

AN ACT

relating to authorizing the Texas Building and Procurement Commission to enter into more favorable lease with option to purchase agreements with regards to certain space currently occupied under lease with option to purchase agreements.

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

SECTION 1. Subchapter J, Chapter 2166, Government Code, is amended by adding Sections 2166.454, 2166.4541, and 2166.4542 to read as follows:

Sec. 2166.454. PURCHASING OR OBTAINING MORE FAVORABLE LEASE WITH OPTION TO PURCHASE AGREEMENTS WITH REGARD TO CERTAIN LEASED SPACE. (a) This section and Sections 2166.4541 and 2166.4542 apply only in relation to space currently occupied by a state agency under one of seven lease with an option to purchase agreements:

(1) entered into by the state before December 1994, for the benefit of the Texas Commission on Environmental Quality or its predecessor agency, the office of the attorney general, the successor of the Department of Human Services, the Department of Family and Protective Services, or the Texas Department of Transportation; and

(2) under which the state may acquire title to the space by paying the purchase price remaining under the terms of the agreement on September 1 of an odd-numbered year.

(b) If the commission determines that it is advantageous to

1 the state, the commission may:

2 (1) request the Texas Public Finance Authority to  
3 issue revenue bonds to finance the purchase of any or all of the  
4 space to which this section applies in accordance with Section  
5 2166.4542 and Chapter 1232, if the commission determines that it is  
6 more advantageous to the state to purchase the space than to enter  
7 into a more favorable lease with an option to purchase agreement  
8 under Section 2166.4541 for that space; or

9 (2) enter into a more favorable lease with an option to  
10 purchase agreement with regard to any or all of the space to which  
11 this section applies by taking the actions authorized by Section  
12 2166.4541 under the conditions prescribed by Section 2166.4541, if  
13 the commission determines that it is more advantageous to the state  
14 to enter into a more favorable lease with an option to purchase  
15 agreement for that space than to purchase the space under Section  
16 2166.4542 and Chapter 1232.

17 (c) This section expires September 2, 2008, except that this  
18 section is continued in effect after that date for the limited  
19 purpose of applying with regard to any transaction authorized by  
20 this section and Section 2166.4541 or 2166.4542 that occurs before  
21 that date.

22 Sec. 2166.4541. ENTERING INTO MORE FAVORABLE LEASE WITH  
23 OPTION TO PURCHASE AGREEMENTS. (a) Subject to Section  
24 2166.454(b), the commission may issue sale and lease purchase  
25 revenue obligations in accordance with this section and use the  
26 proceeds of the revenue obligations to:

27 (1) pay the commission's expenses in connection with

1 issuing the revenue obligations;

2 (2) purchase any or all of the space described by  
3 Section 2166.454(a) according to the terms of the applicable  
4 existing lease with an option to purchase agreement or agreements;  
5 and

6 (3) if it is advisable to make capital improvements to  
7 the space, pay for making the capital improvements.

8 (b) The revenue obligations issued under Subsection (a)  
9 must be paid in their entirety immediately after issuance by using  
10 the proceeds of the concurrent sale of the space by the commission  
11 to a third party who agrees to lease the space back to the state with  
12 an option to purchase under the following conditions:

13 (1) the term of the new lease with an option to  
14 purchase agreement does not exceed the remaining term on the  
15 applicable existing lease with an option to purchase agreement, as  
16 of the date on which the transactions described by this section  
17 occur; and

18 (2) the cost to the state under the new lease with an  
19 option to purchase agreement is less than the cost to the state  
20 under the existing lease with an option to purchase agreement and  
21 the difference in cost justifies any costs incurred by the  
22 commission and the state in taking actions under this section with  
23 regard to the space.

24 (c) The commission shall obtain the approval of the Bond  
25 Review Board before issuing a sale and lease purchase revenue  
26 obligation under this section.

27 (d) Any sale and lease purchase revenue obligations issued

1 by the commission under this section and any lease with an option to  
2 purchase agreement entered into under this section must be  
3 submitted to the attorney general for review and approval. If the  
4 attorney general determines that the obligation or agreement, as  
5 applicable, entered into under this section complies with this  
6 section, the attorney general shall approve the issuance of the  
7 obligation or the agreement, as applicable. On approval by the  
8 attorney general, the obligation or agreement, as applicable, is  
9 incontestable for any cause.

10 (e) A sale and lease purchase revenue obligation issued  
11 under this section is not a debt of the state or any state agency, is  
12 not a pledge of the faith and credit or the taxing power of the  
13 state, and may be paid only from the proceeds of the concurrent sale  
14 of the space to which the sale and lease purchase revenue obligation  
15 relates. A sale and lease purchase revenue obligation issued under  
16 this section must contain a statement to that effect.

17 (f) A lease with an option to purchase agreement entered  
18 into under this section must contain a statement that the agreement  
19 is not a debt of the state or any state agency and is contingent on  
20 continued legislative appropriations for making the lease  
21 payments.

22 (g) This section expires September 2, 2008, except that this  
23 section is continued in effect after that date for the limited  
24 purpose of applying with regard to any transaction authorized by  
25 Section 2166.454 and this section that occurs before that date.

26 Sec. 2166.4542. PURCHASING CERTAIN LEASED SPACE. (a)  
27 Subject to Section 2166.454(b), the commission may purchase any or

1 all of the space described by Section 2166.454(a) in accordance  
2 with this section and Chapter 1232.

3 (b) The commission shall request the Texas Public Finance  
4 Authority to issue revenue obligations to finance the purchase  
5 price of any or all of the space described by Section 2166.454(a)  
6 that the commission elects to purchase under this section. The  
7 authority shall issue the revenue obligations in accordance with  
8 and subject to all provisions of Chapter 1232 applicable to revenue  
9 obligations, including all provisions relating to ensuring that the  
10 revenue obligations are paid, except that Section 1232.108(2) does  
11 not apply.

12 (c) The authority shall issue the revenue obligations in  
13 amounts sufficient to:

14 (1) pay the authority's expenses in connection with  
15 issuing the revenue obligations;

16 (2) pay the purchase price of the space described by  
17 Section 2166.454(a) included in the request of the commission  
18 according to the terms of the applicable existing lease with an  
19 option to purchase agreement or agreements; and

20 (3) if the commission considers it advisable to make  
21 capital improvements to the space, pay for making the capital  
22 improvements.

23 (d) At the time that a building is purchased under this  
24 section, money specifically appropriated by the legislature to an  
25 agency occupying space in the building for lease payments under the  
26 applicable lease with an option to purchase agreement, or the money  
27 available to and budgeted by the agency for that purpose, shall be

1 transferred to the commission and used by the commission only to  
2 make the required lease or rental payments to the authority during  
3 the remainder of the state fiscal biennium during which the  
4 building was purchased under this section.

5 (e) This section expires September 2, 2008, except that this  
6 section is continued in effect after that date for the limited  
7 purpose of applying with regard to any transaction authorized by  
8 Section 2166.454 and this section that occurs before that date.

9 SECTION 2. This Act takes effect immediately if it receives  
10 a vote of two-thirds of all the members elected to each house, as  
11 provided by Section 39, Article III, Texas Constitution. If this  
12 Act does not receive the vote necessary for immediate effect, this  
13 Act takes effect on the 91st day after the last day of the  
14 legislative session.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 3147 was passed by the House on May 9, 2005, by the following vote: Yeas 144, Nays 0, 3 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3147 on May 24, 2005, by the following vote: Yeas 140, Nays 2, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 3147 was passed by the Senate, with amendments, on May 23, 2005, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor