  
 52-62 application from a sales representative who:

52-63 (1) made a material misrepresentation or fraudulent  
 52-64 statement in the application;

52-65 (2) has had a license revoked under the Insurance  
 52-66 Code;

52-67 (3) has had a license suspended or revoked under  
 52-68 Section 82.062, Government Code; or

52-69 (4) fails to pay the fee required under Subsection

53-1 (b).

53-2 (b) Each registered sales representative shall pay an  
53-3 annual registration fee in the amount set by the executive director  
53-4 to cover the costs of administering this chapter.

53-5 Sec. 953.056. MODIFICATION OF REGISTRATION INFORMATION.  
53-6 The executive director may adopt rules regarding the procedures and  
53-7 fees a company or sales representative must follow and pay when  
53-8 requesting a modification to the company's or sales  
53-9 representative's registration information that is on file with the  
53-10 department.

53-11 Sec. 953.057. RENEWAL OF REGISTRATION. The executive  
53-12 director shall adopt rules for the renewal of a company's or sales  
53-13 representative's registration, including a rule that addresses  
53-14 late renewals.

53-15 [Sections 953.058-953.100 reserved for expansion]  
53-16 SUBCHAPTER C. FINANCIAL SECURITY REQUIREMENTS FOR LEGAL  
53-17 SERVICE CONTRACT COMPANIES

53-18 Sec. 953.101. FINANCIAL SECURITY REQUIREMENTS. (a) To  
53-19 ensure the faithful performance of a company's obligations to its  
53-20 legal service contract holders, each company must deposit and  
53-21 maintain a form of financial security with the executive director.  
53-22 The financial security deposited with the executive director must  
53-23 maintain at all times the following market values:

53-24 (1) a company generating \$300,000 or less in annual  
53-25 gross revenue in this state from the sale of legal service contracts  
53-26 in the preceding year shall deposit at least \$50,000 with the  
53-27 executive director;

53-28 (2) a company generating more than \$300,000 but less  
53-29 than \$750,000 in annual gross revenue in this state from the sale of  
53-30 legal service contracts in the preceding year shall deposit at  
53-31 least \$75,000 with the executive director; and

53-32 (3) a company generating \$750,000 or more in annual  
53-33 gross revenue in this state from the sale of legal service contracts  
53-34 in the preceding year shall deposit at least \$100,000 with the  
53-35 executive director.

53-36 (b) For purposes of Subsection (a), if a company that had no  
53-37 gross revenue in this state from the sale of legal service contracts  
53-38 in the preceding year previously generated revenue from the sale of  
53-39 prepaid legal service contracts under Article 5.13-1, Insurance  
53-40 Code, the company shall deposit an amount of financial security  
53-41 based on the revenue generated from the sale of prepaid legal  
53-42 service contracts under the Insurance Code in the preceding year.

53-43 (c) The department is responsible for the safeguarding of  
53-44 financial security deposited with the executive director under this  
53-45 section. Financial security is not subject to taxation and is to be  
53-46 used exclusively to guarantee the company's performance of its  
53-47 obligations to its legal service contract holders.

53-48 (d) The executive director may order an increase in the  
53-49 amount of financial security required of a company under this  
53-50 section if the executive director finds that there has been a  
53-51 substantial change in the company, including an increase in the  
53-52 amount of fees the company is charging consumers or an increase in  
53-53 the company's annual gross revenue.

53-54 (e) Not later than the 30th day after the date the executive  
53-55 director orders a financial security increase under Subsection (d),  
53-56 the company may request a hearing on the issue. The executive  
53-57 director shall hold a hearing not later than the 30th day after the  
53-58 date a company requests a hearing.

53-59 (f) Failure of a company to meet the financial security  
53-60 requirements in this section not later than the 30th day after the  
53-61 date the executive director issues a final decision in the event of  
53-62 a hearing or the 30th day after the date the period for submitting a  
53-63 request for a hearing expires constitutes a ground for revocation  
53-64 of the company's registration.

53-65 Sec. 953.102. REPLACEMENT OR RENEWAL OF FINANCIAL SECURITY.

53-66 (a) If a company's financial security under Section 953.101 is  
53-67 issued or written for a specified term, not later than the 90th day  
53-68 before the date the term expires, the company shall:

53-69 (1) replace the financial security; or

54-1 (2) notify the executive director of the company's  
 54-2 intention to renew the financial security.

54-3 (b) If, not later than the 60th day before the date the term  
 54-4 of a company's financial security expires, the executive director  
 54-5 does not receive satisfactory notification of a company's renewal  
 54-6 or replacement of the financial security, the executive director  
 54-7 may draw on the company's financial security to the extent  
 54-8 necessary to ensure that the company's obligations to its legal  
 54-9 service contract holders are met in accordance with this chapter.

54-10 Sec. 953.103. DURATION OF DEPOSIT OF FINANCIAL SECURITY.  
 54-11 The executive director shall maintain a company's financial  
 54-12 security deposit so long as the company continues to do business in  
 54-13 this state. When a company ceases to do business in this state and  
 54-14 furnishes the executive director with satisfactory proof that the  
 54-15 company has discharged or otherwise adequately met all obligations  
 54-16 to its legal service contract holders in this state, the executive  
 54-17 director shall release the deposited financial security to the  
 54-18 company.

54-19 Sec. 953.104. SUIT ON FINANCIAL SECURITY. (a) The state,  
 54-20 on behalf of a legal service contract holder injured because of a  
 54-21 company's violation of this chapter, may bring a suit for payment  
 54-22 from the company's financial security deposit held by the executive  
 54-23 director.

54-24 (b) The state is the only party that may bring suit for  
 54-25 payment from a company's financial security deposit held by the  
 54-26 executive director. This chapter does not create a private right of  
 54-27 action.

54-28 (c) The state may only seek damages for the cost of the legal  
 54-29 services the company failed to provide to a legal service contract  
 54-30 holder under the terms of the legal service contract.

54-31 (d) The court shall determine the amount the executive  
 54-32 director shall pay the consumer from the company's financial  
 54-33 security deposit held by the executive director.

54-34 [Sections 953.105-953.150 reserved for expansion]

54-35 SUBCHAPTER D. PRACTICE BY LEGAL SERVICE CONTRACT COMPANIES

54-36 Sec. 953.151. COMPANY REQUIREMENTS. (a) A company may not  
 54-37 sell, offer for sale, or issue a legal service contract in this  
 54-38 state unless the company gives the legal service contract holder:

54-39 (1) a receipt for, or other written evidence of, the  
 54-40 purchase of the contract; and

54-41 (2) a copy of the legal service contract.

54-42 (b) A company shall perform the services as stated in the  
 54-43 legal service contract.

54-44 Sec. 953.152. GROUP LEGAL SERVICE CONTRACTS. A company may  
 54-45 issue group legal service contracts. The company shall provide a  
 54-46 legal service contract holder who obtains a group contract with a  
 54-47 document that describes the company's services and complies with  
 54-48 the requirements of this chapter.

54-49 Sec. 953.153. CONTRACTING ATTORNEY REQUIREMENTS. A  
 54-50 contracting attorney must:

54-51 (1) be licensed in the jurisdiction in which the legal  
 54-52 services are performed;

54-53 (2) be in good standing with the entity that licenses  
 54-54 attorneys in that jurisdiction; and

54-55 (3) maintain professional liability and errors and  
 54-56 omissions insurance with minimum annual limits of \$100,000 for each  
 54-57 occurrence and \$300,000 in the aggregate.

54-58 Sec. 953.154. COMPANY INTERFERENCE WITH ATTORNEY'S DUTIES  
 54-59 PROHIBITED. A company may not interfere with the attorney-client  
 54-60 relationship or with the contracting attorney's independent  
 54-61 exercise of professional judgment.

54-62 Sec. 953.155. COMPANY RECORDS. (a) A company shall  
 54-63 maintain accurate accounts, books, and other records regarding  
 54-64 transactions regulated under this chapter. The company's records  
 54-65 must include:

54-66 (1) a copy of each unique form of legal service  
 54-67 contract filed with the executive director under Section 953.156;

54-68 (2) the name and address of each legal service  
 54-69 contract holder;

55-1 (3) a list of the sales representatives authorized by  
 55-2 the company to market, sell, or offer to sell the company's legal  
 55-3 service contracts;

55-4 (4) a copy of each contract entered into between the  
 55-5 company and a contracting attorney; and

55-6 (5) a list of complaints the company has received from  
 55-7 legal service contract holders, including the name of the sales  
 55-8 representative involved in the transaction leading to the  
 55-9 complaint.

55-10 (b) The records required by this section may be maintained  
 55-11 in an electronic medium or through other recordkeeping technology.  
 55-12 If a record is not in a hard copy, the company must be able to  
 55-13 reformat the record into a legible hard copy at the request of the  
 55-14 executive director.

55-15 (c) Except as provided by Subsection (d), a company shall  
 55-16 retain the records required by this section until at least the  
 55-17 second anniversary of the termination date of the specified period  
 55-18 of coverage under the legal service contract.

55-19 (d) A company that discontinues business in this state shall  
 55-20 retain its records until the company furnishes the executive  
 55-21 director with proof satisfactory to the executive director that the  
 55-22 company has discharged all obligations to legal service contract  
 55-23 holders in this state.

55-24 Sec. 953.156. FORM OF LEGAL SERVICE CONTRACT AND REQUIRED  
 55-25 DISCLOSURES. (a) A legal service contract must be filed with the  
 55-26 executive director before it is marketed, sold, offered for sale,  
 55-27 administered, or issued in this state. Any subsequent endorsement  
 55-28 or attachment to the contract must also be filed with the executive  
 55-29 director before the endorsement or attachment is delivered to legal  
 55-30 service contract holders.

55-31 (b) A legal service contract marketed, sold, offered for  
 55-32 sale, administered, or issued in this state must:

55-33 (1) be written, printed, or typed in clear,  
 55-34 understandable language that is easy to read;

55-35 (2) include the name and full address of the company;

55-36 (3) include the purchase price of the contract and the  
 55-37 terms under which the contract is sold;

55-38 (4) include the terms and restrictions governing  
 55-39 cancellation of the contract by the company or the legal service  
 55-40 contract holder;

55-41 (5) identify:

55-42 (A) any administrator, if the administrator is  
 55-43 not the company;

55-44 (B) the sales representative; and

55-45 (C) the name of the legal service contract  
 55-46 holder;

55-47 (6) include the amount of any deductible or copayment;

55-48 (7) specify the legal services and other benefits to  
 55-49 be provided under the contract, and any limitation, exception, or  
 55-50 exclusion;

55-51 (8) specify the legal services, if any, for which the  
 55-52 company will provide reimbursement and the amount of that  
 55-53 reimbursement;

55-54 (9) specify any restriction governing the  
 55-55 transferability of the contract or the assignment of benefits;

55-56 (10) include the duties of the legal service contract  
 55-57 holder;

55-58 (11) include the contact information for the  
 55-59 department, including the department's toll-free number and  
 55-60 electronic mail address, as well as a statement that the department  
 55-61 regulates the company and the company's sales representatives;

55-62 (12) explain the method to be used in resolving the  
 55-63 legal service contract holder's complaints and grievances;

55-64 (13) explain how legal services may be obtained under  
 55-65 the legal service contract;

55-66 (14) include a provision stating that no change in the  
 55-67 contract is valid until the change has been approved by an executive  
 55-68 officer of the company and unless the approval is endorsed or  
 55-69 attached to the contract;

56-1 (15) include any eligibility and effective date  
 56-2 requirements, including a definition of eligible dependents and the  
 56-3 effective date of their coverage;

56-4 (16) include the conditions under which coverage will  
 56-5 terminate;

56-6 (17) explain any subrogation arrangements;

56-7 (18) contain a payment provision that provides for a  
 56-8 grace period of at least 31 days;

56-9 (19) include conditions under which contract rates may  
 56-10 be modified; and

56-11 (20) include any other items required by the executive  
 56-12 director as determined by rule.

56-13 Sec. 953.157. TERMINATING A LEGAL SERVICE CONTRACT. A  
 56-14 legal service contract holder may terminate the legal service  
 56-15 contract if the legal service contract holder provides the company  
 56-16 with written notice of the legal service contract holder's  
 56-17 intention of terminating the contract not later than the seventh  
 56-18 day after the date the legal service contract holder receives the  
 56-19 contract.

56-20 Sec. 953.158. VOIDING A LEGAL SERVICE CONTRACT. (a) If a  
 56-21 legal service contract holder terminates a legal service contract  
 56-22 in accordance with Section 953.157 and the holder has not sought  
 56-23 legal services under the contract before the contract is  
 56-24 terminated, the contract is void.

56-25 (b) A legal service contract holder may void the legal  
 56-26 service contract at a later time as provided by the contract.

56-27 (c) If a legal service contract is voided, the company shall  
 56-28 refund to the legal service contract holder or credit to the account  
 56-29 of the legal service contract holder the full purchase price of the  
 56-30 contract. If the company does not pay the refund or credit the  
 56-31 legal service contract holder's account before the 46th day after  
 56-32 the date the contract is voided, the company is liable to the legal  
 56-33 service contract holder for a penalty each month an amount remains  
 56-34 outstanding. The monthly penalty may not exceed 10 percent of the  
 56-35 amount outstanding.

56-36 (d) The right to void a legal service contract is not  
 56-37 transferable.

56-38 Sec. 953.159. CANCELING A LEGAL SERVICE CONTRACT. (a) A  
 56-39 company may cancel a legal service contract by mailing a written  
 56-40 notice of cancellation to the legal service contract holder at the  
 56-41 legal service contract holder's last known address according to the  
 56-42 records of the company. The company must mail the notice before the  
 56-43 fifth day preceding the effective date of the cancellation. The  
 56-44 notice must state the effective date of the cancellation and the  
 56-45 reason for the cancellation.

56-46 (b) The company is not required to provide prior notice of  
 56-47 cancellation if the legal service contract is canceled because of:

56-48 (1) nonpayment of the consideration for the contract;

56-49 (2) a material misrepresentation by the legal service  
 56-50 contract holder to the company;

56-51 (3) a substantial breach of a duty by the legal service  
 56-52 contract holder; or

56-53 (4) cancellation of the contract by the legal service  
 56-54 contract holder.

56-55 Sec. 953.160. LIMITATIONS ON COMPANY NAME. (a) A company  
 56-56 may not use a name that:

56-57 (1) includes "insurance," "casualty," "surety," or  
 56-58 "mutual" or any other word descriptive of the insurance, casualty,  
 56-59 or surety business; or

56-60 (2) is deceptively similar to the name or description  
 56-61 of an insurance or surety corporation or to the name of any other  
 56-62 company.

56-63 (b) This section does not apply to a company that, before  
 56-64 September 1, 2003, included a word prohibited under this section in  
 56-65 its name. A company described by this subsection must include in  
 56-66 each legal service contract a statement substantially similar to  
 56-67 the following: "This agreement is not an insurance contract."

56-68 Sec. 953.161. MISLEADING STATEMENTS PROHIBITED. A company,  
 56-69 a sales representative, or a representative of a sales



representative may not, in the company's contracts or marketing:

(1) make, permit, or cause to be made any false or misleading statement; or

(2) deliberately omit a material statement if the omission would be considered misleading.

Sec. 953.162. APPOINTMENT AND RESPONSIBILITIES OF ADMINISTRATOR. (a) A company may appoint an administrator or designate a person to be responsible for:

(1) all or any part of the administration or sale of legal service contracts; and

(2) compliance with this chapter.

(b) The executive director may adopt rules regarding the registration of an administrator with the department.

[Sections 953.163-953.200 reserved for expansion]

SUBCHAPTER E. DISCIPLINARY ACTION

Sec. 953.201. DISCIPLINARY ACTION. On a finding that a ground for disciplinary action exists under this chapter, the executive director may impose an administrative sanction, including any administrative penalty, as provided by Chapter 51.

Sec. 953.202. EMERGENCY CEASE AND DESIST ORDER. (a) The executive director may issue an emergency cease and desist order to enforce this chapter if the executive director determines that an emergency exists requiring immediate action to protect the public.

(b) The executive director may issue the emergency cease and desist order without notice and hearing if the executive director determines that an immediate issuance is necessary under the circumstances.

(c) The executive director shall set the time and place for a hearing to affirm, modify, or set aside an emergency cease and desist order that was issued without a hearing.

Sec. 953.203. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The executive director may institute an action against a company or sales representative for injunctive relief under Section 51.352 to restrain a violation or a threatened violation of this chapter or an order issued or rule adopted under this chapter.

(b) In addition to the injunctive relief provided by Subsection (a), the executive director may institute an action for a civil penalty as provided by Section 51.352.

Sec. 953.204. ADMINISTRATIVE PROCEDURE. Sections 51.310, 51.353, and 51.354 apply to a disciplinary action taken under this chapter.

Sec. 953.205. APPEAL. A person affected by a ruling, order, decision, or other action of the executive director or department may appeal by filing a petition in a district court in Travis County.

SECTION 27.002. Article 5.13-1, Insurance Code, is amended by adding Subsection (h) to read as follows:

(h) An insurer may not issue or renew a prepaid legal service contract under this article after March 1, 2004.

SECTION 27.003. Subsection (b), Section 951.003, Occupations Code, is amended to read as follows:

(b) A law pertaining to legal service contracts under Chapter 953 or insurance does not apply to a program under this chapter.

SECTION 27.004. (a) Chapter 953, Occupations Code, as added by this article, applies only to:

(1) a legal service contract entered into on or after March 1, 2004; or

(2) a legal service contract entered into before March 1, 2004, that meets the requirements of Subsection (c) of this section.

(b) A person regulated under Chapter 953, Occupations Code, as added by this article, is not required to comply with that chapter until March 1, 2004, but may implement the requirements of that chapter before March 1, 2004. The failure of a legal service contract company or other person to comply with Chapter 953, Occupations Code, as added by this article, or otherwise to administer a legal service contract plan in the manner required by that chapter before March 1, 2004, is not admissible in any court,

58-1 arbitration, or alternative dispute resolution proceeding and may  
58-2 not otherwise be used to prove that the action of any person or the  
58-3 affected legal service contract was unlawful or otherwise improper.

58-4 (c) The Texas Department of Licensing and Regulation and the  
58-5 Texas Department of Insurance may enter into a memorandum of  
58-6 understanding for a transition plan to transfer the regulation of  
58-7 legal service contracts from the Texas Department of Insurance to  
58-8 the Texas Department of Licensing and Regulation. The transition  
58-9 plan at a minimum shall:

58-10 (1) allow persons licensed under Chapter 21, Insurance  
58-11 Code, who have not registered with the Texas Department of  
58-12 Licensing and Regulation to continue to sell legal service  
58-13 contracts regulated by the Texas Department of Licensing and  
58-14 Regulation until March 1, 2004; and

58-15 (2) allow a prepaid legal service contract issued  
58-16 subject to Article 5.13-1, Insurance Code, to be maintained by the  
58-17 legal service contract holder if:

58-18 (A) the insurer that issued the contract or a  
58-19 related entity is registered with the Texas Department of Licensing  
58-20 and Regulation under Chapter 953, Occupations Code, as added by  
58-21 this article, not later than March 1, 2004;

58-22 (B) the legal service contract complies with the  
58-23 requirements established by Chapter 953, Occupations Code, as added  
58-24 by this article, for a legal service contract; and

58-25 (C) any addition or deletion to the contract made  
58-26 by a legal service contract company registered with the Texas  
58-27 Department of Licensing and Regulation is approved by the company  
58-28 and the approval is endorsed or attached to the contract.

58-29 ARTICLE 28. GENERAL CONFORMING AMENDMENTS

58-30 SECTION 28.001. Section 57.044, Government Code, is amended  
58-31 to read as follows:

58-32 Sec. 57.044. COURT INTERPRETER LICENSE. To qualify for a  
58-33 court interpreter license under this subchapter, an individual must  
58-34 apply on a form prescribed by the executive director [~~commissioner~~]  
58-35 and demonstrate, in the manner required by the executive director  
58-36 [~~commissioner~~], reasonable proficiency in interpreting English and  
58-37 court proceedings for individuals who can hear but who do not  
58-38 comprehend English or communicate in English.

58-39 SECTION 28.002. Subsections (a) and (c), Section 57.046,  
58-40 Government Code, are amended to read as follows:

58-41 (a) The executive director [~~commissioner~~] shall prepare  
58-42 examinations under this subchapter that test an applicant's  
58-43 knowledge, skill, and efficiency in interpreting under this  
58-44 subchapter.

58-45 (c) Examinations shall be offered in the state at least  
58-46 twice a year at times and places designated by the executive  
58-47 director [~~commissioner~~].

58-48 SECTION 28.003. The heading to Section 57.047, Government  
58-49 Code, is amended to read as follows:

58-50 Sec. 57.047. [~~COMMISSIONER — AND~~] DEPARTMENT DUTIES;  
58-51 INSPECTIONS.

58-52 SECTION 28.004. Subsection (a), Section 57.047, Government  
58-53 Code, is amended to read as follows:

58-54 (a) The executive director [~~commissioner~~] shall enforce  
58-55 this subchapter.

58-56 SECTION 28.005. Section 754.020, Health and Safety Code, is  
58-57 amended to read as follows:

58-58 Sec. 754.020. DEPOSIT OF FEES. Fees collected under this  
58-59 subchapter shall be deposited to the credit of an account in the  
58-60 general revenue fund that may be used by the executive director  
58-61 [~~commissioner~~] only to administer and enforce this subchapter and  
58-62 to reimburse expenses of board members provided by this subchapter.

58-63 SECTION 28.006. Section 754.021, Health and Safety Code, is  
58-64 amended to read as follows:

58-65 Sec. 754.021. LIST OF INSPECTORS; PERSONNEL. The executive  
58-66 director [~~commissioner~~] may:

58-67 (1) compile a list of ASME-QEI-1 certified inspectors  
58-68 who are registered with the department to perform an inspection  
58-69 under this subchapter; and

59-1 (2) employ personnel as necessary to enforce this  
59-2 subchapter.

59-3 SECTION 28.007. Section 754.022, Health and Safety Code, is  
59-4 amended to read as follows:

59-5 Sec. 754.022. NOTICE OF NONCOMPLIANCE. If the executive  
59-6 director [~~commissioner~~] learns of a situation of noncompliance  
59-7 under Section 754.019, the executive director [~~commissioner~~] shall  
59-8 send notice by certified mail of the noncompliance and the actions  
59-9 required to remedy the noncompliance to the record owner of the real  
59-10 property on which the equipment that is the subject of the  
59-11 noncompliance is located.

59-12 SECTION 28.008. Subsections (a), (c), and (d), Section  
59-13 755.023, Health and Safety Code, are amended to read as follows:

59-14 (a) The executive director [~~commissioner~~] shall appoint a  
59-15 chief inspector of boilers to administer the boiler program. The  
59-16 chief inspector must:

59-17 (1) be a resident of this state and a citizen of the  
59-18 United States;

59-19 (2) have at least five years' experience in the  
59-20 construction, installation, inspection, operation, maintenance, or  
59-21 repair of boilers; and

59-22 (3) pass a written examination that demonstrates the  
59-23 necessary ability to judge the safety of boilers.

59-24 (c) As needed, the executive director [~~commissioner~~] shall  
59-25 appoint persons with qualifications similar to those of the chief  
59-26 inspector to serve as deputy inspectors.

59-27 (d) The executive director [~~commissioner~~] may employ  
59-28 clerical assistants as necessary to carry out this chapter.

59-29 SECTION 28.009. Subsections (a), (b), (f), and (g), Section  
59-30 755.024, Health and Safety Code, are amended to read as follows:

59-31 (a) To be an authorized inspector, a person must obtain a  
59-32 commission as a boiler inspector from the executive director  
59-33 [~~commissioner~~] and must be continuously employed by an inspection  
59-34 agency.

59-35 (b) The executive director [~~commissioner~~], by written  
59-36 examination, shall determine the qualifications of an applicant for  
59-37 a commission to be an authorized inspector.

59-38 (f) After proper investigation, the executive director  
59-39 [~~commissioner~~] may accept an inspection commission issued to a  
59-40 person by any other jurisdiction that has a written examination  
59-41 equal to that of this state.

59-42 (g) For good cause, the executive director [~~commissioner~~]  
59-43 may rescind a commission issued by this state.

59-44 SECTION 28.010. Subsections (a), (f), and (g), Section  
59-45 755.025, Health and Safety Code, are amended to read as follows:

59-46 (a) The executive director [~~commissioner~~] shall require  
59-47 each boiler to be inspected internally and externally at the time of  
59-48 initial installation and at subsequent intervals as provided by  
59-49 this section. The executive director [~~commissioner~~] may provide  
59-50 that the inspection be performed by any inspector.

59-51 (f) The executive director [~~commissioner~~] shall designate  
59-52 the manner of inspection for nuclear boilers, the form of the  
59-53 inspection report, and the information to be reported. The  
59-54 executive director [~~commissioner~~] and the owner of a nuclear boiler  
59-55 shall establish the intervals of inspection for the boiler.

59-56 (g) The executive director [~~commissioner~~] may authorize the  
59-57 inspection of a boiler at any reasonable time if the executive  
59-58 director [~~commissioner~~] determines that the boiler may be in an  
59-59 unsafe condition. The executive director [~~commissioner~~] shall  
59-60 notify the inspection agency that insures that boiler and request  
59-61 the authorized inspector employed by that agency to participate  
59-62 with the chief inspector or a deputy inspector in a joint inspection  
59-63 of the boiler not later than the 20th day after the date on which the  
59-64 executive director [~~commissioner~~] notifies the inspection agency.  
59-65 An additional charge may not be made for the joint inspection.

59-66 SECTION 28.011. Subsections (a), (c), (d), and (e), Section  
59-67 755.026, Health and Safety Code, are amended to read as follows:

59-68 (a) With the approval of the executive director  
59-69 [~~commissioner~~] and the inspection agency that has jurisdiction for

60-1 the power boiler, the interval between internal inspections may be  
 60-2 extended to a period not exceeding a total of 48 months. For other  
 60-3 unfired steam boilers or steam collection or liberation drums of  
 60-4 process steam generators, the inspection interval may be extended  
 60-5 to the next scheduled downtime of the boiler, but not exceeding a  
 60-6 total of 84 months.

60-7 (c) The executive director [~~commissioner~~] and the  
 60-8 inspection agency may grant an additional extension for a period  
 60-9 not exceeding 120 days to the inspection interval covered by the  
 60-10 boiler's certificate of operation on receipt of a request for  
 60-11 extension stating that an emergency exists. Before the extension  
 60-12 may be granted, the inspection agency must make an external  
 60-13 inspection of the boiler, and the conditions imposed under  
 60-14 Subsection (b) must be met.

60-15 (d) If an extended period between internal inspections is  
 60-16 approved by the executive director [~~commissioner~~] and the  
 60-17 inspection agency, the executive director [~~commissioner~~] shall  
 60-18 issue a new certificate of operation for the extended period of  
 60-19 operation.

60-20 (e) If the interval between internal inspections of a gas  
 60-21 fired boiler is extended under Subsection (a), the executive  
 60-22 director [~~commissioner~~] and inspection agency shall require that an  
 60-23 inspection of the gas regulator or pressure reducing valve that  
 60-24 services the boiler be performed as part of the next regularly  
 60-25 scheduled external certificate inspection of the boiler to verify  
 60-26 proper venting of gas to a safe point of discharge.

60-27 SECTION 28.012. Subsections (a) and (c), Section 755.027,  
 60-28 Health and Safety Code, are amended to read as follows:

60-29 (a) Not later than the 30th day after the date on which a  
 60-30 certificate inspection is performed by an authorized inspector, the  
 60-31 inspection agency employing the authorized inspector shall file a  
 60-32 report with the executive director [~~commissioner~~] in the manner  
 60-33 specified by the executive director [~~department~~].

60-34 (c) An inspection agency shall notify the executive  
 60-35 director [~~commissioner~~] in writing of the cancellation or  
 60-36 expiration of any insurance policy issued by that agency to cover a  
 60-37 boiler located in this state, and shall include in the notice the  
 60-38 reason for the cancellation or expiration. The notice must state  
 60-39 the date the policy was issued and the date on which the  
 60-40 cancellation or expiration takes effect.

60-41 SECTION 28.013. Section 755.028, Health and Safety Code, is  
 60-42 amended to read as follows:

60-43 Sec. 755.028. SPECIAL INSPECTIONS. The executive director  
 60-44 [~~commissioner~~] may provide a special inspection service to the  
 60-45 owners, operators, and manufacturers of boilers. The service may  
 60-46 include surveys required for certification to construct, assemble,  
 60-47 or repair boilers or pressure vessels.

60-48 SECTION 28.014. Subsection (a), Section 755.029, Health and  
 60-49 Safety Code, is amended to read as follows:

60-50 (a) The executive director [~~commissioner~~] shall issue to  
 60-51 the owner or operator of a boiler a certificate of operation for the  
 60-52 boiler if after a certificate inspection:

60-53 (1) the boiler is found to be in a safe condition for  
 60-54 operation; and

60-55 (2) the owner or operator has paid the fees assessed  
 60-56 under Section 755.030.

60-57 SECTION 28.015. Section 755.042, Health and Safety Code, is  
 60-58 amended to read as follows:

60-59 Sec. 755.042. PROSECUTION; INJUNCTION. (a) A prosecution  
 60-60 may not be maintained if the issuance or renewal of a certificate of  
 60-61 operation has been requested for a boiler but has not been acted on.  
 60-62 However, the executive director [~~commissioner~~] may petition a  
 60-63 district court for an injunction to restrain the operation of the  
 60-64 boiler until the condition restraining its use is corrected and a  
 60-65 certificate of operation is issued if the executive director  
 60-66 [~~commissioner~~] determines that the operation of the boiler without  
 60-67 a certificate of operation constitutes a serious menace to the life  
 60-68 and safety of the persons in or about the premises. The attorney  
 60-69 general or the district or county attorney may bring the suit, and

venue is in the county in which the boiler is located or in Travis County. It is not necessary for the prosecutor to verify the pleadings or for the state to execute a bond.

(b) The executive director's [~~commissioner's~~] affidavit that a certificate of operation or an application for a certificate does not exist for a boiler, and the affidavit of the chief inspector or a deputy inspector that the operation of the boiler constitutes a menace to the life and safety of persons in or about the premises, are sufficient proof to warrant the immediate issuance of a temporary restraining order.

SECTION 28.016. Subsection (a), Section 91.003, Labor Code, is amended to read as follows:

(a) Each state agency that in performing duties under other law affects the regulation of staff leasing services shall cooperate with the department [~~, the commissioner,~~] and other state agencies as necessary to implement and enforce this chapter.

SECTION 28.017. Subsection (c), Section 91.015, Labor Code, is amended to read as follows:

(c) Before denying a license application, the department shall provide written notice to an applicant specifying the reasons for the denial. The department shall provide the applicant at least 30 days after the date of the notice to address the reasons for the denial. For good cause and on a showing of a good faith effort to remedy the reasons for the denial, the executive director [~~commissioner~~] may grant an additional 30 days to remedy the reasons for denial.

SECTION 28.018. Section 91.048, Labor Code, is amended to read as follows:

Sec. 91.048. REQUIRED INFORMATION. Each license holder shall:

(1) maintain adequate books and records regarding the license holder's duties and responsibilities;

(2) maintain and make available at all times to the executive director [~~commissioner~~] the following information, which shall be treated as proprietary and confidential and is exempt from disclosure to persons other than other governmental agencies having a reasonable, legitimate purpose for obtaining the information:

(A) the correct name, address, and telephone number of each client company;

(B) each client company contract; and

(C) a listing by classification code as described in the "Standard Industrial Classification Manual" published by the United States Office of Management and Budget, of each client company;

(3) notify the department of any addition or deletion of a controlling person as listed on the license application or renewal form by providing the name of the person not later than the 45th day after the date on which the person is added or deleted as a controlling person; and

(4) provide a biographical history to the department in connection with the addition of a new controlling person.

SECTION 28.019. Subsection (a), Section 91.062, Labor Code, is amended to read as follows:

(a) The executive director [~~commissioner~~] may notify the attorney general of a violation of this chapter. The attorney general may apply to a district court in Travis County for permission to file for quo warranto relief, injunctive relief, or both.

SECTION 28.020. Subsection (a), Section 92.014, Labor Code, is amended to read as follows:

(a) The department shall issue a temporary common worker employer license to a person who meets the application requirements established by the executive director [~~commissioner~~] and pays the application and registration fees set by the commission.

SECTION 28.021. Subsection (a), Section 92.031, Labor Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly or intentionally violates:

(1) this chapter;

- 62-1 (2) a rule adopted under this chapter; or
- 62-2 (3) an administrative order adopted ~~[by the~~
- 62-3 ~~commissioner]~~ under this chapter.

62-4 SECTION 28.022. Subsections (a) and (c), Section 1152.154,  
 62-5 Occupations Code, are amended to read as follows:

62-6 (a) An applicant for registration must file an application  
 62-7 with the department on a printed form prescribed by the executive  
 62-8 director ~~[commissioner]~~.

62-9 (c) The department shall refund the registration fee if the  
 62-10 executive director ~~[commissioner]~~ does not approve the  
 62-11 application.

62-12 SECTION 28.023. Section 1152.156, Occupations Code, is  
 62-13 amended to read as follows:

62-14 Sec. 1152.156. ELIGIBILITY TO REGISTER AS PROPERTY TAX  
 62-15 CONSULTANT. (a) In addition to satisfying the requirements of  
 62-16 Section 1152.155, an applicant for registration as a property tax  
 62-17 consultant must:

62-18 (1) complete at least 15 classroom hours of  
 62-19 educational courses approved by the executive director  
 62-20 ~~[commissioner]~~, including at least four hours of instruction on  
 62-21 laws and legal issues in this state related to property tax  
 62-22 consulting services; or

62-23 (2) if the person is eligible for registration under  
 62-24 Section 1152.155(b), submit to the commission evidence that the  
 62-25 applicant has completed at least four classroom hours of  
 62-26 educational programs or courses on the laws and legal issues in this  
 62-27 state related to property tax consulting services.

62-28 (b) The executive director ~~[commissioner]~~ may give  
 62-29 appropriate credit to an initial applicant for:

62-30 (1) educational courses on principles of law related  
 62-31 to property tax consulting services completed by the applicant not  
 62-32 more than two years before the date of application; and

62-33 (2) educational programs or courses completed by the  
 62-34 applicant on:

- 62-35 (A) property taxation;
- 62-36 (B) the property tax system;
- 62-37 (C) property tax administration;
- 62-38 (D) ethical standards; or
- 62-39 (E) general principles of appraisal, accounting,  
 62-40 or law as they relate to property tax consulting services.

62-41 SECTION 28.024. Section 1152.159, Occupations Code, is  
 62-42 amended to read as follows:

62-43 Sec. 1152.159. CREDITS FOR SENIOR PROPERTY TAX CONSULTANT  
 62-44 APPLICANTS. (a) The executive director ~~[commissioner]~~ shall  
 62-45 grant credit to an applicant for registration as a senior property  
 62-46 tax consultant as follows:

62-47 (1) two credits for each year the applicant completed  
 62-48 at an institution of higher education that meets program and  
 62-49 accreditation standards comparable to those for public  
 62-50 institutions of higher education as determined by the Texas Higher  
 62-51 Education Coordinating Board, not to exceed six credits;

62-52 (2) four credits to an applicant who holds a bachelor's  
 62-53 degree or equivalent from an institution of higher education  
 62-54 described by Subdivision (1); and

62-55 (3) one credit for each year in excess of five years  
 62-56 that the applicant's primary occupation involved the performance or  
 62-57 supervision of property tax consulting services or property  
 62-58 appraisal, assessment, or taxation, not to exceed 10 credits.

62-59 (b) The executive director ~~[commissioner]~~ may grant  
 62-60 additional credits to an applicant for registration as a senior  
 62-61 property tax consultant for:

62-62 (1) successful completion of educational programs or  
 62-63 courses on:

- 62-64 (A) property taxation;
- 62-65 (B) the property tax system;
- 62-66 (C) property tax administration;
- 62-67 (D) ethical standards; or
- 62-68 (E) general principles of appraisal, accounting,  
 62-69 and law as they relate to property tax consulting services;

63-1 (2) completion of other educational programs or  
63-2 courses; or

63-3 (3) advanced or postgraduate educational achievement,  
63-4 occupational experience, professional licenses, or professional  
63-5 designations obtained from recognized associations, institutes, or  
63-6 organizations.

63-7 (c) The executive director [~~commissioner~~] may assign not  
63-8 less than one credit or more than five credits to a program or  
63-9 course described by Subsection (b)(1). In determining the amount  
63-10 of credit for the program or course, the executive director  
63-11 [~~commissioner~~] shall consider:

63-12 (1) the nature of the program or course;

63-13 (2) the number of actual instructional hours in the  
63-14 program or course;

63-15 (3) whether an examination is required for successful  
63-16 completion of the program or course; and

63-17 (4) other factors the executive director  
63-18 [~~commissioner~~] determines appropriate.

63-19 SECTION 28.025. Section 1152.162, Occupations Code, is  
63-20 amended to read as follows:

63-21 Sec. 1152.162. ISSUANCE OF CERTIFICATE OF REGISTRATION.

63-22 (a) The executive director [~~commissioner~~] shall act on an initial  
63-23 application for registration filed under Section 1152.154 not later  
63-24 than the 31st day after the date the department receives the  
63-25 application.

63-26 (b) The executive director [~~commissioner~~] shall issue to an  
63-27 applicant who qualifies for registration the appropriate  
63-28 certificate of registration.

63-29 SECTION 28.026. Section 1202.055, Occupations Code, is  
63-30 amended to read as follows:

63-31 Sec. 1202.055. SECRETARY; PERSONNEL. The executive  
63-32 director [~~commissioner~~] shall:

63-33 (1) act as secretary of the council; and

63-34 (2) provide personnel from the department necessary to  
63-35 perform staff functions for the council.

63-36 SECTION 28.027. Subsections (b) and (c), Section 1202.105,  
63-37 Occupations Code, are amended to read as follows:

63-38 (b) The executive director [~~commissioner~~] shall recommend  
63-39 qualified third-party inspectors and design review agencies to the  
63-40 council.

63-41 (c) The executive director [~~commissioner~~] shall publish a  
63-42 list of all approved inspectors and design review agencies.

63-43 SECTION 28.028. Subdivision (12), Section 1302.002,  
63-44 Occupations Code, is amended to conform to Section 1, Chapter 790,  
63-45 Acts of the 77th Legislature, Regular Session, 2001, to read as  
63-46 follows:

63-47 (12) "Mechanical integrity" means the condition of a  
63-48 product, a system, or equipment installed in accordance with its  
63-49 intended purpose and according to:

63-50 (A) standards at least as strict as the standards  
63-51 provided by:

63-52 (i) the Uniform Mechanical Code [~~published~~  
63-53 ~~jointly by the International Conference of Building Officials and~~  
63-54 ~~the International Association of Plumbing and Mechanical~~  
63-55 ~~Officials, or their successor organizations]; and [or]~~

63-56 (ii) the International [Standard]  
63-57 Mechanical Code [~~published by the Southern Building Code Congress~~  
63-58 ~~International, Inc., or its successor organization];~~

63-59 (B) all other applicable codes; and

63-60 (C) the manufacturer's specifications.

63-61 SECTION 28.029. Section 1302.102, Occupations Code, is  
63-62 amended to read as follows:

63-63 Sec. 1302.102. INSURANCE REQUIREMENTS. (a) The executive  
63-64 director [~~commissioner~~] shall set insurance requirements for a  
63-65 license holder under this chapter.

63-66 (b) The executive director [~~commissioner~~] may waive the  
63-67 insurance requirements for a license holder who does not engage in  
63-68 air conditioning and refrigeration contracting for the public.

63-69 SECTION 28.030. Section 1302.151, Occupations Code, is

64-1 amended to read as follows:

64-2 Sec. 1302.151. CONSUMER INTEREST INFORMATION. (a) The  
64-3 executive director [~~commissioner~~] shall prepare information of  
64-4 consumer interest describing:

64-5 (1) the functions performed by the executive director  
64-6 [~~commissioner~~] under this chapter; and

64-7 (2) the rights of a consumer affected by this chapter.  
64-8 (b) The information must describe the procedure by which a  
64-9 consumer complaint is filed with and resolved by the executive  
64-10 director [~~commissioner~~].

64-11 (c) The executive director [~~commissioner~~] shall make the  
64-12 information available to the public.

64-13 SECTION 28.031. Section 1302.203, Occupations Code, is  
64-14 amended to read as follows:

64-15 Sec. 1302.203. EX OFFICIO MEMBERS. The executive director  
64-16 [~~commissioner~~] and the chief administrator of this chapter serve as  
64-17 ex officio, nonvoting members of the advisory board.

64-18 SECTION 28.032. Subsection (a), Section 1302.253,  
64-19 Occupations Code, is amended to read as follows:

64-20 (a) The executive director [~~commissioner~~] shall issue a  
64-21 Class A or Class B air conditioning and refrigeration contractor  
64-22 license.

64-23 SECTION 28.033. Subsections (a) and (c), Section 1302.256,  
64-24 Occupations Code, are amended to read as follows:

64-25 (a) An applicant for a license must submit a verified  
64-26 application on a form prescribed by the executive director  
64-27 [~~commissioner~~].

64-28 (c) The application must be accompanied by:

64-29 (1) a statement containing evidence satisfactory to  
64-30 the executive director [~~commissioner~~] of the applicant's practical  
64-31 experience required by Section 1302.255(a)(2); and

64-32 (2) the examination fee.

64-33 SECTION 28.034. Section 1302.257, Occupations Code, is  
64-34 amended to read as follows:

64-35 Sec. 1302.257. EXAMINATIONS. (a) The executive director  
64-36 [~~commissioner~~] shall prescribe:

64-37 (1) a separate examination for each class of license;  
64-38 and

64-39 (2) within each class of license, a separate  
64-40 examination for:

64-41 (A) an environmental air conditioning  
64-42 endorsement; and

64-43 (B) a commercial refrigeration and process  
64-44 cooling or heating endorsement.

64-45 (b) The executive director [~~commissioner~~] shall prescribe  
64-46 the method and content of an examination administered under this  
64-47 chapter and shall set compliance requirements for the examination.  
64-48 To obtain an endorsement, an applicant must pass the examination  
64-49 for the endorsement.

64-50 (c) The examination shall be offered on a monthly basis or  
64-51 more frequently as determined by the executive director  
64-52 [~~commissioner~~].

64-53 (d) The examination shall be offered at locations within the  
64-54 state as determined by the executive director [~~commissioner~~]. The  
64-55 examination may be offered by computer at locations within the  
64-56 state as determined by the executive director [~~commissioner~~].

64-57 SECTION 28.035. Subsection (a), Section 1302.260,  
64-58 Occupations Code, is amended to read as follows:

64-59 (a) On payment of the license fee, the executive director  
64-60 [~~commissioner~~] shall issue an air conditioning and refrigeration  
64-61 contractor license to an applicant who:

64-62 (1) meets the requirements of this subchapter;

64-63 (2) provides evidence of insurance coverage required  
64-64 by the executive director [~~commissioner~~] in accordance with this  
64-65 chapter; and

64-66 (3) passes the applicable examination.

64-67 SECTION 28.036. Subsection (b), Section 1302.303,  
64-68 Occupations Code, is amended to read as follows:

64-69 (b) The municipality shall report a violation of the



65-1 ordinance to the executive director [~~commissioner~~] not later than  
 65-2 the 10th day after the date the municipality acts to enforce the  
 65-3 ordinance.

65-4 SECTION 28.037. Section 1302.451, Occupations Code, is  
 65-5 amended to read as follows:

65-6 Sec. 1302.451. EMERGENCY AND CEASE AND DESIST ORDERS.

65-7 (a) The executive director [~~commissioner~~] may issue an emergency  
 65-8 order as necessary to enforce this chapter if the executive  
 65-9 director [~~commissioner~~] determines that an emergency exists  
 65-10 requiring immediate action to protect the public health and safety.

65-11 (b) The executive director [~~commissioner~~] may issue the  
 65-12 emergency order without notice and hearing or with any notice and  
 65-13 hearing the executive director [~~commissioner~~] considers  
 65-14 practicable under the circumstances. The executive director  
 65-15 [~~commissioner~~] shall set the time and place for a hearing to affirm,  
 65-16 modify, or set aside an emergency order that was issued without a  
 65-17 hearing.

65-18 (c) The executive director [~~commissioner~~] may issue a cease  
 65-19 and desist order.

65-20 SECTION 28.038. Section 1304.007, Occupations Code, is  
 65-21 amended to read as follows:

65-22 Sec. 1304.007. GENERAL INVESTIGATIVE POWER OF EXECUTIVE  
 65-23 DIRECTOR [~~COMMISSIONER~~]. (a) The executive director  
 65-24 [~~commissioner~~] may investigate a provider, administrator, or other  
 65-25 person as necessary to enforce this chapter and protect service  
 65-26 contract holders in this state.

65-27 (b) On request of the executive director [~~commissioner~~], a  
 65-28 provider shall make the records required by Section 1304.155  
 65-29 available to the executive director [~~commissioner~~] as necessary to  
 65-30 enable the executive director [~~commissioner~~] to reasonably  
 65-31 determine compliance with this chapter.

65-32 SECTION 28.039. Section 1304.102, Occupations Code, is  
 65-33 amended to read as follows:

65-34 Sec. 1304.102. APPLICATION FOR REGISTRATION. (a) An  
 65-35 applicant for registration must submit an application to the  
 65-36 executive director [~~commissioner~~].

65-37 (b) The application must:

65-38 (1) be in the form prescribed by the executive  
 65-39 director [~~commissioner~~]; and

65-40 (2) include evidence satisfactory to the executive  
 65-41 director [~~commissioner~~] of compliance with the applicable  
 65-42 financial security requirements prescribed by Section 1304.151.

65-43 SECTION 28.040. Section 1304.104, Occupations Code, is  
 65-44 amended to read as follows:

65-45 Sec. 1304.104. INFORMATION CONCERNING NUMBER OF SERVICE  
 65-46 CONTRACTS SOLD. Information concerning the number of service  
 65-47 contracts sold by a provider that is submitted under Section  
 65-48 1304.103:

65-49 (1) is a trade secret to which Section 552.110,  
 65-50 Government Code, applies; and

65-51 (2) may be used only by the executive director  
 65-52 [~~commissioner~~] and the department in developing the tiered fee  
 65-53 schedule under Section 1304.103.

65-54 SECTION 28.041. Subsection (b), Section 1304.152,  
 65-55 Occupations Code, is amended to read as follows:

65-56 (b) The insurer may not cancel the policy until the insurer  
 65-57 delivers to the provider a written notice of cancellation that  
 65-58 complies with the notice requirements prescribed by Articles  
 65-59 21.49-2A and 21.49-2B, Insurance Code, for cancellation of an  
 65-60 insurance policy under those articles. The provider shall forward  
 65-61 a copy of the cancellation notice to the executive director  
 65-62 [~~commissioner~~] not later than the 15th business day after the date  
 65-63 the notice is delivered to the provider. Cancellation of the policy  
 65-64 does not reduce the insurer's responsibility for a service contract  
 65-65 issued by the provider and insured under the policy before the date  
 65-66 of the cancellation.

65-67 SECTION 28.042. Subsections (b) and (d), Section 1304.155,  
 65-68 Occupations Code, are amended to read as follows:

65-69 (b) The records required by this section may be maintained

66-1 in an electronic medium or through other recordkeeping technology.  
 66-2 If a record is not in a hard copy, the provider must be able to  
 66-3 reformat the record into a legible hard copy at the request of the  
 66-4 executive director [~~commissioner~~].

66-5 (d) A provider that discontinues business in this state  
 66-6 shall retain its records until the provider furnishes the executive  
 66-7 director [~~commissioner~~] with proof satisfactory to the executive  
 66-8 director [~~commissioner~~] that the provider has discharged all  
 66-9 obligations to service contract holders in this state.

66-10 SECTION 28.043. Section 1304.202, Occupations Code, is  
 66-11 amended to read as follows:

66-12 Sec. 1304.202. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The  
 66-13 executive director [~~commissioner~~] may institute an action under  
 66-14 Section 51.352 for injunctive relief to restrain a violation or a  
 66-15 threatened violation of this chapter or an order issued or rule  
 66-16 adopted under this chapter.

66-17 (b) In addition to the injunctive relief provided by  
 66-18 Subsection (a), the executive director [~~commissioner~~] may  
 66-19 institute an action for a civil penalty as provided by Section  
 66-20 51.352. The amount of a civil penalty assessed under this section  
 66-21 may not exceed:

- 66-22 (1) \$2,500 for each violation; or
- 66-23 (2) \$50,000 in the aggregate for all violations of a  
 66-24 similar nature.

66-25 SECTION 28.044. Section 1802.002, Occupations Code, is  
 66-26 amended to read as follows:

66-27 Sec. 1802.002. APPLICABILITY. This chapter does not apply  
 66-28 to:

66-29 (1) a sale conducted by order of a United States court  
 66-30 under Title 11, United States Code;

66-31 (2) a sale conducted by an employee of the United  
 66-32 States, this state, or a political subdivision of this state in the  
 66-33 course and scope of employment;

66-34 (3) a sale conducted by a charitable or nonprofit  
 66-35 organization, if the auctioneer receives no compensation;

66-36 (4) a sale conducted by an individual of the  
 66-37 individual's property if the individual is not engaged in the  
 66-38 business of selling property as an auctioneer on a recurring basis;

66-39 (5) a foreclosure sale of real property personally  
 66-40 conducted by a trustee under a deed of trust;

66-41 (6) a foreclosure sale of personal property personally  
 66-42 conducted by:

66-43 (A) a person who holds a security interest in the  
 66-44 property, including a mortgage; or

66-45 (B) an employee or agent of a person described by  
 66-46 Paragraph (A) acting in the course and scope of employment, if:

66-47 (i) the employee or agent is not otherwise  
 66-48 engaged in the auction business; and

66-49 (ii) all property for sale in the auction is  
 66-50 subject to a security agreement;

66-51 (7) a sale conducted by sealed bid;

66-52 (8) an auction conducted only for student training  
 66-53 purposes as part of a course of study approved by the executive  
 66-54 director [~~commissioner~~] for auctioneers;

66-55 (9) an auction conducted by a posted stockyard or  
 66-56 market agency as defined by the federal Packers and Stockyards Act  
 66-57 (7 U.S.C. Section 181 et seq.), as amended;

66-58 (10) an auction of livestock conducted by a nonprofit  
 66-59 livestock trade association chartered in this state, if the auction  
 66-60 involves only the sale of livestock owned by members of the trade  
 66-61 association; or

66-62 (11) an auction conducted by a charitable or nonprofit  
 66-63 organization chartered in this state, if the auction:

66-64 (A) is part of a fair that is organized under  
 66-65 state, county, or municipal authority; and

66-66 (B) involves only the sale of property owned by  
 66-67 the organization's members.

66-68 SECTION 28.045. Subsection (a), Section 1802.051,  
 66-69 Occupations Code, is amended to read as follows:

67-1 (a) A person may not act as an auctioneer or associate  
 67-2 auctioneer in an auction held in this state unless the person is an  
 67-3 individual who holds a license issued by the executive director  
 67-4 [~~commissioner~~] under this chapter.

67-5 SECTION 28.046. Section 1802.054, Occupations Code, is  
 67-6 amended to read as follows:

67-7 Sec. 1802.054. APPLICATION FOR LICENSE. An applicant for a  
 67-8 license must apply to the executive director [~~commissioner~~] on a  
 67-9 form provided by the executive director [~~commissioner~~] that  
 67-10 establishes the applicant's eligibility for the license. The  
 67-11 application must be accompanied by:

- 67-12 (1) the required bond;
- 67-13 (2) the required license fee; and
- 67-14 (3) either:

67-15 (A) the permit number of a sales tax permit  
 67-16 issued to the applicant by the comptroller under Subchapter F,  
 67-17 Chapter 151, Tax Code; or

67-18 (B) proof of exemption from the tax permit  
 67-19 requirement under Chapter 151, Tax Code.

67-20 SECTION 28.047. Subsections (a) and (b), Section 1802.055,  
 67-21 Occupations Code, are amended to read as follows:

67-22 (a) An individual who establishes that the individual is  
 67-23 eligible for an auctioneer's license may apply to the executive  
 67-24 director [~~commissioner~~] to take the license examination. The  
 67-25 application must be accompanied by the examination fee.

67-26 (b) On receipt of an examination application and fee, the  
 67-27 executive director [~~commissioner~~] shall furnish the applicant  
 67-28 with:

67-29 (1) study materials and references on which the  
 67-30 examination will be based; and

67-31 (2) a schedule specifying the dates and places the  
 67-32 examination will be offered.

67-33 SECTION 28.048. Subsections (b) and (c), Section 1802.056,  
 67-34 Occupations Code, are amended to read as follows:

67-35 (b) The license examination shall be offered at least four  
 67-36 times each year at locations designated by the executive director  
 67-37 [~~commissioner~~].

67-38 (c) The executive director [~~commissioner~~] shall prepare:

- 67-39 (1) examinations for an auctioneer's license; and
- 67-40 (2) study and reference materials on which the  
 67-41 examinations are based.

67-42 SECTION 28.049. Subsection (a), Section 1802.152,  
 67-43 Occupations Code, is amended to read as follows:

67-44 (a) The department is the manager of the fund and shall:

- 67-45 (1) administer the fund without appropriation;
- 67-46 (2) maintain books and records as required by the  
 67-47 executive director [~~commissioner~~];

67-48 (3) appear at hearings or judicial proceedings; and

67-49 (4) invest and reinvest the fund's assets as  
 67-50 instructed by the executive director [~~commissioner~~].

67-51 SECTION 28.050. Subsection (b), Section 1802.155,  
 67-52 Occupations Code, is amended to read as follows:

67-53 (b) If the fund contains insufficient assets to pay the  
 67-54 consumer:

67-55 (1) the department shall record the time and date an  
 67-56 order for payment to a consumer was received; and

67-57 (2) the executive director [~~commissioner~~] shall pay  
 67-58 consumers for whom an order is recorded under Subdivision (1) as  
 67-59 funds become available in the order of the recorded time and date of  
 67-60 the order.

67-61 SECTION 28.051. Section 1802.156, Occupations Code, is  
 67-62 amended to read as follows:

67-63 Sec. 1802.156. EDUCATION EXPENDITURES PERMITTED. The  
 67-64 executive director [~~commissioner~~] may use amounts in excess of  
 67-65 \$250,000 in the fund to:

67-66 (1) advance education and research in the  
 67-67 auctioneering profession for the benefit of license holders and to  
 67-68 improve and increase the efficiency of the industry;

67-69 (2) underwrite educational seminars, training

68-1 centers, and other educational projects for the use and benefit of  
68-2 license holders;

68-3 (3) sponsor, contract, and underwrite other  
68-4 educational and research projects that advance the auctioneering  
68-5 profession in this state; and

68-6 (4) cooperate with associations of auctioneers and  
68-7 other groups for the education and advancement of the auctioneering  
68-8 profession in this state.

68-9 SECTION 28.052. Subsections (a) and (b), Section 1802.205,  
68-10 Occupations Code, are amended to read as follows:

68-11 (a) If the department's determination under Section  
68-12 1802.202 is not disputed by the auctioneer or the aggrieved party,  
68-13 the executive director [~~commissioner~~] shall pay the claim from the  
68-14 fund, subject to Section 1802.206.

68-15 (b) If a hearing is held on the department's determination,  
68-16 the executive director [~~commissioner~~] shall pay to the aggrieved  
68-17 party the amount of actual damages determined by the executive  
68-18 director [~~commissioner~~].

68-19 SECTION 28.053. Subsection (a), Section 1802.206,  
68-20 Occupations Code, is amended to read as follows:

68-21 (a) The executive director [~~commissioner~~] may not pay a  
68-22 single aggrieved party more than \$10,000.

68-23 SECTION 28.054. Section 1802.208, Occupations Code, is  
68-24 amended to read as follows:

68-25 Sec. 1802.208. SUBROGATION. If the executive director  
68-26 [~~commissioner~~] pays a claim against an auctioneer, the department  
68-27 is subrogated to all rights of the aggrieved party against the  
68-28 auctioneer to the extent of the amount paid to the aggrieved party.

68-29 SECTION 28.055. Subsection (b), Section 1901.051,  
68-30 Occupations Code, is amended to read as follows:

68-31 (b) The executive director [~~commissioner~~] shall issue  
68-32 licenses to applicants who qualify.

68-33 SECTION 28.056. Section 1901.151, Occupations Code, is  
68-34 amended to read as follows:

68-35 Sec. 1901.151. LICENSE REQUIRED. A person may not act or  
68-36 offer to act as a driller unless the person holds a license issued  
68-37 by the executive director [~~commissioner~~] under this chapter and  
68-38 rules adopted under this chapter.

68-39 SECTION 28.057. Section 1901.402, Occupations Code, is  
68-40 amended to read as follows:

68-41 Sec. 1901.402. INJUNCTION AND OTHER ENFORCEMENT  
68-42 PROVISIONS. (a) The executive director [~~commissioner~~] may bring  
68-43 an action to enjoin a person from violating this chapter.

68-44 (b) The executive director [~~commissioner~~] may enforce by  
68-45 injunction or other appropriate remedy in a court any rule,  
68-46 decision, determination, or order adopted or entered under this  
68-47 chapter.

68-48 SECTION 28.058. Section 1901.403, Occupations Code, is  
68-49 amended to read as follows:

68-50 Sec. 1901.403. VENUE. The executive director  
68-51 [~~commissioner~~] may bring an action in:

- 68-52 (1) Travis County; or  
68-53 (2) the county in which:  
68-54 (A) the offending activity occurred; or  
68-55 (B) the person engaging in the activity resides.

68-56 SECTION 28.059. Subsection (b), Section 1901.404,  
68-57 Occupations Code, is amended to read as follows:

68-58 (b) At the request of the executive director  
68-59 [~~commissioner~~], the attorney general shall bring an action in the  
68-60 name of the state for injunctive relief, to recover a civil penalty,  
68-61 or for both injunctive relief and a civil penalty, as authorized by  
68-62 this subchapter.

68-63 SECTION 28.060. Section 1902.151, Occupations Code, is  
68-64 amended to read as follows:

68-65 Sec. 1902.151. LICENSE REQUIRED. A person may not act or  
68-66 offer to act as an installer unless the person holds a license  
68-67 issued by the executive director [~~commissioner~~] under rules adopted  
68-68 under this chapter.

68-69 SECTION 28.061. Section 1902.402, Occupations Code, is

69-1 amended to read as follows:

69-2 Sec. 1902.402. INJUNCTION AND OTHER ENFORCEMENT  
69-3 PROVISIONS. (a) The executive director [~~commissioner~~] may bring  
69-4 an action to enjoin a person from violating this chapter.

69-5 (b) The executive director [~~commissioner~~] may enforce by  
69-6 injunction or other appropriate remedy in a court any rule,  
69-7 decision, determination, or order adopted or entered under this  
69-8 chapter.

69-9 SECTION 28.062. Section 1902.403, Occupations Code, is  
69-10 amended to read as follows:

69-11 Sec. 1902.403. VENUE. The executive director  
69-12 [~~commissioner~~] may bring an action in:

- 69-13 (1) Travis County; or  
69-14 (2) the county in which:  
69-15 (A) the offending activity occurred; or  
69-16 (B) the person engaging in the activity resides.

69-17 SECTION 28.063. Subsection (b), Section 1902.404,  
69-18 Occupations Code, is amended to read as follows:

69-19 (b) At the request of the executive director  
69-20 [~~commissioner~~], the attorney general shall bring an action in the  
69-21 name of the state for injunctive relief, to recover a civil penalty,  
69-22 or for both injunctive relief and a civil penalty, as authorized by  
69-23 this subchapter.

69-24 SECTION 28.064. Section 2052.053, Occupations Code, is  
69-25 amended to read as follows:

69-26 Sec. 2052.053. INVESTIGATIVE AUTHORITY. (a) The  
69-27 executive director [~~commissioner~~] shall investigate allegations of  
69-28 activity that may violate this chapter.

69-29 (b) The executive director [~~commissioner~~] may enter, at a  
69-30 reasonable time, a place of business or an establishment in which  
69-31 activity alleged to violate this chapter may occur. The executive  
69-32 director [~~commissioner~~] is not required to give advance notice  
69-33 before entering.

69-34 SECTION 28.065. Section 2052.102, Occupations Code, is  
69-35 amended to read as follows:

69-36 Sec. 2052.102. BOXING PROMOTER LICENSE APPLICATION  
69-37 REQUIREMENTS. (a) An applicant for a boxing promoter's license  
69-38 under this chapter must apply on a form furnished by the executive  
69-39 director [~~commissioner~~].

69-40 (b) An application must be accompanied by:  
69-41 (1) a license fee in an amount set by the commission;  
69-42 and  
69-43 (2) a surety bond:  
69-44 (A) subject to approval by the executive director  
69-45 [~~commissioner~~]; and  
69-46 (B) conditioned on the applicant's payment of the  
69-47 tax imposed under Section 2052.151.

69-48 (c) The executive director [~~commissioner~~] shall establish  
69-49 the amount of the surety bond required under Subsection (b). The  
69-50 bond amount may not be less than \$300.

69-51 SECTION 28.066. Subsection (a), Section 2052.108,  
69-52 Occupations Code, is amended to read as follows:

69-53 (a) An application for a license under Section 2052.107 must  
69-54 be made on a form furnished by the executive director  
69-55 [~~commissioner~~].

69-56 SECTION 28.067. Section 2052.110, Occupations Code, is  
69-57 amended to read as follows:

69-58 Sec. 2052.110. LICENSE AND BONDING EXCEPTIONS. The  
69-59 licensing and bonding requirements of this subchapter do not apply  
69-60 to:

69-61 (1) a boxing event in which the participants do not  
69-62 receive a money remuneration, purse, or prize for their  
69-63 performances or services if the event is promoted, conducted, or  
69-64 maintained by:

- 69-65 (A) an educational institution;  
69-66 (B) a law enforcement organization;  
69-67 (C) a Texas National Guard Unit; or  
69-68 (D) an amateur athletic organization recognized  
69-69 by the executive director [~~commissioner~~];

70-1 (2) a nonprofit amateur athletic association  
 70-2 chartered under the law of this state, including a membership club  
 70-3 affiliated with the association located within this state and  
 70-4 recognized by the executive director [~~commissioner~~];

70-5 (3) an event conducted by a college, school, or  
 70-6 university that is part of the institution's athletic program in  
 70-7 which only students of different educational institutions  
 70-8 participate; or

70-9 (4) an event in which only members of a troop, battery,  
 70-10 company, or unit of the Texas National Guard or a law enforcement  
 70-11 agency participate.

70-12 SECTION 28.068. Section 2052.111, Occupations Code, is  
 70-13 amended to read as follows:

70-14 Sec. 2052.111. DENIAL OF APPLICATION. The executive  
 70-15 director [~~commissioner~~] may deny an application for a license if:

70-16 (1) the applicant does not meet the qualifications for  
 70-17 the license; or

70-18 (2) after conducting an investigation and a hearing,  
 70-19 the executive director [~~commissioner~~] determines that the  
 70-20 applicant has violated this chapter or a rule adopted under this  
 70-21 chapter.

70-22 SECTION 28.069. Subsection (b), Section 2052.203,  
 70-23 Occupations Code, is amended to read as follows:

70-24 (b) The elimination tournament boxing promoter of a local,  
 70-25 regional, or championship elimination tournament is not required to  
 70-26 require that each elimination tournament contestant wear headgear  
 70-27 approved by the department if the promoter under department rules  
 70-28 notifies the executive director [~~commissioner~~] of the decision not  
 70-29 to use the approved headgear.

70-30 SECTION 28.070. Subsections (b) and (e), Section 2052.252,  
 70-31 Occupations Code, are amended to read as follows:

70-32 (b) The event may take place only if the executive director  
 70-33 [~~commissioner~~] approves the event not later than seven days before  
 70-34 the date the event begins.

70-35 (e) The event is subject to the supervision of the executive  
 70-36 director [~~commissioner~~].

70-37 SECTION 28.071. Section 2052.302, Occupations Code, is  
 70-38 amended to read as follows:

70-39 Sec. 2052.302. FORFEITURE OF PURSE. The executive director  
 70-40 [~~commissioner~~] may order a boxer or manager to forfeit to this state  
 70-41 a purse in an amount of not more than \$1,000 for violating this  
 70-42 chapter or a rule adopted under this chapter.

70-43 SECTION 28.072. Subsections (a) and (b), Section 2052.304,  
 70-44 Occupations Code, are amended to read as follows:

70-45 (a) A person may seek review of a decision or an order of the  
 70-46 executive director [~~commissioner~~] under this chapter by filing a  
 70-47 petition for review in a district court in Travis County not later  
 70-48 than the 30th day after the date on which the decision or order of  
 70-49 the executive director [~~commissioner~~] is final if the person is:

70-50 (1) a party to an administrative hearing in which the  
 70-51 decision or order is issued; and

70-52 (2) aggrieved by the decision or order.

70-53 (b) The filing of a petition for review under Subsection (a)  
 70-54 does not stay the effect of the decision or order of the executive  
 70-55 director [~~commissioner~~] that is the subject of the petition. The  
 70-56 executive director [~~commissioner~~] or the district court in which  
 70-57 the petition for review is filed may order a stay on appropriate  
 70-58 terms.

70-59 SECTION 28.073. Section 2052.305, Occupations Code, is  
 70-60 amended to read as follows:

70-61 Sec. 2052.305. SERVICE OF PROCESS. A petition for review  
 70-62 filed under Section 2052.304 must be served on:

70-63 (1) the executive director [~~commissioner~~]; and

70-64 (2) all parties of record to a hearing before the  
 70-65 executive director [~~commissioner~~] that relates to the matter for  
 70-66 which the petition for review is filed.

70-67 SECTION 28.074. Subsection (a), Section 2052.306,  
 70-68 Occupations Code, is amended to read as follows:

70-69 (a) On receipt of a petition for review served under Section

71-1 2052.305, the executive director [~~commissioner~~], not later than the  
 71-2 date on which the answer to the petition must be filed or the date on  
 71-3 which the record is made available to the executive director  
 71-4 [~~commissioner~~], whichever date is later, shall certify to the  
 71-5 district court in which the petition is filed the record of the  
 71-6 proceedings to which the petition relates.

71-7 SECTION 28.075. Section 2052.307, Occupations Code, is  
 71-8 amended to read as follows:

71-9 Sec. 2052.307. JUDICIAL REVIEW. (a) A district court  
 71-10 reviewing a decision or an order of the executive director  
 71-11 [~~commissioner~~] under this subchapter shall try the action without a  
 71-12 jury in the same manner as a civil action, except that evidence is  
 71-13 not admissible unless the evidence was presented at the hearing or  
 71-14 noticed in the record of the hearing before the executive director  
 71-15 [~~commissioner~~]. The petitioner has the burden of proof in the  
 71-16 action.

71-17 (b) The court may:

71-18 (1) affirm the decision or order of the executive  
 71-19 director [~~commissioner~~]; or

71-20 (2) remand the matter to the executive director  
 71-21 [~~commissioner~~] for further proceedings.

71-22 SECTION 28.076. Section 2052.308, Occupations Code, is  
 71-23 amended to read as follows:

71-24 Sec. 2052.308. APPEAL. (a) The petitioner or executive  
 71-25 director [~~commissioner~~] may appeal a final judgment of a court  
 71-26 conducting a review under this subchapter in the same manner as a  
 71-27 civil action.

71-28 (b) The executive director [~~commissioner~~] is not required  
 71-29 to file an appeal bond.

71-30 SECTION 28.077. Subsection (a), Section 2151.101,  
 71-31 Occupations Code, is amended to read as follows:

71-32 (a) A person may not operate an amusement ride unless the  
 71-33 person:

71-34 (1) has had the amusement ride inspected at least once  
 71-35 a year by an insurer or a person with whom the insurer has  
 71-36 contracted;

71-37 (2) obtains a written certificate from the insurer or  
 71-38 person with whom the insurer has contracted stating that the  
 71-39 amusement ride:

71-40 (A) has been inspected;

71-41 (B) meets the standards for insurance coverage;  
 71-42 and

71-43 (C) is covered by the insurance required by  
 71-44 Subdivision (3);

71-45 (3) has an insurance policy currently in effect  
 71-46 written by an insurance company authorized to do business in this  
 71-47 state or by a surplus lines insurer, as defined by Chapter 981  
 71-48 [~~Article 1.14-2~~], Insurance Code, or has an independently procured  
 71-49 policy subject to Chapter 101 [~~Article 1.14-1~~], Insurance Code,  
 71-50 insuring the owner or operator against liability for injury to  
 71-51 persons arising out of the use of the amusement ride in an amount of  
 71-52 not less than:

71-53 (A) \$100,000 per occurrence with a \$300,000  
 71-54 annual aggregate for Class A amusement rides; and

71-55 (B) \$1,000,000 per occurrence for Class B  
 71-56 amusement rides;

71-57 (4) files with the executive director [~~commissioner~~],  
 71-58 as required by this chapter, the inspection certificate and the  
 71-59 insurance policy or a photocopy of the certificate or policy  
 71-60 authorized by the executive director [~~commissioner~~]; and

71-61 (5) files with each sponsor, lessor, landowner, or  
 71-62 other person responsible for the amusement ride being offered for  
 71-63 use by the public a photocopy of the inspection certificate and the  
 71-64 insurance policy required by this subsection.

71-65 SECTION 28.078. Subsection (a), Section 2501.053,  
 71-66 Occupations Code, is amended to read as follows:

71-67 (a) Not later than the 30th day before the date a personnel  
 71-68 service begins operating in this state, the owner of the service  
 71-69 must file notice with the executive director [~~commissioner~~].

72-1 SECTION 28.079. Subsection (a), Section 2501.055,  
72-2 Occupations Code, is amended to read as follows:

72-3 (a) On receipt of a notice filed under Section 2501.053, the  
72-4 executive director [~~commissioner~~] shall issue to the owner a  
72-5 certificate of authority to do business as a personnel service not  
72-6 later than the 15th day after the date the notice is filed if the  
72-7 owner:

- 72-8 (1) pays the filing fee required for the certificate;
- 72-9 and
- 72-10 (2) complies with the requirements of Section
- 72-11 2501.054.

72-12 SECTION 28.080. Section 2501.057, Occupations Code, is  
72-13 amended to read as follows:

72-14 Sec. 2501.057. RENEWAL OF CERTIFICATE. The executive  
72-15 director [~~commissioner~~] shall issue a renewal of a certificate of  
72-16 authority on the receipt of:

- 72-17 (1) a renewal notice from the owner that contains the
- 72-18 information required by Section 2501.053;
- 72-19 (2) a renewal fee; and
- 72-20 (3) security that complies with Section 2501.054.

72-21 SECTION 28.081. The heading to Subchapter D, Chapter 2501,  
72-22 Occupations Code, is amended to read as follows:

72-23 SUBCHAPTER D. ENFORCEMENT [~~BY COMMISSIONER~~]

72-24 SECTION 28.082. Section 2501.151, Occupations Code, is  
72-25 amended to read as follows:

72-26 Sec. 2501.151. ENFORCEMENT. (a) The executive director  
72-27 [~~commissioner~~] shall enforce Section 2501.102 and may investigate a  
72-28 personnel service as necessary to enforce that section.

72-29 (b) The attorney general shall assist the executive  
72-30 director [~~commissioner~~] on request.

72-31 SECTION 28.083. Subsection (a), Section 2501.253,  
72-32 Occupations Code, is amended to read as follows:

72-33 (a) In addition to the amount awarded to a complainant under  
72-34 Section 2501.154(b), the executive director [~~commissioner~~] may  
72-35 impose on the personnel service an administrative penalty equal to  
72-36 two times the amount awarded under that subsection. A penalty  
72-37 collected under this section shall be deposited in the state  
72-38 treasury.

72-39 SECTION 28.084. Subsections (a) and (b), Section 2502.052,  
72-40 Occupations Code, are amended to read as follows:

72-41 (a) To obtain a certificate of authority, an owner must:

- 72-42 (1) file with the executive director [~~commissioner~~] a
- 72-43 sworn application accompanied by the required application fee; and
- 72-44 (2) file with the department security that complies
- 72-45 with Section 2502.053.

72-46 (b) The application must be in the form prescribed by the  
72-47 executive director [~~commissioner~~] and include:

- 72-48 (1) the address of the principal location of the
- 72-49 career counseling service;
- 72-50 (2) the assumed name, if any, under which the career
- 72-51 counseling service will operate;
- 72-52 (3) the name and address of each owner; and
- 72-53 (4) a statement that the owner has read and is familiar
- 72-54 with this chapter.

72-55 SECTION 28.085. Subsection (a), Section 2502.053,  
72-56 Occupations Code, is amended to read as follows:

72-57 (a) Before the executive director [~~commissioner~~] may issue  
72-58 a certificate of authority to an owner, the owner must file with the  
72-59 department a bond in the amount of \$10,000 that is:

- 72-60 (1) executed by a surety company authorized to do
- 72-61 business in this state;
- 72-62 (2) payable to the state; and
- 72-63 (3) conditioned on the faithful performance of the
- 72-64 owner's obligations under this chapter.

72-65 SECTION 28.086. Subsections (a) and (b), Section 2502.054,  
72-66 Occupations Code, are amended to read as follows:

72-67 (a) The executive director [~~commissioner~~] shall issue a  
72-68 certificate of authority to do business as a career counseling  
72-69 service to an applicant who meets the requirements of this



73-1 subchapter.

73-2 (b) The executive director [~~commissioner~~] shall process a  
73-3 certificate application not later than the 15th day after the date  
73-4 the application is filed.

73-5 SECTION 28.087. Section 2502.251, Occupations Code, is  
73-6 amended to read as follows:

73-7 Sec. 2502.251. ENFORCEMENT. (a) The executive director  
73-8 [~~commissioner~~] shall enforce this chapter and may investigate a  
73-9 career counseling service as necessary.

73-10 (b) The attorney general shall assist the executive  
73-11 director [~~commissioner~~] on request.

73-12 SECTION 28.088. Section 2502.301, Occupations Code, is  
73-13 amended to read as follows:

73-14 Sec. 2502.301. ADMINISTRATIVE PENALTY. In addition to the  
73-15 amount awarded to a complainant under Section 2502.254(b), the  
73-16 executive director [~~commissioner~~] may impose on the career  
73-17 counseling service an administrative penalty equal to two times the  
73-18 amount awarded under that subsection. A penalty collected under  
73-19 this section shall be deposited in the state treasury.

73-20 SECTION 28.089. Subsection (a), Section 7, Article 9035,  
73-21 Revised Statutes, is amended to read as follows:

73-22 (a) To ensure the adequate performance of a warrantor's  
73-23 obligations to a consumer, each warrantor shall comply with  
73-24 financial security requirements by:

73-25 (1) insuring its vehicle protection products under a  
73-26 reimbursement insurance policy issued by an insurer authorized to  
73-27 engage in the business of insurance in this state or under a surplus  
73-28 lines insurance policy issued by an insurer eligible to place  
73-29 coverage in this state as regulated under Chapter 981 [~~Article~~  
73-30 ~~1.14-2~~], Insurance Code; or

73-31 (2) providing any other form of comparable financial  
73-32 security approved by the executive director [~~commissioner~~].

73-33 SECTION 28.090. Section 1.14, Chapter 376, Acts of the 77th  
73-34 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
73-35 Civil Statutes), is amended to read as follows:

73-36 Sec. 1.14. PERSONNEL. The executive director  
73-37 [~~commissioner~~] may, as provided by the General Appropriations Act,  
73-38 appoint and fix the compensation of any personnel, including  
73-39 specialists and consultants, necessary to perform duties and  
73-40 functions under this article.

73-41 SECTION 28.091. Subsection (e), Section 1.41, Chapter 376,  
73-42 Acts of the 77th Legislature, Regular Session, 2001 (Article 165c,  
73-43 Vernon's Texas Civil Statutes), is amended to read as follows:

73-44 (e) On written request of at least 25 qualified voters  
73-45 residing in the target area or operational area mentioned in the  
73-46 notice requesting an election accompanied by unsigned petitions,  
73-47 the county clerk of each county within the target area or  
73-48 operational area shall certify and mark for identification  
73-49 petitions for circulation. An application for a petition seeking  
73-50 an election to disapprove the issuance of a permit must be headed:  
73-51 "Application for Election to Disapprove a Weather Modification  
73-52 Permit." The application shall contain a statement just ahead of  
73-53 the signatures of the applicants stating the following: "It is the  
73-54 hope, purpose, and intent of the applicants whose signatures appear  
73-55 on this application to see disapproved the issuance of a permit for  
73-56 weather modification, including hail suppression." An application  
73-57 for a petition seeking an election to approve the issuance of a  
73-58 permit shall be headed: "Application for Election to Approve a  
73-59 Weather Modification Permit." The application shall contain a  
73-60 statement just ahead of the signatures of the applicants as  
73-61 follows: "It is the hope, purpose, and intent of the applicants  
73-62 whose signatures appear on this petition to see approved the  
73-63 issuance of a permit for weather modification, including hail  
73-64 suppression." On the return to the county clerks of petitions  
73-65 signed by at least 10 percent of the qualified voters residing in  
73-66 each county within the target area or operational area in the notice  
73-67 requesting an election, the commissioners court of each county  
73-68 shall call and hold an election. Notice under Chapter 111, Local  
73-69 Government Code, of the commissioners court meeting to call and

74-1 hold the election is not required. The date of the election shall  
74-2 be determined by the commissioners court in accordance with this  
74-3 section, notwithstanding Sections 41.004 and 41.0041, Election  
74-4 Code. The petition must be filed with the clerk of each county  
74-5 within 30 days immediately following the first publication of  
74-6 notice. The election must be held within 45 days after the date the  
74-7 petition is received to determine whether or not the qualified  
74-8 voters in the target area or operational area approve the issuance  
74-9 of the permit. Immediately on calling the election, the clerk of  
74-10 each county within the target area or operational area shall notify  
74-11 the executive director [~~commissioner~~] of the date of the election.  
74-12 Except as otherwise provided in this article, elections must be  
74-13 held in accordance with the Election Code.

74-14 SECTION 28.092. The changes in law made by this article to  
74-15 Section 755.024, Health and Safety Code, regarding the terminology  
74-16 used to identify a commission or license issued by the Texas  
74-17 Department of Licensing and Regulation, do not affect the validity  
74-18 of a commission or license issued by the department under that  
74-19 section.

74-20 ARTICLE 29. GENERAL TRANSITION; EFFECTIVE DATE

74-21 SECTION 29.001. The changes in law made by this Act  
74-22 regarding the powers and duties of the executive director of the  
74-23 Texas Department of Licensing and Regulation that are transferred  
74-24 to the Texas Commission of Licensing and Regulation do not affect  
74-25 the status of a complaint, investigation, or other proceeding. A  
74-26 rule or form adopted by the executive director before the effective  
74-27 date of this Act remains in effect as a rule or form of the  
74-28 department until amended or changed.

74-29 SECTION 29.002. This Act takes effect September 1, 2003.

74-30 \* \* \* \* \*