

1 AN ACT

2 relating to nonsubstantive additions to and corrections in enacted  
3 codes, to the nonsubstantive codification or disposition of various  
4 laws omitted from enacted codes, and to conforming codifications  
5 enacted by the 79th Legislature to other Acts of that legislature.

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

7 ARTICLE 1. GENERAL PROVISIONS

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

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

15 (2) conforming codifications enacted by the 79th  
16 Legislature to other Acts of that legislature that amended the laws  
17 codified or added new law to subject matter codified;

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

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

22 SECTION 1.002. (a) The repeal of a statute by this Act does  
23 not affect an amendment, revision, or reenactment of the statute by  
24 the 80th Legislature, Regular Session, 2007. The amendment,

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

4 (b) If any provision of this Act conflicts with a statute  
5 enacted by the 80th Legislature, Regular Session, 2007, the statute  
6 controls.

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

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

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

17 ARTICLE 2. CHANGES RELATING TO AGRICULTURE CODE

18 SECTION 2.001. Sections 301.104, 301.108, and 301.258,  
19 Agriculture Code, as added by Chapter 1276, Acts of the 78th  
20 Legislature, Regular Session, 2003, are repealed to conform to the  
21 repeal of the law from which those sections were derived by Section  
22 21.013, Chapter 816, Acts of the 78th Legislature, Regular Session,  
23 2003.

24 ARTICLE 2A. CHANGES RELATING TO BUSINESS & COMMERCE CODE

25 SECTION 2A.001. Section 17.08(a)(5), Business & Commerce  
26 Code, is amended to correct a reference to read as follows:

27 (5) "State seal" means the state seal, the reverse of

1 the state seal, and the state arms as defined by Sections 3101.001  
2 and 3101.002, Government Code [~~Article 6139f, Revised Statutes~~].

3 ARTICLE 3. CHANGES RELATING TO CODE OF CRIMINAL PROCEDURE

4 SECTION 3.001. Article 45.051(f), Code of Criminal  
5 Procedure, as amended by Chapters 281 and 357, Acts of the 79th  
6 Legislature, Regular Session, 2005, is reenacted and amended to  
7 correct a reference to read as follows:

8 (f) This article does not apply to:

9 (1) an offense to which Section 542.404 [~~or~~  
10 ~~729.004(b)~~], Transportation Code, applies; or

11 (2) a violation of a state law or local ordinance  
12 relating to motor vehicle control, other than a parking violation,  
13 committed by a person who:

14 (A) holds a commercial driver's license; or

15 (B) held a commercial driver's license when the  
16 offense was committed.

17 SECTION 3.002. (a) Article 62.001(5), Code of Criminal  
18 Procedure, as renumbered from former Article 62.01(5), Code of  
19 Criminal Procedure, and amended by Chapter 1008, Acts of the 79th  
20 Legislature, Regular Session, 2005, is reenacted and amended to  
21 conform to an amendment to former Article 62.01(5) by Chapter 1273,  
22 Acts of the 79th Legislature, Regular Session, 2005, to read as  
23 follows:

24 (5) "Reportable conviction or adjudication" means a  
25 conviction or adjudication, including an adjudication of  
26 delinquent conduct or a deferred adjudication, that, regardless of  
27 the pendency of an appeal, is a conviction for or an adjudication

1 for or based on:

2 (A) a violation of Section 21.11 (Indecency with  
3 a child), 22.011 (Sexual assault), 22.021 (Aggravated sexual  
4 assault), or 25.02 (Prohibited sexual conduct), Penal Code;

5 (B) a violation of Section 43.05 (Compelling  
6 prostitution), 43.25 (Sexual performance by a child), or 43.26  
7 (Possession or promotion of child pornography), Penal Code;

8 (C) a violation of Section 20.04(a)(4)  
9 (Aggravated kidnapping), Penal Code, if the actor committed the  
10 offense or engaged in the conduct with intent to violate or abuse  
11 the victim sexually;

12 (D) a violation of Section 30.02 (Burglary),  
13 Penal Code, if the offense or conduct is punishable under  
14 Subsection (d) of that section and the actor committed the offense  
15 or engaged in the conduct with intent to commit a felony listed in  
16 Paragraph (A) or (C);

17 (E) a violation of Section 20.02 (Unlawful  
18 restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping),  
19 Penal Code, if, as applicable:

20 (i) the judgment in the case contains an  
21 affirmative finding under Article 42.015; or

22 (ii) the order in the hearing or the papers  
23 in the case contain an affirmative finding that the victim or  
24 intended victim was younger than 17 years of age;

25 (F) the second violation of Section 21.08  
26 (Indecent exposure), Penal Code, but not if the second violation  
27 results in a deferred adjudication;

1 (G) an attempt, conspiracy, or solicitation, as  
2 defined by Chapter 15, Penal Code, to commit an offense or engage in  
3 conduct listed in Paragraph (A), (B), (C), (D), or (E);

4 (H) a violation of the laws of another state,  
5 federal law, the laws of a foreign country, or the Uniform Code of  
6 Military Justice for or based on the violation of an offense  
7 containing elements that are substantially similar to the elements  
8 of an offense listed under Paragraph (A), (B), (C), (D), (E), [~~or~~]  
9 (G), or (J), but not if the violation results in a deferred  
10 adjudication; [~~or~~]

11 (I) the second violation of the laws of another  
12 state, federal law, the laws of a foreign country, or the Uniform  
13 Code of Military Justice for or based on the violation of an offense  
14 containing elements that are substantially similar to the elements  
15 of the offense of indecent exposure, but not if the second violation  
16 results in a deferred adjudication; or

17 (J) a violation of Section 33.021 (Online  
18 solicitation of a minor), Penal Code.

19 (b) Section 2, Chapter 1273, Acts of the 79th Legislature,  
20 Regular Session, 2005, which amended former Subdivision (5),  
21 Article 62.01, Code of Criminal Procedure, is repealed.

22 ARTICLE 4. CHANGES RELATING TO EDUCATION CODE

23 SECTION 4.001. Section 7.005, Education Code, is amended to  
24 correct a cross-reference to read as follows:

25 Sec. 7.005. COOPERATION BETWEEN STATE AGENCIES OF  
26 EDUCATION. The State Board of Education and the Texas Higher  
27 Education Coordinating Board, in conjunction with other

1 appropriate agencies, shall ensure that long-range plans and  
2 educational programs established by each board provide a  
3 comprehensive education for the students of this state under the  
4 jurisdiction of that board, extending from early childhood  
5 education through postgraduate study. In assuring that programs  
6 are coordinated, the boards shall use the P-16 Council established  
7 under Section 61.076 [~~61.077~~].

8 SECTION 4.002. The heading to Section 21.035, Education  
9 Code, is amended to conform to Section 1.04(a), Chapter 1227, Acts  
10 of the 79th Legislature, Regular Session, 2005, to read as follows:

11 Sec. 21.035. ADMINISTRATION BY AGENCY [~~APPLICATION OF~~  
12 ~~SUNSET ACT~~].

13 SECTION 4.003. Section 25.086(a), Education Code, as  
14 amended by Chapters 377, 887, and 1339, Acts of the 79th  
15 Legislature, Regular Session, 2005, is reenacted and amended to  
16 read as follows:

17 (a) A child is exempt from the requirements of compulsory  
18 school attendance if the child:

19 (1) attends a private or parochial school that  
20 includes in its course a study of good citizenship;

21 (2) is eligible to participate in a school district's  
22 special education program under Section 29.003 and cannot be  
23 appropriately served by the resident district;

24 (3) has a physical or mental condition of a temporary  
25 and remediable nature that makes the child's attendance infeasible  
26 and holds a certificate from a qualified physician specifying the  
27 temporary condition, indicating the treatment prescribed to remedy

1 the temporary condition, and covering the anticipated period of the  
2 child's absence from school for the purpose of receiving and  
3 recuperating from that remedial treatment;

4 (4) is expelled in accordance with the requirements of  
5 law in a school district that does not participate in a mandatory  
6 juvenile justice alternative education program under Section  
7 37.011;

8 (5) is at least 17 years of age and:

9 (A) is attending a course of instruction to  
10 prepare for the high school equivalency examination, and:

11 (i) has the permission of the child's parent  
12 or guardian to attend the course;

13 (ii) is required by court order to attend  
14 the course;

15 (iii) has established a residence separate  
16 and apart from the child's parent, guardian, or other person having  
17 lawful control of the child; or

18 (iv) is homeless as defined by 42 U.S.C.  
19 Section 11302; or

20 (B) has received a high school diploma or high  
21 school equivalency certificate;

22 (6) is at least 16 years of age and is attending a  
23 course of instruction to prepare for the high school equivalency  
24 examination, if:

25 (A) the child is recommended to take the course  
26 of instruction by a public agency that has supervision or custody of  
27 the child under a court order; or

1 (B) the child is enrolled in a Job Corps training  
2 program under the Workforce Investment Act of 1998 (29 U.S.C.  
3 Section 2801 et seq.);

4 ~~[(B) the child is enrolled in a Job Corps~~  
5 ~~training program under 29 U.S.C. Section 2881 et seq.;]~~

6 (7) is at least 16 years of age and is enrolled in a  
7 high school diploma program under Chapter 18;

8 (8) ~~[(7)]~~ is enrolled in the Texas Academy of  
9 Mathematics and Science under Subchapter G, Chapter 105;

10 (9) ~~[(8)]~~ is enrolled in the Texas Academy of  
11 Leadership in the Humanities;

12 (10) ~~[(9)]~~ is enrolled in the Texas Academy of  
13 Mathematics and Science at The University of Texas at Brownsville;

14 (11) ~~[(9)]~~ is enrolled in the Texas Academy of  
15 International Studies; or

16 (12) ~~[(10)]~~ is specifically exempted under another  
17 law.

18 SECTION 4.004. Section 28.024, Education Code, as amended  
19 by Chapters 887 and 1339, Acts of the 79th Legislature, Regular  
20 Session, 2005, is reenacted and amended to read as follows:

21 Sec. 28.024. CREDIT FOR ENROLLMENT IN CERTAIN ACADEMIES. A  
22 school district shall grant to a student credit toward the academic  
23 course requirements for high school graduation, up to a maximum of  
24 two years of credit, for courses the student successfully completes  
25 at:

26 (1) the Texas Academy of Leadership in the Humanities  
27 under Section 96.707;



1           (2) the Texas Academy of Mathematics and Science under  
2 Subchapter G, Chapter 105; [~~or~~]

3           (3) the Texas Academy of Mathematics and Science under  
4 Section 78.10; or

5           (4) [~~(3)~~] the Texas Academy of International Studies  
6 under Section 87.505.

7           SECTION 4.005. Section 29.161(a), Education Code, is  
8 amended to correct a cross-reference to read as follows:

9           (a) The State Center for Early Childhood Development, in  
10 conjunction with the P-16 Council established under Section 61.076  
11 [~~61.077~~], shall develop and adopt a school readiness certification  
12 system for use in certifying the effectiveness of prekindergarten  
13 programs, Head Start and Early Head Start programs,  
14 government-subsidized child-care programs provided by nonprofit or  
15 for-profit entities, government-subsidized faith-based child-care  
16 programs, and other government-subsidized child-care programs in  
17 preparing children for kindergarten. The system shall be made  
18 available on a voluntary basis to program providers seeking to  
19 obtain certification as evidence of the quality of the program  
20 provided.

21           SECTION 4.006. Section 29.908(b-2), Education Code, is  
22 amended to correct a cross-reference to read as follows:

23           (b-2) The P-16 Council established under Section 61.076  
24 [~~61.077~~] shall provide guidance in case of any conflict that arises  
25 between parties to an articulation agreement under Subsection  
26 (b)(3).

27           SECTION 4.007. Section 32.153(d), Education Code, as added

1 by Chapter 1216, Acts of the 78th Legislature, Regular Session,  
2 2003, is amended to correct references to read as follows:

3 (d) The P-16 Council [~~joint advisory committee~~] established  
4 under Section 61.076 [~~61.077, or any successor to that committee~~  
5 ~~with advisory responsibility for coordination between secondary~~  
6 ~~and postsecondary education,~~] shall serve in an advisory capacity  
7 to the agency and the Department of Information Resources in  
8 connection with functions relating to the portal.

9 SECTION 4.008. Section 38.016(e), Education Code, is  
10 amended to correct a reference to read as follows:

11 (e) An act in violation of Subsection (b) does not override  
12 the immunity from personal liability granted in Section 22.0511  
13 [~~22.051~~] or other law or the district's sovereign and governmental  
14 immunity.

15 SECTION 4.009. The heading to Section 39.132, Education  
16 Code, is amended to more accurately reflect the substance of that  
17 section to read as follows:

18 Sec. 39.132. SANCTIONS FOR ACADEMICALLY UNACCEPTABLE [~~AND~~  
19 ~~CERTAIN OTHER~~] CAMPUSES.

20 SECTION 4.010. Section 61.076, Education Code, is amended  
21 by adding Subsection (h) to read as follows:

22 (h) The council, in conjunction with the State Center for  
23 Early Childhood Development, shall develop and adopt a school  
24 readiness certification system as required by Section 29.161.

25 SECTION 4.011. Section 61.077, Education Code, is repealed.

26 ARTICLE 5. CHANGES RELATING TO ELECTION CODE

27 SECTION 5.001. Section 42.006(d), Election Code, as amended

1 by Chapter 742, Acts of the 79th Legislature, Regular Session,  
2 2005, is repealed to conform to Chapter 1107, Acts of the 79th  
3 Legislature, Regular Session, 2005.

4 SECTION 5.002. (a) Section 501.032(a), Election Code, as  
5 added by Section 1, Chapter 975, Acts of the 79th Legislature,  
6 Regular Session, 2005, is amended to conform to Section 1, Chapter  
7 890, Acts of the 79th Legislature, Regular Session, 2005, to read as  
8 follows:

9 (a) The commissioners court, at its next regular session on  
10 or after the 30th day after the date the petition is filed, shall  
11 order a local option election to be held on the issue set out in the  
12 petition if the petition is filed with the voter registrar not later  
13 than the 60th day after the date the petition is issued and bears  
14 the actual signatures of a number of qualified voters of the  
15 political subdivision equal to at least:

16 (1) 35 percent of the registered voters in the  
17 subdivision who voted in the most recent gubernatorial election for  
18 a ballot issue that permits voting for or against:

19 (A) "The legal sale of all alcoholic beverages  
20 for off-premise consumption only.";

21 (B) "The legal sale of all alcoholic beverages  
22 except mixed beverages.";

23 (C) "The legal sale of all alcoholic beverages  
24 including mixed beverages."; or

25 (D) "The legal sale of mixed beverages.";

26 (2) 25 percent of the registered voters in the  
27 political subdivision who voted in the most recent general election

1 for a ballot issue that permits voting for or against "The legal  
2 sale of wine on the premises of a holder of a winery permit."; or

3 (3) 35 percent of the registered voters in the  
4 political subdivision who voted in the most recent gubernatorial  
5 election for an election on any other ballot issue.

6 (b) Section 1, Chapter 890, Acts of the 79th Legislature,  
7 Regular Session, 2005, which amended former Subsection (a), Section  
8 251.11, Alcoholic Beverage Code, is repealed.

9 SECTION 5.003. (a) Section 501.035, Election Code, as  
10 added by Section 1, Chapter 975, Acts of the 79th Legislature,  
11 Regular Session, 2005, is amended to conform to Section 2, Chapter  
12 890, Acts of the 79th Legislature, Regular Session, 2005, by adding  
13 Subsection (h) to read as follows:

14 (h) Subject to Section 251.81, Alcoholic Beverage Code, a  
15 wine only package store permit may be issued for premises in an area  
16 in which the sale of wine has been legalized by a local option  
17 election under Subsection (b)(3) or (4).

18 (b) Section 2, Chapter 890, Acts of the 79th Legislature,  
19 Regular Session, 2005, which added Subsection (d) to former Section  
20 251.14, Alcoholic Beverage Code, is repealed.

21 ARTICLE 6. CHANGES RELATING TO FINANCE CODE

22 SECTION 6.001. Section 232.002, Family Code, is amended to  
23 read as follows:

24 Sec. 232.002. LICENSING AUTHORITIES SUBJECT TO CHAPTER. The  
25 following are licensing authorities subject to this chapter:

- 26 (1) Department of Agriculture;  
27 (2) Texas Alcoholic Beverage Commission;

- 1           (3) Texas Appraiser Licensing and Certification
- 2 Board;
- 3           (4) Texas Board of Architectural Examiners;
- 4           (5) Texas Board of Chiropractic Examiners;
- 5           (6) Comptroller of Public Accounts;
- 6           (7) Court Reporters Certification Board;
- 7           (8) State Board of Dental Examiners;
- 8           (9) Texas State Board of Examiners of Dietitians;
- 9           (10) Texas Funeral Service Commission;
- 10          (11) Department of State Health Services;
- 11          (12) Department of Aging and Disability Services;
- 12          (13) Texas Board of Professional Land Surveying;
- 13          (14) Texas Department of Licensing and Regulation;
- 14          (15) Texas State Board of Examiners of Marriage and
- 15 Family Therapists;
- 16          (16) Texas State Board of Medical Examiners;
- 17          (17) Midwifery Board;
- 18          (18) Texas Commission on Environmental Quality;
- 19          (19) Board of Nurse Examiners;
- 20          (20) Texas Board of Occupational Therapy Examiners;
- 21          (21) Texas Optometry Board;
- 22          (22) Parks and Wildlife Department;
- 23          (23) Texas State Board of Examiners of Perfusionists;
- 24          (24) Texas State Board of Pharmacy;
- 25          (25) Texas Board of Physical Therapy Examiners;
- 26          (26) Texas State Board of Plumbing Examiners;
- 27          (27) Texas State Board of Podiatric Medical Examiners;

- 1 (28) Polygraph Examiners Board;
- 2 (29) Texas Private Security Board;
- 3 (30) Texas State Board of Examiners of Professional
- 4 Counselors;
- 5 (31) Texas Board of Professional Engineers;
- 6 (32) Department of Family and Protective Services;
- 7 (33) Texas State Board of Examiners of Psychologists;
- 8 (34) Texas State Board of Public Accountancy;
- 9 (35) Department of Public Safety of the State of
- 10 Texas;
- 11 (36) Public Utility Commission of Texas;
- 12 (37) Railroad Commission of Texas;
- 13 (38) Texas Real Estate Commission;
- 14 (39) State Bar of Texas;
- 15 (40) Texas State Board of Social Worker Examiners;
- 16 (41) State Board of Examiners for Speech-Language
- 17 Pathology and Audiology;
- 18 (42) Texas Structural Pest Control Board;
- 19 (43) Board of Tax Professional Examiners;
- 20 (44) Secretary of State;
- 21 (45) Supreme Court of Texas;
- 22 (46) Texas Transportation Commission;
- 23 (47) State Board of Veterinary Medical Examiners;
- 24 (48) Texas Ethics Commission;
- 25 (49) Advisory Board of Athletic Trainers;
- 26 (50) State Committee of Examiners in the Fitting and
- 27 Dispensing of Hearing Instruments;

- 1           (51) Texas Board of Licensure for Professional Medical  
2 Physicists;
- 3           (52) Texas Department of Insurance;
- 4           (53) Texas Board of Orthotics and Prosthetics;
- 5           (54) savings and mortgage lending [~~loan~~]  
6 commissioner;
- 7           (55) Texas Juvenile Probation Commission; and
- 8           (56) Texas Lottery Commission under Chapter 466,  
9 Government Code.

10           SECTION 6.002. Section 11.001(b), Finance Code, is amended  
11 to read as follows:

- 12           (b) In this chapter, "finance agency" means:
- 13                 (1) the Texas Department of Banking;
- 14                 (2) the Department of Savings and Mortgage Lending  
15 [~~Loan Department~~]; or
- 16                 (3) the Office of Consumer Credit Commissioner.

17           SECTION 6.003. Section 11.002(a), Finance Code, is amended  
18 to read as follows:

19           (a) The finance commission is responsible for overseeing  
20 and coordinating the Texas Department of Banking, the Department of  
21 Savings and Mortgage Lending [~~Loan Department~~], and the Office of  
22 Consumer Credit Commissioner and serves as the primary point of  
23 accountability for ensuring that state depository and lending  
24 institutions function as a system, considering the broad scope of  
25 the financial services industry. The finance commission is the  
26 policy-making body for those finance agencies and is not a separate  
27 state agency. The finance commission shall carry out its functions

1 in a manner that protects consumer interests, maintains a safe and  
2 sound banking system, and increases the economic prosperity of the  
3 state.

4 SECTION 6.004. Section 11.102(f), Finance Code, is amended  
5 to read as follows:

6 (f) Experience as banking commissioner, deputy banking  
7 commissioner, examiner, or supervisor of examiners for a state or  
8 federal banking regulatory agency is considered executive  
9 experience in a bank for the purposes of Subsection (e)(1)(A).  
10 Experience as savings and mortgage lending [~~loan~~] commissioner,  
11 deputy savings and mortgage lending [~~loan~~] commissioner, examiner,  
12 or supervisor of examiners for a state or federal savings and loan  
13 regulatory agency is considered executive experience in a savings  
14 association or savings bank for the purposes of Subsection  
15 (e)(2)(A).

16 SECTION 6.005. Section 11.103(b), Finance Code, is amended  
17 to read as follows:

18 (b) If the banking commissioner, savings and mortgage  
19 lending [~~loan~~] commissioner, or consumer credit commissioner has  
20 knowledge that a potential ground for removal exists, the banking  
21 commissioner, savings and mortgage lending [~~loan~~] commissioner, or  
22 consumer credit commissioner shall notify the presiding officer of  
23 the finance commission of the potential ground. The presiding  
24 officer shall then notify the governor and the attorney general  
25 that a potential ground for removal exists. If the potential ground  
26 for removal involves the presiding officer, the banking  
27 commissioner, savings and mortgage lending [~~loan~~] commissioner, or



1 consumer credit commissioner shall notify the next highest ranking  
2 officer of the finance commission, who shall then notify the  
3 governor and the attorney general that a potential ground for  
4 removal exists.

5 SECTION 6.006. Section 11.107(c), Finance Code, is amended  
6 to read as follows:

7 (c) The presiding officer may:

8 (1) adopt rules and procedures as the presiding  
9 officer considers necessary for the orderly operation of the  
10 finance commission and for communication among the finance  
11 commission, the department, the Department of Savings and Mortgage  
12 Lending [~~Loan Department~~], and the Office of Consumer Credit  
13 Commissioner;

14 (2) adopt internal procedures governing the time and  
15 place of meetings, the type of notice for special public meetings,  
16 the manner in which public meetings are to be conducted, and other  
17 similar matters; and

18 (3) appoint committees composed of finance commission  
19 members as the presiding officer considers necessary to carry out  
20 the commission's business.

21 SECTION 6.007. Section 11.111, Finance Code, is amended to  
22 read as follows:

23 Sec. 11.111. SEPARATION OF FUNCTIONS. The finance  
24 commission shall develop and implement policies that clearly  
25 separate the policymaking responsibilities of the finance  
26 commission and the management responsibilities of the banking  
27 commissioner, savings and mortgage lending [~~loan~~] commissioner,

1 and consumer credit commissioner and staff of the finance agencies.

2 SECTION 6.008. Section 11.303, Finance Code, is amended to  
3 read as follows:

4 Sec. 11.303. DISCLOSURE OF CERTAIN INFORMATION TO FINANCE  
5 COMMISSION PROHIBITED. Information regarding the financial  
6 condition of a state savings association or savings bank obtained  
7 through examination or otherwise may not be disclosed to a member of  
8 the finance commission, except that the savings and mortgage  
9 lending [~~loan~~] commissioner may disclose to the finance commission  
10 a file or record pertinent to a hearing or matter pending before the  
11 commission.

12 SECTION 6.009. Section 11.305(d), Finance Code, is amended  
13 to read as follows:

14 (d) The Texas Department of Banking and the Department of  
15 Savings and Mortgage Lending [~~Loan Department~~] shall jointly  
16 conduct a continuing review of the condition of the state banking  
17 system. The review must include a review of all available national  
18 and state economic forecasts and an analysis of changing banking  
19 practices and new banking legislation. Periodically the  
20 departments shall submit a report to the finance commission on the  
21 results of the review, including information relating to the  
22 condition of the state banking system at the time of the report and  
23 the predicted condition of that system in the future.

24 SECTION 6.010. Section 11.3055, Finance Code, is amended to  
25 read as follows:

26 Sec. 11.3055. FINANCIAL SERVICES STUDY. (a) The finance  
27 commission may assign the banking commissioner, savings and

1 mortgage lending [~~loan~~] commissioner, or consumer credit  
2 commissioner to conduct research on:

3 (1) the availability, quality, and prices of financial  
4 services, including lending and depository services, offered in  
5 this state to agricultural businesses, small businesses, and  
6 individual consumers in this state; and

7 (2) the practices of business entities in this state  
8 that provide financial services to agricultural businesses, small  
9 businesses, and individual consumers in this state.

10 (b) The banking commissioner, savings and mortgage lending  
11 [~~loan~~] commissioner, or consumer credit commissioner may:

12 (1) apply for and receive public and private grants  
13 and gifts to conduct the research authorized by this section; and

14 (2) contract with public and private entities to carry  
15 out studies and analyses under this section.

16 SECTION 6.011. Section 11.307(a), Finance Code, is amended  
17 to read as follows:

18 (a) The finance commission shall adopt rules applicable to  
19 each entity regulated by the Texas Department of Banking or the  
20 Department of Savings and Mortgage Lending [~~Loan Department~~]  
21 specifying the manner in which the entity provides consumers with  
22 information on how to file complaints with the appropriate agency.

23 SECTION 6.012. The heading of Chapter 13, Finance Code, is  
24 amended to read as follows:

25 CHAPTER 13. DEPARTMENT OF SAVINGS AND MORTGAGE LENDING [~~LOAN~~  
26 ~~DEPARTMENT~~]

27 SECTION 6.013. Section 13.002, Finance Code, is amended to

1 read as follows:

2           Sec. 13.002. SAVINGS AND MORTGAGE LENDING [~~LOAN~~]  
3 COMMISSIONER. (a) The savings and mortgage lending [~~loan~~]  
4 commissioner is the chief executive officer of the Department of  
5 Savings and Mortgage Lending [~~Loan Department~~]. The finance  
6 commission, by at least five affirmative votes, shall appoint the  
7 savings and mortgage lending [~~loan~~] commissioner. The savings and  
8 mortgage lending [~~loan~~] commissioner serves at the will of the  
9 finance commission and is subject to the finance commission's  
10 orders and direction.

11           (b) The savings and mortgage lending [~~loan~~] commissioner  
12 must have not less than seven years' experience in the executive  
13 management of a savings association or savings bank or in savings  
14 association or savings bank supervision.

15           (c) The finance commission shall set the compensation of the  
16 savings and mortgage lending [~~loan~~] commissioner. The compensation  
17 shall be paid from money of the Department of Savings and Mortgage  
18 Lending [~~Loan Department~~].

19           SECTION 6.014. Section 13.003, Finance Code, is amended to  
20 read as follows:

21           Sec. 13.003. DEPUTY COMMISSIONERS. (a) The savings and  
22 mortgage lending [~~loan~~] commissioner shall appoint one or more  
23 deputy savings and mortgage lending [~~loan~~] commissioners.

24           (b) One deputy savings and mortgage lending [~~loan~~]  
25 commissioner must have the qualifications required of the savings  
26 and mortgage lending [~~loan~~] commissioner. During the savings and  
27 mortgage lending [~~loan~~] commissioner's absence or inability to

1 serve, that deputy savings and mortgage lending [~~loan~~] commissioner  
2 has the powers and shall perform the duties of the savings and  
3 mortgage lending [~~loan~~] commissioner.

4 SECTION 6.015. Section 13.004, Finance Code, is amended to  
5 read as follows:

6 Sec. 13.004. EXAMINERS. The savings and mortgage lending  
7 [~~loan~~] commissioner shall appoint savings association and savings  
8 bank examiners.

9 SECTION 6.016. Section 13.005, Finance Code, is amended to  
10 read as follows:

11 Sec. 13.005. COMPENSATION OF OFFICERS AND EMPLOYEES. (a)  
12 Subject to Subsection (b), each officer and employee of the  
13 Department of Savings and Mortgage Lending [~~Loan Department~~] is  
14 entitled to compensation set by the finance commission. The  
15 compensation shall be paid from the money of the Department of  
16 Savings and Mortgage Lending [~~Loan Department~~].

17 (b) Chapter 654, Government Code, applies to a position of  
18 the Department of Savings and Mortgage Lending [~~Loan Department~~]  
19 only if it is classified in salary groups 1-10 under the General  
20 Appropriations Act. The legislature in the General Appropriations  
21 Act may determine the total amount appropriated to the Department  
22 of Savings and Mortgage Lending [~~Loan Department~~] but may not  
23 determine the number or salaries of employees other than the  
24 positions specifically subject to Chapter 654, Government Code, as  
25 provided by this section. The finance commission, subject to the  
26 limits provided by this section, shall otherwise determine the  
27 number of employees of the Department of Savings and Mortgage

1 Lending [~~Loan Department~~] and the salaries of those employees. The  
2 Department of Savings and Mortgage Lending [~~Loan Department~~] may  
3 use money appropriated to it for any purpose to pay the salaries  
4 determined by the finance commission.

5 SECTION 6.017. Section 13.006, Finance Code, is amended to  
6 read as follows:

7 Sec. 13.006. OATH OF OFFICE. Before assuming the duties of  
8 office, each deputy savings and mortgage lending [~~loan~~]  
9 commissioner, examiner, assistant examiner, conservator,  
10 supervisor, and special agent and each other officer or employee  
11 specified by the savings and mortgage lending [~~loan~~] commissioner  
12 must take an oath of office to discharge faithfully the duties  
13 assigned and uphold the constitution and laws of this state and the  
14 United States.

15 SECTION 6.018. Section 13.007, Finance Code, is amended to  
16 read as follows:

17 Sec. 13.007. GENERAL POWERS AND DUTIES OF COMMISSIONER.  
18 The savings and mortgage lending [~~loan~~] commissioner shall:

19 (1) supervise and regulate the organization,  
20 operation, and liquidation of state savings associations, as  
21 provided by Subtitle B, Title 3, and state savings banks, as  
22 provided by Subtitle C, Title 3; and

23 (2) enforce those subtitles personally or through a  
24 deputy savings and mortgage lending [~~loan~~] commissioner, examiner,  
25 supervisor, conservator, or other agent.

26 SECTION 6.019. Sections 13.008(b) and (c), Finance Code,  
27 are amended to read as follows:

1           (b) The savings and mortgage lending [~~loan~~] commissioner  
2 shall:

3                 (1) collect all fees, penalties, charges, and revenue  
4 required to be paid by state savings associations and savings  
5 banks; and

6                 (2) periodically submit to the finance commission, as  
7 directed by the finance commission, a complete report of the  
8 receipts and expenditures of the Department of Savings and Mortgage  
9 Lending [~~Loan Department~~].

10           (c) The cost of an audit of the financial transactions of  
11 the Department of Savings and Mortgage Lending [~~Loan Department~~]  
12 under Chapter 321, Government Code, shall be paid to the state  
13 auditor from the money of the Department of Savings and Mortgage  
14 Lending [~~Loan Department~~].

15           SECTION 6.020. Sections 13.010(b), (c), and (d), Finance  
16 Code, are amended to read as follows:

17           (b) A person may not be a Department of Savings and Mortgage  
18 Lending [~~Loan Department~~] employee employed in a "bona fide  
19 executive, administrative, or professional capacity," as that  
20 phrase is used for purposes of establishing an exemption to the  
21 overtime provisions of the federal Fair Labor Standards Act of 1938  
22 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

23                 (1) the person is an officer, employee, or paid  
24 consultant of a Texas trade association in a field regulated by the  
25 Department of Savings and Mortgage Lending [~~Loan Department~~]; or

26                 (2) the person's spouse is an officer, manager, or paid  
27 consultant of a Texas trade association in a field regulated by the

1 Department of Savings and Mortgage Lending [~~Loan Department~~].

2 (c) A person may not act as the general counsel to the  
3 Department of Savings and Mortgage Lending [~~Loan Department~~] if the  
4 person is required to register as a lobbyist under Chapter 305,  
5 Government Code, because of the person's activities for  
6 compensation on behalf of a profession related to the operation of  
7 the Department of Savings and Mortgage Lending. [~~Loan Department~~]

8 (d) Before the 11th day after the date on which an employee  
9 begins employment with the Department of Savings and Mortgage  
10 Lending [~~Loan Department~~], the employee shall read the  
11 conflict-of-interest statutes applicable to employees of the  
12 Department of Savings and Mortgage Lending [~~Loan Department~~] and  
13 sign a notarized affidavit stating that the employee has read those  
14 statutes.

15 SECTION 6.021. Sections 13.011(a), (c), (d), and (e),  
16 Finance Code, are amended to read as follows:

17 (a) The savings and mortgage lending [~~Loan~~] commissioner  
18 shall prepare information of consumer interest describing:

19 (1) the regulatory functions of the Department of  
20 Savings and Mortgage Lending [~~Loan Department~~]; and

21 (2) the procedures by which consumer complaints are  
22 filed with and resolved by the Department of Savings and Mortgage  
23 Lending [~~Loan Department~~].

24 (c) The Department of Savings and Mortgage Lending [~~Loan~~  
25 ~~Department~~] shall maintain a file on each written complaint filed  
26 with the Department of Savings and Mortgage Lending [~~Loan~~  
27 ~~Department~~]. The file must include:



- 1           (1) the name of the person who filed the complaint;
- 2           (2) the date the complaint is received by the
- 3 Department of Savings and Mortgage Lending [~~Loan Department~~];
- 4           (3) the subject matter of the complaint;
- 5           (4) the name of each person contacted in relation to
- 6 the complaint;
- 7           (5) a summary of the results of the review or
- 8 investigation of the complaint; and
- 9           (6) an explanation of the reason the file was closed,
- 10 if the agency closed the file without taking action other than to
- 11 investigate the complaint.

12           (d) The Department of Savings and Mortgage Lending [~~Loan~~

13 ~~Department~~] shall provide to the person filing the complaint and to

14 each person who is a subject of the complaint a copy of the

15 Department of Savings and Mortgage Lending's [~~Loan Department's~~]

16 policies and procedures relating to complaint investigation and

17 resolution.

18           (e) The Department of Savings and Mortgage Lending [~~Loan~~

19 ~~Department~~], at least quarterly until final disposition of the

20 complaint, shall notify the person filing the complaint and each

21 person who is a subject of the complaint of the status of the

22 investigation unless the notice would jeopardize an undercover

23 investigation.

24           SECTION 6.022. Section 13.012, Finance Code, is amended to

25 read as follows:

26           Sec. 13.012. SUNSET PROVISION. The office of savings and

27 mortgage lending [~~loan~~] commissioner and the Department of Savings

1 and Mortgage Lending [~~Loan Department~~] are subject to Chapter 325,  
2 Government Code (Texas Sunset Act). Unless continued in existence  
3 as provided by that chapter, the office and department are  
4 abolished September 1, 2013.

5 SECTION 6.023. Section 13.013, Finance Code, is amended to  
6 read as follows:

7 Sec. 13.013. STANDARDS OF CONDUCT. The savings and  
8 mortgage lending [~~loan~~] commissioner or the savings and mortgage  
9 lending [~~loan~~] commissioner's designee shall provide to agency  
10 employees, as often as necessary, information regarding the  
11 requirements for office or employment under this chapter, including  
12 information regarding a person's responsibilities under applicable  
13 laws relating to standards of conduct for state officers or  
14 employees.

15 SECTION 6.024. Sections 13.014(a) and (b), Finance Code,  
16 are amended to read as follows:

17 (a) The savings and mortgage lending [~~loan~~] commissioner or  
18 the savings and mortgage lending [~~loan~~] commissioner's designee  
19 shall prepare and maintain a written policy statement that  
20 implements a program of equal employment opportunity to ensure that  
21 all personnel decisions are made without regard to race, color,  
22 disability, sex, religion, age, or national origin.

23 (b) The policy statement must include:

24 (1) personnel policies, including policies relating  
25 to recruitment, evaluation, selection, training, and promotion of  
26 personnel, that show the intent of the Department of Savings and  
27 Mortgage Lending [~~Loan Department~~] to avoid the unlawful employment

1 practices described by Chapter 21, Labor Code; and

2 (2) an analysis of the extent to which the composition  
3 of the Department of Savings and Mortgage Lending [~~Loan~~  
4 ~~Department's~~] personnel is in accordance with state and federal law  
5 and a description of reasonable methods to achieve compliance with  
6 state and federal law.

7 SECTION 6.025. Section 13.015, Finance Code, is amended to  
8 read as follows:

9 Sec. 13.015. EMPLOYEE INCENTIVE PROGRAM. The savings and  
10 mortgage lending [~~loan~~] commissioner or the savings and mortgage  
11 lending [~~loan~~] commissioner's designee shall provide to agency  
12 employees information and training on the benefits and methods of  
13 participation in the state employee incentive program.

14 SECTION 6.026. Section 61.002(5), Finance Code, is amended  
15 to read as follows:

16 (5) "Commissioner" means the savings and mortgage  
17 lending [~~loan~~] commissioner.

18 SECTION 6.027. Section 62.303(b), Finance Code, is amended  
19 to read as follows:

20 (b) For purposes of Subsection (a), an association is in  
21 good standing if the association has paid all fees, assessments,  
22 and money due and payable to the Department of Savings and Mortgage  
23 Lending [~~Loan Department~~].

24 SECTION 6.028. Section 62.559(a), Finance Code, is amended  
25 to read as follows:

26 (a) Except as provided by this section, information  
27 obtained by the commissioner under this subchapter is confidential

1 and may not be disclosed by the commissioner or an officer or  
2 employee of the Department of Savings and Mortgage Lending [~~Loan~~  
3 ~~Department~~].

4 SECTION 6.029. Section 66.001, Finance Code, is amended to  
5 read as follows:

6 Sec. 66.001. GENERAL DUTIES. The Department of Savings and  
7 Mortgage Lending [~~Loan Department~~] and the commissioner shall  
8 regulate associations and subsidiaries of associations operating  
9 under this subtitle.

10 SECTION 6.030. Section 66.002, Finance Code, is amended to  
11 read as follows:

12 Sec. 66.002. ADOPTION OF RULES. The finance commission may  
13 adopt rules relating to:

14 (1) the minimum amounts of capital stock and paid-in  
15 surplus required for incorporation as a capital stock association;

16 (2) the minimum amounts of savings liability and  
17 expense funds required for incorporation as a mutual association;

18 (3) the fees and procedures for processing, hearing,  
19 and deciding applications filed with the commissioner or the  
20 Department of Savings and Mortgage Lending [~~Loan Department~~] under  
21 this subtitle;

22 (4) the books and records that an association is  
23 required to keep and the location at which the books and records are  
24 required to be maintained;

25 (5) the accounting principles and practices that an  
26 association is required to observe;

27 (6) the conditions under which records may be copied

1 or reproduced for permanent storage before the original records are  
2 destroyed;

3 (7) the form, contents, and time of publication of  
4 statements of condition;

5 (8) the form and contents of annual reports and other  
6 reports that an association is required to prepare and publish or  
7 file;

8 (9) the manner in which assets, liabilities, and  
9 transactions in general are to be described when entered in the  
10 books of an association, so that the entry accurately describes the  
11 subject matter of the entry; and

12 (10) the conditions under which the commissioner may  
13 require an asset to be charged off or reserves established by  
14 transfer from surplus or paid-in capital because of the  
15 depreciation of or overstated value of the asset.

16 SECTION 6.031. Section 66.107(b), Finance Code, is amended  
17 to read as follows:

18 (b) The commissioner shall set the matter for hearing to be  
19 held not earlier than the 11th day or later than the 30th day after  
20 the date of the request. The hearing must be held at the offices of  
21 the Department of Savings and Mortgage Lending [~~Loan Department~~] in  
22 Austin.

23 SECTION 6.032. Section 66.306, Finance Code, is amended to  
24 read as follows:

25 Sec. 66.306. PRIORITY OF CLAIMS. On liquidation of an  
26 association, claims for payment have the following priority:

27 (1) obligations incurred by the commissioner or the

1 liquidating agent, fees and assessments due the Department of  
2 Savings and Mortgage Lending [~~Loan Department~~], and expenses of  
3 liquidation, all of which may be covered by the proper reserve of  
4 money;

5 (2) approved claims of creditors, to the extent that  
6 the claims are secured by, or constitute a lien on, the assets or  
7 property of the association;

8 (3) approved claims of depositors against the general  
9 liquidating account of the association;

10 (4) approved claims of general creditors and the  
11 unsecured portion of a creditor obligation described by Subdivision  
12 (2);

13 (5) otherwise approved claims that were not filed  
14 within the time prescribed by Section 66.305;

15 (6) approved claims of subordinated creditors; and

16 (7) claims of shareholders of the association.

17 SECTION 6.033. Sections 66.401(c) and (d), Finance Code,  
18 are amended to read as follows:

19 (c) The commissioner may employ legal counsel to bring and  
20 prosecute a derivative suit. The commissioner may:

21 (1) pay the counsel from funds appropriated for the  
22 operation of the Department of Savings and Mortgage Lending [~~Loan~~  
23 ~~Department~~]; or

24 (2) require the association for which the suit is  
25 brought to pay the counsel directly or to reimburse the Department  
26 of Savings and Mortgage Lending [~~Loan Department~~] for the payment.

27 (d) The association shall be paid an amount equal to the

1 amount of the proceeds of a judgment on a suit brought under this  
2 section less unreimbursed costs and expenses, including attorney's  
3 fees, incurred by the Department of Savings and Mortgage Lending  
4 [~~Loan Department~~] in prosecuting the suit.

5 SECTION 6.034. Section 89.006(a), Finance Code, is amended  
6 to read as follows:

7 (a) The commissioner, a member of the finance commission, a  
8 deputy commissioner, an examiner, or any other officer or employee  
9 of the Department of Savings and Mortgage Lending [~~Loan Department~~]  
10 is not personally liable for damages arising from the person's  
11 official act or omission unless the act or omission is corrupt or  
12 malicious.

13 SECTION 6.035. Section 89.052(a), Finance Code, is amended  
14 to read as follows:

15 (a) The commissioner and an examiner, supervisor,  
16 conservator, liquidator, inspector, deputy, assistant, clerk, or  
17 other employee of the Department of Savings and Mortgage Lending  
18 [~~Loan Department~~] who is appointed or acting under this subtitle  
19 shall be removed from the person's position with the department if  
20 the person:

21 (1) does not keep secret a fact or information about an  
22 association obtained during an examination or because of the  
23 person's official position, except when the public duty of the  
24 person requires otherwise; or

25 (2) wilfully makes a false official report about the  
26 condition of an association.

27 SECTION 6.036. Section 89.102(a), Finance Code, is amended

1 to read as follows:

2 (a) The commissioner may require an association that  
3 knowingly violates this subtitle or a rule adopted under this  
4 subtitle to pay to the Department of Savings and Mortgage Lending  
5 [~~Loan Department~~] an administrative penalty not to exceed \$1,000  
6 for each day that the violation occurs after notice of the violation  
7 is given by the commissioner.

8 SECTION 6.037. Sections 91.002(1) and (5), Finance Code,  
9 are amended to read as follows:

10 (1) "Appropriate banking agency":

11 (A) means:

12 (i) with respect to a savings bank  
13 chartered by this state, the Department of Savings and Mortgage  
14 Lending [~~Loan Department~~];

15 (ii) with respect to a federal savings  
16 bank, the Office of Thrift Supervision;

17 (iii) with respect to a savings and loan  
18 association chartered by this state, the Department of Savings and  
19 Mortgage Lending [~~Loan Department~~];

20 (iv) with respect to a federal savings and  
21 loan association, the Office of Thrift Supervision;

22 (v) with respect to a bank chartered by this  
23 state, the Texas Department of Banking; and

24 (vi) with respect to a national bank, the  
25 Office of the Comptroller of the Currency; and

26 (B) includes:

27 (i) in each case in which a state bank is a



1 member of the Federal Reserve System, the board of governors of the  
2 Federal Reserve System;

3 (ii) in each case where required by the  
4 Federal Deposit Insurance Act (12 U.S.C. Section 1811 et seq.), the  
5 Federal Deposit Insurance Corporation; and

6 (iii) any successor of a state or federal  
7 agency specified by this subdivision.

8 (5) "Commissioner" means the savings and mortgage  
9 lending [~~loan~~] commissioner.

10 SECTION 6.038. Section 92.555(a), Finance Code, is amended  
11 to read as follows:

12 (a) Except as provided by this section, information the  
13 commissioner obtains under this subchapter that is not published is  
14 confidential and may not be disclosed by the commissioner or an  
15 officer or employee of the Department of Savings and Mortgage  
16 Lending [~~Loan Department~~].

17 SECTION 6.039. Section 96.001, Finance Code, is amended to  
18 read as follows:

19 Sec. 96.001. GENERAL DUTIES. The Department of Savings and  
20 Mortgage Lending [~~Loan Department~~] and the commissioner shall  
21 regulate savings banks and subsidiaries of savings banks operating  
22 under this subtitle.

23 SECTION 6.040. Section 96.002(a), Finance Code, is amended  
24 to read as follows:

25 (a) The finance commission may adopt rules necessary to  
26 supervise and regulate savings banks and to protect public  
27 investment in savings banks, including rules relating to:

1           (1) the minimum amounts of capital required to  
2 incorporate and operate as a savings bank, which may not be less  
3 than the amounts required of corresponding national banks;

4           (2) the fees and procedures for processing, hearing,  
5 and deciding applications filed with the commissioner or the  
6 Department of Savings and Mortgage Lending [~~Loan Department~~] under  
7 this subtitle;

8           (3) the books and records that a savings bank is  
9 required to keep and the location at which the books and records are  
10 required to be maintained;

11           (4) the accounting principles and practices that a  
12 savings bank is required to observe;

13           (5) the conditions under which records may be copied  
14 or reproduced for permanent storage before the originals are  
15 destroyed;

16           (6) the form, content, and time of publication of  
17 statements of condition;

18           (7) the form and content of annual reports and other  
19 reports that a savings bank is required to prepare and publish or  
20 file;

21           (8) the manner in which assets, liabilities, and  
22 transactions in general are to be described when entered in the  
23 books of a savings bank, so that the entry accurately describes the  
24 subject matter of the entry;

25           (9) the conditions under which the commissioner may  
26 require an asset to be charged off or reserves established by  
27 transfer from surplus or paid-in capital because of depreciation of

1 or overstated value of the asset;

2 (10) the change of control of a savings bank;

3 (11) the conduct, management, and operation of a  
4 savings bank;

5 (12) the withdrawable accounts, bonuses, plans, and  
6 contracts for savings programs;

7 (13) the merger, consolidation, reorganization,  
8 conversion, and liquidation of a savings bank;

9 (14) the establishment of an additional office or the  
10 change of office location or name of a savings bank;

11 (15) the requirements for a savings bank's holding  
12 companies, including those relating to:

13 (A) registration and periodic reporting of a  
14 holding company with the commissioner; and

15 (B) transactions between a holding company, an  
16 affiliate of a holding company, or a savings bank; and

17 (16) the powers of a savings bank to make loans and  
18 investments that contain provisions reasonably necessary to ensure  
19 that a loan made by a savings bank is consistent with sound lending  
20 practices and that the savings bank's investment will promote the  
21 purposes of this subtitle, including provisions governing:

22 (A) the type of loans and the conditions under  
23 which a savings bank may originate, make, or sell loans;

24 (B) the conditions under which a savings bank may  
25 purchase or participate in a loan made by another lender;

26 (C) the conditions for the servicing of a loan  
27 for another lender;

1 (D) the conditions under which a savings bank may  
2 lend money on the security of a loan made by another person;

3 (E) the conditions under which a savings bank may  
4 pledge loans held by it as collateral for borrowing by the savings  
5 bank;

6 (F) the conditions under which a savings bank may  
7 invest in securities and debt instruments;

8 (G) the documentation that a savings bank must  
9 have in its files at the time of funding or purchase of a loan, an  
10 investment, or a participation in a loan;

11 (H) the form and content of statements of  
12 expenses and fees and other charges that are paid by a borrower or  
13 that a borrower is obligated to pay;

14 (I) the title information that must be  
15 maintained;

16 (J) the borrower's insurance coverage of  
17 property securing a loan;

18 (K) an appraisal report;

19 (L) the financial statement of a borrower;

20 (M) the fees or other compensation that may be  
21 paid to a person in connection with obtaining a loan for a savings  
22 bank, including an officer, director, employee, affiliated person,  
23 consultant, or third party;

24 (N) the conditions under which the savings bank  
25 may advance money to pay a tax, assessment, insurance premium, or  
26 other similar charge for the protection of the savings bank's  
27 interest in property securing the savings bank's loans;

1 (O) the terms under which a savings bank may  
2 acquire and deal in real property;

3 (P) the valuation on a savings bank's books of  
4 real property held by the savings bank;

5 (Q) the terms governing the investment by a  
6 savings bank in a subsidiary, the powers that may be exercised by a  
7 subsidiary, and the activities that may be engaged in by a  
8 subsidiary; and

9 (R) any other matter considered necessary to  
10 administer each type of transaction.

11 SECTION 6.041. Section 96.107(b), Finance Code, is amended  
12 to read as follows:

13 (b) The commissioner shall set the hearing to be held not  
14 earlier than the 10th day or later than the 30th day after the date  
15 of the request. The hearing must be held at the offices of the  
16 Department of Savings and Mortgage Lending [~~Loan Department~~].

17 SECTION 6.042. Section 96.159(b), Finance Code, is amended  
18 to read as follows:

19 (b) The commissioner shall set the hearing to be held not  
20 earlier than the 10th day or later than the 30th day after the date  
21 of the request. The hearing must be held at the offices of the  
22 Department of Savings and Mortgage Lending [~~Loan Department~~].

23 SECTION 6.043. Section 96.351, Finance Code, is amended to  
24 read as follows:

25 Sec. 96.351. DISCLOSURE BY DEPARTMENT PROHIBITED. Except  
26 as otherwise provided by this subtitle or a rule adopted under this  
27 subtitle, the following are confidential and may not be disclosed

1 by the commissioner or an examiner, supervisor, conservator,  
2 liquidator, inspector, deputy, or assistant clerk or other employee  
3 of the Department of Savings and Mortgage Lending [~~Loan Department~~]  
4 who is appointed or acting under this subtitle:

5 (1) information, regardless of the circumstances  
6 under which the information is obtained, regarding a financial  
7 institution or a shareholder, participant, officer, director,  
8 manager, affiliate, or service provider of a financial institution,  
9 other than information in a public statement or the public portion  
10 of a call report or profit and loss statement; and

11 (2) all related files and records of the department.

12 SECTION 6.044. Section 96.353(a), Finance Code, is amended  
13 to read as follows:

14 (a) Confidential information that is provided to a  
15 financial institution or an affiliate or service provider of a  
16 financial institution, whether in the form of a report of  
17 examination or otherwise, is the confidential property of the  
18 Department of Savings and Mortgage Lending [~~Loan Department~~].

19 SECTION 6.045. Section 96.355(a), Finance Code, is amended  
20 to read as follows:

21 (a) Notwithstanding any other law, the commissioner may  
22 refuse to release information or records in the custody of the  
23 Department of Savings and Mortgage Lending [~~Loan Department~~] if the  
24 commissioner believes release of the information or records might  
25 jeopardize an investigation of possibly unlawful activities.

26 SECTION 6.046. Section 96.357, Finance Code, is amended to  
27 read as follows:

1           Sec. 96.357. REMOVAL FOR VIOLATION. A person who violates  
2 this subchapter or who wilfully makes a false official report on the  
3 condition of a financial institution shall be removed from office  
4 or further employment with the Department of Savings and Mortgage  
5 Lending [~~Loan Department~~].

6           SECTION 6.047. Sections 96.401(c) and (d), Finance Code,  
7 are amended to read as follows:

8           (c) The commissioner may employ legal counsel to bring and  
9 prosecute a derivative suit. The commissioner may:

10           (1) pay counsel from funds appropriated for the  
11 operation of the Department of Savings and Mortgage Lending [~~Loan~~  
12 ~~Department~~]; or

13           (2) require the savings bank for which the suit is  
14 brought to pay the counsel directly or to reimburse the Department  
15 of Savings and Mortgage Lending [~~Loan Department~~] for the payment.

16           (d) The savings bank shall be paid an amount equal to the  
17 amount of the proceeds of a judgment on a suit brought under this  
18 section less unreimbursed costs and expenses, including attorney's  
19 fees incurred by the Department of Savings and Mortgage Lending  
20 [~~Loan Department~~] in prosecuting the suit.

21           SECTION 6.048. Section 96.404, Finance Code, is amended to  
22 read as follows:

23           Sec. 96.404. INTEREST IN SAVINGS BANK PROHIBITED FOR  
24 DEPARTMENT. (a) A savings bank or a director, officer, employee,  
25 or representative of a savings bank may not give a loan or gratuity,  
26 directly or indirectly, to the commissioner, an employee of the  
27 Department of Savings and Mortgage Lending [~~Loan Department~~], or a

1 spouse of the commissioner or employee.

2 (b) The commissioner or an employee of the Department of  
3 Savings and Mortgage Lending [~~Loan Department~~] may not:

4 (1) hold an office or position in a domestic savings  
5 bank or exercise a right to vote on a domestic savings bank matter  
6 because the person is a member of or shareholder in the savings  
7 bank;

8 (2) hold an interest, directly or indirectly, in a  
9 domestic savings bank; or

10 (3) undertake an indebtedness as a borrower, directly  
11 or indirectly, or endorser, surety, or guarantor or sell or  
12 otherwise dispose of a loan or investment to a domestic savings  
13 bank.

14 (c) If the commissioner or an employee of the Department of  
15 Savings and Mortgage Lending [~~Loan Department~~] has a prohibited,  
16 direct or indirect right or interest in a domestic savings bank at  
17 the time of appointment or employment, the commissioner or employee  
18 shall dispose of the right or interest not later than the 60th day  
19 after the date of appointment or employment.

20 (d) If the commissioner or an employee of the Department of  
21 Savings and Mortgage Lending [~~Loan Department~~] is indebted as a  
22 borrower, directly or indirectly, or is an endorser, surety, or  
23 guarantor on a note to a domestic savings bank at the time of  
24 appointment or employment, the commissioner or employee may  
25 continue in that capacity until that debt is paid.

26 SECTION 6.049. Section 96.405, Finance Code, is amended to  
27 read as follows:



1           Sec. 96.405. PERMITTED TRANSACTIONS FOR DEPARTMENT  
2 RELATING TO SAVINGS BANK. (a) The commissioner or an employee of  
3 the Department of Savings and Mortgage Lending [~~Loan Department~~]  
4 may hold a deposit account at a savings bank and receive earnings on  
5 the account.

6           (b) If a loan or other note of the commissioner or an  
7 employee of the Department of Savings and Mortgage Lending [~~Loan~~  
8 ~~Department~~] is acquired by a savings bank, the commissioner or  
9 employee may continue as a borrower, endorser, surety, or guarantor  
10 of the loan or note until the loan or note is paid.

11           SECTION 6.050. Section 119.008(a), Finance Code, is amended  
12 to read as follows:

13           (a) The commissioner, a member of the finance commission, a  
14 deputy commissioner, an examiner, or any other officer or employee  
15 of the Department of Savings and Mortgage Lending [~~Loan Department~~]  
16 is not personally liable for damages arising from the person's  
17 official act or omission unless the act or omission is corrupt or  
18 malicious.

19           SECTION 6.051. Section 119.201(a), Finance Code, is amended  
20 to read as follows:

21           (a) The commissioner may require a savings bank that  
22 knowingly violates this subtitle or a rule adopted under this  
23 subtitle to pay to the Department of Savings and Mortgage Lending  
24 [~~department~~] an administrative penalty not to exceed \$10,000 for  
25 each day that the violation occurs after notice of the violation is  
26 given by the commissioner.

27           SECTION 6.052. Section 156.002(1), Finance Code, is amended

1 to read as follows:

2 (1) "Commissioner" means the savings and mortgage  
3 lending [~~loan~~] commissioner.

4 SECTION 6.053. Section 157.002(1), Finance Code, is amended  
5 to read as follows:

6 (1) "Commissioner" means the savings and mortgage  
7 lending [~~loan~~] commissioner.

8 SECTION 6.054. Section 157.007, Finance Code, is amended to  
9 read as follows:

10 Sec. 157.007. DISCLOSURE STATEMENT. A mortgage banker  
11 shall include the following notice to a mortgage loan applicant  
12 with an application for a mortgage loan:

13 "COMPLAINTS REGARDING MORTGAGE BANKERS SHOULD BE SENT TO THE  
14 DEPARTMENT OF SAVINGS AND MORTGAGE LENDING [~~LOAN DEPARTMENT~~],  
15 \_\_\_\_\_ (street address of the Department  
16 of Savings and Mortgage Lending [~~Loan Department~~]). A TOLL-FREE  
17 CONSUMER HOTLINE IS AVAILABLE AT \_\_\_\_\_ (telephone number  
18 of the Department of Savings and Mortgage Lending's [~~Loan~~  
19 ~~Department's~~] toll-free consumer hotline)."

20 SECTION 6.055. Section 157.008(a), Finance Code, is amended  
21 to read as follows:

22 (a) If the Department of Savings and Mortgage Lending [~~Loan~~  
23 ~~Department~~] receives a signed written complaint from a person  
24 concerning a mortgage banker, the commissioner shall notify the  
25 representative designated by the mortgage banker under Section  
26 157.003(b) in writing of the complaint and provide a copy of the  
27 complaint to the representative.

1           SECTION 6.056. Section 187.202(e), Finance Code, is amended  
2 to read as follows:

3           (e) A credit union, savings association, or savings bank  
4 that does not maintain a branch in this state and desires to  
5 establish or acquire and maintain a representative trust office  
6 shall comply with this section, except that the notice required by  
7 Subsection (a) must be filed with, and the duties and  
8 responsibilities of the banking commissioner under Subsections  
9 (b)-(d) shall be performed by:

10           (1) the Texas credit union commissioner, with respect  
11 to a credit union; or

12           (2) the Texas savings and mortgage lending [~~loan~~]  
13 commissioner, with respect to a savings association or savings  
14 bank.

15           SECTION 6.057. Section 187.303(b), Finance Code, is amended  
16 to read as follows:

17           (b) With respect to the trust business of a credit union,  
18 savings association, or savings bank, the duties and  
19 responsibilities of the banking commissioner under Subsection (a)  
20 shall be performed by:

21           (1) the Texas credit union commissioner, with respect  
22 to a credit union; or

23           (2) the Texas savings and mortgage lending [~~loan~~]  
24 commissioner, with respect to a savings association or savings  
25 bank.

26           SECTION 6.058. Section 201.002(9), Finance Code, is amended  
27 to read as follows:

1           (9) "Commissioner" has the meaning assigned to the  
2 term "banking commissioner" by Section 31.002(a), except that for  
3 purposes of Chapter 203 and the laws of this state as they relate to  
4 Chapter 203, with respect to a state savings bank, the term means  
5 the savings and mortgage lending [~~loan~~] commissioner of Texas.

6           SECTION 6.059. Section 273.003(2), Finance Code, is amended  
7 to read as follows:

8           (2) "Commissioner" means the savings and mortgage  
9 lending [~~loan~~] commissioner.

10          SECTION 6.060. Section 341.103, Finance Code, is amended to  
11 read as follows:

12          Sec. 341.103. REGULATION OF SAVINGS ASSOCIATIONS. (a) The  
13 savings and mortgage lending [~~loan~~] commissioner shall enforce this  
14 subtitle relating to the regulation of state savings associations  
15 operating under this subtitle.

16          (b) The official exercising authority over the operation of  
17 federal savings associations equivalent to the authority exercised  
18 by the savings and mortgage lending [~~loan~~] commissioner over state  
19 savings associations may enforce this subtitle relating to the  
20 regulation of a federal savings association operating under this  
21 subtitle.

22          SECTION 6.061. Section 411.081(i), Government Code, is  
23 amended to read as follows:

24          (i) A criminal justice agency may disclose criminal history  
25 record information that is the subject of an order of nondisclosure  
26 to the following noncriminal justice agencies or entities only:

- 27           (1) the State Board for Educator Certification;

1           (2) a school district, charter school, private school,  
2 regional education service center, commercial transportation  
3 company, or education shared service arrangement;

4           (3) the Texas State Board of Medical Examiners;

5           (4) the Texas School for the Blind and Visually  
6 Impaired;

7           (5) the Board of Law Examiners;

8           (6) the State Bar of Texas;

9           (7) a district court regarding a petition for name  
10 change under Subchapter B, Chapter 45, Family Code;

11          (8) the Texas School for the Deaf;

12          (9) the Department of Family and Protective Services;

13          (10) the Texas Youth Commission;

14          (11) the Department of Assistive and Rehabilitative  
15 Services;

16          (12) the Department of State Health Services, a local  
17 mental health service, a local mental retardation authority, or a  
18 community center providing services to persons with mental illness  
19 or retardation;

20          (13) the Texas Private Security Board;

21          (14) a municipal or volunteer fire department;

22          (15) the Board of Nurse Examiners;

23          (16) a safe house providing shelter to children in  
24 harmful situations;

25          (17) a public or nonprofit hospital or hospital  
26 district;

27          (18) the Texas Juvenile Probation Commission;

1           (19) the securities commissioner, the banking  
2 commissioner, the savings and mortgage lending [~~loan~~]  
3 commissioner, or the credit union commissioner;

4           (20) the Texas State Board of Public Accountancy;

5           (21) the Texas Department of Licensing and Regulation;

6           (22) the Health and Human Services Commission; and

7           (23) the Department of Aging and Disability Services.

8           SECTION 6.062. Section 411.1385, Government Code, is  
9 amended to read as follows:

10           Sec. 411.1385. ACCESS TO CRIMINAL HISTORY RECORD  
11 INFORMATION: SAVINGS AND MORTGAGE LENDING [~~LOAN~~] COMMISSIONER.

12           (a) The savings and mortgage lending [~~loan~~] commissioner is  
13 entitled to obtain from the department criminal history record  
14 information maintained by the department that relates to a person  
15 who is an applicant for or holder of a mortgage broker or loan  
16 officer license issued under Chapter 156, Finance Code.

17           (b) Criminal history record information obtained by the  
18 savings and mortgage lending [~~loan~~] commissioner under Subsection  
19 (a) may be released or disclosed only as provided by Section  
20 156.206, Finance Code.

21           SECTION 6.063. Sections 2306.260(a) and (g), Government  
22 Code, are amended to read as follows:

23           (a) The department shall conduct a study to examine mortgage  
24 foreclosure rates in Bexar, Cameron, Dallas, El Paso, Harris, and  
25 Travis Counties and shall establish an advisory committee to direct  
26 the focus of the study. The advisory committee shall be composed  
27 of:

- 1           (1) the director or the director's representative;
- 2           (2) the savings and mortgage lending [~~loan~~]
- 3 commissioner or the commissioner's representative;
- 4           (3) four members appointed by the director who
- 5 represent community and consumer interests;
- 6           (4) four members appointed by the savings and mortgage
- 7 lending [~~loan~~] commissioner who represent the mortgage lending
- 8 industry; and
- 9           (5) a representative of the Texas Housing Research
- 10 Consortium at The University of Texas at Austin.

11           (g) All information used to conduct the study must be

12 accessible to the department, the Department of Savings and

13 Mortgage Lending [~~Loan Department~~], and the legislature. The

14 department shall prepare a consolidated analysis and

15 recapitulation of the information used to conduct the study and

16 shall make the analysis and recapitulation available to the public.

17 The department shall ensure that the analysis and recapitulation of

18 the information used to conduct the study contain only aggregate

19 data and do not contain data specific to any mortgage.

20           SECTION 6.064. Section 12.018, Property Code, is amended to

21 read as follows:

22           Sec. 12.018. TRANSFER BY RECEIVER OR CONSERVATOR OF FAILED

23 DEPOSITORY INSTITUTION. If a bank, savings and loan association,

24 savings bank, or other depository institution is placed in

25 receivership or conservatorship by a state or federal agency,

26 instrumentality, or institution, including the Banking Department

27 of Texas, Department of Savings and Mortgage Lending [~~Loan~~

1 ~~Department]~~ of Texas, Office of the Comptroller of the Currency,  
2 Resolution Trust Corporation, Federal Deposit Insurance  
3 Corporation, Federal Savings and Loan Insurance Corporation, or  
4 their successors, a person at any time may record an affidavit or  
5 memorandum of a sale, transfer, purchase, or acquisition agreement  
6 between the receiver or conservator of the failed depository  
7 institution and another depository institution. If the sale,  
8 transfer, purchase, or acquisition agreement transfers or sells an  
9 interest in land or in a mortgage or other lien vested according to  
10 the real property records in the failed depository institution, a  
11 recorded affidavit or memorandum under this section is constructive  
12 notice of the transfer or sale. The failure of the affidavit or  
13 memorandum to be executed by the record owner or of the affidavit,  
14 memorandum, or agreement to contain language of conveyance does not  
15 create a defect in title to the land or the lien.

16 SECTION 6.065. Section 74.704, Property Code, is amended to  
17 read as follows:

18 Sec. 74.704. ASSISTANCE IN ENFORCEMENT. If the  
19 comptroller or the attorney general requests, the State Auditor,  
20 Banking Commissioner of Texas, securities commissioner,  
21 commissioner of insurance, savings and mortgage lending [~~loan~~]  
22 commissioner, Credit Union Commission, Department of Public Safety  
23 of the State of Texas, or any district or county attorney shall  
24 assist the comptroller or attorney general in enforcing this title.

25 SECTION 6.066. Section 721.003(a), Transportation Code, is  
26 amended to read as follows:

27 (a) The governing bodies of the following state agencies or



1 divisions by rule may exempt from the requirements of Section  
2 721.002 a motor vehicle that is under the control and custody of the  
3 agency or division:

- 4 (1) Texas Commission on Fire Protection;
- 5 (2) Texas State Board of Pharmacy;
- 6 (3) Texas Department of Mental Health and Mental  
7 Retardation;
- 8 (4) Department of Public Safety of the State of Texas;
- 9 (5) the institutional division or the pardons and  
10 paroles division of the Texas Department of Criminal Justice;
- 11 (6) Board of Pardons and Paroles;
- 12 (7) Parks and Wildlife Department;
- 13 (8) Railroad Commission of Texas;
- 14 (9) Texas Alcoholic Beverage Commission;
- 15 (10) Texas Department of Banking;
- 16 (11) Department of Savings and Mortgage Lending [~~Loan~~  
17 ~~Department~~];
- 18 (12) Texas Juvenile Probation Commission;
- 19 (13) Texas Natural Resource Conservation Commission;
- 20 (14) Texas Youth Commission;
- 21 (15) Texas Lottery Commission;
- 22 (16) the office of the attorney general;
- 23 (17) Texas Department of Insurance; and
- 24 (18) an agency that receives an appropriation under an  
25 article of the General Appropriations Act that appropriates money  
26 to the legislature.

27 SECTION 6.067. Section 171.260(b), Tax Code, is amended to

1 read as follows:

2 (b) The savings and mortgage lending [~~loan~~] commissioner  
3 shall appoint a conservator under Subtitle B or C, Title 3, Finance  
4 Code, to pay the franchise tax of a savings and loan association  
5 that is organized under the laws of this state and that the  
6 commissioner certifies as being delinquent in the payment of the  
7 association's franchise tax.

8 SECTION 6.068. Section 26.342(3), Water Code, is amended to  
9 read as follows:

10 (3) "Corporate fiduciary" means an entity chartered by  
11 the Banking Department of Texas, the Department of Savings and  
12 Mortgage Lending [~~Loan Department of Texas~~], the United States  
13 comptroller of the currency, or the director of the United States  
14 Office of Thrift Supervision that acts as a receiver, conservator,  
15 guardian, executor, administrator, trustee, or fiduciary of real or  
16 personal property.

17 ARTICLE 7. CHANGES RELATING TO GOVERNMENT CODE

18 PART A. GENERAL CHANGES

19 SECTION 7.001. Section 51.201(a), Government Code, is  
20 amended to conform to Section 5a, Article V, Texas Constitution, as  
21 added by H.J.R. No. 75, Acts of the 77th Legislature, Regular  
22 Session, 2001, and approved by the voters at the election held  
23 November 6, 2001, to read as follows:

24 (a) An [~~A clerk of a court of appeals serves for a term of~~  
25 ~~two years and the~~] order appointing a [~~the~~] clerk of a court of  
26 appeals must be recorded in the minutes of the court.

27 SECTION 7.002. Section 57.002(c), Government Code, as

1 amended by Chapters 584 and 614, Acts of the 79th Legislature,  
2 Regular Session, 2005, is reenacted to read as follows:

3 (c) Subject to Subsection (e), in a county with a population  
4 of less than 50,000, a court may appoint a spoken language  
5 interpreter who is not a licensed court interpreter.

6 SECTION 7.003. Section 305.0062(d), Government Code, is  
7 amended to correct a reference to read as follows:

8 (d) If a registrant cannot reasonably determine the amount  
9 of an expenditure under Section 305.006(b) that is directly  
10 attributable to a member of the legislative or executive branch as  
11 required by Subsection (a), the registrant shall apportion the  
12 expenditure made by that registrant or by others on the  
13 registrant's behalf and with the registrant's consent or  
14 ratification according to the total number of persons in  
15 attendance. However, if an expenditure is for an event to which all  
16 legislators are invited, the registrant shall report the  
17 expenditure under Subsection (a)(8) [~~(a)(7)~~] and not under any  
18 other subdivision of that subsection or any other provision of this  
19 chapter.

20 SECTION 7.004. Section 411.110(a), Government Code, as  
21 amended by Chapters 282 and 1300, Acts of the 79th Legislature,  
22 Regular Session, 2005, is reenacted and amended to read as follows:

23 (a) The Department of State Health Services is entitled to  
24 obtain from the department criminal history record information  
25 maintained by the department that relates to:

26 (1) a person who is:

27 (A) an applicant for a license or certificate

1 under the Emergency Medical Services Act (Chapter 773, Health and  
2 Safety Code);

3 (B) an owner or manager of an applicant for an  
4 emergency medical services provider license under that Act; or

5 (C) the holder of a license or certificate under  
6 that Act; ~~or~~

7 (2) an applicant for a license or a license holder  
8 under Subchapter N, Chapter 431, Health and Safety Code; or

9 (3) ~~(2)~~ an applicant for a license, the owner or  
10 manager of an applicant for a massage establishment license, or a  
11 license holder under Chapter 455, Occupations Code.

12 SECTION 7.0041. Section 2054.2595, Government Code, is  
13 repealed to conform to Section 8, Chapter 1260, Acts of the 79th  
14 Legislature, Regular Session, 2005, and Section 6, Chapter 1292,  
15 Acts of the 79th Legislature, Regular Session, 2005.

16 SECTION 7.0042. Section 2054.260, Government Code, as  
17 amended by Chapters 1260 and 1292, Acts of the 79th Legislature,  
18 Regular Session, 2005, is reenacted to read as follows:

19 Sec. 2054.260. REPORTING REQUIREMENTS. (a) Not later than  
20 September 1 of each even-numbered year, the department shall report  
21 on the status, progress, benefits, and efficiency gains of the  
22 project. The department shall provide the report to:

23 (1) the presiding officer of each house of the  
24 legislature;

25 (2) the chair of each committee in the legislature  
26 that has primary jurisdiction over the department;

27 (3) the governor; and

1           (4) each state agency or local government  
2 participating in the project.

3           (b) Not later than September 1 of each even-numbered year,  
4 the department shall report on financial matters, including project  
5 costs and revenues, and on any significant issues regarding  
6 contract performance on the project.

7           (c) The department shall provide the report to:

8                 (1) the presiding officer of each house of the  
9 legislature; and

10                (2) the chair of each committee in the legislature  
11 with primary jurisdiction over the department.

12           SECTION 7.0043. Sections 2054.272(a) and (c), Government  
13 Code, as added by Chapter 672, Acts of the 79th Legislature, Regular  
14 Session, 2005, are amended to conform to Section 26, Chapter 1260,  
15 Acts of the 79th Legislature, Regular Session, 2005, to read as  
16 follows:

17           (a) A state agency that has jurisdiction over matters  
18 related to occupational licenses, including a licensing entity of  
19 this state, shall develop in cooperation with the department  
20 [~~authority~~] a link through the TexasOnline portal.

21           (c) The department [~~authority~~] may not charge a fee to  
22 implement this section.

23           SECTION 7.005. Section 2054.272, Government Code, as added  
24 by Chapter 1292, Acts of the 79th Legislature, Regular Session,  
25 2005, and Section 2054.273, Government Code, as added by Chapter  
26 1260, Acts of the 79th Legislature, Regular Session, 2005, are  
27 consolidated and renumbered as Section 2054.2721, Government Code,

1 and reenacted to read as follows:

2           Sec. 2054.2721. INDEPENDENT ANNUAL AUDIT. (a) Not later  
3 than August 1 of each year, any private vendor chosen to implement  
4 or manage the project shall have an audit of the vendor's finances  
5 associated with the management and operation of the project  
6 performed by an independent certified public accountant selected by  
7 the state. The vendor shall pay for the audit and shall have a copy  
8 of the audit provided to the department.

9           (b) Not later than August 15 of each year, the department  
10 shall provide a copy of the audit report to:

11                 (1) the presiding officer of each house of the  
12 legislature; and

13                 (2) the chair of each committee in the legislature  
14 with primary jurisdiction over the department.

15           (c) The department shall keep a copy of the audit report and  
16 make the audit report available for inspection by any interested  
17 person during regular business hours.

18           SECTION 7.0051. Section 2054.273(a), Government Code, as  
19 added by Chapter 1292, Acts of the 79th Legislature, Regular  
20 Session, 2005, is amended to conform to Section 26, Chapter 1260,  
21 Acts of the 79th Legislature, Regular Session, 2005, to read as  
22 follows:

23           (a) A state agency or a vendor, as determined by the  
24 department [~~authority~~], shall collect all fees charged to use the  
25 project. If a state agency collects the fees charged to use the  
26 project, the state agency shall forward the fees to the vendor, if  
27 the state has contracted with a vendor under Section 2054.252(d).

1 If the state has not contracted with a vendor, the state agency  
2 shall forward to the state an amount equal to the state's share of  
3 the fees. If a vendor collects or receives the fees charged for use  
4 of the project, it shall forward to the state an amount equal to the  
5 state's share of the fees as provided by the vendor's contract with  
6 the department.

7 SECTION 7.0052. Section 2205.043(b), Government Code, is  
8 amended to correct a reference to read as follows:

9 (b) The board shall adopt rules, consistent with federal  
10 regulations and Section 3101.001 [~~Article 6139f, Revised~~  
11 ~~Statutes~~], governing the color, size, and location of marks of  
12 identification required by this section.

13 SECTION 7.006. Section 2262.051(a), Government Code, as  
14 amended by Chapters 309 and 785, Acts of the 78th Legislature,  
15 Regular Session, 2003, is reenacted to read as follows:

16 (a) In consultation with the attorney general, the  
17 Department of Information Resources, the comptroller, and the state  
18 auditor, the commission shall develop or periodically update a  
19 contract management guide for use by state agencies. Participation  
20 by the state auditor under this subsection is subject to approval by  
21 the legislative audit committee for inclusion in the audit plan  
22 under Section 321.013(c).

23 PART B. UPDATE OF COURT FEES

24 SECTION 7.101. The heading to Section 101.021, Government  
25 Code, is amended to read as follows:

26 Sec. 101.021. SUPREME COURT FEES AND COSTS: GOVERNMENT  
27 CODE.

1 SECTION 7.102. The heading to Section 101.041, Government  
2 Code, is amended to read as follows:

3 Sec. 101.041. COURT OF APPEALS FEES AND COSTS: GOVERNMENT  
4 CODE.

5 SECTION 7.103. (a) Subchapter D, Chapter 101, Government  
6 Code, is amended by amending Section 101.061 and adding Sections  
7 101.0611 through 101.0617 to read as follows:

8 Sec. 101.061. DISTRICT COURT FEES AND COSTS: CIVIL PRACTICE  
9 AND REMEDIES CODE. The clerk of a district court shall collect  
10 fees and costs under the Civil Practice and Remedies Code as  
11 follows:

12 (1) filing fee in action with respect to a fraudulent  
13 court record or fraudulent lien or claim filed against property  
14 (Sec. 12.005, Civil Practice and Remedies Code) . . . \$15;

15 (2) fee for service of notice of action with respect to  
16 a fraudulent court record or fraudulent lien or claim filed against  
17 property (Sec. 12.005, Civil Practice and Remedies Code) . . . not  
18 to exceed \$20, if notice delivered in person, or the cost of  
19 postage, if service is by registered or certified mail;

20 (3) court cost in certain civil cases to establish and  
21 maintain an alternative dispute resolution system, if authorized by  
22 the county commissioners court (Sec. 152.004, Civil Practice and  
23 Remedies Code) . . . not to exceed \$15 [~~\$10~~];

24 (4) court fees and costs, if ordered by the court, for  
25 a suit filed by an inmate in which an affidavit or unsworn  
26 declaration of inability to pay costs is filed by the inmate (Sec.  
27 14.006, Civil Practice and Remedies Code) . . . the lesser of:



1           (A) 20 percent of the preceding six months'  
2 deposits to the inmate's trust account administered by the Texas  
3 Department of Criminal Justice under Section 501.014, Government  
4 Code; or

5           (B) the total amount of court fees and costs;

6           (5) monthly payment for remaining court fees and costs  
7 after the initial payment for a suit in which an affidavit or  
8 unsworn declaration of inability to pay costs is filed by the inmate  
9 (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser  
10 of:

11           (A) 10 percent of that month's deposit to the  
12 inmate's trust account administered by the Texas Department of  
13 Criminal Justice under Section 501.014, Government Code; or

14           (B) the total amount of court fees and costs that  
15 remain unpaid; and

16           (6) the following costs not otherwise charged to the  
17 inmate under Section 14.006, Civil Practice and Remedies Code, if  
18 the inmate has previously filed an action dismissed as malicious or  
19 frivolous (Sec. 14.007, Civil Practice and Remedies Code):

20           (A) expenses of service of process;

21           (B) postage; and

22           (C) transportation, housing, or medical care  
23 incurred in connection with the appearance of the inmate in the  
24 court for any proceeding.

25           Sec. 101.0611. DISTRICT COURT FEES AND COSTS: GOVERNMENT  
26 CODE. The clerk of a district court shall collect fees and costs  
27 under the Government Code as follows:

1           (1) appellate judicial system filing fees for:

2                   (A) First or Fourteenth Court of Appeals District  
3 (Sec. 22.2021, Government Code) . . . not more than \$5;

4                   (B) Second Court of Appeals District (Sec.  
5 22.2031, Government Code) . . . not more than \$5;

6                   (C) Third Court of Appeals District (Sec.  
7 22.2041, Government Code) . . . \$5;

8                   (D) Fourth Court of Appeals District (Sec.  
9 22.2051, Government Code) . . . not more than \$5;

10                   (E) [~~(D)~~] Fifth Court of Appeals District (Sec.  
11 22.2061, Government Code) . . . not more than \$5;

12                   (F) Eleventh Court of Appeals District (Sec.  
13 22.2121, Government Code) . . . \$5; and

14                   (G) [~~(E)~~] Thirteenth Court of Appeals District  
15 (Sec. 22.2141, Government Code) . . . not more than \$5;

16           (2) when administering a case for the Rockwall County  
17 Court at Law (Sec. 25.2012, Government Code) . . . civil fees and  
18 court costs as if the case had been filed in district court;

19           (3) [~~(5)~~] additional filing fees:

20                   (A) for each suit filed for insurance contingency  
21 fund, if authorized by the county commissioners court (Sec. 51.302,  
22 Government Code) . . . not to exceed \$5; and

23                   (B) [~~for each civil suit filed, for court-related~~  
24 ~~purposes for the support of the judiciary and for civil legal~~  
25 ~~services to an indigent.~~

26                           [~~(i) for family law cases and proceedings~~  
27 ~~as defined by Section 25.0002, Government Code (Sec. 133.151, Local~~

1 Government Code) . . . \$45; or

2 [~~(ii) for any case other than a case~~  
3 ~~described by Subparagraph (i) (Sec. 133.151, Local Government Code)~~  
4 ~~. . . \$50;~~

5 [~~(C)~~] to fund the improvement of Dallas County  
6 civil court facilities, if authorized by the county commissioners  
7 court (Sec. 51.705, Government Code) . . . not more than \$15; [~~and~~

8 [~~(D) on the filing of any civil action or~~  
9 ~~proceeding requiring a filing fee, including an appeal, and on the~~  
10 ~~filing of any counterclaim, cross-action, intervention,~~  
11 ~~interpleader, or third-party action requiring a filing fee, to fund~~  
12 ~~civil legal services for the indigent.~~

13 [~~(i) for family law cases and proceedings~~  
14 ~~as defined by Section 25.0002, Government Code (Sec. 133.152, Local~~  
15 ~~Government Code) . . . \$5; or~~

16 [~~(ii) for any case other than a case~~  
17 ~~described by Subparagraph (i) (Sec. 133.152, Local Government Code)~~  
18 ~~. . . \$10;]~~

19 (4) [~~(6)~~] for filing a suit, including an appeal from  
20 an inferior court:

21 (A) for a suit with 10 or fewer plaintiffs (Sec.  
22 51.317, Government Code) . . . \$50;

23 (B) for a suit with at least 11 but not more than  
24 25 plaintiffs (Sec. 51.317, Government Code) . . . \$75;

25 (C) for a suit with at least 26 but not more than  
26 100 plaintiffs (Sec. 51.317, Government Code) . . . \$100;

27 (D) for a suit with at least 101 but not more than

1 500 plaintiffs (Sec. 51.317, Government Code) . . . \$125;

2 (E) for a suit with at least 501 but not more than  
3 1,000 plaintiffs (Sec. 51.317, Government Code) . . . \$150; or

4 (F) for a suit with more than 1,000 plaintiffs  
5 (Sec. 51.317, Government Code) . . . \$200;

6 (5) [~~(7)~~] for filing a cross-action, counterclaim,  
7 intervention, contempt action, motion for new trial, or third-party  
8 petition (Sec. 51.317, Government Code) . . . \$15;

9 (6) [~~(8)~~] for issuing a citation or other writ or  
10 process not otherwise provided for, including one copy, when  
11 requested at the time a suit or action is filed (Sec. 51.317,  
12 Government Code) . . . \$8;

13 (7) [~~(9)~~] for records management and preservation  
14 (Sec. 51.317, Government Code) . . . \$10;

15 (8) [~~(10)~~] for issuing a subpoena, including one copy  
16 (Sec. 51.318, Government Code) . . . \$8;

17 (9) [~~(11)~~] for issuing a citation, commission for  
18 deposition, writ of execution, order of sale, writ of execution and  
19 order of sale, writ of injunction, writ of garnishment, writ of  
20 attachment, or writ of sequestration not provided for in Section  
21 51.317, or any other writ or process not otherwise provided for,  
22 including one copy if required by law (Sec. 51.318, Government  
23 Code) . . . \$8;

24 (10) [~~(12)~~] for searching files or records to locate a  
25 cause when the docket number is not provided (Sec. 51.318,  
26 Government Code) . . . \$5;

27 (11) [~~(13)~~] for searching files or records to

1 ascertain the existence of an instrument or record in the district  
2 clerk's office (Sec. 51.318, Government Code) . . . \$5;

3 (12) [~~(14)~~] for abstracting a judgment (Sec. 51.318,  
4 Government Code) . . . \$8;

5 (13) [~~(15)~~] for approving a bond (Sec. 51.318,  
6 Government Code) . . . \$4;

7 (14) [~~(16)~~] for a certified copy of a record,  
8 judgment, order, pleading, or paper on file or of record in the  
9 district clerk's office, including certificate and seal, for each  
10 page or part of a page (Sec. 51.318, Government Code) . . . \$1;

11 (15) [~~(17)~~] for a noncertified copy, for each page or  
12 part of a page (Sec. 51.318, Government Code) . . . not to exceed  
13 \$1;

14 (16) fee for performing a service:

15 (A) related to the matter of the estate of a  
16 deceased person (Sec. 51.319, Government Code) . . . the same fee  
17 allowed the county clerk for those services;

18 (B) related to the matter of a minor (Sec.  
19 51.319, Government Code) . . . the same fee allowed the county  
20 clerk for the service;

21 (C) of serving process by certified or registered  
22 mail (Sec. 51.319, Government Code) . . . the same fee a sheriff or  
23 constable is authorized to charge for the service under Section  
24 118.131, Local Government Code; and

25 (D) prescribed or authorized by law but for which  
26 no fee is set (Sec. 51.319, Government Code) . . . a reasonable fee;

27 (17) [~~(18)~~] jury fee (Sec. 51.604, Government Code)

1 . . . \$30;

2 (18) additional filing fee for family protection on  
3 filing a suit for dissolution of a marriage under Chapter 6, Family  
4 Code, if authorized by the county commissioners court (Sec. 51.961,  
5 Government Code) . . . not to exceed \$30;

6 (19) at a hearing held by an associate judge in Dallas  
7 County, a court cost to preserve the record, in the absence of a  
8 court reporter, by other means (Sec. 54.509, Government Code) . . .  
9 as assessed by the referring court or associate judge; and

10 (20) at a hearing held by an associate judge in Duval  
11 County, a court cost to preserve the record (Sec. 54.1151,  
12 Government Code) . . . as imposed by the referring court or  
13 associate judge.

14 Sec. 101.0612. DISTRICT COURT FEES AND COSTS: HEALTH AND  
15 SAFETY CODE. The clerk of a district court shall collect for filing  
16 a report of divorce or annulment a fee of \$1 under Section  
17 [~~Sec.~~]194.002, Health and Safety Code. [~~]~~ . . . ~~\$1.~~]

18 Sec. 101.0613. DISTRICT COURT FEES AND COSTS: HUMAN  
19 RESOURCES CODE. The clerk of a district court shall collect fees  
20 and costs under the Human Resources Code as follows:

21 (1) [~~(20)~~] for filing a suit in Comal County (Sec.  
22 152.0522, Human Resources Code) . . . \$4;

23 (2) [~~(21)~~] ~~additional filing fee for family protection~~  
24 ~~on filing a suit for dissolution of a marriage under Chapter 6,~~  
25 ~~Family Code, if authorized by the county commissioners court (Sec.~~  
26 ~~51.961, Government Code) . . . not to exceed \$30,~~

27 [~~(22)~~] fee on filing a suit for dissolution of a

1 marriage for services of child support department in Harris County,  
2 if authorized by the county commissioners court (Sec. 152.1074,  
3 Human Resources Code) . . . not to exceed \$12;

4 (3) [~~(22-a)~~] a child support service fee in Nueces  
5 County if ordered by the commissioners court and assessed by the  
6 court (Sec. 152.1844, Human Resources Code) . . . not to exceed \$5 a  
7 month payable annually in advance;

8 (4) [~~(22-b)~~] a service fee to be paid by a person  
9 ordered by a district court to pay child or spousal support:

10 (A) in Collin County if authorized by the  
11 juvenile board (Sec. 152.0492, Human Resources Code) . . . not to  
12 exceed \$2.50 added to first support payment each month;

13 (B) in Johnson County if authorized by the  
14 juvenile board (Sec. 152.1322, Human Resources Code) . . . \$1.00  
15 added to first support payment each month; and

16 (C) in Montague County (Sec. 152.1752, Human  
17 Resources Code) . . . \$1 if fee is ordered to be paid monthly, 50  
18 cents if fee is ordered to be paid semimonthly or weekly;

19 (5) [~~(22-c)~~] attorney's fees as an additional cost in  
20 Montague County on a finding of contempt of court for failure to pay  
21 child or spousal support if the contempt action is initiated by the  
22 probation department (Sec. 152.1752, Human Resources Code) . . .  
23 \$15;

24 (6) [~~(23)~~] fee on filing a suit requesting an adoption  
25 in Montague County (Sec. 152.1752, Human Resources Code) . . . \$25;

26 (7) [~~(24)~~] court cost on citation for contempt of  
27 court for failure to comply with child support order in Nueces

1 County, if authorized by the commissioners court (Sec. 152.1844,  
2 Human Resources Code) . . . not to exceed \$10;

3 (8) [~~(25)~~] fee on filing a suit for divorce in Orange  
4 County (Sec. 152.1873, Human Resources Code) . . . not less than  
5 \$5;

6 (9) [~~(26)~~] court costs on citation for contempt of  
7 court in Orange County for failure to comply with a child support  
8 order or order providing for possession of or access to a child  
9 (Sec. 152.1873, Human Resources Code) . . . amount determined by  
10 district clerk;

11 (10) [~~(27)~~] fee on filing a suit requesting an  
12 adoption in Orange County (Sec. 152.1874, Human Resources Code)  
13 . . . not less than \$25; and

14 (11) [~~(28)~~] fee on filing a suit requesting an  
15 adoption in Wichita County (Sec. 152.2496, Human Resources Code)  
16 . . . \$100.

17 Sec. 101.0614. DISTRICT COURT FEES AND COSTS: INSURANCE  
18 CODE. The clerk of a district court shall collect court costs and  
19 reasonable and necessary expert witness fees under Section 544.054,  
20 Insurance Code, which may include expert witness fees in Travis  
21 County in an action in which the plaintiff prevails against an  
22 insurer for economic damages sustained by the plaintiff as a result  
23 of unfair discrimination.

24 Sec. 101.0615. DISTRICT COURT FEES AND COSTS: LOCAL  
25 GOVERNMENT CODE. The clerk of a district court shall collect fees  
26 and costs under the Local Government Code as follows:

27 (1) additional filing fees:



1           (A) for each civil suit filed, for court-related  
2 purposes for the support of the judiciary and for civil legal  
3 services to an indigent:

4           (i) for family law cases and proceedings as  
5 defined by Section 25.0002, Government Code (Sec. 133.151, Local  
6 Government Code) . . . \$45; or

7           (ii) for any case other than a case  
8 described by Subparagraph (i) (Sec. 133.151, Local Government Code)  
9 . . . \$50;

10          (B) on the filing of any civil action or  
11 proceeding requiring a filing fee, including an appeal, and on the  
12 filing of any counterclaim, cross-action, intervention,  
13 interpleader, or third-party action requiring a filing fee, to fund  
14 civil legal services for the indigent:

15          (i) for family law cases and proceedings as  
16 defined by Section 25.0002, Government Code (Sec. 133.152, Local  
17 Government Code) . . . \$5; or

18          (ii) for any case other than a case  
19 described by Subparagraph (i) (Sec. 133.152, Local Government Code)  
20 . . . \$10;

21          (2) [~~29~~] additional filing fee to fund the  
22 courthouse security fund, if authorized by the county commissioners  
23 court (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

24          (3) [~~30~~] additional filing fee for filing documents  
25 not subject to certain filing fees to fund the courthouse security  
26 fund, if authorized by the county commissioners court (Sec.  
27 291.008, Local Government Code) . . . \$1;

1           (4) [~~(31)~~] additional filing fee to fund the  
2 courthouse security fund in Webb County, if authorized by the  
3 county commissioners court (Sec. 291.009, Local Government Code)  
4 . . . not to exceed \$20;

5           (5) [~~(32)~~] court cost in civil cases other than suits  
6 for delinquent taxes to fund the county law library fund, if  
7 authorized by the county commissioners court (Sec. 323.023, Local  
8 Government Code) . . . not to exceed \$35; and

9           (6) on the filing of a civil suit, an additional filing  
10 fee to be used for court-related purposes for the support of the  
11 judiciary (Sec. 133.154, Local Government Code) . . . \$37.

12           Sec. 101.0616. DISTRICT COURT FEES AND COSTS: TEXAS  
13 PROBATE CODE. The clerk of a district court shall collect fees and  
14 costs under the Texas Probate Code as follows:

15           (1) [~~(33)~~ when administering a case for the Rockwall  
16 County Court at Law (Sec. 25.2012, Government Code) . . . civil  
17 fees and court costs as if the case had been filed in district  
18 court,

19           [~~(34)~~ at a hearing held by an associate judge in Dallas  
20 County, a court cost to preserve the record, in the absence of a  
21 court reporter, by other means (Sec. 54.509, Government Code) . . .  
22 as assessed by the referring court or associate judge,

23           [~~(35)~~ at a hearing held by an associate judge in Duval  
24 County, a court cost to preserve the record (Sec. 54.1151,  
25 Government Code, as added by Chapter 1150, Acts of the 78th  
26 Legislature, Regular Session, 2003) . . . as imposed by the  
27 referring court or associate judge,

1           ~~[(36) court fees and costs, if ordered by the court,~~  
2 ~~for a suit filed by an inmate in which an affidavit or unsworn~~  
3 ~~declaration of inability to pay costs is filed by the inmate (Sec.~~  
4 ~~14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

5                   ~~[(A) 20 percent of the preceding six months'~~  
6 ~~deposits to the inmate's trust account administered by the Texas~~  
7 ~~Department of Criminal Justice under Section 501.014, Government~~  
8 ~~Code; or~~

9                   ~~[(B) the total amount of court fees and costs;~~  
10           ~~[(37) monthly payment for remaining court fees and~~  
11 ~~costs after the initial payment for a suit in which an affidavit or~~  
12 ~~unsworn declaration of inability to pay costs is filed by the inmate~~  
13 ~~(Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser~~  
14 ~~of:~~

15                   ~~[(A) 10 percent of that month's deposit to the~~  
16 ~~inmate's trust account administered by the Texas Department of~~  
17 ~~Criminal Justice under Section 501.014, Government Code; or~~

18                   ~~[(B) the total amount of court fees and costs~~  
19 ~~that remain unpaid;~~

20           ~~[(38) the following costs not otherwise charged to the~~  
21 ~~inmate under Section 14.006, Civil Practice and Remedies Code, if~~  
22 ~~the inmate has previously filed an action dismissed as malicious or~~  
23 ~~frivolous (Sec. 14.007, Civil Practice and Remedies Code):~~

24                   ~~[(A) expenses of service of process;~~

25                   ~~[(B) postage; and~~

26                   ~~[(C) transportation, housing, or medical care~~  
27 ~~incurred in connection with the appearance of the inmate in the~~

1 ~~court for any proceeding;~~

2 ~~[(39) fee for performing a service;~~

3 ~~[(A) related to the matter of the estate of a~~  
4 ~~deceased person (Sec. 51.319, Government Code) . . . the same fee~~  
5 ~~allowed the county clerk for those services;~~

6 ~~[(B) related to the matter of a minor (Sec.~~  
7 ~~51.319, Government Code) . . . the same fee allowed the county~~  
8 ~~clerk for the service;~~

9 ~~[(C) of serving process by certified or~~  
10 ~~registered mail (Sec. 51.319, Government Code) . . . the same fee a~~  
11 ~~sheriff or constable is authorized to charge for the service under~~  
12 ~~Section 118.131, Local Government Code; and~~

13 ~~[(D) prescribed or authorized by law but for~~  
14 ~~which no fee is set (Sec. 51.319, Government Code) . . . a~~  
15 ~~reasonable fee;~~

16 ~~[(40) court costs, which may include expert witness~~  
17 ~~fees in Travis County in an action in which the plaintiff prevails~~  
18 ~~against an insurer for economic damages sustained by the plaintiff~~  
19 ~~as a result of unfair discrimination (Sec. 544.054, Insurance~~  
20 ~~Code) . . . court costs and reasonable and necessary expert witness~~  
21 ~~fees;~~

22 ~~[(41)]~~ security deposit on filing, by any person other  
23 than the personal representative of an estate, an application,  
24 complaint, or opposition in relation to the estate, if required by  
25 the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the  
26 proceeding; and

27 (2) ~~[(42)]~~ security deposit on filing, by any person

1 other than the guardian, attorney ad litem, or guardian ad litem, an  
2 application, complaint, or opposition in relation to a guardianship  
3 matter, if required by the clerk (Sec. 622, Texas Probate  
4 Code) . . . probable cost of the guardianship proceeding. ~~[, and]~~

5 Sec. 101.0617. DISTRICT COURT FEES AND COSTS: TAX CODE.

6 The clerk of a district court shall collect a ~~[(43)]~~ fee of \$5  
7 under Section 42.221, Tax Code, for filing an additional petition  
8 for review of an appraisal review board order relating to certain  
9 regulated property running through or operating in more than one  
10 county after the first petition for review relating to the same  
11 property is filed for a tax year ~~[(Sec. 42.221, Tax Code) . . . \$5]~~.

12 (b) Section 101.062, Government Code, is repealed.

13 SECTION 7.104. (a) Subchapter E, Chapter 101, Government  
14 Code, is amended by amending Section 101.081 and adding Sections  
15 101.0811 through 101.0817 to read as follows:

16 Sec. 101.081. STATUTORY COUNTY COURT FEES AND COSTS: CIVIL  
17 PRACTICE AND REMEDIES CODE. The clerk of a statutory county court  
18 shall collect fees and costs under the Civil Practice and Remedies  
19 Code as follows:

20 (1) court cost in certain civil cases to establish and  
21 maintain an alternative dispute resolution system, if authorized by  
22 the county commissioners court (Sec. 152.004, Civil Practice and  
23 Remedies Code) . . . not to exceed \$15 ~~[\$10]~~;

24 (2) court fees and costs, if ordered by the court, for  
25 a suit filed by an inmate in which an affidavit or unsworn  
26 declaration of inability to pay costs is filed by the inmate (Sec.  
27 14.006, Civil Practice and Remedies Code) . . . the lesser of:

1           (A) 20 percent of the preceding six months'  
2 deposits to the inmate's trust account administered by the Texas  
3 Department of Criminal Justice under Section 501.014, Government  
4 Code; or

5           (B) the total amount of court fees and costs;

6           (3) monthly payment for remaining court fees and costs  
7 after the initial payment for a suit in which an affidavit or  
8 unsworn declaration of inability to pay costs is filed by the inmate  
9 (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser  
10 of:

11           (A) 10 percent of that month's deposit to the  
12 inmate's trust account administered by the Texas Department of  
13 Criminal Justice under Section 501.014, Government Code; or

14           (B) the total amount of court fees and costs that  
15 remain unpaid; and

16           (4) the following costs not otherwise charged to the  
17 inmate under Section 14.006, Civil Practice and Remedies Code, if  
18 the inmate has previously filed an action dismissed as malicious or  
19 frivolous (Sec. 14.007, Civil Practice and Remedies Code):

20           (A) expenses of service of process;

21           (B) postage; and

22           (C) transportation, housing, or medical care  
23 incurred in connection with the appearance of the inmate in the  
24 court for any proceeding.

25           Sec. 101.0811. STATUTORY COUNTY COURT FEES AND COSTS:  
26 GOVERNMENT CODE. The clerk of a statutory county court shall  
27 collect fees and costs under the Government Code as follows:

1           (1) [~~(2)~~] appellate judicial system filing fees:

2                   (A) First or Fourteenth Court of Appeals District  
3 (Sec. 22.2021, Government Code) . . . not more than \$5;

4                   (B) Second Court of Appeals District (Sec.  
5 22.2031, Government Code) . . . not more than \$5;

6                   (C) Third Court of Appeals District (Sec.  
7 22.2041, Government Code) . . . \$5;

8                   (D) Fourth Court of Appeals District (Sec.  
9 22.2051, Government Code) . . . not more than \$5;

10                   (E) [~~(D)~~] Fifth Court of Appeals District (Sec.  
11 22.2061, Government Code) . . . not more than \$5;

12                   (F) Eleventh Court of Appeals District (Sec.  
13 22.2121, Government Code) . . . \$5; and

14                   (G) [~~(E)~~] Thirteenth Court of Appeals District  
15 (Sec. 22.2141, Government Code) . . . not more than \$5;

16           (2) [~~(3)~~] an official court reporter fee, County Court  
17 at Law No. 2 of Bexar County (Sec. 25.0172, Government Code) . . .  
18 \$3;

19           (3) in Brazoria County, in matters of concurrent  
20 jurisdiction with the district court, fees (Sec. 25.0222,  
21 Government Code) . . . as prescribed by law for district judges  
22 according to the nature of the matter;

23           (4) a court reporter fee when testimony is taken in a  
24 county court at law in McLennan County (Sec. 25.1572, Government  
25 Code) . . . \$3;

26           (5) a stenographer fee, if a record or part of a record  
27 is made:

1 (A) in a county court at law in Hidalgo County  
2 (Sec. 25.1102, Government Code) . . . \$20; and

3 (B) in a county court at law in Nolan County (Sec.  
4 25.1792, Government Code) . . . \$25;

5 (6) jury fee (Sec. 51.604, Government Code) . . . \$22;

6 (7) an additional filing fee:

7 (A) for each civil case filed to be used for  
8 court-related purposes for the support of the judiciary, if  
9 authorized by the county commissioners court (Sec. 51.702,  
10 Government Code) . . . \$40; and

11 (B) to fund the improvement of Dallas County  
12 civil court facilities, if authorized by the county commissioners  
13 court (Sec. 51.705, Government Code) . . . not more than \$15[~~;~~ and

14 [~~(C) for filing any civil action or proceeding~~  
15 ~~requiring a filing fee, including an appeal, and on the filing of~~  
16 ~~any counterclaim, cross-action, intervention, interpleader, or~~  
17 ~~third-party action requiring a filing fee, to fund civil legal~~  
18 ~~services for the indigent (Sec. 133.153, Local Government Code)~~  
19 ~~. . . \$5];~~

20 (8) the official court reporter's fee taxed as costs in  
21 civil actions in a statutory county court:

22 (A) in Bexar County Courts at Law:

23 (i) Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12  
24 (Sec. 25.0172, Government Code) . . . taxed in the same manner as  
25 the fee is taxed in district court; and

26 (ii) No. 2 (Sec. 25.0172, Government Code)  
27 . . . \$3;



1                   (B) in Galveston County (Sec. 25.0862,  
2 Government Code) . . . taxed in the same manner as the fee is taxed  
3 in civil cases in the district courts; and

4                   (C) in Parker County (Sec. 25.1862, Government  
5 Code) . . . taxed in the same manner as the fee is taxed in civil  
6 cases in the district courts;

7                   (9) a stenographer's fee as costs in each civil,  
8 criminal, and probate case in which a record is made by the official  
9 court reporter in a statutory county court in Nolan County (Sec.  
10 25.1792, Government Code) . . . \$25;

11                   (10) in Nueces County, in matters of concurrent  
12 jurisdiction with the district court, with certain exceptions, fees  
13 (Sec. 25.1802, Government Code) . . . equal to those in district  
14 court cases; and

15                   (11) a fee not otherwise listed in this subchapter  
16 that is required to be collected under Section 25.0008, Government  
17 Code, in a county other than Brazos, Cameron, Ellis, Guadalupe,  
18 Harris, Henderson, Liberty, Moore, Nolan, Panola, Parker, Starr,  
19 Victoria, and Williamson . . . as prescribed by law relating to  
20 county judges' fees.

21                   Sec. 101.0812. STATUTORY COUNTY COURT FEES AND COSTS:  
22 HEALTH AND SAFETY CODE. The clerk of a statutory county court  
23 shall collect fees and costs under the Health and Safety Code as  
24 follows:

25                   (1) [~~8~~] for filing an application for registration  
26 of death (Sec. 193.007, Health and Safety Code) . . . \$1;

27                   (2) [~~9~~] fee for judge's services on an application

1 for court-ordered mental health services (Sec. 574.031, Health and  
2 Safety Code) . . . not to exceed \$50;

3 (3) [~~(10)~~] fee for prosecutor's services on an  
4 application for court-ordered mental health services (Sec.  
5 574.031, Health and Safety Code) . . . not to exceed \$50;

6 (4) for a hearing or proceeding under the Texas Mental  
7 Health Code (Subtitle C, Title 7, Health and Safety Code) as costs  
8 (Secs. 571.017 and 571.018, Health and Safety Code) . . .  
9 reasonable compensation to the following persons appointed under  
10 the Texas Mental Health Code:

- 11 (A) attorneys;
- 12 (B) physicians;
- 13 (C) language interpreters;
- 14 (D) sign interpreters; and
- 15 (E) masters;

16 (5) for a hearing or proceeding under the Texas Mental  
17 Health Code (Subtitle C, Title 7, Health and Safety Code) as costs  
18 (Sec. 571.018, Health and Safety Code):

- 19 (A) attorney's fees;
- 20 (B) physician examination fees;
- 21 (C) expense of transportation to a mental health  
22 facility or to a federal agency not to exceed \$50 if transporting  
23 within the same county and not to exceed the reasonable cost of  
24 transportation if transporting between counties;
- 25 (D) costs and salary supplements authorized  
26 under Section 574.031, Health and Safety Code; and
- 27 (E) prosecutors' fees authorized under Section

1 574.031, Health and Safety Code;

2 (6) expenses of transporting certain patients from the  
3 county of treatment to a hearing in the county in which the  
4 proceedings originated (Sec. 574.008, Health and Safety Code) . . .  
5 actual expenses unless certain arrangements are made to hold the  
6 hearing in the county in which the patient is receiving services;

7 (7) expenses for expert witness testimony for an  
8 indigent patient (Sec. 574.010, Health and Safety Code) . . . if  
9 authorized by the court as reimbursement to the attorney ad litem,  
10 court-approved expenses;

11 (8) fee for judge's services for holding a hearing on  
12 an application for court-ordered mental health services (Sec.  
13 574.031, Health and Safety Code) . . . as assessed by the judge, not  
14 to exceed \$50;

15 (9) expenses to reimburse judge for holding a hearing  
16 in a hospital or location other than the county courthouse (Sec.  
17 574.031, Health and Safety Code) . . . reasonable and necessary  
18 expenses as certified; and

19 (10) fee for services of a prosecuting attorney,  
20 including costs incurred for preparation of documents related to a  
21 hearing on an application for court-ordered mental health services  
22 (Sec. 574.031, Health and Safety Code) . . . as assessed by the  
23 judge, not to exceed \$50.

24 Sec. 101.0813. STATUTORY COUNTY COURT FEES AND COSTS: HUMAN  
25 RESOURCES CODE. The clerk of a statutory county court shall  
26 collect [~~(11)~~] for filing a suit in Comal County a fee of \$4 under  
27 Section [~~(Sec.)~~] 152.0522, Human Resources Code. [~~]~~ . . . \$4,

1           Sec. 101.0814. STATUTORY COUNTY COURT FEES AND COSTS: LOCAL  
2 GOVERNMENT CODE. The clerk of a statutory county court shall  
3 collect fees and costs under the Local Government Code as follows:

4           (1) [~~(12)~~] additional filing fee to fund contingency  
5 fund for liability insurance, if authorized by the county  
6 commissioners court (Sec. 82.003, Local Government Code) . . . not  
7 to exceed \$5;

8           (2) [~~(13)~~] civil court actions (Sec. 118.052, Local  
9 Government Code):

10                   (A) filing of original action (Secs. 118.052 and  
11 118.053, Local Government Code):

12                           (i) garnishment after judgment (Sec.  
13 118.052, Local Government Code) . . . \$15; and

14                           (ii) all others (Sec. 118.052, Local  
15 Government Code) . . . \$40;

16                   (B) filing of action other than original (Secs.  
17 118.052 and 118.054, Local Government Code) . . . \$30; and

18                   (C) services rendered after judgment in original  
19 action (Secs. 118.052 and 118.0545, Local Government Code):

20                           (i) abstract of judgment (Sec. 118.052,  
21 Local Government Code) . . . \$5; and

22                           (ii) execution, order of sale, writ, or  
23 other process (Sec. 118.052, Local Government Code) . . . \$5;

24           (3) [~~(14)~~] probate court actions (Sec. 118.052, Local  
25 Government Code):

26                   (A) probate original action (Secs. 118.052 and  
27 118.055, Local Government Code):

1 (i) probate of a will with independent  
2 executor, administration with will attached, administration of an  
3 estate, guardianship or receivership of an estate, or muniment of  
4 title (Sec. 118.052, Local Government Code) . . . \$40;

5 (ii) community survivors (Sec. 118.052,  
6 Local Government Code) . . . \$40;

7 (iii) small estates (Sec. 118.052, Local  
8 Government Code) . . . \$40;

9 (iv) declarations of heirship (Sec.  
10 118.052, Local Government Code) . . . \$40;

11 (v) mental health or chemical dependency  
12 services (Sec. 118.052, Local Government Code) . . . \$40; and

13 (vi) additional, special fee (Secs. 118.052  
14 and 118.064, Local Government Code) . . . \$5;

15 (B) services in pending probate action (Secs.  
16 118.052 and 118.056, Local Government Code):

17 (i) filing an inventory and appraisalment  
18 after the 120th day after the date of the initial filing of the  
19 action (Sec. 118.052, Local Government Code) . . . \$25;

20 (ii) approving and recording bond (Sec.  
21 118.052, Local Government Code) . . . \$3;

22 (iii) administering oath (Sec. 118.052,  
23 Local Government Code) . . . \$2;

24 (iv) filing annual or final account of  
25 estate (Sec. 118.052, Local Government Code) . . . \$25;

26 (v) filing application for sale of real or  
27 personal property (Sec. 118.052, Local Government Code) . . . \$25;

1 (vi) filing annual or final report of  
2 guardian of a person (Sec. 118.052, Local Government Code) . . .  
3 \$10; and

4 (vii) filing a document not listed under  
5 this paragraph after the filing of an order approving the inventory  
6 and appraisement or after the 120th day after the date of the  
7 initial filing of the action, whichever occurs first (Secs. 118.052  
8 and 191.007, Local Government Code), if more than 25 pages . . .  
9 \$25;

10 (C) adverse probate action (Secs. 118.052 and  
11 118.057, Local Government Code) . . . \$40; and

12 (D) claim against estate (Secs. 118.052 and  
13 118.058, Local Government Code) . . . \$2;

14 (4) [~~(15)~~] other fees (Sec. 118.052, Local Government  
15 Code):

16 (A) issuing document (Secs. 118.052 and 118.059,  
17 Local Government Code):

18 (i) original document and one copy (Sec.  
19 118.052, Local Government Code) . . . \$4; and

20 (ii) each additional set of an original and  
21 one copy (Sec. 118.052, Local Government Code) . . . \$4;

22 (B) certified papers (Secs. 118.052 and 118.060,  
23 Local Government Code):

24 (i) for the clerk's certificate (Sec.  
25 118.052, Local Government Code) . . . \$5; and

26 (ii) a fee per page or part of a page (Sec.  
27 118.052, Local Government Code) . . . \$1;

1 (C) noncertified papers, for each page or part of  
2 a page (Secs. 118.052 and 118.0605, Local Government Code) . . .  
3 \$1;

4 (D) letters testamentary, letter of  
5 guardianship, letter of administration, or abstract of judgment  
6 (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;

7 (E) safekeeping of wills (Secs. 118.052 and  
8 118.062, Local Government Code) . . . \$5;

9 (F) mail service of process (Secs. 118.052 and  
10 118.063, Local Government Code) . . . same as sheriff; and

11 (G) records management and preservation fee  
12 (Secs. 118.052, 118.0546, and 118.0645, Local Government Code)  
13 . . . \$5;

14 (5) additional filing fee for filing any civil action  
15 or proceeding requiring a filing fee, including an appeal, and on  
16 the filing of any counterclaim, cross-action, intervention,  
17 interpleader, or third-party action requiring a filing fee, to fund  
18 civil legal services for the indigent (Sec. 133.153, Local  
19 Government Code) . . . \$5;

20 (6) on the filing of a civil suit, an additional filing  
21 fee to be used for court-related purposes for the support of the  
22 judiciary (Sec. 133.154, Local Government Code) . . . \$37;

23 (7) [~~16~~] additional filing fee to fund the  
24 courthouse security fund, if authorized by the county commissioners  
25 court (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

26 (8) [~~17~~] additional filing fee for filing documents  
27 not subject to certain filing fees to fund the courthouse security

1 fund, if authorized by the county commissioners court (Sec.  
2 291.008, Local Government Code) . . . \$1;

3 (9) [~~(18)~~] additional filing fee to fund the  
4 courthouse security fund in Webb County, if authorized by the  
5 county commissioners court (Sec. 291.009, Local Government Code)  
6 . . . not to exceed \$20; and

7 (10) [~~(19)~~] court cost in civil cases other than suits  
8 for delinquent taxes to fund the county law library fund, if  
9 authorized by the county commissioners court (Sec. 323.023, Local  
10 Government Code) . . . not to exceed \$35. [~~+~~]

11 Sec. 101.0815. STATUTORY COUNTY COURT FEES AND COSTS: TEXAS  
12 PROBATE CODE. The clerk of a statutory county court shall collect  
13 fees and costs under the Texas Probate Code as follows:

14 (1) [~~(20)~~] fee for deposit of a will with the county  
15 clerk during testator's lifetime (Sec. 71, Texas Probate Code)  
16 . . . \$3;

17 (2) security deposit on filing, by any person other  
18 than the personal representative of an estate, an application,  
19 complaint, or opposition in relation to the estate, if required by  
20 the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the  
21 proceeding; and

22 (3) security deposit on filing, by any person other  
23 than the guardian, attorney ad litem, or guardian ad litem, an  
24 application, complaint, or opposition in relation to a guardianship  
25 matter, if required by the clerk (Sec. 622, Texas Probate Code)  
26 . . . probable cost of the guardianship proceeding.

27 Sec. 101.0816. STATUTORY COUNTY COURT FEES AND COSTS:



1 PROPERTY CODE. The clerk of a statutory county court shall collect  
2 a ~~[(21)]~~ court cost in the amount of \$10 or more, as taxed by the  
3 court under Section 21.047, Property Code, for each special  
4 commissioner in an eminent domain proceeding. ~~[(Sec. 21.047,~~  
5 Property Code) . . . as taxed by the court, \$10 or more,]

6 Sec. 101.0817. STATUTORY COUNTY COURT FEES AND COSTS UNDER  
7 OTHER LAWS. The clerk of a statutory county court shall collect a  
8 ~~[(22)]~~ fee of \$10 under Article 6327, Vernon's Texas Civil  
9 Statutes, for a county attorney in a suit regarding a railroad  
10 company's failure to keep roadbed and right-of-way in proper  
11 condition ~~[(Art. 6327, Vernon's Texas Civil Statutes) . . . \$10,~~

12 ~~[(23)] court fees and costs, if ordered by the court,~~  
13 ~~for a suit filed by an inmate in which an affidavit or unsworn~~  
14 ~~declaration of inability to pay costs is filed by the inmate (Sec.~~  
15 ~~14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

16 ~~[(A) 20 percent of the preceding six months'~~  
17 ~~deposits to the inmate's trust account administered by the Texas~~  
18 ~~Department of Criminal Justice under Section 501.014, Government~~  
19 ~~Code, or~~

20 ~~[(B) the total amount of court fees and costs,~~  
21 ~~[(24)] monthly payment for remaining court fees and~~  
22 ~~costs after the initial payment for a suit in which an affidavit or~~  
23 ~~unsworn declaration of inability to pay costs is filed by the inmate~~  
24 ~~(Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser~~  
25 ~~of:~~

26 ~~[(A) 10 percent of that month's deposit to the~~  
27 ~~inmate's trust account administered by the Texas Department of~~

1 ~~Criminal Justice under Section 501.014, Government Code, or~~

2 ~~[(B) the total amount of court fees and costs~~  
3 ~~that remain unpaid;~~

4 ~~[(25) the following costs not otherwise charged to the~~  
5 ~~inmate under Section 14.006, Civil Practice and Remedies Code, if~~  
6 ~~the inmate has previously filed an action dismissed as malicious or~~  
7 ~~frivolous (Sec. 14.007, Civil Practice and Remedies Code):~~

8 ~~[(A) expenses of service of process;~~

9 ~~[(B) postage; and~~

10 ~~[(C) transportation, housing, or medical care~~  
11 ~~incurred in connection with the appearance of the inmate in the~~  
12 ~~court for any proceeding;~~

13 ~~[(26) the official court reporter's fee taxed as costs~~  
14 ~~in civil actions in a statutory county court:~~

15 ~~[(A) in Bexar County Courts at Law:~~

16 ~~[(i) Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12~~  
17 ~~(Sec. 25.0172, Government Code) . . . taxed in the same manner as~~  
18 ~~the fee is taxed in district court; and~~

19 ~~[(ii) No. 2 (Sec. 25.0172, Government~~  
20 ~~Code) . . . \$3;~~

21 ~~[(B) in Galveston County (Sec. 25.0862,~~  
22 ~~Government Code) . . . taxed in the same manner as the fee is taxed~~  
23 ~~in civil cases in the district courts; and~~

24 ~~[(C) in Parker County (Sec. 25.1862, Government~~  
25 ~~Code) . . . taxed in the same manner as the fee is taxed in civil~~  
26 ~~cases in the district courts;~~

27 ~~[(27) a stenographer's fee as costs in each civil,~~

1 ~~criminal, and probate case in which a record is made by the official~~  
2 ~~court reporter in a statutory county court in Nolan County (Sec.~~  
3 ~~25.1792, Government Code) . . . \$25,~~

4 ~~[(28) in Brazoria County, in matters of concurrent~~  
5 ~~jurisdiction with the district court, fees (Sec. 25.0222,~~  
6 ~~Government Code) . . . as prescribed by law for district judges~~  
7 ~~according to the nature of the matter,~~

8 ~~[(29) in Nueces County, in matters of concurrent~~  
9 ~~jurisdiction with the district court, with certain exceptions, fees~~  
10 ~~(Sec. 25.1802, Government Code) . . . equal to those in district~~  
11 ~~court cases,~~

12 ~~[(30) security deposit on filing, by any person other~~  
13 ~~than the personal representative of an estate, an application,~~  
14 ~~complaint, or opposition in relation to the estate, if required by~~  
15 ~~the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the~~  
16 ~~proceeding,~~

17 ~~[(31) security deposit on filing, by any person other~~  
18 ~~than the guardian, attorney ad litem, or guardian ad litem, an~~  
19 ~~application, complaint, or opposition in relation to a guardianship~~  
20 ~~matter, if required by the clerk (Sec. 622, Texas Probate Code)~~  
21 ~~. . . probable cost of the guardianship proceeding,~~

22 ~~[(32) for a hearing or proceeding under the Texas~~  
23 ~~Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as~~  
24 ~~costs (Secs. 571.017 and 571.018, Health and Safety Code) . . .~~  
25 ~~reasonable compensation to the following persons appointed under~~  
26 ~~the Texas Mental Health Code:~~

27 ~~[(A) attorneys,~~

1                   ~~[(B) physicians,~~  
2                   ~~[(C) language interpreters,~~  
3                   ~~[(D) sign interpreters, and~~  
4                   ~~[(E) masters,~~  
5                   ~~[(33) for a hearing or proceeding under the Texas~~  
6 ~~Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as~~  
7 ~~costs (Sec. 571.018, Health and Safety Code):~~  
8                   ~~[(A) attorney's fees,~~  
9                   ~~[(B) physician examination fees,~~  
10                   ~~[(C) expense of transportation to a mental health~~  
11 ~~facility or to a federal agency not to exceed \$50 if transporting~~  
12 ~~within the same county and not to exceed the reasonable cost of~~  
13 ~~transportation if transporting between counties,~~  
14                   ~~[(D) costs and salary supplements authorized~~  
15 ~~under Section 574.031, Health and Safety Code, and~~  
16                   ~~[(E) prosecutors' fees authorized under Section~~  
17 ~~574.031, Health and Safety Code,~~  
18                   ~~[(34) expenses of transporting certain patients from~~  
19 ~~the county of treatment to a hearing in the county in which the~~  
20 ~~proceedings originated (Sec. 574.008, Health and Safety Code) . . .~~  
21 ~~actual expenses unless certain arrangements are made to hold the~~  
22 ~~hearing in the county in which the patient is receiving services,~~  
23                   ~~[(35) expenses for expert witness testimony for an~~  
24 ~~indigent patient (Sec. 574.010, Health and Safety Code) . . . if~~  
25 ~~authorized by the court as reimbursement to the attorney ad litem,~~  
26 ~~court-approved expenses,~~  
27                   ~~[(36) fee for judge's services for holding a hearing on~~

1 ~~an application for court-ordered mental health services (Sec.~~  
2 ~~574.031, Health and Safety Code) . . . as assessed by the judge, not~~  
3 ~~to exceed \$50,~~

4 ~~[(37) expenses to reimburse judge for holding a~~  
5 ~~hearing in a hospital or location other than the county courthouse~~  
6 ~~(Sec. 574.031, Health and Safety Code) . . . reasonable and~~  
7 ~~necessary expenses as certified,~~

8 ~~[(38) fee for services of a prosecuting attorney,~~  
9 ~~including costs incurred for preparation of documents related to a~~  
10 ~~hearing on an application for court-ordered mental health services~~  
11 ~~(Sec. 574.031, Health and Safety Code) . . . as assessed by the~~  
12 ~~judge, not to exceed \$50; and~~

13 ~~[(39) a fee not otherwise listed in this section that~~  
14 ~~is required to be collected under Section 25.0008, Government Code~~  
15 ~~(Sec. 25.0008, Government Code), in a county other than Brazos,~~  
16 ~~Cameron, Ellis, Guadalupe, Harris, Henderson, Liberty, Moore,~~  
17 ~~Nolan, Panola, Parker, Starr, Victoria, and Williamson . . . as~~  
18 ~~prescribed by law relating to county judges' fees].~~

19 (b) Section 101.083, Government Code, is repealed.

20 SECTION 7.105. Subchapter F, Chapter 101, Government Code,  
21 is amended by amending Section 101.101 and adding Sections 101.1011  
22 through 101.1015 to read as follows:

23 Sec. 101.101. STATUTORY PROBATE COURT FEES AND COSTS:  
24 CIVIL PRACTICE AND REMEDIES CODE. The clerk of a statutory probate  
25 court shall collect a ~~[fees and costs as follows:~~

26 ~~[(1)]~~ court cost in an amount not to exceed \$15 under  
27 Section 152.004, Civil Practice and Remedies Code, in certain civil

1 cases to establish and maintain an alternative dispute resolution  
2 system, if authorized by the county commissioners court. [~~Sec.~~  
3 ~~152.004, Civil Practice and Remedies Code)~~ . . . not to exceed  
4 ~~\$10.~~]

5 Sec. 101.1011. STATUTORY PROBATE COURT FEES AND COSTS:  
6 GOVERNMENT CODE. The clerk of a statutory probate court shall  
7 collect fees and costs under the Government Code as follows:

8 (1) [~~(2)~~] appellate judicial system filing fees:

9 (A) First or Fourteenth Court of Appeals District  
10 (Sec. 22.2021, Government Code) . . . not more than \$5;

11 (B) Second Court of Appeals District (Sec.  
12 22.2031, Government Code) . . . not more than \$5;

13 (C) Third Court of Appeals District (Sec.  
14 22.2041, Government Code) . . . \$5;

15 (D) Fourth Court of Appeals District (Sec.  
16 22.2051, Government Code) . . . not more than \$5;

17 (E) [~~(D)~~] Fifth Court of Appeals District (Sec.  
18 22.2061, Government Code) . . . not more than \$5;

19 (F) Eleventh Court of Appeals District (Sec.  
20 22.2121, Government Code) . . . \$5; and

21 (G) [~~(E)~~] Thirteenth Court of Appeals District  
22 (Sec. 22.2141, Government Code) . . . not more than \$5;

23 (2) [~~(3)~~] additional filing fees as follows:

24 (A) for certain cases to be used for  
25 court-related purposes for support of the judiciary, if authorized  
26 by the county commissioners court (Sec. 51.704, Government Code)  
27 . . . \$40; and

1 (B) to fund the improvement of Dallas County  
2 civil court facilities, if authorized by the county commissioners  
3 court (Sec. 51.705, Government Code) . . . not more than \$15[~~;~~ and

4 [~~(C) for filing any civil action or proceeding~~  
5 ~~requiring a filing fee, including an appeal, and on the filing of~~  
6 ~~any counterclaim, cross-action, intervention, interpleader, or~~  
7 ~~third-party action requiring a filing fee to fund civil legal~~  
8 ~~services for the indigent (Sec. 133.153, Local Government Code)~~  
9 ~~. . . \$5];~~

10 (3) jury fee for civil case (Sec. 51.604, Government  
11 Code) . . . \$22;

12 (4) the expense of preserving the record as a court  
13 cost, if imposed on a party by the referring court or associate  
14 judge (Sec. 54.612, Government Code) . . . actual cost; and

15 (5) a fee not otherwise listed in this subchapter that  
16 is required to be collected under Section 25.0029, Government Code  
17 (Sec. 25.0029, Government Code) . . . as prescribed by law relating  
18 to county judges' fees.

19 Sec. 101.1012. STATUTORY PROBATE COURT FEES AND COSTS:  
20 HEALTH AND SAFETY CODE. The clerk of a statutory probate court  
21 shall collect fees and costs under the Health and Safety Code as  
22 follows:

23 (1) [~~(4)~~] for filing an application for registration  
24 of death (Sec. 193.007, Health and Safety Code) . . . \$1;

25 (2) [~~(5)~~] fee for judge's services on an application  
26 for court-ordered mental health services (Sec. 574.031, Health and  
27 Safety Code) . . . not to exceed \$50;

1           (3) [~~(6)~~] fee for prosecutor's services on an  
2 application for court-ordered mental health services (Sec.  
3 574.031, Health and Safety Code) . . . not to exceed \$50;

4           (4) for a hearing or proceeding under the Texas Mental  
5 Health Code (Subtitle C, Title 7, Health and Safety Code) as costs  
6 (Secs. 571.017 and 571.018, Health and Safety Code) . . .  
7 reasonable compensation to the following persons appointed under  
8 the Texas Mental Health Code:

9                   (A) attorneys;

10                   (B) physicians;

11                   (C) language interpreters;

12                   (D) sign interpreters; and

13                   (E) masters;

14           (5) for a hearing or proceeding under the Texas Mental  
15 Health Code (Subtitle C, Title 7, Health and Safety Code) as costs  
16 (Sec. 571.018, Health and Safety Code):

17                   (A) attorney's fees;

18                   (B) physician examination fees;

19                   (C) expense of transportation to a mental health  
20 facility or to a federal agency not to exceed \$50 if transporting  
21 within the same county and not to exceed the reasonable cost of  
22 transportation if transporting between counties;

23                   (D) costs and salary supplements authorized  
24 under Section 574.031, Health and Safety Code; and

25                   (E) prosecutors' fees authorized under Section  
26 574.031, Health and Safety Code;

27           (6) expenses of transporting certain patients from the



1 county of treatment to a hearing in the county in which the  
2 proceedings originated (Sec. 574.008, Health and Safety  
3 Code) . . . actual expenses unless certain arrangements are made  
4 to hold the hearing in the county in which the patient is receiving  
5 services;

6 (7) expenses for expert witness testimony for an  
7 indigent patient (Sec. 574.010, Health and Safety Code) . . . if  
8 authorized by the court as reimbursement to the attorney ad litem,  
9 court-approved expenses;

10 (8) fee for judge's services for holding a hearing on  
11 an application for court-ordered mental health services (Sec.  
12 574.031, Health and Safety Code) . . . as assessed by the judge,  
13 not to exceed \$50;

14 (9) expenses to reimburse judge for holding a hearing  
15 in a hospital or location other than the county courthouse (Sec.  
16 574.031, Health and Safety Code) . . . reasonable and necessary  
17 expenses as certified; and

18 (10) fee for services of a prosecuting attorney,  
19 including costs incurred for preparation of documents related to a  
20 hearing on an application for court-ordered mental health services  
21 (Sec. 574.031, Health and Safety Code) . . . as assessed by the  
22 judge, not to exceed \$50.

23 Sec. 101.1013. STATUTORY PROBATE COURT FEES AND COSTS:  
24 LOCAL GOVERNMENT CODE. The clerk of a statutory probate court  
25 shall collect fees and costs under the Local Government Code as  
26 follows:

27 (1) additional filing fee for filing any civil action

1 or proceeding requiring a filing fee, including an appeal, and on  
2 the filing of any counterclaim, cross-action, intervention,  
3 interpleader, or third-party action requiring a filing fee to fund  
4 civil legal services for the indigent (Sec. 133.153, Local  
5 Government Code). . . \$5;

6           (2) [~~7~~] additional filing fee to fund contingency  
7 fund for liability insurance, if authorized by the county  
8 commissioners court (Sec. 82.003, Local Government Code) . . . not  
9 to exceed \$5;

10           (3) [~~8~~] probate court actions (Sec. 118.052, Local  
11 Government Code):

12                   (A) probate original action (Secs. 118.052 and  
13 118.055, Local Government Code):

14                           (i) probate of a will with independent  
15 executor, administration with will attached, administration of an  
16 estate, guardianship or receivership of an estate, or muniment of  
17 title (Sec. 118.052, Local Government Code) . . . \$40;

18                           (ii) community survivors (Sec. 118.052,  
19 Local Government Code) . . . \$40;

20                           (iii) small estates (Sec. 118.052, Local  
21 Government Code) . . . \$40;

22                           (iv) declarations of heirship (Sec.  
23 118.052, Local Government Code) . . . \$40;

24                           (v) mental health or chemical dependency  
25 services (Sec. 118.052, Local Government Code) . . . \$40; and

26                           (vi) additional, special fee (Secs. 118.052  
27 and 118.064, Local Government Code) . . . \$5;

1 (B) services in pending probate action (Secs.  
2 118.052 and 118.056, Local Government Code):

3 (i) filing an inventory and appraisement  
4 after the 120th day after the date of the initial filing of the  
5 action (Sec. 118.052, Local Government Code) . . . \$25;

6 (ii) approving and recording bond (Sec.  
7 118.052, Local Government Code) . . . \$3;

8 (iii) administering oath (Sec. 118.052,  
9 Local Government Code) . . . \$2;

10 (iv) filing annual or final account of  
11 estate (Sec. 118.052, Local Government Code). . . \$25;

12 (v) filing application for sale of real or  
13 personal property (Sec. 118.052, Local Government Code) . . . \$25;

14 (vi) filing annual or final report of  
15 guardian of a person (Sec. 118.052, Local Government Code) . . .  
16 \$10; and

17 (vii) filing a document not listed under  
18 this paragraph after the filing of an order approving the inventory  
19 and appraisement or after the 120th day after the date of the  
20 initial filing of the action, whichever occurs first (Secs. 118.052  
21 and 191.007, Local Government Code), if more than 25 pages . . .  
22 \$25;

23 (C) adverse probate action (Secs. 118.052 and  
24 118.057, Local Government Code) . . . \$40; and

25 (D) claim against estate (Secs. 118.052 and  
26 118.058, Local Government Code) . . . \$2;

27 (4) [~~9~~] other fees (Sec. 118.052, Local Government

1 Code):

2 (A) issuing document (Secs. 118.052 and 118.059,  
3 Local Government Code):

4 (i) original document and one copy (Sec.  
5 118.052, Local Government Code) . . . \$4; and

6 (ii) each additional set of an original and  
7 one copy (Sec. 118.052, Local Government Code) . . . \$4;

8 (B) certified papers (Secs. 118.052 and 118.060,  
9 Local Government Code):

10 (i) for the clerk's certificate (Sec.  
11 118.052, Local Government Code) . . . \$5; and

12 (ii) a fee per page or part of a page (Sec.  
13 118.052, Local Government Code) . . . \$1;

14 (C) noncertified papers, for each page or part of  
15 a page (Secs. 118.052 and 118.0605, Local Government Code) . . .  
16 \$1;

17 (D) letters testamentary, letter of  
18 guardianship, letter of administration, or abstract of judgment  
19 (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;

20 (E) safekeeping of wills (Secs. 118.052 and  
21 118.062, Local Government Code) . . . \$5;

22 (F) mail service of process (Secs. 118.052 and  
23 118.063, Local Government Code) . . . same as sheriff; and

24 (G) records management and preservation fee  
25 (Secs. 118.052 and 118.0645, Local Government Code) . . . \$5; and

26 (5) court cost in civil cases other than suits for  
27 delinquent taxes to fund the county law library fund, if authorized

1 by the county commissioners court (Sec. 323.023, Local Government  
2 Code) . . . not to exceed \$35.

3 Sec. 101.1014. STATUTORY PROBATE COURT FEES AND COSTS:  
4 TEXAS PROBATE CODE. The clerk of a statutory probate court shall  
5 collect fees and costs under the Texas Probate Code as follows:

6 (1) [(10)] fee for deposit of a will with the county  
7 clerk during testator's lifetime (Sec. 71, Texas Probate Code)  
8 . . . \$3;

9 (2) security deposit on filing, by any person other  
10 than the personal representative of an estate, an application,  
11 complaint, or opposition in relation to the estate, if required by  
12 the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the  
13 proceeding; and

14 (3) security deposit on filing, by any person other  
15 than the guardian, attorney ad litem, or guardian ad litem, an  
16 application, complaint, or opposition in relation to a guardianship  
17 matter, if required by the clerk (Sec. 622, Texas Probate  
18 Code) . . . probable cost of the guardianship proceeding.

19 Sec. 101.1015. STATUTORY PROBATE COURT FEES AND COSTS:  
20 PROPERTY CODE. The clerk of a statutory probate court shall collect  
21 a [(11)] court cost in the amount of \$10 or more, as taxed by the  
22 court under Section 21.047, Property Code, [costs] for each special  
23 commissioner in an eminent domain proceeding [(Sec. 21.047,  
24 Property Code) . . . as taxed by the court, \$10 or more,

25 [(12)] jury fee for civil case (Sec. 51.604, Government  
26 Code) . . . \$22,

27 [(13)] court cost in civil cases other than suits for

1 ~~delinquent taxes to fund the county law library fund, if authorized~~  
2 ~~by the county commissioners court (Sec. 323.023, Local Government~~  
3 ~~Code) . . . not to exceed \$35;~~

4 ~~[(14) the expense of preserving the record as a court~~  
5 ~~cost, if imposed on a party by the referring court or associate~~  
6 ~~judge (Sec. 54.612, Government Code) . . . actual cost;~~

7 ~~[(15) security deposit on filing, by any person other~~  
8 ~~than the personal representative of an estate, an application,~~  
9 ~~complaint, or opposition in relation to the estate, if required by~~  
10 ~~the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the~~  
11 ~~proceeding;~~

12 ~~[(16) security deposit on filing, by any person other~~  
13 ~~than the guardian, attorney ad litem, or guardian ad litem, an~~  
14 ~~application, complaint, or opposition in relation to a guardianship~~  
15 ~~matter, if required by the clerk (Sec. 622, Texas Probate~~  
16 ~~Code) . . . probable cost of the guardianship proceeding;~~

17 ~~[(17) for a hearing or proceeding under the Texas~~  
18 ~~Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as~~  
19 ~~costs (Secs. 571.017 and 571.018, Health and Safety~~  
20 ~~Code) . . . reasonable compensation to the following persons~~  
21 ~~appointed under the Texas Mental Health Code:~~

22 ~~[(A) attorneys;~~

23 ~~[(B) physicians;~~

24 ~~[(C) language interpreters;~~

25 ~~[(D) sign interpreters; and~~

26 ~~[(E) masters;~~

27 ~~[(18) for a hearing or proceeding under the Texas~~

1 ~~Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as~~  
2 ~~costs (Sec. 571.018, Health and Safety Code):~~

3 ~~[(A) attorney's fees,~~

4 ~~[(B) physician examination fees,~~

5 ~~[(C) expense of transportation to a mental health~~  
6 ~~facility or to a federal agency not to exceed \$50 if transporting~~  
7 ~~within the same county and not to exceed the reasonable cost of~~  
8 ~~transportation if transporting between counties,~~

9 ~~[(D) costs and salary supplements authorized~~  
10 ~~under Section 574.031, Health and Safety Code; and~~

11 ~~[(E) prosecutors' fees authorized under Section~~  
12 ~~574.031, Health and Safety Code,~~

13 ~~[(19) expenses of transporting certain patients from~~  
14 ~~the county of treatment to a hearing in the county in which the~~  
15 ~~proceedings originated (Sec. 574.008, Health and Safety~~  
16 ~~Code) . . . actual expenses unless certain arrangements are made~~  
17 ~~to hold the hearing in the county in which the patient is receiving~~  
18 ~~services,~~

19 ~~[(20) expenses for expert witness testimony for an~~  
20 ~~indigent patient (Sec. 574.010, Health and Safety Code) . . . if~~  
21 ~~authorized by the court as reimbursement to the attorney ad litem,~~  
22 ~~court-approved expenses,~~

23 ~~[(21) fee for judge's services for holding a hearing on~~  
24 ~~an application for court-ordered mental health services (Sec.~~  
25 ~~574.031, Health and Safety Code) . . . as assessed by the judge,~~  
26 ~~not to exceed \$50,~~

27 ~~[(22) expenses to reimburse judge for holding a~~

1 ~~hearing in a hospital or location other than the county courthouse~~  
2 ~~(Sec. 574.031, Health and Safety Code) . . . reasonable and~~  
3 ~~necessary expenses as certified;~~

4 ~~[(23) fee for services of a prosecuting attorney,~~  
5 ~~including costs incurred for preparation of documents related to a~~  
6 ~~hearing on an application for court-ordered mental health services~~  
7 ~~(Sec. 574.031, Health and Safety Code) . . . as assessed by the~~  
8 ~~judge, not to exceed \$50; and~~

9 ~~[(24) a fee not otherwise listed in this section that~~  
10 ~~is required to be collected under Section 25.0029, Government Code~~  
11 ~~(Sec. 25.0029, Government Code) . . . as prescribed by law~~  
12 ~~relating to county judges' fees].~~

13 SECTION 7.106. (a) Subchapter G, Chapter 101, Government  
14 Code, is amended by amending Section 101.121 and adding Sections  
15 101.1211 through 101.1216 to read as follows:

16 Sec. 101.121. COUNTY COURT FEES AND COSTS: ALCOHOLIC  
17 BEVERAGE CODE. The clerk of a county court shall collect a [+

18 [(1)] fee of \$5 under Section 61.31, Alcoholic  
19 Beverage Code, for hearing on application for a license to  
20 manufacture, distribute, store, or sell beer. [(Sec. 61.31,  
21 Alcoholic Beverage Code) . . . \$5,]

22 Sec. 101.1211. COUNTY COURT FEES AND COSTS: CIVIL PRACTICE  
23 AND REMEDIES CODE. The clerk of a county court shall collect:

24 (1) a [(2)] court cost in certain civil cases to  
25 establish and maintain an alternative dispute resolution system, if  
26 authorized by the county commissioners court (Sec. 152.004, Civil  
27 Practice and Remedies Code) . . . not to exceed \$15 [10];



1           (2) court fees and costs, if ordered by the court, for  
2 a suit filed by an inmate in which an affidavit or unsworn  
3 declaration of inability to pay costs is filed by the inmate (Sec.  
4 14.006, Civil Practice and Remedies Code) . . . the lesser of:

5                   (A) 20 percent of the preceding six months'  
6 deposits to the inmate's trust account administered by the Texas  
7 Department of Criminal Justice under Section 501.014, Government  
8 Code; or

9                   (B) the total amount of court fees and costs;

10           (3) monthly payment for remaining court fees and costs  
11 after the initial payment for a suit in which an affidavit or  
12 unsworn declaration of inability to pay costs is filed by the inmate  
13 (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser  
14 of:

15                   (A) 10 percent of that month's deposit to the  
16 inmate's trust account administered by the Texas Department of  
17 Criminal Justice under Section 501.014, Government Code; or

18                   (B) the total amount of court fees and costs that  
19 remain unpaid; and

20           (4) the following costs not otherwise charged to the  
21 inmate under Section 14.006, Civil Practice and Remedies Code, if  
22 the inmate has previously filed an action dismissed as malicious or  
23 frivolous (Sec. 14.007, Civil Practice and Remedies Code):

24                   (A) expenses of service of process;

25                   (B) postage; and

26                   (C) transportation, housing, or medical care  
27 incurred in connection with the appearance of the inmate in the

1 court for any proceeding.

2 Sec. 101.1212. COUNTY COURT FEES AND COSTS: GOVERNMENT  
3 CODE. The clerk of a county court shall collect the following fees  
4 and costs under the Government Code:

5 (1) [~~3~~] appellate judicial system filing fees:

6 (A) First or Fourteenth Court of Appeals District  
7 (Sec. 22.2021, Government Code) . . . not more than \$5;

8 (B) Second Court of Appeals District (Sec.  
9 22.2031, Government Code) . . . not more than \$5;

10 (C) Third Court of Appeals District (Sec.  
11 22.2041, Government Code) . . . \$5;

12 (D) Fourth Court of Appeals District (Sec.  
13 22.2051, Government Code) . . . not more than \$5;

14 (E) [~~D~~] Fifth Court of Appeals District (Sec.  
15 22.2061, Government Code) . . . not more than \$5;

16 (F) Eleventh Court of Appeals District (Sec.  
17 22.2121, Government Code) . . . \$5; and

18 (G) [~~E~~] Thirteenth Court of Appeals District  
19 (Sec. 22.2141, Government Code) . . . not more than \$5;

20 (2) [~~4~~] a jury fee (Sec. 51.604, Government  
21 Code) . . . \$22; and

22 (3) [~~5~~] a filing fee in each civil case filed to be  
23 used for court-related purposes for the support of the judiciary  
24 (Sec. 51.703, Government Code) . . . \$40. [~~7~~]

25 Sec. 101.1213. COUNTY COURT FEES AND COSTS: HEALTH AND  
26 SAFETY CODE. The clerk of a county court shall collect the  
27 following fees and costs under the Health and Safety Code:

1           (1) [~~(6)~~] for filing an application for registration  
2 of death (Sec. 193.007, Health and Safety Code) . . . \$1;

3           (2) [~~(7)~~] fee for judge's services on an application  
4 for court-ordered mental health services (Sec. 574.031, Health and  
5 Safety Code) . . . not to exceed \$50;

6           (3) [~~(8)~~] fee for prosecutor's services on an  
7 application for court-ordered mental health services (Sec.  
8 574.031, Health and Safety Code) . . . not to exceed \$50;

9           (4) for a hearing or proceeding under the Texas Mental  
10 Health Code (Subtitle C, Title 7, Health and Safety Code) as costs  
11 (Secs. 571.017 and 571.018, Health and Safety  
12 Code) . . . reasonable compensation to the following persons  
13 appointed under the Texas Mental Health Code:

14                   (A) attorneys;

15                   (B) physicians;

16                   (C) language interpreters;

17                   (D) sign interpreters; and

18                   (E) masters;

19           (5) for a hearing or proceeding under the Texas Mental  
20 Health Code (Subtitle C, Title 7, Health and Safety Code) as costs  
21 (Sec. 571.018, Health and Safety Code):

22                   (A) attorney's fees;

23                   (B) physician examination fees;

24                   (C) expense of transportation to a mental health  
25 facility or to a federal agency not to exceed \$50 if transporting  
26 within the same county and not to exceed the reasonable cost of  
27 transportation if transporting between counties;

1           (D) costs and salary supplements authorized  
2 under Section 574.031, Health and Safety Code; and

3           (E) prosecutors' fees authorized under Section  
4 574.031, Health and Safety Code;

5           (6) expenses of transporting certain patients from the  
6 county of treatment to a hearing in the county in which the  
7 proceedings originated (Sec. 574.008, Health and Safety Code) . . .  
8 actual expenses unless certain arrangements are made to hold the  
9 hearing in the county in which the patient is receiving services;

10           (7) expenses for expert witness testimony for an  
11 indigent patient (Sec. 574.010, Health and Safety Code) . . . if  
12 authorized by the court as reimbursement to the attorney ad litem,  
13 court-approved expenses;

14           (8) fee for judge's services for holding a hearing on  
15 an application for court-ordered mental health services (Sec.  
16 574.031, Health and Safety Code) . . . as assessed by the judge, not  
17 to exceed \$50;

18           (9) expenses to reimburse judge for holding a hearing  
19 in a hospital or location other than the county courthouse (Sec.  
20 574.031, Health and Safety Code) . . . reasonable and necessary  
21 expenses as certified; and

22           (10) fee for services of a prosecuting attorney,  
23 including costs incurred for preparation of documents related to a  
24 hearing on an application for court-ordered mental health services  
25 (Sec. 574.031, Health and Safety Code) . . . as assessed by the  
26 judge, not to exceed \$50.

27           Sec. 101.1214. COUNTY COURT FEES AND COSTS: LOCAL

1 GOVERNMENT CODE. The clerk of a county court shall collect the  
2 following fees and costs under the Local Government Code:

3           (1) [~~(9)~~] additional filing fee to fund contingency  
4 fund for liability insurance, if authorized by the county  
5 commissioners court (Sec. 82.003, Local Government Code) . . . not  
6 to exceed \$5;

7           (2) [~~(10)~~] civil court actions (Sec. 118.052, Local  
8 Government Code):

9                   (A) filing of original action (Secs. 118.052 and  
10 118.053, Local Government Code):

11                           (i) garnishment after judgment (Sec.  
12 118.052, Local Government Code) . . . \$15; and

13                           (ii) all others (Sec. 118.052, Local  
14 Government Code) . . . \$40;

15                   (B) filing of action other than original (Secs.  
16 118.052 and 118.054, Local Government Code) . . . \$30; and

17                   (C) services rendered after judgment in original  
18 action (Secs. 118.052 and 118.0545, Local Government Code):

19                           (i) abstract of judgment (Sec. 118.052,  
20 Local Government Code) . . . \$5; and

21                           (ii) execution, order of sale, writ, or  
22 other process (Sec. 118.052, Local Government Code) . . . \$5;

23           (3) [~~(11)~~] probate court actions (Sec. 118.052, Local  
24 Government Code):

25                   (A) probate original action (Secs. 118.052 and  
26 118.055, Local Government Code):

27                           (i) probate of a will with independent

1 executor, administration with will attached, administration of an  
2 estate, guardianship or receivership of an estate, or muniment of  
3 title (Sec. 118.052, Local Government Code) . . . \$40;

4 (ii) community survivors (Sec. 118.052,  
5 Local Government Code) . . . \$40;

6 (iii) small estates (Sec. 118.052, Local  
7 Government Code) . . . \$40;

8 (iv) declarations of heirship (Sec.  
9 118.052, Local Government Code) . . . \$40;

10 (v) mental health or chemical dependency  
11 services (Sec. 118.052, Local Government Code) . . . \$40; and

12 (vi) additional, special fee (Secs. 118.052  
13 and 118.064, Local Government Code) . . . \$5;

14 (B) services in pending probate action (Secs.  
15 118.052 and 118.056, Local Government Code):

16 (i) filing an inventory and appraisement  
17 after the 120th day after the date of the initial filing of the  
18 action (Sec. 118.052, Local Government Code) . . . \$25;

19 (ii) approving and recording bond (Sec.  
20 118.052, Local Government Code) . . . \$3;

21 (iii) administering oath (Sec. 118.052,  
22 Local Government Code) . . . \$2;

23 (iv) filing annual or final account of  
24 estate (Sec. 118.052, Local Government Code) . . . \$25;

25 (v) filing application for sale of real or  
26 personal property (Sec. 118.052, Local Government Code) . . . \$25;

27 (vi) filing annual or final report of

1 guardian of a person (Sec. 118.052, Local Government  
2 Code) . . . \$10; and

3 (vii) filing a document not listed under  
4 this paragraph after the filing of an order approving the inventory  
5 and appraisement or after the 120th day after the date of the  
6 initial filing of the action, whichever occurs first (Secs. 118.052  
7 and 191.007, Local Government Code), if more than 25  
8 pages . . . \$25;

9 (C) adverse probate action (Secs. 118.052 and  
10 118.057, Local Government Code) . . . \$40; and

11 (D) claim against estate (Secs. 118.052 and  
12 118.058, Local Government Code) . . . \$2;

13 (4) [~~(12)~~] other fees (Sec. 118.052, Local Government  
14 Code):

15 (A) issuing document (Secs. 118.052 and 118.059,  
16 Local Government Code):

17 (i) original document and one copy (Sec.  
18 118.052, Local Government Code) . . . \$4; and

19 (ii) each additional set of an original and  
20 one copy (Sec. 118.052, Local Government Code) . . . \$4;

21 (B) certified papers (Secs. 118.052 and 118.060,  
22 Local Government Code):

23 (i) for the clerk's certificate (Sec.  
24 118.052, Local Government Code) . . . \$5; and

25 (ii) a fee per page or part of a page (Sec.  
26 118.052, Local Government Code) . . . \$1;

27 (C) noncertified papers, for each page or part of

1 a page (Secs. 118.052 and 118.0605, Local Government  
2 Code) . . . \$1;

3 (D) letters testamentary, letter of  
4 guardianship, letter of administration, or abstract of judgment  
5 (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;

6 (E) safekeeping of wills (Secs. 118.052 and  
7 118.062, Local Government Code) . . . \$5;

8 (F) mail service of process (Secs. 118.052 and  
9 118.063, Local Government Code) . . . same as sheriff; and

10 (G) records management and preservation fee  
11 (Secs. 118.052, 118.0546, and 118.0645, Local Government  
12 Code) . . . \$5;

13 (5) [~~(13)~~] deposit on filing petition requesting  
14 permission to create a municipal civic center authority (Sec.  
15 281.013, Local Government Code) . . . \$200;

16 (6) [~~(14)~~] additional filing fee to fund the  
17 courthouse security fund, if authorized by the county commissioners  
18 court (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

19 (7) [~~(15)~~] additional filing fee for filing documents  
20 not subject to certain filing fees to fund the courthouse security  
21 fund, if authorized by the county commissioners court (Sec.  
22 291.008, Local Government Code) . . . \$1;

23 (8) [~~(16)~~] additional filing fee to fund the  
24 courthouse security fund in Webb County, if authorized by the  
25 county commissioners court (Sec. 291.009, Local Government  
26 Code) . . . not to exceed \$20;

27 (9) [~~(17)~~] court cost in civil cases other than suits



1 for delinquent taxes to fund the county law library fund, if  
2 authorized by the county commissioners court (Sec. 323.023, Local  
3 Government Code) . . . not to exceed \$35;

4 (10) additional filing fee for filing any civil action  
5 or proceeding requiring a filing fee, including an appeal, and on  
6 the filing of any counterclaim, cross-action, intervention,  
7 interpleader, or third-party action requiring a filing fee, to fund  
8 civil legal services for the indigent (Sec. 133.153, Local  
9 Government Code) . . . \$5; and

10 (11) on the filing of a civil suit an additional filing  
11 fee to be used for court-related purposes for the support of the  
12 judiciary (Sec. 133.154, Local Government Code) . . . \$37.

13 Sec. 101.1215. COUNTY COURT FEES AND COSTS: TEXAS PROBATE  
14 CODE. The clerk of a county court shall collect the following fees  
15 and costs under the Texas Probate Code:

16 (1) [~~18~~] fee for deposit of a will with the county  
17 clerk during testator's lifetime (Sec. 71, Texas Probate  
18 Code) . . . \$3;

19 (2) security deposit on filing, by any person other  
20 than the personal representative of an estate, an application,  
21 complaint, or opposition in relation to the estate, if required by  
22 the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the  
23 proceeding; and

24 (3) security deposit on filing, by any person other  
25 than the guardian, attorney ad litem, or guardian ad litem, an  
26 application, complaint, or opposition in relation to a guardianship  
27 matter, if required by the clerk (Sec. 622, Texas Probate

1 Code) . . . probable cost of the guardianship proceeding.

2 Sec. 101.1216. COUNTY COURT FEES AND COSTS UNDER OTHER  
3 LAWS. The clerk of a county court shall collect the following fees  
4 and costs:

5 (1) [~~19~~] fee for county attorney in a suit regarding  
6 a railroad company's failure to keep roadbed and right-of-way in  
7 proper condition (Art. 6327, Vernon's Texas Civil Statutes) . . .  
8 \$10; and

9 (2) [~~20~~] appeal bond from a petitioner or taxpayer  
10 in a water control and preservation district (Art. 7818, Vernon's  
11 Texas Civil Statutes) . . . \$100[+]

12 [~~21~~] ~~additional filing fee for filing any civil~~  
13 ~~action or proceeding requiring a filing fee, including an appeal,~~  
14 ~~and on the filing of any counterclaim, cross-action, intervention,~~  
15 ~~interpleader, or third-party action requiring a filing fee, to fund~~  
16 ~~civil legal services for the indigent (Sec. 133.153, Local~~  
17 ~~Government Code) . . . \$5,~~

18 [~~22~~] ~~court fees and costs, if ordered by the court,~~  
19 ~~for a suit filed by an inmate in which an affidavit or unsworn~~  
20 ~~declaration of inability to pay costs is filed by the inmate (Sec.~~  
21 ~~14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

22 [~~A~~] ~~20 percent of the preceding six months'~~  
23 ~~deposits to the inmate's trust account administered by the Texas~~  
24 ~~Department of Criminal Justice under Section 501.014, Government~~  
25 ~~Code, or~~

26 [~~B~~] ~~the total amount of court fees and costs,~~

27 [~~23~~] ~~monthly payment for remaining court fees and~~

1 ~~costs after the initial payment for a suit in which an affidavit or~~  
2 ~~unsworn declaration of inability to pay costs is filed by the inmate~~  
3 ~~(Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser~~  
4 ~~of:~~

5 ~~[(A) 10 percent of that month's deposit to the~~  
6 ~~inmate's trust account administered by the Texas Department of~~  
7 ~~Criminal Justice under Section 501.014, Government Code; or~~

8 ~~[(B) the total amount of court fees and costs~~  
9 ~~that remain unpaid;~~

10 ~~[(24) the following costs not otherwise charged to the~~  
11 ~~inmate under Section 14.006, Civil Practice and Remedies Code, if~~  
12 ~~the inmate has previously filed an action dismissed as malicious or~~  
13 ~~frivolous (Sec. 14.007, Civil Practice and Remedies Code):~~

14 ~~[(A) expenses of service of process;~~

15 ~~[(B) postage; and~~

16 ~~[(C) transportation, housing, or medical care~~  
17 ~~incurred in connection with the appearance of the inmate in the~~  
18 ~~court for any proceeding;~~

19 ~~[(25) security deposit on filing, by any person other~~  
20 ~~than the personal representative of an estate, an application,~~  
21 ~~complaint, or opposition in relation to the estate, if required by~~  
22 ~~the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the~~  
23 ~~proceeding;~~

24 ~~[(26) security deposit on filing, by any person other~~  
25 ~~than the guardian, attorney ad litem, or guardian ad litem, an~~  
26 ~~application, complaint, or opposition in relation to a guardianship~~  
27 ~~matter, if required by the clerk (Sec. 622, Texas Probate Code)~~

1 ~~... probable cost of the guardianship proceeding,~~

2 ~~[(27) for a hearing or proceeding under the Texas~~  
3 ~~Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as~~  
4 ~~costs (Secs. 571.017 and 571.018, Health and Safety Code) ...~~  
5 ~~reasonable compensation to the following persons appointed under~~  
6 ~~the Texas Mental Health Code:~~

7 ~~[(A) attorneys,~~

8 ~~[(B) physicians,~~

9 ~~[(C) language interpreters,~~

10 ~~[(D) sign interpreters, and~~

11 ~~[(E) masters,~~

12 ~~[(28) for a hearing or proceeding under the Texas~~  
13 ~~Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as~~  
14 ~~costs (Sec. 571.018, Health and Safety Code):~~

15 ~~[(A) attorney's fees,~~

16 ~~[(B) physician examination fees,~~

17 ~~[(C) expense of transportation to a mental health~~  
18 ~~facility or to a federal agency not to exceed \$50 if transporting~~  
19 ~~within the same county and not to exceed the reasonable cost of~~  
20 ~~transportation if transporting between counties,~~

21 ~~[(D) costs and salary supplements authorized~~  
22 ~~under Section 574.031, Health and Safety Code, and~~

23 ~~[(E) prosecutors' fees authorized under Section~~  
24 ~~574.031, Health and Safety Code,~~

25 ~~[(29) expenses of transporting certain patients from~~  
26 ~~the county of treatment to a hearing in the county in which the~~  
27 ~~proceedings originated (Sec. 574.008, Health and Safety Code) ...~~

1 ~~actual expenses unless certain arrangements are made to hold the~~  
2 ~~hearing in the county in which the patient is receiving services;~~

3 ~~[(30) expenses for expert witness testimony for an~~  
4 ~~indigent patient (Sec. 574.010, Health and Safety Code) . . . if~~  
5 ~~authorized by the court as reimbursement to the attorney ad litem,~~  
6 ~~court-approved expenses;~~

7 ~~[(31) fee for judge's services for holding a hearing on~~  
8 ~~an application for court-ordered mental health services (Sec.~~  
9 ~~574.031, Health and Safety Code) . . . as assessed by the judge, not~~  
10 ~~to exceed \$50;~~

11 ~~[(32) expenses to reimburse judge for holding a~~  
12 ~~hearing in a hospital or location other than the county courthouse~~  
13 ~~(Sec. 574.031, Health and Safety Code) . . . reasonable and~~  
14 ~~necessary expenses as certified; and~~

15 ~~[(33) fee for services of a prosecuting attorney,~~  
16 ~~including costs incurred for preparation of documents related to a~~  
17 ~~hearing on an application for court-ordered mental health services~~  
18 ~~(Sec. 574.031, Health and Safety Code) . . . as assessed by the~~  
19 ~~judge, not to exceed \$50].~~

20 (b) Section 101.123, Government Code, is repealed.

21 SECTION 7.107. Subchapter H, Chapter 101, Government Code,  
22 is amended by amending Section 101.141 and adding Section 101.151  
23 to read as follows:

24 Sec. 101.141. JUSTICE COURT AND SMALL CLAIMS COURT FEES AND  
25 COSTS COLLECTED BY CLERK. (a) A clerk of a justice court shall  
26 collect fees and costs under the Civil Practice and Remedies Code as  
27 follows:

1           (1) additional court cost in certain civil cases to  
2 establish and maintain an alternative dispute resolution system, if  
3 authorized by the commissioners court [~~of a county with a~~  
4 ~~population of at least 2.5 million~~] (Sec. 152.005, Civil Practice  
5 and Remedies Code) . . . not to exceed \$5 [~~\$3~~];

6           (2) court fees and costs, if ordered by the court, for  
7 a suit filed by an inmate in which an affidavit or unsworn  
8 declaration of inability to pay costs is filed by the inmate (Sec.  
9 14.006, Civil Practice and Remedies Code) . . . the lesser of:

10                   (A) 20 percent of the preceding six months'  
11 deposits to the inmate's trust account administered by the Texas  
12 Department of Criminal Justice under Section 501.014, Government  
13 Code; or

14                   (B) the total amount of court fees and costs;

15           (3) monthly payment for remaining court fees and costs  
16 after the initial payment for a suit in which an affidavit or  
17 unsworn declaration of inability to pay costs is filed by the inmate  
18 (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser  
19 of:

20                   (A) 10 percent of that month's deposit to the  
21 inmate's trust account administered by the Texas Department of  
22 Criminal Justice under Section 501.014, Government Code; or

23                   (B) the total amount of court fees and costs that  
24 remain unpaid; and

25           (4) the following costs not otherwise charged to the  
26 inmate under Section 14.006, Civil Practice and Remedies Code, if  
27 the inmate has previously filed an action dismissed as malicious or

1 frivolous (Sec. 14.007, Civil Practice and Remedies Code):

2 (A) expenses of service of process;

3 (B) postage; and

4 (C) transportation, housing, or medical care  
5 incurred in connection with the appearance of the inmate in the  
6 court for any proceeding.

7 (b) A clerk of a justice court shall collect fees and costs  
8 under other laws as follows:

9 (1) the cost of a special program that a court may  
10 order a child to attend after a finding that the child committed an  
11 offense, if ordered by the court (Art. 45.057, Code of Criminal  
12 Procedure) . . . costs of the program not to exceed \$100;

13 (2) additional filing fees:

14 (A) to fund Dallas County civil court facilities  
15 (Sec. 51.705, Government Code) . . . not more than \$15; and

16 (B) for filing any civil action or proceeding  
17 requiring a filing fee, including an appeal, and on the filing of  
18 any counterclaim, cross-action, intervention, interpleader, or  
19 third-party action requiring a filing fee, to fund civil legal  
20 services for the indigent (Sec. 133.153, Local Government Code)  
21 . . . \$2;

22 (3) for filing a suit in Comal County (Sec. 152.0522,  
23 Human Resources Code) . . . \$1.50; and

24 (4) fee for hearing on probable cause for removal of a  
25 vehicle and placement in a storage facility if assessed by the court  
26 (Sec. 685.008, Transportation Code) . . . \$20[+

27 ~~[(5) court fees and costs, if ordered by the court, for~~

1 ~~a suit filed by an inmate in which an affidavit or unsworn~~  
2 ~~declaration of inability to pay costs is filed by the inmate (Sec.~~  
3 ~~14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

4 ~~[(A) 20 percent of the preceding six months'~~  
5 ~~deposits to the inmate's trust account administered by the Texas~~  
6 ~~Department of Criminal Justice under Section 501.014, Government~~  
7 ~~Code; or~~

8 ~~[(B) the total amount of court fees and costs;~~  
9 ~~[(6) monthly payment for remaining court fees and~~  
10 ~~costs after the initial payment for a suit in which an affidavit or~~  
11 ~~unsworn declaration of inability to pay costs is filed by the inmate~~  
12 ~~(Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser~~  
13 ~~of:~~

14 ~~[(A) 10 percent of that month's deposit to the~~  
15 ~~inmate's trust account administered by the Texas Department of~~  
16 ~~Criminal Justice under Section 501.014, Government Code; or~~

17 ~~[(B) the total amount of court fees and costs~~  
18 ~~that remain unpaid;~~

19 ~~[(7) the following costs not otherwise charged to the~~  
20 ~~inmate under Section 14.006, Civil Practice and Remedies Code, if~~  
21 ~~the inmate has previously filed an action dismissed as malicious or~~  
22 ~~frivolous (Sec. 14.007, Civil Practice and Remedies Code):~~

23 ~~[(A) expenses of service of process;~~

24 ~~[(B) postage; and~~

25 ~~[(C) transportation, housing, or medical care~~  
26 ~~incurred in connection with the appearance of the inmate in the~~  
27 ~~court for any proceeding; and~~



1           ~~[(8) the cost of a special program that a court may~~  
2 ~~order a child to attend after a finding that the child committed an~~  
3 ~~offense, if ordered by the court (Art. 45.057, Code of Criminal~~  
4 ~~Procedure) . . . costs of the program not to exceed \$100].~~

5           Sec. 101.151. JUSTICE COURT AND SMALL CLAIMS COURT FEES  
6 COLLECTED BY JUSTICE OF THE PEACE. (a) ~~(b)~~ A justice of the  
7 peace shall collect the following fees under the Local Government  
8 Code:

9           (1) services rendered before judgment (Secs. 118.121  
10 and 118.122, Local Government Code):

11                   (A) justice court (Sec. 118.121, Local  
12 Government Code) . . . \$15; and

13                   (B) small claims court (Sec. 118.121, Local  
14 Government Code) . . . \$10; and

15           (2) services rendered after judgment (Secs. 118.121  
16 and 118.123, Local Government Code):

17                   (A) transcript (Sec. 118.121, Local Government  
18 Code) . . . \$10;

19                   (B) abstract of judgment (Sec. 118.121, Local  
20 Government Code) . . . \$5;

21                   (C) execution, order of sale, writ of  
22 restitution, or other writ or process (Sec. 118.121, Local  
23 Government Code) . . . \$5 per page;

24                   (D) certified copy of court papers (Secs. 118.121  
25 and 118.1235, Local Government Code) . . . \$2 for first page; \$0.25  
26 for each additional page; and

27                   (E) issuing other document (no return required)

1 (Sec. 118.121, Local Government Code) . . . \$1 for first page;  
2 \$0.25 for each additional page. [+]

3 (b) A justice of the peace shall collect the following fees  
4 under the Civil Practice and Remedies Code:

5 (1) [~~3~~] court fees and costs, if ordered by the  
6 court, for a suit filed by an inmate in which an affidavit or  
7 unsworn declaration of inability to pay costs is filed by the inmate  
8 (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser  
9 of:

10 (A) 20 percent of the preceding six months'  
11 deposits to the inmate's trust account administered by the Texas  
12 Department of Criminal Justice under Section 501.014, Government  
13 Code; or

14 (B) the total amount of court fees and costs;

15 (2) [~~4~~] monthly payment for remaining court fees and  
16 costs after the initial payment for a suit in which an affidavit or  
17 unsworn declaration of inability to pay costs is filed by the inmate  
18 (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser  
19 of:

20 (A) 10 percent of that month's deposit to the  
21 inmate's trust account administered by the Texas Department of  
22 Criminal Justice under Section 501.014, Government Code; or

23 (B) the total amount of court fees and costs that  
24 remain unpaid; and

25 (3) [~~5~~] the following costs not otherwise charged to  
26 the inmate under Section 14.006, Civil Practice and Remedies Code,  
27 if the inmate has previously filed an action dismissed as malicious

1 or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

2 (A) expenses of service of process;

3 (B) postage; and

4 (C) transportation, housing, or medical care  
5 incurred in connection with the appearance of the inmate in the  
6 court for any proceeding.

7 SECTION 7.108. Section 101.181, Government Code, as amended  
8 by Chapters 37, 296, and 737, Acts of the 79th Legislature, Regular  
9 Session, 2005, is reenacted to read as follows:

10 Sec. 101.181. MUNICIPAL COURTS OF RECORD FEES AND COSTS.  
11 The clerk of a municipal court of record shall collect the following  
12 fees and costs:

13 (1) from an appellant, a fee for preparation of the  
14 clerk's record (Sec. 30.00014, Government Code) . . . \$25;

15 (2) from an appellant in the City of El Paso, an  
16 appellate court docket fee (Sec. 30.00147, Government Code) . . .  
17 \$25; and

18 (3) the cost of a special program that a court may  
19 order a child to attend after finding that the child committed an  
20 offense, if ordered by the court (Art. 45.057, Code of Criminal  
21 Procedure) . . . costs of the program, not to exceed \$100.

22 SECTION 7.109. (a) Subchapter B, Chapter 102, Government  
23 Code, is amended by reenacting and amending Section 102.021, as  
24 amended by Chapters 296, 992, and 1360, Acts of the 79th  
25 Legislature, Regular Session, 2005, and adding Sections 102.0211  
26 through 102.0214 to read as follows:

27 Sec. 102.021. COURT COSTS ON CONVICTION: CODE OF CRIMINAL

1 PROCEDURE. A person convicted of an offense shall pay the following  
2 under the Code of Criminal Procedure, in addition to all other  
3 costs:

4 (1) court cost on conviction of any offense, other  
5 than a conviction of an offense relating to a pedestrian or the  
6 parking of a motor vehicle (Art. 102.0045, Code of Criminal  
7 Procedure) . . . \$4 [~~court costs on conviction of a felony (Sec.~~  
8 ~~133.102, Local Government Code) . . . \$133~~];

9 (2) [~~court costs on conviction of a Class A or Class B~~  
10 ~~misdemeanor (Sec. 133.102, Local Government Code) . . . \$83,~~

11 [~~(3) court costs on conviction of a nonjailable~~  
12 ~~misdemeanor offense, including a criminal violation of a municipal~~  
13 ~~ordinance, other than a conviction of an offense relating to a~~  
14 ~~pedestrian or the parking of a motor vehicle (Sec. 133.102, Local~~  
15 ~~Government Code) . . . \$40,~~

16 [~~(4) court costs on certain convictions in statutory~~  
17 ~~county courts (Sec. 51.702, Government Code) . . . \$15,~~

18 [~~(5) court costs on certain convictions in certain~~  
19 ~~county courts (Sec. 51.703, Government Code) . . . \$15,~~

20 [~~(6) a time payment fee if convicted of a felony or~~  
21 ~~misdemeanor for paying any part of a fine, court costs, or~~  
22 ~~restitution on or after the 31st day after the date on which a~~  
23 ~~judgment is entered assessing the fine, court costs, or restitution~~  
24 ~~(Sec. 133.103, Local Government Code) . . . \$25,~~

25 [~~(7)] a fee for services of prosecutor (Art. 102.008,~~  
26 ~~Code of Criminal Procedure) . . . \$25;~~

27 (3) [~~(8)] fees for services of peace officer:~~

1 (A) issuing a written notice to appear in court  
2 for certain violations (Art. 102.011, Code of Criminal Procedure)  
3 . . . \$5;

4 (B) executing or processing an issued arrest  
5 warrant or capias (Art. 102.011, Code of Criminal Procedure) . . .  
6 \$50;

7 (C) summoning a witness (Art. 102.011, Code of  
8 Criminal Procedure) . . . \$5;

9 (D) serving a writ not otherwise listed (Art.  
10 102.011, Code of Criminal Procedure) . . . \$35;

11 (E) taking and approving a bond and, if  
12 necessary, returning the bond to courthouse (Art. 102.011, Code of  
13 Criminal Procedure) . . . \$10;

14 (F) commitment or release (Art. 102.011, Code of  
15 Criminal Procedure) . . . \$5;

16 (G) summoning a jury (Art. 102.011, Code of  
17 Criminal Procedure) . . . \$5;

18 (H) attendance of a prisoner in habeas corpus  
19 case if prisoner has been remanded to custody or held to bail (Art.  
20 102.011, Code of Criminal Procedure) . . . \$8 each day;

21 (I) mileage for certain services performed (Art.  
22 102.011, Code of Criminal Procedure) . . . \$0.29 per mile; and

23 (J) services of a sheriff or constable who serves  
24 process and attends examining trial in certain cases (Art. 102.011,  
25 Code of Criminal Procedure) . . . not to exceed \$5;

26 (4) [~~9~~] services of a peace officer in conveying a  
27 witness outside the county (Art. 102.011, Code of Criminal

1 Procedure) . . . \$10 per day or part of a day, plus actual necessary  
2 travel expenses;

3 (5) [~~(10)~~] overtime of peace officer for time spent  
4 testifying in the trial or traveling to or from testifying in the  
5 trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;

6 (6) [~~(11)~~] court costs on an offense relating to rules  
7 of the road, when offense occurs within a school crossing zone (Art.  
8 102.014, Code of Criminal Procedure) . . . \$25;

9 (7) [~~(12)~~] court costs on an offense of passing a  
10 school bus (Art. 102.014, Code of Criminal Procedure) . . . \$25;

11 (8) [~~(13)~~] court costs on an offense of truancy or  
12 contributing to truancy (Art. 102.014, Code of Criminal Procedure)  
13 . . . \$20;

14 (9) [~~(14)~~] cost for visual recording of intoxication  
15 arrest before conviction (Art. 102.018, Code of Criminal Procedure)  
16 . . . \$15;

17 (10) [~~(15)~~] cost of certain evaluations (Art.  
18 102.018, Code of Criminal Procedure) . . . actual cost;

19 (11) [~~(16)~~] additional costs attendant to certain  
20 intoxication convictions under Chapter 49, Penal Code, for  
21 emergency medical services, trauma facilities, and trauma care  
22 systems (Art. 102.0185, Code of Criminal Procedure) . . . \$100;

23 (12) [~~(16-a)~~] additional costs attendant to certain  
24 child sexual assault and related convictions, for child abuse  
25 prevention programs (Art. 102.0186, Code of Criminal Procedure)  
26 . . . \$100;

27 (13) [~~(17)~~] cost for DNA testing for certain felonies

1 (Art. 102.020, Code of Criminal Procedure) . . . \$250;

2 (14) [~~(18)~~] court cost on an offense of public  
3 lewdness or indecent exposure (Art. 102.020, Code of Criminal  
4 Procedure) . . . \$50;

5 (15) if required by the court, a restitution fee for  
6 costs incurred in collecting restitution installments and for the  
7 compensation to victims of crime fund (Art. 42.037, Code of  
8 Criminal Procedure) . . . \$12; and

9 (16) if directed by the justice of the peace or  
10 municipal court judge hearing the case, court costs on conviction  
11 in a criminal action (Art. 45.041, Code of Criminal Procedure)  
12 . . . part or all of the costs as directed by the judge.

13 Sec. 102.0211. COURT COSTS ON CONVICTION: GOVERNMENT  
14 CODE. A person convicted of an offense shall pay the following  
15 under the Government Code, in addition to all other costs:

16 (1) court costs on certain convictions in statutory  
17 county courts (Sec. 51.702, Government Code) . . . \$15; and

18 (2) court costs on certain convictions in certain  
19 county courts (Sec. 51.703, Government Code) . . . \$15.

20 Sec. 102.0212. COURT COSTS ON CONVICTION: LOCAL GOVERNMENT  
21 CODE. A person convicted of an offense shall pay the following  
22 under the Local Government Code, in addition to all other costs:

23 (1) court costs on conviction of a felony (Sec.  
24 133.102, Local Government Code) . . . \$133;

25 (2) court costs on conviction of a Class A or Class B  
26 misdemeanor (Sec. 133.102, Local Government Code) . . . \$83;

27 (3) court costs on conviction of a nonjailable

1 misdemeanor offense, including a criminal violation of a municipal  
2 ordinance, other than a conviction of an offense relating to a  
3 pedestrian or the parking of a motor vehicle (Sec. 133.102, Local  
4 Government Code) . . . \$40;

5 (4) a time payment fee if convicted of a felony or  
6 misdemeanor for paying any part of a fine, court costs, or  
7 restitution on or after the 31st day after the date on which a  
8 judgment is entered assessing the fine, court costs, or restitution  
9 (Sec. 133.103, Local Government Code) . . . \$25; and

10 (5) a cost on conviction of any offense, other than an  
11 offense relating to a pedestrian or the parking of a motor vehicle  
12 (Sec. 133.105, Local Government Code) . . . \$4.

13 Sec. 102.0213. COURT COSTS ON CONVICTION: TRANSPORTATION  
14 CODE. A person convicted of an offense shall pay the following  
15 under the Transportation Code, in addition to all other costs:

16 (1) [~~(19)~~] court cost on conviction of a misdemeanor  
17 under Subtitle C, Title 7, Transportation Code (Sec. 542.403,  
18 Transportation Code) . . . \$3;

19 (2) [~~(20)~~] cost for impoundment of vehicle (Sec.  
20 601.263, Transportation Code) . . . \$15 per day; and

21 (3) [~~(21)~~] a civil and criminal enforcement cost on  
22 conviction of an offense of, or related to, the nonpayment of a toll  
23 in certain counties (Sec. 284.2031, Transportation Code) . . .  
24 \$1.~~[7]~~

25 Sec. 102.0214. COURT COSTS ON CONVICTION: PARKS AND  
26 WILDLIFE CODE. A person convicted of an offense shall pay under  
27 Section 12.110, Parks and Wildlife Code, in addition to all other



1 costs, [~~(22)~~ if directed by the justice of the peace or municipal  
2 court judge hearing the case, court costs on conviction in a  
3 criminal action (Art. 45.041, Code of Criminal Procedure) . . .  
4 part or all of the costs as directed by the judge,

5 [~~(22)~~] the actual cost of any storage, care, feeding,  
6 cold storage, or processing necessary for an unlawfully taken,  
7 shipped, or possessed game bird, fowl, animal, game fish, or exotic  
8 animal [~~(Sec. 12.110, Parks and Wildlife Code)~~ . . . actual cost,  
9 and

10 [~~(22)~~ court cost on conviction of any offense, other  
11 than a conviction of an offense relating to a pedestrian or the  
12 parking of a motor vehicle (Art. 102.0045, Code of Criminal  
13 Procedure) . . . \$4].

14 (b) Section 102.022, Government Code, is repealed.

15 SECTION 7.110. Subchapter C, Chapter 102, Government Code,  
16 is amended by amending Section 102.041 and adding Section 102.042  
17 to read as follows:

18 Sec. 102.041. ADDITIONAL COURT COSTS ON CONVICTION IN  
19 DISTRICT COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a district  
20 court shall collect fees and costs under the Code of Criminal  
21 Procedure on conviction of a defendant as follows:

22 (1) a jury fee (Art. 102.004, Code of Criminal  
23 Procedure) . . . \$20;

24 (2) a fee for clerk of the court services (Art.  
25 102.005, Code of Criminal Procedure) . . . \$40;

26 (3) a records management and preservation services fee  
27 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

1 (4) a security fee on a felony offense (Art. 102.017,  
2 Code of Criminal Procedure) . . . \$5;

3 (5) a security fee on a misdemeanor offense (Art.  
4 102.017, Code of Criminal Procedure) . . . \$3; and

5 (6) a graffiti eradication fee (Art. 102.0171, Code of  
6 Criminal Procedure) . . . \$5. [~~and~~]

7 Sec. 102.042. ADDITIONAL COURT COSTS ON CONVICTION IN  
8 DISTRICT COURT: HUMAN RESOURCES CODE. The clerk of a district court  
9 shall collect from a defendant [~~(7)~~] a court cost of \$4 under  
10 Section 152.0522, Human Resources Code, on conviction in Comal  
11 County [~~(Sec. 152.0522, Human Resources Code) . . . \$4~~].

12 SECTION 7.111. Subchapter D, Chapter 102, Government Code,  
13 is amended by reenacting and amending Section 102.061, as amended  
14 by Chapters 804 and 949, Acts of the 79th Legislature, Regular  
15 Session, 2005, and adding Section 102.062 to read as follows:

16 Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN  
17 STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a  
18 statutory county court shall collect fees and costs under the Code  
19 of Criminal Procedure on conviction of a defendant as follows:

20 (1) a jury fee (Art. 102.004, Code of Criminal  
21 Procedure) . . . \$20;

22 (2) a fee for services of the clerk of the court (Art.  
23 102.005, Code of Criminal Procedure) . . . \$40;

24 (3) a records management and preservation services fee  
25 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

26 (4) a security fee on a misdemeanor offense (Art.  
27 102.017, Code of Criminal Procedure) . . . \$3;

1 (5) a graffiti eradication fee (Art. 102.0171, Code of  
2 Criminal Procedure) . . . \$5; and

3 (6) [~~a court cost on conviction in Comal County (Sec.  
4 152.0522, Human Resources Code) . . . \$4.~~

5 [~~(7)~~] a juvenile case manager fee (Art. 102.0174, Code  
6 of Criminal Procedure) . . . not to exceed \$5.

7 Sec. 102.062. ADDITIONAL COURT COSTS ON CONVICTION IN  
8 STATUTORY COUNTY COURT: HUMAN RESOURCES CODE. The clerk of a  
9 statutory county court shall collect from a defendant a court cost  
10 of \$4 under Section 152.0522, Human Resources Code, on conviction  
11 in Comal County.

12 SECTION 7.112. Section 102.081, Government Code, is amended  
13 to read as follows:

14 Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN  
15 COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county  
16 court shall collect fees and costs under the Code of Criminal  
17 Procedure on conviction of a defendant as follows:

18 (1) a jury fee (Art. 102.004, Code of Criminal  
19 Procedure) . . . \$20;

20 (2) a fee for clerk of the court services (Art.  
21 102.005, Code of Criminal Procedure) . . . \$40;

22 (3) a records management and preservation services fee  
23 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

24 (4) a security fee on a misdemeanor offense (Art.  
25 102.017, Code of Criminal Procedure) . . . \$3;

26 (5) a graffiti eradication fee (Art. 102.0171, Code of  
27 Criminal Procedure) . . . \$5; and

1 (6) a juvenile case manager fee (Art. 102.0174, Code  
2 of Criminal Procedure) . . . not to exceed \$5.

3 SECTION 7.113. Subchapter F, Chapter 102, Government Code,  
4 is amended by reenacting and amending Section 102.101, as amended  
5 by Chapters 240 and 949, Acts of the 79th Legislature, Regular  
6 Session, 2005, and adding Sections 102.102 and 102.103 to read as  
7 follows:

8 Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN  
9 JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice  
10 court shall collect fees and costs under the Code of Criminal  
11 Procedure on conviction of a defendant as follows:

12 (1) a jury fee (Art. 102.004, Code of Criminal  
13 Procedure) . . . \$3;

14 (2) a fee for withdrawing request for jury less than 24  
15 hours before time of trial (Art. 102.004, Code of Criminal  
16 Procedure) . . . \$3;

17 (3) a jury fee for two or more defendants tried jointly  
18 (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

19 (4) a security fee on a misdemeanor offense (Art.  
20 102.017, Code of Criminal Procedure) . . . \$4 [~~\$3~~];

21 (5) a fee for technology fund on a misdemeanor offense  
22 (Art. 102.0173, Code of Criminal Procedure) . . . \$4;

23 (6) [~~a court cost on conviction in Comal County (Sec.~~  
24 ~~152.0522, Human Resources Code) . . . \$1.50; and~~

25 [~~(7)~~] a juvenile case manager fee (Art. 102.0174, Code  
26 of Criminal Procedure) . . . not to exceed \$5;

27 (7) a fee on conviction of certain offenses involving

1 issuing or passing a subsequently dishonored check (Art. 102.0071,  
2 Code of Criminal Procedure) . . . not to exceed \$30; and

3 (8) a court cost on conviction of a Class C misdemeanor  
4 in a county with a population of 3.3 million or more, if authorized  
5 by the county commissioners court (Art. 102.009, Code of Criminal  
6 Procedure) . . . not to exceed \$7.

7 Sec. 102.102. ADDITIONAL COURT COSTS ON CONVICTION IN  
8 JUSTICE COURT: BUSINESS & COMMERCE CODE. The clerk of a justice  
9 court shall collect from a defendant a court cost not to exceed \$30  
10 under Section 3.506, Business & Commerce Code, on conviction of  
11 certain offenses involving issuing or passing a subsequently  
12 dishonored check.

13 Sec. 102.103. ADDITIONAL COURT COSTS ON CONVICTION IN  
14 JUSTICE COURT: HUMAN RESOURCES CODE. A clerk of a justice court  
15 shall collect from a defendant a court cost of \$1.50 under Section  
16 152.0522, Human Resources Code, on conviction in Comal County.

17 SECTION 7.114. Section 102.121, Government Code, is amended  
18 to read as follows:

19 Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN  
20 MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a  
21 municipal court shall collect fees and costs on conviction of a  
22 defendant as follows:

23 (1) a jury fee (Art. 102.004, Code of Criminal  
24 Procedure) . . . \$3;

25 (2) a fee for withdrawing request for jury less than 24  
26 hours before time of trial (Art. 102.004, Code of Criminal  
27 Procedure) . . . \$3;

1           (3) a jury fee for two or more defendants tried jointly  
2 (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

3           (4) a security fee on a misdemeanor offense (Art.  
4 102.017, Code of Criminal Procedure) . . . \$3;

5           (5) a fee for technology fund on a misdemeanor offense  
6 (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4;  
7 and

8           (6) a juvenile case manager fee (Art. 102.0174, Code  
9 of Criminal Procedure) . . . not to exceed \$5.

10           SECTION 7.115. Subchapter H, Chapter 102, Government Code,  
11 is amended by amending Section 102.141 and adding Section 102.142  
12 to read as follows:

13           Sec. 102.141. ADDITIONAL COURT COSTS IN MUNICIPAL COURT OF  
14 RECORD: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court  
15 of record shall collect ~~[the following fees and costs:~~

16           ~~[(1)]~~ from a defendant on conviction of a misdemeanor  
17 offense~~[7]~~ a fee of not more than \$4 under Article 102.0172, Code of  
18 Criminal Procedure, for the technology fund. ~~[on a misdemeanor~~  
19 ~~offense (Art. 102.0172, Code of Criminal Procedure) . . . not to~~  
20 ~~exceed \$4,~~

21           Sec. 102.142. ADDITIONAL COURT COSTS IN MUNICIPAL COURT OF  
22 RECORD: GOVERNMENT CODE. The clerk of a municipal court of record  
23 shall collect the following fees and costs:

24           (1) ~~[(2)]~~ from an appellant, a fee for preparation of  
25 the clerk's record (Sec. 30.00014, Government Code) . . . \$25; and

26           (2) ~~[(3)]~~ from an appellant in the City of El Paso, an  
27 appellate court docket fee (Sec. 30.00147, Government Code) . . .

1 \$25.

2 SECTION 7.116. Subchapter B, Chapter 103, Government Code,  
3 is amended by amending Section 103.021, reenacting and amending  
4 Section 103.022, as amended by Chapters 296 and 992, Acts of the  
5 79th Legislature, Regular Session, 2005, and adding Sections  
6 103.0211 through 103.0215 and 103.023 through 103.033 to read as  
7 follows:

8 Sec. 103.021. ADDITIONAL FEES AND COSTS IN CRIMINAL OR  
9 CIVIL CASES: CODE OF CRIMINAL PROCEDURE. An accused or defendant,  
10 or a party to a civil suit, as applicable, shall pay the following  
11 fees and costs under the Code of Criminal Procedure if ordered by  
12 the court or otherwise required:

13 (1) a personal bond fee (Art. 17.42, Code of Criminal  
14 Procedure) . . . the greater of \$20 or three percent of the amount  
15 of the bail fixed for the accused;

16 (2) cost of electronic monitoring as a condition of  
17 release on personal bond (Art. 17.43, Code of Criminal Procedure)  
18 . . . actual cost;

19 (3) a fee for verification of and monitoring of motor  
20 vehicle ignition interlock (Art. 17.441, Code of Criminal  
21 Procedure) . . . not to exceed \$10;

22 (4) repayment of reward paid by a crime stoppers  
23 organization on conviction of a felony (Art. 37.073, Code of  
24 Criminal Procedure) . . . amount ordered;

25 (5) reimbursement to general revenue fund for payments  
26 made to victim of an offense as condition of community supervision  
27 (Art. 42.12, Code of Criminal Procedure) . . . not to exceed \$50 for

1 a misdemeanor offense or \$100 for a felony offense;

2 (6) payment to a crime stoppers organization as  
3 condition of community supervision (Art. 42.12, Code of Criminal  
4 Procedure) . . . not to exceed \$50;

5 (7) children's advocacy center fee (Art. 42.12, Code  
6 of Criminal Procedure) . . . not to exceed \$50;

7 (8) family violence shelter center fee (Art. 42.12,  
8 Code of Criminal Procedure) . . . not to exceed \$100;

9 (9) community supervision fee (Art. 42.12, Code of  
10 Criminal Procedure) . . . not less than \$25 or more than \$60 per  
11 month;

12 (10) additional community supervision fee for certain  
13 offenses (Art. 42.12, Code of Criminal Procedure) . . . \$5 per  
14 month;

15 (11) for certain financially able sex offenders as a  
16 condition of community supervision, the costs of treatment,  
17 specialized supervision, or rehabilitation (Art. 42.12, Code of  
18 Criminal Procedure) . . . all or part of the reasonable and  
19 necessary costs of the treatment, supervision, or rehabilitation as  
20 determined by the judge;

21 (12) fee for failure to appear for trial in a justice  
22 or municipal court if a jury trial is not waived (Art. 45.026, Code  
23 of Criminal Procedure) . . . costs incurred for impaneling the  
24 jury;

25 (13) costs of certain testing, assessments, or  
26 programs during a deferral period (Art. 45.051, Code of Criminal  
27 Procedure) . . . amount ordered;



1           (14) special expense on dismissal of certain  
2 misdemeanor complaints (Art. 45.051, Code of Criminal Procedure)  
3 . . . not to exceed amount of fine assessed;

4           (15) an additional fee:

5                 (A) for a copy of the defendant's driving record  
6 to be requested from the Department of Public Safety by the judge  
7 (Art. 45.0511(c-1), Code of Criminal Procedure) . . . \$10;

8                 (B) as an administrative fee for requesting a  
9 driving safety course or a course under the motorcycle operator  
10 training and safety program for certain traffic offenses to cover  
11 the cost of administering the article (Art. 45.0511(f)(1), Code of  
12 Criminal Procedure) . . . not to exceed \$10; or

13                 (C) [~~(B)~~] for requesting a driving safety course  
14 or a course under the motorcycle operator training and safety  
15 program before the final disposition of the case (Art.  
16 45.0511(f)(2), Code of Criminal Procedure) . . . not to exceed the  
17 maximum amount of the fine for the offense committed by the  
18 defendant;

19           (16) a request fee for teen court program (Art.  
20 45.052, Code of Criminal Procedure) . . . not to exceed \$10;

21           (17) a fee to cover costs of required duties of teen  
22 court (Art. 45.052, Code of Criminal Procedure) . . . \$10;

23           (18) a mileage fee for officer performing certain  
24 services (Art. 102.001, Code of Criminal Procedure) . . . \$0.15 per  
25 mile;

26           (19) certified mailing of notice of hearing date (Art.  
27 102.006, Code of Criminal Procedure) . . . \$1, plus postage;

1           (20) certified mailing of certified copies of an order  
2 of expunction (Art. 102.006, Code of Criminal Procedure) . . . \$2,  
3 plus postage;

4           (20-a) a fee to defray the cost of notifying state  
5 agencies of orders of expungement (Art. 45.0216, Code of Criminal  
6 Procedure) . . . \$30 per application;

7           (20-b) a fee to defray the cost of notifying state  
8 agencies of orders of expunction (Art. 45.055, Code of Criminal  
9 Procedure) . . . \$30 per application;

10           ~~[(20-c) a fee to defray the cost of notifying state~~  
11 ~~agencies of orders of expungement (Sec. 106.12, Alcoholic Beverage~~  
12 ~~Code) . . . \$30 per application;~~

13           ~~[(20-d) a fee to defray the cost of notifying state~~  
14 ~~agencies of orders of expungement (Sec. 161.255, Health and Safety~~  
15 ~~Code) . . . \$30 per application;]~~

16           (21) sight orders:

17           (A) if the face amount of the check or sight order  
18 does not exceed \$10 (Art. 102.007, Code of Criminal Procedure)  
19 . . . not to exceed \$10;

20           (B) if the face amount of the check or sight order  
21 is greater than \$10 but does not exceed \$100 (Art. 102.007, Code of  
22 Criminal Procedure) . . . not to exceed \$15;

23           (C) if the face amount of the check or sight order  
24 is greater than \$100 but does not exceed \$300 (Art. 102.007, Code of  
25 Criminal Procedure) . . . not to exceed \$30;

26           (D) if the face amount of the check or sight order  
27 is greater than \$300 but does not exceed \$500 (Art. 102.007, Code of

1 Criminal Procedure) . . . not to exceed \$50; and

2 (E) if the face amount of the check or sight order  
3 is greater than \$500 (Art. 102.007, Code of Criminal Procedure)  
4 . . . not to exceed \$75;

5 (22) fees for a pretrial intervention program (Art.  
6 102.012, Code of Criminal Procedure) . . . not to exceed \$60 a month  
7 plus expenses;

8 (23) parking fee violations for child safety fund in  
9 municipalities with populations:

10 (A) greater than 850,000 (Art. 102.014, Code of  
11 Criminal Procedure) . . . not less than \$2 and not to exceed \$5; and

12 (B) less than 850,000 (Art. 102.014, Code of  
13 Criminal Procedure) . . . not to exceed \$5;

14 (24) an administrative fee for collection of fines,  
15 fees, restitution, or other costs (Art. 102.072, Code of Criminal  
16 Procedure) . . . not to exceed \$2 for each transaction; and

17 (25) a collection fee, if authorized by the  
18 commissioners court of a county or the governing body of a  
19 municipality, for certain debts and accounts receivable, including  
20 unpaid fines, fees, court costs, forfeited bonds, and restitution  
21 ordered paid (Art. 103.0031, Code of Criminal Procedure) . . . 30  
22 percent of an amount more than 60 days past due.

23 Sec. 103.0211. ADDITIONAL FEES AND COSTS IN CRIMINAL OR  
24 CIVIL CASES: GOVERNMENT CODE. An accused or defendant, or a party  
25 to a civil suit, as applicable, shall pay the following fees and  
26 costs under the Government Code if ordered by the court or otherwise  
27 required:

1           (1) [~~(25)~~] a court reporter fee when testimony is  
2 taken:

3                   (A) in a criminal court in Dallas County (Sec.  
4 25.0593, Government Code) . . . \$3;

5                   (B) in a county criminal court of appeals in  
6 Dallas County (Sec. 25.0594, Government Code) . . . \$3;

7                   (C) in a county court at law in McLennan County  
8 (Sec. 25.1572, Government Code) . . . \$3; and

9                   (D) in a county criminal court in Tarrant County  
10 (Sec. 25.2223, Government Code) . . . \$3;

11           (2) a court reporter service fee if the courts have  
12 official court reporters (Sec. 51.601, Government Code) . . . \$15;

13           (3) [~~(26)~~] a speedy trial filing fee in El Paso County  
14 (Sec. 54.745, Government Code) . . . \$100;

15           (4) [~~(27)~~] costs for use of magistrate in Brazos  
16 County (Sec. 54.1116, Government Code) . . . not to exceed \$50;

17           (5) the costs of a criminal magistrate if the court  
18 determines that the nonprevailing party is able to defray the  
19 costs:

20                   (A) in Bexar County (Sec. 54.913, Government  
21 Code) . . . magistrate's fees;

22                   (B) in Dallas County (Sec. 54.313, Government  
23 Code) . . . magistrate's fees;

24                   (C) in Lubbock County (Sec. 54.883, Government  
25 Code) . . . magistrate's fees;

26                   (D) in Tarrant County (Sec. 54.663, Government  
27 Code) . . . magistrate's fees;

1                   (E) in Travis County (Sec. 54.983, Government  
2 Code) . . . magistrate's fees; and

3                   (F) in Williamson County (Sec. 54.958,  
4 Government Code) . . . expense of the magistrate;

5                   (6) [~~28~~] an administrative fee for participation in  
6 certain community supervision programs (Sec. 76.015, Government  
7 Code) . . . not less than \$25 and not more than \$40 per month; and

8                   (7) fee paid on filing a petition for an order of  
9 nondisclosure of criminal history record information in certain  
10 cases (Sec. 411.081, Government Code) . . . \$28.

11                   Sec. 103.0212. ADDITIONAL FEES AND COSTS IN CRIMINAL OR  
12 CIVIL CASES: FAMILY CODE. An accused or defendant, or a party to a  
13 civil suit, as applicable, shall pay the following fees and costs  
14 under the Family Code if ordered by the court or otherwise required:

15                   (1) [~~29~~] in family matters:

16                               (A) issuing writ of withholding (Sec. 8.262,  
17 Family Code) . . . \$15;

18                               (B) filing copy of writ of withholding to  
19 subsequent employer (Sec. 8.267, Family Code) . . . \$15;

20                               (C) issuing and delivering modified writ of  
21 withholding or notice of termination (Sec. 8.302, Family Code)  
22 . . . \$15;

23                               (D) issuing and delivering notice of termination  
24 of withholding (Sec. 8.303, Family Code) . . . \$15;

25                               (E) issuance of change of name certificate (Sec.  
26 45.106, Family Code) . . . \$10;

27                               (F) protective order fee (Sec. 81.003, Family

1 Code) . . . \$16;  
2 (G) filing suit requesting adoption of child  
3 (Sec. 108.006, Family Code) . . . \$15;  
4 (H) filing fees for suits affecting parent-child  
5 relationship (Sec. 110.002, Family Code):  
6 (i) suit or motion for modification (Sec.  
7 110.002, Family Code) . . . \$15;  
8 (ii) motion for enforcement (Sec. 110.002,  
9 Family Code) . . . \$15;  
10 (iii) notice of application for judicial  
11 writ of withholding (Sec. 110.002, Family Code) . . . \$15;  
12 (iv) motion to transfer (Sec. 110.002,  
13 Family Code) . . . \$15;  
14 (v) petition for license suspension (Sec.  
15 110.002, Family Code) . . . \$15;  
16 (vi) motion to revoke a stay of license  
17 suspension (Sec. 110.002, Family Code) . . . \$15; and  
18 (vii) motion for contempt (Sec. 110.002,  
19 Family Code) . . . \$15;  
20 (I) order or writ of income withholding to be  
21 delivered to employer (Sec. 110.004, Family Code) . . . not to  
22 exceed \$15;  
23 (J) filing fee for transferred case (Sec.  
24 110.005, Family Code) . . . \$45;  
25 (K) filing a writ of withholding (Sec. 158.319,  
26 Family Code) . . . \$15;  
27 (L) filing a request for modified writ of

1 withholding or notice of termination (Sec. 158.403, Family Code)  
2 . . . not to exceed \$15;

3 (M) filing an administrative writ to employer  
4 (Sec. 158.503, Family Code) . . . not to exceed \$15; and

5 (N) genetic testing fees in relation to a child  
6 born to a gestational mother (Sec. 160.762, Family Code) . . . as  
7 assessed by the court; and

8 (2) [~~(30)~~] in juvenile court:

9 (A) fee schedule for deferred prosecution  
10 services (Sec. 53.03, Family Code) . . . maximum fee of \$15 a month;

11 (B) a teen court administration fee (Sec. 54.032,  
12 Family Code) . . . not to exceed \$10;

13 (C) court costs for juvenile probation diversion  
14 fund (Sec. 54.0411, Family Code) . . . \$20;

15 (D) a juvenile delinquency prevention fee (Sec.  
16 54.0461, Family Code) . . . \$5; and

17 (E) a court fee for child's probationary period  
18 (Sec. 54.061, Family Code) . . . not to exceed \$15 a month. [~~+~~]

19 Sec. 103.0213. ADDITIONAL FEES AND COSTS IN CRIMINAL OR  
20 CIVIL CASES: TRANSPORTATION CODE. An accused or defendant, or a  
21 party to a civil suit, as applicable, shall pay the following fees  
22 and costs under the Transportation Code if ordered by the court or  
23 otherwise required:

24 (1) [~~(31)~~] ~~a court reporter service fee if the courts~~  
25 ~~have official court reporters (Sec. 51.601, Government Code) . . .~~  
26 ~~\$15,~~

27 [~~(32)~~] administrative fee on dismissal of charge of

1 driving with an expired motor vehicle registration (Sec. 502.407,  
2 Transportation Code) . . . not to exceed \$10;

3 (2) [~~(33)~~] administrative fee on dismissal of charge  
4 of driving with an expired driver's license (Sec. 521.026,  
5 Transportation Code) . . . not to exceed \$10;

6 (3) [~~(34)~~] administrative fee on remediation of  
7 charge of driving with an expired inspection certificate (Sec.  
8 548.605, Transportation Code) . . . not to exceed \$10;

9 (4) [~~(35)~~] administrative fee for failure to appear  
10 for a complaint or citation on certain offenses (Sec. 706.006,  
11 Transportation Code) . . . \$30 for each violation; and

12 (5) [~~(36)~~] administrative fee for failure to pay or  
13 satisfy certain judgments (Sec. 706.006, Transportation Code)  
14 . . . \$30. [~~+~~]

15 Sec. 103.0214. ADDITIONAL FEES AND COSTS IN CRIMINAL OR  
16 CIVIL CASES: HEALTH AND SAFETY CODE. An accused or defendant, or a  
17 party to a civil suit, as applicable, shall pay the following fees  
18 and costs under the Health and Safety Code if ordered by the court  
19 or otherwise required:

20 (1) a fee to defray the cost of notifying state  
21 agencies of orders of expungement (Sec. 161.255, Health and Safety  
22 Code) . . . \$30 per application; and

23 (2) [~~(37)~~ fee paid on filing a petition for an order of  
24 nondisclosure of criminal history record information in certain  
25 cases (Sec. 411.081, Government Code) . . . \$28,

26 [~~(38)~~] on a finding that an animal's owner has cruelly  
27 treated the animal, court costs including:



1 (A) investigation (Sec. 821.023, Health and  
2 Safety Code) . . . actual costs;

3 (B) expert witnesses (Sec. 821.023, Health and  
4 Safety Code) . . . actual costs;

5 (C) housing and caring for the animal during its  
6 impoundment (Sec. 821.023, Health and Safety Code) . . . actual  
7 costs;

8 (D) conducting any public sale ordered by the  
9 court (Sec. 821.023, Health and Safety Code) . . . actual costs;  
10 and

11 (E) humanely destroying the animal if  
12 destruction is ordered by the court (Sec. 821.023, Health and  
13 Safety Code) . . . actual costs[+]

14 [~~(39) the costs of a criminal magistrate if the court~~  
15 ~~determines that the nonprevailing party is able to defray the~~  
16 ~~costs;~~

17 [~~(A) in Bexar County (Sec. 54.913, Government~~  
18 ~~Code) . . . magistrate's fees;~~

19 [~~(B) in Dallas County (Sec. 54.313, Government~~  
20 ~~Code) . . . magistrate's fees;~~

21 [~~(C) in Lubbock County (Sec. 54.883, Government~~  
22 ~~Code) . . . magistrate's fees;~~

23 [~~(D) in Tarrant County (Sec. 54.663, Government~~  
24 ~~Code) . . . magistrate's fees;~~

25 [~~(E) in Travis County (Sec. 54.983, Government~~  
26 ~~Code) . . . magistrate's fees; and~~

27 [~~(F) in Williamson County (Sec. 54.958,~~

1 Government Code) . . . expense of the magistrate; and

2 [~~(40) a collection fee, if authorized by the~~  
3 ~~commissioners court of a county or the governing body of a~~  
4 ~~municipality, for certain debts and accounts receivable, including~~  
5 ~~unpaid fines, fees, court costs, forfeited bonds, and restitution~~  
6 ~~ordered paid (Art. 103.0031, Code of Criminal Procedure) . . . 30~~  
7 ~~percent of an amount more than 60 days past due].~~

8 Sec. 103.0215. ADDITIONAL FEES AND COSTS IN CRIMINAL OR  
9 CIVIL CASES: ALCOHOLIC BEVERAGE CODE. An accused or defendant, or  
10 a party to a civil suit, as applicable, shall pay a fee under  
11 Section 106.12, Alcoholic Beverage Code, of \$30 per application to  
12 defray the cost of notifying state agencies of orders of  
13 expungement.

14 Sec. 103.022. MISCELLANEOUS FEES AND COSTS: BUSINESS  
15 ORGANIZATIONS CODE. A reasonable appraiser's fee [The following  
16 fees and costs] shall be paid or collected as court costs under  
17 Section 10.365, Business Organizations Code, for determining the  
18 fair value of ownership interests of owners who have perfected  
19 their rights.

20 Sec. 103.023. MISCELLANEOUS FEES AND COSTS: CIVIL PRACTICE  
21 AND REMEDIES CODE. Fees and costs shall be paid or collected under  
22 the Civil Practice and Remedies Code as follows:

23 (1) fee for use of an interpreter in civil cases (Sec.  
24 21.051, Civil Practice and Remedies Code) . . . \$3;

25 (2) fee for custodian of a record compelled by a court  
26 to produce or certify the record (Sec. 22.004, Civil Practice and  
27 Remedies Code) . . . \$1;

1 (3) cost for use of certified copy of the record of  
2 names of all trustees appointed by any state organization of a  
3 religious congregation in this state (Sec. 126.012, Civil Practice  
4 and Remedies Code) . . . \$1.50; and

5 (4) a witness's fee for one day to be paid by the party  
6 who subpoenas the witness (Sec. 22.001, Civil Practice and Remedies  
7 Code) . . . \$10.

8 Sec. 103.024. MISCELLANEOUS FEES AND COSTS: CODE OF  
9 CRIMINAL PROCEDURE. Fees and costs shall be paid or collected under  
10 the Code of Criminal Procedure as follows:

11 (1) [~~4~~] filing of a restitution lien (Art. 42.22,  
12 Code of Criminal Procedure) . . . \$5;

13 (2) [~~5~~] issuance and service of a warrant of arrest  
14 for certain offenses if prescribed by the municipality (Art.  
15 45.203, Code of Criminal Procedure) . . . not to exceed \$25; and

16 (3) a fee for each agency or organization designated  
17 by a registered sex offender for receipt of a copy of an order  
18 making the registration nonpublic (Sec. 62.353, Code of Criminal  
19 Procedure) . . . \$20.

20 Sec. 103.025. MISCELLANEOUS FEES AND COSTS: EDUCATION  
21 CODE. Each party in a case between a juvenile board and a school  
22 district that fail to agree on a memorandum of understanding  
23 related to the juvenile justice alternative education program shall  
24 pay under Section 37.011, Education Code, its pro rata share of the  
25 costs of arbitration.

26 Sec. 103.026. MISCELLANEOUS FEES AND COSTS: FAMILY CODE.  
27 Fees and costs shall be paid or collected under the Family Code as

1 follows:

2           (1) [~~(6)~~] ~~filing a certified copy of a judicial finding~~  
3 ~~of fact and conclusion of law if charged by the secretary of state~~  
4 ~~(Sec. 51.905, Government Code) . . . \$15,~~

5           [~~(7)~~] costs of determining and sending information  
6 concerning the identity of the court with continuing, exclusive  
7 jurisdiction if charged by the bureau of vital statistics (Sec.  
8 108.006, Family Code) . . . reasonable fee;

9           (2) [~~(8)~~] initial operations fee paid to domestic  
10 relations office on filing of a suit affecting the parent-child  
11 relationship, if authorized by the administering entity (Sec.  
12 203.005, Family Code) . . . not to exceed \$15;

13           (3) [~~(9)~~] initial child support service fee paid to  
14 domestic relations office in certain counties on filing of a suit  
15 affecting the parent-child relationship, if authorized by the  
16 administering entity (Sec. 203.005, Family Code) . . . not to  
17 exceed \$36;

18           (4) [~~(10)~~] service fee for services of a domestic  
19 relations office, if authorized by the administering entity (Sec.  
20 203.005, Family Code) . . . not to exceed \$3 per month;

21           (5) fee to reimburse a domestic relations office for a  
22 fee paid for filing an administrative writ of withholding (Secs.  
23 158.503 and 203.005, Family Code) . . . the amount of the fee paid;

24           (6) [~~(11)~~] fee from a Title IV-D agency for each item  
25 of process to each individual on whom service is required,  
26 including service by certified or registered mail (Sec. 231.202,  
27 Family Code) . . . the amount that a sheriff or constable may charge

1 for serving process under Section 118.131, Local Government Code;  
2 and

3 (7) a fee for mailing an order vacating or staying an  
4 order suspending a license to the appropriate licensing authority  
5 (Sec. 232.013, Family Code) . . . \$5 for each order mailed.

6 Sec. 103.027. MISCELLANEOUS FEES AND COSTS: GOVERNMENT  
7 CODE. Fees and costs shall be paid or collected under the  
8 Government Code as follows:

9 (1) filing a certified copy of a judicial finding of  
10 fact and conclusion of law if charged by the secretary of state  
11 (Sec. 51.905, Government Code) . . . \$15;

12 (2) cost paid by each surety posting the bail bond for  
13 an offense other than a misdemeanor punishable by fine only under  
14 Chapter 17, Code of Criminal Procedure, for the felony prosecutor  
15 supplement fund and the fair defense account (Sec. 41.258,  
16 Government Code) . . . \$15, provided the cost does not exceed \$30  
17 for all bail bonds posted at that time for an individual and the  
18 cost is not required on the posting of a personal or cash bond;

19 (3) to participate in a court proceeding in this  
20 state, a nonresident attorney fee for civil legal services to the  
21 indigent (Sec. 82.0361, Government Code) . . . \$250 except as  
22 waived or reduced under supreme court rules for representing an  
23 indigent person;

24 (4) on a party's appeal of a final decision in a  
25 contested case, the cost of preparing the original or a certified  
26 copy of the record of the agency proceeding, if required by the  
27 agency's rule, as a court cost (Sec. 2001.177, Government Code)

1 . . . as assessed by the court, all or part of the cost of  
2 preparation;

3 (5) compensation to a referee in juvenile court in  
4 Wichita County taxed as costs if the judge determines the parties  
5 are able to pay the costs (Sec. 54.403, Government Code) . . . as  
6 determined by the judge; and

7 (6) the expense of preserving the record as a court  
8 cost in Brazos County if imposed on a party by the referring court  
9 or magistrate (Sec. 54.1111, Government Code) . . . actual cost.

10 Sec. 103.028. MISCELLANEOUS FEES AND COSTS: HUMAN  
11 RESOURCES CODE. Fees and costs shall be paid or collected under the  
12 Human Resources Code as follows:

13 (1) [~~12~~] certain transactions with respect to a suit  
14 for spousal support or a suit affecting the parent-child  
15 relationship in Harris County, if authorized by the county  
16 commissioners court (Sec. 152.1074, Human Resources Code) . . . not  
17 to exceed \$2 per transaction; and

18 (2) [~~13~~] child support service fee in Smith County  
19 if court allows assessment by child support office (Sec. 152.2183,  
20 Human Resources Code) . . . not to exceed \$2.50 a month. [~~+~~]

21 Sec. 103.029. MISCELLANEOUS FEES AND COSTS: HEALTH AND  
22 SAFETY CODE. Fees and costs shall be paid or collected under the  
23 Health and Safety Code as follows:

24 (1) a program fee for a drug court program established  
25 under Section 469.002, Health and Safety Code (Sec. 469.004, Health  
26 and Safety Code) . . . not to exceed \$1,000; and

27 (2) a urinalysis testing and counseling fee (Sec.

1 469.004, Health and Safety Code) . . . the amount necessary to  
2 cover the costs of testing and counseling.

3 Sec. 103.030. MISCELLANEOUS FEES AND COSTS: LOCAL  
4 GOVERNMENT CODE. Fees and costs shall be paid or collected under  
5 the Local Government Code as follows:

6 (1) ~~[(14)]~~ services by the offices of the sheriff and  
7 constables (Sec. 118.131, Local Government Code) . . . amount set  
8 by county commissioners court;

9 ~~[(15) cost paid by each surety posting the bail bond~~  
10 ~~for an offense other than a misdemeanor punishable by fine only~~  
11 ~~under Chapter 17, Code of Criminal Procedure, for the felony~~  
12 ~~prosecutor supplement fund and the fair defense account (Sec.~~  
13 ~~41.258, Government Code) . . . \$15, provided the cost does not~~  
14 ~~exceed \$30 for all bail bonds posted at that time for an individual~~  
15 ~~and the cost is not required on the posting of a personal or cash~~  
16 ~~bond;~~

17 ~~[(16) appraiser's fee as court costs for determining~~  
18 ~~the fair value of ownership interests of owners who have perfected~~  
19 ~~their rights (Sec. 10.365, Business Organizations Code) . . . a~~  
20 ~~reasonable fee;~~

21 ~~[(16-a) an appraiser's fee as court costs for~~  
22 ~~determining the fair value of the shares of the shareholders~~  
23 ~~entitled to payment for their shares in a real estate investment~~  
24 ~~trust (Sec. 25.20, Art. 6138A, Vernon's Texas Civil Statutes) . . .~~  
25 ~~a reasonable fee;~~

26 ~~[(16-b) an appraiser's fee as court costs for~~  
27 ~~determining the fair value of the shares of the shareholders~~

1 ~~entitled to payment for their shares by the existing, surviving, or~~  
2 ~~new corporation (Art. 5.12, Texas Business Corporation Act) . . . a~~  
3 ~~reasonable fee;~~

4 ~~[(17) to participate in a court proceeding in this~~  
5 ~~state, a nonresident attorney fee for civil legal services to the~~  
6 ~~indigent (Sec. 82.0361, Government Code) . . . \$250 except as~~  
7 ~~waived or reduced under supreme court rules for representing an~~  
8 ~~indigent person;~~

9 ~~[(18) costs of investigation, reasonable attorney's~~  
10 ~~fees, and reasonable expert witness fees in a civil suit or a~~  
11 ~~criminal prosecution for recovery of the value of any fish,~~  
12 ~~shellfish, reptile, amphibian, bird, or animal (Sec. 12.308, Parks~~  
13 ~~and Wildlife Code) . . . actual costs.~~

14 ~~[(18) a witness's fee for one day to be paid by the~~  
15 ~~party who subpoenas the witness (Sec. 22.001, Civil Practice and~~  
16 ~~Remedies Code) . . . \$10;~~

17 ~~[(19) on a party's appeal of a final decision in a~~  
18 ~~contested case, the cost of preparing the original or a certified~~  
19 ~~copy of the record of the agency proceeding, if required by the~~  
20 ~~agency's rule, as a court cost (Sec. 2001.177, Government Code)~~  
21 ~~. . . as assessed by the court, all or part of the cost of~~  
22 ~~preparation;~~

23 ~~[(20) the costs of arbitration in cases between a~~  
24 ~~juvenile board and a school district that fail to agree on a~~  
25 ~~memorandum of understanding related to the juvenile justice~~  
26 ~~alternative education program (Sec. 37.011, Education Code) . . .~~  
27 ~~each party its pro rata share of the costs;~~



1           ~~[(21) compensation to a referee in juvenile court in~~  
2 ~~Wichita County taxed as costs if the judge determines the parties~~  
3 ~~are able to pay the costs (Sec. 54.403, Government Code) . . . as~~  
4 ~~determined by the judge;~~

5           ~~[(22) the expense of preserving the record as a court~~  
6 ~~cost in Brazos County if imposed on a party by the referring court~~  
7 ~~or magistrate (Sec. 54.1111, Government Code) . . . actual cost;]~~

8           (2) ~~[(23)]~~ a filing fee or recording fee for each page  
9 of a legal paper presented for filing or recording that fails to  
10 meet certain requirements regarding paper size, weight, substance,  
11 headings, legibility, the presence of typed or printed names under  
12 each signature, and number and size of riders or attachments (Sec.  
13 191.007, Local Government Code) . . . twice the regular filing fee  
14 or recording fee provided by statute for that page, rider, or  
15 attachment;

16           (3) ~~[(24)]~~ a processing fee as authorized by the  
17 commissioners court for the payment by credit card of a fee, court  
18 cost, or other charge processed by a county or precinct officer  
19 (Secs. 132.002 and 132.003, Local Government Code) . . . an amount  
20 reasonably related to the expense incurred by the county or  
21 precinct officer but not to exceed five percent of the amount of the  
22 fee, court cost, or other charge being paid;

23           (4) ~~[(25)]~~ a processing fee as authorized by the  
24 governing body of the municipality for the payment by credit card of  
25 a fee, court cost, or other charge processed by a municipal official  
26 (Secs. 132.002 and 132.003, Local Government Code) . . . an amount  
27 reasonably related to the expense incurred by the municipal

1 official but not to exceed five percent of the amount of the fee,  
2 court cost, or other charge being paid;

3 (5) [~~(26)~~] a handling fee, if authorized by the  
4 commissioners court under Section 132.002, Local Government Code,  
5 for electronically processing the payment of a fee, fine, court  
6 cost, or other charge (Secs. 132.002 and 132.003, Local Government  
7 Code):

8 (A) charged at a flat rate that does not exceed \$5  
9 for each payment transaction; or

10 (B) charged at a rate reasonably related to the  
11 expense incurred in processing a payment and that does not exceed  
12 five percent of the amount of the fee, court cost, or other charge  
13 being paid;

14 (6) [~~(27)~~] a fee, if authorized by the commissioners  
15 court, collected by a county or precinct officer on behalf of the  
16 county from a person making payment by credit card of a fee, court  
17 cost, or other charge (Sec. 132.003, Local Government  
18 Code) . . . an amount equal to the amount of any transaction fee  
19 charged to the county by a vendor providing services in connection  
20 with payments made by credit card. [~~+~~]

21 Sec. 103.031. MISCELLANEOUS FEES AND COSTS: PARKS AND  
22 WILDLIFE CODE. The actual costs of investigation, reasonable  
23 attorney's fees, and reasonable expert witness fees in a civil suit  
24 or a criminal prosecution for recovery of the value of any fish,  
25 shellfish, reptile, amphibian, bird, or animal may be collected  
26 under Section 12.308, Parks and Wildlife Code.

27 Sec. 103.032. MISCELLANEOUS FEES AND COSTS: TEXAS BUSINESS

1 CORPORATION ACT. A reasonable appraiser's fee may be collected  
2 under Article 5.12, Texas Business Corporation Act, as court costs  
3 for determining the fair value of the shares of the shareholders  
4 entitled to payment for their shares by the existing, surviving, or  
5 new corporation.

6 Sec. 103.033. MISCELLANEOUS FEES AND COSTS: VERNON'S TEXAS  
7 CIVIL STATUTES. Fees and costs shall be paid or collected under  
8 Vernon's Texas Civil Statutes as follows:

9 (1) an appraiser's fee as court costs for determining  
10 the fair value of the shares of the shareholders entitled to payment  
11 for their shares in a real estate investment trust (Sec. 25.20, Art.  
12 6138A, Vernon's Texas Civil Statutes) . . . a reasonable fee; and

13 (2) [~~28~~] a fee for sale of securities under an  
14 offering that has not been registered, if the transaction or  
15 securities are not exempt (Art. 581-35-2, Vernon's Texas Civil  
16 Statutes) . . . as set by the securities commissioner or court, but  
17 not to exceed six times the amount that would have been paid if the  
18 issuer had filed an application to register the securities and paid  
19 the fee prescribed based on the amount of sales made in this state  
20 within the prior three years, plus interest on that amount from the  
21 date of the first sale made in this state until the date the fee is  
22 paid[~~, and~~

23 [~~29~~] a fee for mailing an order vacating or staying an  
24 order suspending a license to the appropriate licensing authority  
25 (Sec. 232.013, Family Code) . . . \$5 for each order mailed].

26 SECTION 7.117. Subchapter I, Chapter 102, Government Code,  
27 is repealed.

ARTICLE 8. CHANGES RELATING TO HEALTH AND SAFETY CODE

SECTION 8.001. Section 382.018, Health and Safety Code, as amended by Chapters 419 and 904, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

Sec. 382.018. OUTDOOR BURNING OF WASTE AND COMBUSTIBLE MATERIAL. (a) Subject to Section 352.082, Local Government Code, and except [~~Except~~] as provided by Subsections (b) and (d), the commission by rule may control and prohibit the outdoor burning of waste and combustible material and may include requirements concerning the particular method to be used to control or abate the emission of air contaminants resulting from that burning.

(b) The commission by rule shall authorize outdoor burning of waste if the waste:

(1) consists of trees, brush, grass, leaves, branch trimmings, or other plant growth; and

(2) is burned:

(A) in an area that meets the national ambient air quality standards and that does not contain any part of a city that does not meet national ambient air quality standards; and

(B) on the property on which it was generated and by the owner of the property or any other person authorized by the owner.

(c) Rules adopted under Subsection (b) may not:

(1) require prior commission approval of the burning;

or

(2) authorize the burning only when no practical alternative to burning exists.

1 (d) The commission may not control or prohibit outdoor  
2 burning of waste consisting of trees, brush, grass, leaves, branch  
3 trimmings, or other plant growth if:

4 (1) the person burning the waste is doing so at a site:

5 (A) designated for consolidated burning of waste  
6 generated from specific residential properties;

7 (B) located in a county with a population of less  
8 than 50,000;

9 (C) located outside of a municipality; and

10 (D) supervised at the time of the burning by an  
11 employee of a fire department who is part of the fire protection  
12 personnel, as defined by Section 419.021, Government Code, of the  
13 department and is acting in the scope of the person's employment;  
14 and

15 (2) the waste was generated from a property for which  
16 the site is designated.

17 (e) A fire department employee who will supervise a burning  
18 under Subsection (d)(1)(D) shall notify the commission of each  
19 burning supervised by the employee, and the commission shall  
20 provide the employee with information on practical alternatives to  
21 burning.

22 SECTION 8.002. Section 382.133(d), Health and Safety Code,  
23 as added by Section 3.02, Chapter 281, Acts of the 79th Legislature,  
24 Regular Session, 2005, is repealed to conform to Section 1, Chapter  
25 864, Acts of the 79th Legislature, Regular Session, 2005.

26 SECTION 8.003. Section 614.0032(b), Health and Safety Code,  
27 as amended by Chapters 324 and 1269, Acts of the 79th Legislature,

1 Regular Session, 2005, is reenacted and amended to read as follows:

2 (b) The office shall:

3 (1) [~~7~~] with the special assistance of committee  
4 members appointed under Section 614.002(b)(1) [~~7 shall~~]:

5 (A) [~~(1)~~] review examinations to determine the  
6 competency of defendants in criminal cases to stand trial and  
7 examinations to determine the fitness of children to proceed with  
8 respect to adjudications of delinquent conduct or conduct  
9 indicating a need for supervision; and

10 (B) [~~(2)~~] periodically report to the legislature  
11 and the court of criminal appeals findings made as a result of the  
12 review described by Paragraph (A); and

13 (2) [~~Subdivision (1)~~] approve and make generally  
14 available in electronic format a standard form for use by experts in  
15 reporting competency examination results under Chapter 46B, Code of  
16 Criminal Procedure.

17 ARTICLE 9. CHANGES RELATING TO INSURANCE CODE

18 SECTION 9.001. (a) Section 401.010(a), Insurance Code, is  
19 amended to conform to Section 2, Chapter 408, Acts of the 79th  
20 Legislature, Regular Session, 2005, to read as follows:

21 (a) An accountant must audit the financial reports provided  
22 by an insurer or health maintenance organization for purposes of an  
23 audit under this subchapter. The accountant who audits the reports  
24 must conduct the audit in accordance with generally accepted  
25 auditing standards or with standards adopted by the Public Company  
26 Accounting Oversight Board, as applicable, and must consider the  
27 standards specified [~~other procedures described~~] in the Financial

1 Condition Examiner's Handbook adopted by the National Association  
2 of Insurance Commissioners or other analagous nationally  
3 recognized standards adopted by commissioner rule.

4 (b) Section 2, Chapter 408, Acts of the 79th Legislature,  
5 Regular Session, 2005, which amended former Subsection (b), Section  
6 14, Article 1.15A, Insurance Code, is repealed.

7 SECTION 9.002. (a) Section 401.011(d), Insurance Code, is  
8 amended to conform to Section 1, Chapter 408, Acts of the 79th  
9 Legislature, Regular Session, 2005, to read as follows:

10 (d) The commissioner may not accept an audited financial  
11 report prepared wholly or partly by an individual or firm who the  
12 commissioner finds:

13 (1) has been convicted of fraud, bribery, a violation  
14 of the Racketeer Influenced and Corrupt Organizations Act (18  
15 U.S.C. Section 1961 et seq.), or a state or federal criminal offense  
16 involving dishonest conduct;

17 (2) has violated the insurance laws of this state with  
18 respect to a report filed under this subchapter; [~~or~~]

19 (3) has demonstrated a pattern or practice of failing  
20 to detect or disclose material information in reports filed under  
21 this subchapter; or

22 (4) has directly or indirectly entered into an  
23 agreement of indemnity or release of liability regarding an audit  
24 of an insurer.

25 (b) Section 1, Chapter 408, Acts of the 79th Legislature,  
26 Regular Session, 2005, which amended former Subsection (c), Section  
27 12, Article 1.15A, Insurance Code, is repealed.

1           SECTION 9.003. Subchapters A, B, C, D, E, F, G, H, I, J, K,  
2 L, M, N, O, and P, Chapter 442, Insurance Code, and Section 6.069,  
3 Chapter 265, Acts of the 79th Legislature, Regular Session, 2005,  
4 which amended former Section 3A, Article 21.28, Insurance Code, are  
5 repealed to conform to the repeal of Article 21.28, Insurance Code,  
6 by Section 9, Chapter 995, Acts of the 79th Legislature, Regular  
7 Session, 2005.

8           SECTION 9.004. (a) The following changes are made to Title  
9 1, Insurance Code, and Subtitle C, Title 4, Insurance Code, for  
10 organizational purposes:

11                 (1) Chapter 21A, Insurance Code, is redesignated as  
12 Chapter 443, Subtitle C, Title 4, Insurance Code, and:

13                         (A) Subchapter A in the redesignated chapter is  
14 redesignated as Subchapter A, Chapter 443, Insurance Code, and the  
15 sections in the redesignated subchapter, Sections 21A.001,  
16 21A.002, 21A.003, 21A.004, 21A.005, 21A.006, 21A.007, 21A.008,  
17 21A.009, 21A.010, 21A.011, 21A.012, 21A.013, 21A.0135, 21A.014,  
18 21A.015, 21A.016, and 21A.017, are redesignated as Sections  
19 443.001, 443.002, 443.003, 443.004, 443.005, 443.006, 443.007,  
20 443.008, 443.009, 443.010, 443.011, 443.012, 443.013, 443.0135,  
21 443.014, 443.015, 443.016, and 443.017, respectively;

22                         (B) Subchapter B in the redesignated chapter is  
23 redesignated as Subchapter B, Chapter 443, Insurance Code, and the  
24 sections in the redesignated subchapter, Sections 21A.051 through  
25 21A.059, are redesignated as Sections 443.051 through 443.059;

26                         (C) Subchapter C in the redesignated chapter is  
27 redesignated as Subchapter C, Chapter 443, Insurance Code, and the



1 sections in the redesignated subchapter, Sections 21A.101 through  
2 21A.105, are redesignated as Sections 443.101 through 443.105;

3 (D) Subchapter D in the redesignated chapter is  
4 redesignated as Subchapter D, Chapter 443, Insurance Code, and the  
5 sections in the redesignated subchapter, Sections 21A.151 through  
6 21A.156, are redesignated as Sections 443.151 through 443.156;

7 (E) Subchapter E in the redesignated chapter is  
8 redesignated as Subchapter E, Chapter 443, Insurance Code, and the  
9 sections in the redesignated subchapter, Sections 21A.201 through  
10 21A.213, are redesignated as Sections 443.201 through 443.213;

11 (F) Subchapter F in the redesignated chapter is  
12 redesignated as Subchapter F, Chapter 443, Insurance Code, and the  
13 sections in the redesignated subchapter, Sections 21A.251 through  
14 21A.261, are redesignated as Sections 443.251 through 443.261;

15 (G) Subchapter G in the redesignated chapter is  
16 redesignated as Subchapter G, Chapter 443, Insurance Code, and the  
17 sections in the redesignated subchapter, Sections 21A.301 through  
18 21A.304, are redesignated as Sections 443.301 through 443.304;

19 (H) Subchapter H in the redesignated chapter is  
20 redesignated as Subchapter H, Chapter 443, Insurance Code, and the  
21 sections in the redesignated subchapter, Sections 21A.351 through  
22 21A.355, are redesignated as Sections 443.351 through 443.355; and

23 (I) Subchapter I in the redesignated chapter is  
24 redesignated as Subchapter I, Chapter 443, Insurance Code, and the  
25 sections in the redesignated subchapter, Sections 21A.401 and  
26 21A.402, are redesignated as Sections 443.401 and 443.402,  
27 respectively; and

1           (2) Subchapter Q, Chapter 442, Insurance Code, is  
2 redesignated as Chapter 444, Insurance Code, the heading of  
3 Subchapter Q is amended to read as follows: "CHAPTER 444  
4 [~~SUBCHAPTER Q~~]. AGENCY CONTRACTS WITH CERTAIN INSURERS", and  
5 Sections 442.801, 442.802, 442.803, and 442.804 in the redesignated  
6 subchapter are redesignated as Sections 444.001, 444.002, 444.003,  
7 and 444.004, respectively.

8           (b) Sections 21A.004(a)(4), (11), (14), (17), and (26),  
9 Insurance Code, redesignated as Sections 443.004(a)(4), (11),  
10 (14), (17), and (26), Insurance Code, respectively, by Subsection  
11 (a)(1)(A) of this section, are amended to conform to the additional  
12 changes made by Subsection (a)(1) of this section and to the  
13 recodification and repeal of Articles 21.28-C and 21.28-D,  
14 Insurance Code, by Chapter 727, Acts of the 79th Legislature,  
15 Regular Session, 2005, to read as follows:

16           (4) "Delinquency proceeding" means any proceeding  
17 instituted against an insurer for the purpose of liquidating,  
18 rehabilitating, or conserving the insurer, and any proceeding under  
19 Section 443.051 [~~21A.051~~].

20           (11) "Guaranty association" means any mechanism  
21 mandated by [~~Article 21.28-C or 21.28-D,~~] Chapter 462, 463, or  
22 2602[7] or other laws of this state or a similar mechanism in  
23 another state that is created for the payment of claims or  
24 continuation of policy obligations of financially impaired or  
25 insolvent insurers.

26           (14) "Insurer" means any person that has done,  
27 purports to do, is doing, or is authorized to do the business of

1 insurance in this state, and is or has been subject to the authority  
2 of or to liquidation, rehabilitation, reorganization, supervision,  
3 or conservation by any insurance commissioner. For purposes of  
4 this chapter, any other persons included under Section 443.003  
5 [~~21A.003~~] are insurers.

6 (17) "Party in interest" means the commissioner, a 10  
7 percent or greater equity security holder in the insolvent insurer,  
8 any affected guaranty association, any nondomiciliary commissioner  
9 for a jurisdiction in which the insurer has outstanding claims  
10 liabilities, and any of the following parties that have filed a  
11 request for inclusion on the service list under Section 443.007  
12 [~~21A.007~~]:

13 (A) an insurer that ceded to or assumed business  
14 from the insolvent insurer; and

15 (B) an equity shareholder, policyholder,  
16 third-party claimant, creditor, and any other person, including any  
17 indenture trustee, with a financial or regulatory interest in the  
18 receivership proceeding.

19 (26) "Secured claim" means any claim secured by an  
20 asset that is not a general asset. The term includes the right to  
21 set off as provided in Section 443.209 [~~21A.209~~]. The term does not  
22 include a claim arising from a constructive or resulting trust, a  
23 special deposit claim, or a claim based on mere possession.

24 (c) Sections 21A.005(e), (h), and (i), Insurance Code,  
25 redesignated as Sections 443.005(e), (h), and (i), Insurance Code,  
26 respectively, by Subsection (a)(1)(A) of this section, are amended  
27 to conform to the additional changes made by Subsection (a)(1) of

1 this section to read as follows:

2 (e) If, on motion of any party, the receivership court finds  
3 that any action, as a matter of substantial justice, should be tried  
4 in a forum outside this state, the receivership court may enter an  
5 appropriate order to stay further proceedings on the action in this  
6 state. Except as to claims against the estate, nothing in this  
7 chapter deprives a party of any contractual right to pursue  
8 arbitration. A party in arbitration may bring a claim or  
9 counterclaim against the estate, but the claim or counterclaim is  
10 subject to Section 443.209 [~~21A.209~~].

11 (h) At any time after an order is entered pursuant to  
12 Section 443.051, 443.101, or 443.151 [~~21A.051, 21A.101, or~~  
13 ~~21A.151~~], the commissioner or receiver may transfer the case to the  
14 county of the principal office of the person proceeded against. In  
15 the event of transfer, the court in which the proceeding was  
16 commenced, upon application of the commissioner or receiver, shall  
17 direct its clerk to transmit the court's file to the clerk of the  
18 court to which the case is to be transferred. The proceeding, after  
19 transfer, shall be conducted in the same manner as if it had been  
20 commenced in the court to which the matter is transferred.

21 (i) A person may not intervene in any delinquency proceeding  
22 in this state for the purpose of seeking or obtaining payment of any  
23 judgment, lien, or other claim of any kind. The claims procedure  
24 set forth in this chapter constitutes the exclusive means for  
25 obtaining payment of claims from the receivership estate. This  
26 provision is not intended to affect the rights conferred on the  
27 guaranty associations by Section 443.008(1) [~~21A.008(1)~~].

1 (d) Section 21A.008(e), Insurance Code, redesignated as  
2 Section 443.008(e), Insurance Code, by Subsection (a)(1)(A) of this  
3 section, is amended to conform to the additional changes made by  
4 Subsection (a)(1) of this section to read as follows:

5 (e) Notwithstanding Subsection (c), the commencement of a  
6 delinquency proceeding under this chapter does not operate as a  
7 stay of:

8 (1) regulatory actions not described by Subsection  
9 (c)(7) that are taken by the commissioners of nondomiciliary  
10 states, including the suspension of licenses;

11 (2) criminal proceedings;

12 (3) any act to perfect or to maintain or continue the  
13 perfection of an interest in property to the extent that the act is  
14 accomplished within any relation back period under applicable law;

15 (4) set off as permitted by Section 443.209 [~~21A.209~~];

16 (5) pursuit and enforcement of nonmonetary  
17 governmental claims, judgments, and proceedings;

18 (6) presentment of a negotiable instrument and the  
19 giving of notice and protesting dishonor of the instrument;

20 (7) enforcement of rights against single beneficiary  
21 trusts established pursuant to and in compliance with laws relating  
22 to credit for reinsurance;

23 (8) termination, liquidation, and netting of  
24 obligations under qualified financial contracts as provided for in  
25 Section 443.261 [~~21A.261~~];

26 (9) discharge by a guaranty association of statutory  
27 responsibilities under any law governing guaranty associations; or

1 (10) any of the following actions:

2 (A) an audit by a governmental unit to determine  
3 tax liability;

4 (B) the issuance to the insurer by a governmental  
5 unit of a notice of tax deficiency;

6 (C) a demand for tax returns; or

7 (D) the making of an assessment for any tax and  
8 issuance of a notice and demand for payment of the assessment.

9 (e) Section 21A.009(c), Insurance Code, redesignated as  
10 Section 443.009(c), Insurance Code, by Subsection (a)(1)(A) of this  
11 section, is amended to conform to the additional changes made by  
12 Subsection (a)(1) of this section to read as follows:

13 (c) If applicable law, an order, or an agreement fixes a  
14 period for commencing or continuing a civil action in a court other  
15 than the receivership court on a claim against the insurer, and the  
16 period has not expired before the date of the initial filing of the  
17 petition in a delinquency proceeding, then the period does not  
18 expire until the later of:

19 (1) the end of the period, including any suspension of  
20 the period occurring on or after the filing of the initial petition  
21 in the delinquency proceeding; or

22 (2) 30 days after termination or expiration of the  
23 stay under Section 443.008 [~~21A.008~~] with respect to the claim.

24 (f) Section 21A.0135, Insurance Code, redesignated as  
25 Section 443.0135, Insurance Code, by Subsection (a)(1)(A) of this  
26 section, is amended to conform to the additional changes made by  
27 Subsection (a)(1) of this section to read as follows:

1           Sec. 443.0135 [~~21A.0135~~]. CONTRACTS FOR SPECIAL DEPUTIES.

2       (a) The receiver shall use a competitive bidding process in the  
3 selection of any special deputies appointed under Section 443.102  
4 or 443.154 [~~21A.102 or 21A.154~~]. The process must include  
5 procedures to promote the participation of historically  
6 underutilized businesses that have been certified by the Texas  
7 Building and Procurement Commission under Section 2161.061,  
8 Government Code.

9       (b) A proposal submitted in connection with a bid  
10 solicitation under Subsection (a) must describe the efforts that  
11 have been made to include historically underutilized businesses as  
12 subcontractors and the plan for using the historically  
13 underutilized businesses in the administration of the receivership  
14 estate. A special deputy appointed under Section 443.102 or  
15 443.154 [~~21A.102 or 21A.154~~] shall make a good faith effort to  
16 implement the plan and shall report to the receiver the special  
17 deputy's efforts to identify and subcontract with historically  
18 underutilized businesses.

19       (g) Sections 21A.015(a), (c), and (i), Insurance Code,  
20 redesignated as Sections 443.015(a), (c), and (i), Insurance Code,  
21 respectively, by Subsection (a)(1)(A) of this section, are amended  
22 to conform to the additional changes made by Subsection (a)(1) of  
23 this section to read as follows:

24       (a) The receiver may pay any expenses under contracts,  
25 leases, employment agreements, or other arrangements entered into  
26 by the insurer prior to receivership, as the receiver deems  
27 necessary for the purposes of this chapter. The receiver is not

1 required to pay any expenses that the receiver determines are not  
2 necessary, and may reject any contract pursuant to Section 443.013  
3 [~~21A.013~~].

4 (c) The receiver shall submit to the receivership court an  
5 application pursuant to Section 443.007 [~~21A.007~~] to approve:

6 (1) the terms of compensation of each special deputy  
7 or contractor with respect to which the total amount of the  
8 compensation is reasonably expected by the receiver for the  
9 duration of the delinquency proceeding to exceed \$250,000, or  
10 another amount established by the receivership court; and

11 (2) any other anticipated expense in excess of  
12 \$25,000, or another amount established by the receivership court.

13 (i) All expenses of receivership shall be paid from the  
14 assets of the insurer, except as provided by this subsection. In  
15 the event that the property of the insurer does not contain  
16 sufficient cash or liquid assets to defray the expenses incurred,  
17 the commissioner may advance funds from the account established  
18 under Section 443.304(c) [~~21A.304(c)~~]. Any amounts advanced shall  
19 be repaid to the account out of the first available money of the  
20 insurer.

21 (h) Sections 21A.051(a), (b), and (i), Insurance Code,  
22 redesignated as Sections 443.051(a), (b), and (i), Insurance Code,  
23 respectively, by Subsection (a)(1)(B) of this section, are amended  
24 to conform to the additional changes made by Subsection (a)(1) of  
25 this section to read as follows:

26 (a) The commissioner may file in a district court of Travis  
27 County a petition with respect to an insurer domiciled in this



1 state, an unauthorized insurer, or, pursuant to Section 443.401  
2 [~~21A.401~~], a foreign insurer:

3 (1) alleging that grounds exist that would justify a  
4 court order for a formal delinquency proceeding against the insurer  
5 under this chapter;

6 (2) alleging that the interests of policyholders,  
7 creditors, or the public will be endangered by delay; and

8 (3) setting forth the contents of a seizure order  
9 deemed to be necessary by the commissioner.

10 (b) Upon a filing under Subsection (a), the receivership  
11 court may issue, ex parte and without notice or hearing, the  
12 requested seizure order directing the commissioner to take  
13 possession and control of all or a part of the property, books,  
14 accounts, documents, and other records of an insurer, and of the  
15 premises occupied by it for transaction of its business, and until  
16 further order of the receivership court, enjoining the insurer and  
17 its officers, managers, agents, and employees from disposition of  
18 its property and from the transaction of its business except with  
19 the written consent of the commissioner. Any person having  
20 possession or control of and refusing to deliver any of the books,  
21 records, or assets of a person against whom a seizure order has been  
22 issued commits an offense. An offense under this subsection is  
23 punishable in the manner described by Section 443.010(e)  
24 [~~21A.010(e)~~].

25 (i) In all proceedings and judicial reviews under this  
26 section, all records of the insurer, department files, court  
27 records and papers, and other documents, so far as they pertain to

1 or are a part of the record of the proceedings, are confidential,  
2 and all papers filed with the clerk of the court shall be held by the  
3 clerk in a confidential file as permitted by law, except to the  
4 extent necessary to obtain compliance with any order entered in  
5 connection with the proceedings, unless and until:

6 (1) the court, after hearing argument in chambers,  
7 orders otherwise;

8 (2) the insurer requests that the matter be made  
9 public; or

10 (3) the commissioner applies for an order under  
11 Section 443.057 [~~21A.057~~].

12 (i) Section 21A.052(b), Insurance Code, redesignated as  
13 Section 443.052(b), Insurance Code, by Subsection (a)(1)(B) of this  
14 section, is amended to conform to the additional changes made by  
15 Subsection (a)(1) of this section to read as follows:

16 (b) The petition must state the grounds upon which the  
17 proceeding is based and the relief requested and may include a  
18 prayer for restraining orders and injunctive relief as described in  
19 Section 443.008 [~~21A.008~~]. On the filing of the petition or order,  
20 a copy shall be forwarded by first class mail or electronic  
21 communication as permitted by the receivership court to the  
22 insurance regulatory officials and guaranty associations in states  
23 in which the insurer did business.

24 (j) Section 21A.056(a), Insurance Code, redesignated as  
25 Section 443.056(a), Insurance Code, by Subsection (a)(1)(B) of this  
26 section, is amended to conform to the additional changes made by  
27 Subsection (a)(1) of this section to read as follows:

1           (a) The commissioner, rehabilitator, or liquidator may  
2 share documents, materials, or other information in the possession,  
3 custody, or control of the department without regard to the  
4 confidentiality of those documents, materials, or information,  
5 pertaining to an insurer that is the subject of a proceeding under  
6 this chapter with other state, federal, and international  
7 regulatory agencies, with the National Association of Insurance  
8 Commissioners and its affiliates and subsidiaries, with state,  
9 federal, and international law enforcement authorities, with an  
10 auditor appointed by the receivership court in accordance with  
11 Section 443.355 [~~21A.355~~], and, pursuant to Section 443.105  
12 [~~21A.105~~], with representatives of guaranty associations that may  
13 have statutory obligations as a result of the insolvency of the  
14 insurer, provided that the recipient agrees to maintain the  
15 confidentiality, if any, of the documents, material, or other  
16 information. Nothing in this section limits the power of the  
17 commissioner to disclose information under other applicable law.

18           (k) Section 21A.057, Insurance Code, redesignated as  
19 Section 443.057, Insurance Code, by Subsection (a)(1)(B) of this  
20 section, is amended to conform to the additional changes made by  
21 Subsection (a)(1) of this section and to the recodification and  
22 repeal of Articles 1.15, 1.15A, 1.16, 1.32, and 21.28-A, Insurance  
23 Code, by Chapter 727, Acts of the 79th Legislature, Regular  
24 Session, 2005, to read as follows:

25           Sec. 443.057 [~~21A.057~~]. GROUNDS FOR CONSERVATION,  
26 REHABILITATION, OR LIQUIDATION. The commissioner may file with a  
27 court in this state a petition with respect to an insurer domiciled

1 in this state or an unauthorized insurer for an order of  
2 rehabilitation or liquidation on any one or more of the following  
3 grounds:

4 (1) the insurer is impaired;

5 (2) the insurer is insolvent;

6 (3) the insurer is about to become insolvent, with  
7 "about to become insolvent" being defined as reasonably anticipated  
8 that the insurer will not have liquid assets to meet its next 90  
9 days' current obligations;

10 (4) the insurer has neglected or refused to comply  
11 with an order of the commissioner to make good within the time  
12 prescribed by law any deficiency, whenever its capital and minimum  
13 required surplus, if a stock company, or its surplus, if a company  
14 other than stock, has become impaired;

15 (5) the insurer, its parent company, its subsidiaries,  
16 or its affiliates have converted, wasted, or concealed property of  
17 the insurer or have otherwise improperly disposed of, dissipated,  
18 used, released, transferred, sold, assigned, hypothecated, or  
19 removed the property of the insurer;

20 (6) the insurer is in a condition such that it could  
21 not meet the requirements for organization and authorization as  
22 required by law, except as to the amount of the original surplus  
23 required of a stock company under Title 6, and except as to the  
24 amount of the surplus required of a company other than a stock  
25 company in excess of the minimum surplus required to be maintained;

26 (7) the insurer, its parent company, its subsidiaries,  
27 or its affiliates have concealed, removed, altered, destroyed, or

1 failed to establish and maintain books, records, documents,  
2 accounts, vouchers, and other pertinent material adequate for the  
3 determination of the financial condition of the insurer by  
4 examination under Chapter 401 [~~Article 1.15, 1.15A, or 1.16~~] or has  
5 failed to properly administer claims or maintain claims records  
6 that are adequate for the determination of its outstanding claims  
7 liability;

8 (8) at any time after the issuance of an order under  
9 Section 404.003 or Chapter 441 [~~Article 1.32 or 21.28-A~~], or at the  
10 time of instituting any proceeding under this chapter, it appears  
11 to the commissioner that, upon good cause shown, it would not be in  
12 the best interest of the policyholders, creditors, or the public to  
13 proceed with the conduct of the business of the insurer;

14 (9) the insurer is in a condition such that the further  
15 transaction of business would be hazardous financially, according  
16 to Subchapter A, Chapter 404, [~~Article 1.32~~] or otherwise, to its  
17 policyholders, creditors, or the public;

18 (10) there is reasonable cause to believe that there  
19 has been embezzlement from the insurer, wrongful sequestration or  
20 diversion of the insurer's property, forgery or fraud affecting the  
21 insurer, or other illegal conduct in, by, or with respect to the  
22 insurer that, if established, would endanger assets in an amount  
23 threatening the solvency of the insurer;

24 (11) control of the insurer is in a person who is:

25 (A) dishonest or untrustworthy; or

26 (B) so lacking in insurance company managerial  
27 experience or capability as to be hazardous to policyholders,

1 creditors, or the public;

2 (12) any person who in fact has executive authority in  
3 the insurer, whether an officer, manager, general agent, director,  
4 trustee, employee, shareholder, or other person, has refused to be  
5 examined under oath by the commissioner concerning the insurer's  
6 affairs, whether in this state or elsewhere or if examined under  
7 oath, refuses to divulge pertinent information reasonably known to  
8 the person; and after reasonable notice of the fact, the insurer has  
9 failed promptly and effectively to terminate the employment and  
10 status of the person and all the person's influence on management;

11 (13) after demand by the commissioner under Chapter  
12 401 [~~Article 1.15, 1.15A, or 1.16~~] or under this chapter, the  
13 insurer has failed promptly to make available for examination any  
14 of its own property, books, accounts, documents, or other records,  
15 or those of any subsidiary or related company within the control of  
16 the insurer or of any person having executive authority in the  
17 insurer, so far as they pertain to the insurer;

18 (14) without first obtaining the written consent of  
19 the commissioner, the insurer has transferred, or attempted to  
20 transfer, in a manner contrary to Chapter 823 or any law relating to  
21 bulk reinsurance, substantially its entire property or business, or  
22 has entered into any transaction the effect of which is to merge,  
23 consolidate, or reinsure substantially its entire property or  
24 business in or with the property or business of any other person;

25 (15) the insurer or its property has been or is the  
26 subject of an application for the appointment of a receiver,  
27 trustee, custodian, conservator, sequestrator, or similar

1 fiduciary of the insurer or its property otherwise than as  
2 authorized under the insurance laws of this state;

3 (16) within the previous five years, the insurer has  
4 wilfully and continuously violated its charter, articles of  
5 incorporation or bylaws, any insurance law of this state, or any  
6 valid order of the commissioner;

7 (17) the insurer has failed to pay within 60 days after  
8 the due date any obligation to any state or political subdivision of  
9 a state or any judgment entered in any state, if the court in which  
10 the judgment was entered had jurisdiction over the subject matter,  
11 except that nonpayment is not a ground until 60 days after any good  
12 faith effort by the insurer to contest the obligation has been  
13 terminated, whether it is before the commissioner or in the courts;

14 (18) the insurer has systematically engaged in the  
15 practice of reaching settlements with and obtaining releases from  
16 claimants, and then unreasonably delayed payment, failed to pay the  
17 agreed-upon settlements, or systematically attempted to compromise  
18 with claimants or other creditors on the ground that it is  
19 financially unable to pay its claims or obligations in full;

20 (19) the insurer has failed to file its annual report  
21 or other financial report required by statute within the time  
22 allowed by law;

23 (20) the board of directors or the holders of a  
24 majority of the shares entitled to vote, or a majority of those  
25 individuals entitled to the control of those entities specified by  
26 Section 443.003 [~~21A.003~~], request or consent to rehabilitation or  
27 liquidation under this chapter;

1           (21) the insurer does not comply with its domiciliary  
2 state's requirements for issuance to it of a certificate of  
3 authority, or its certificate of authority has been revoked by its  
4 state of domicile; or

5           (22) when authorized by department rules.

6           (1) Section 21A.058, Insurance Code, redesignated as  
7 Section 443.058, Insurance Code, by Subsection (a)(1)(B) of this  
8 section, is amended to conform to the additional changes made by  
9 Subsection (a)(1) of this section to read as follows:

10           Sec. 443.058 [~~21A.058~~]. ENTRY OF ORDER. If the  
11 commissioner establishes any of the grounds provided in Section  
12 443.057 [~~21A.057~~], the receivership court shall grant the petition  
13 and issue the order of rehabilitation or liquidation requested in  
14 the petition.

15           (m) Section 21A.101(b), Insurance Code, redesignated as  
16 Section 443.101(b), Insurance Code, by Subsection (a)(1)(C) of this  
17 section, is amended to conform to the additional changes made by  
18 Subsection (a)(1) of this section to read as follows:

19           (b) Any order issued under this section must require  
20 accountings to the receivership court by the rehabilitator.  
21 Accountings must be at the intervals specified by the receivership  
22 court in its order, but not less frequently than semi-annually.  
23 Each accounting must include a report concerning the  
24 rehabilitator's opinion as to the likelihood that a plan under  
25 Section 443.103 [~~21A.103~~] will be prepared by the rehabilitator and  
26 the timetable for doing so.

27           (n) Section 21A.102(a), Insurance Code, redesignated as



1 Section 443.102(a), Insurance Code, by Subsection (a)(1)(C) of this  
2 section, is amended to conform to the additional changes made by  
3 Subsection (a)(1) of this section to read as follows:

4 (a) The rehabilitator may appoint one or more special  
5 deputies. A special deputy serves at the pleasure of the  
6 rehabilitator and has all the powers and responsibilities of the  
7 rehabilitator granted under this section, unless specifically  
8 limited by the rehabilitator. The rehabilitator may employ or  
9 contract with legal counsel, actuaries, accountants, appraisers,  
10 consultants, clerks, assistants, and other personnel as may be  
11 deemed necessary. Any special deputy or any other person with whom  
12 the rehabilitator contracts under this subsection may act on behalf  
13 of the commissioner only in the commissioner's capacity as  
14 rehabilitator. Any person with whom the rehabilitator contracts  
15 under this subsection is not considered an agent of the state, and  
16 any contract entered into under this subsection does not constitute  
17 a contract with the state. The provisions of any law governing the  
18 procurement of goods and services by the state does not apply to any  
19 contract entered into by the commissioner as rehabilitator. The  
20 compensation of any special deputies, employees, and contractors  
21 and all expenses of taking possession of the insurer and of  
22 conducting the rehabilitation shall be fixed by the rehabilitator,  
23 with the approval of the receivership court in accordance with  
24 Section 443.015 [~~21A.015~~], and shall be paid out of the property of  
25 the insurer. The persons appointed under this subsection serve at  
26 the pleasure of the rehabilitator. If the rehabilitator deems it  
27 necessary to the proper performance of the rehabilitator's duties

1 under this chapter, the rehabilitator may appoint an advisory  
2 committee of policyholders, claimants, or other creditors,  
3 including guaranty associations. The advisory committee serves at  
4 the pleasure of the rehabilitator and without compensation or  
5 reimbursement for expenses. The rehabilitator or the receivership  
6 court in rehabilitation proceedings conducted under this chapter  
7 may not appoint another committee of any nature.

8 (o) Section 21A.104, Insurance Code, redesignated as  
9 Section 443.104, Insurance Code, by Subsection (a)(1)(C) of this  
10 section, is amended to conform to the additional changes made by  
11 Subsection (a)(1) of this section to read as follows:

12 Sec. 443.104 [~~21A.104~~]. TERMINATION OF REHABILITATION. (a)  
13 When the rehabilitator believes further attempts to rehabilitate an  
14 insurer would substantially increase the risk of loss to creditors,  
15 policyholders, or the public or would be futile, the rehabilitator  
16 may move for an order of liquidation. In accordance with Section  
17 443.105 [~~21A.105~~], the rehabilitator or the rehabilitator's  
18 designated representative shall coordinate with the guaranty  
19 associations that may become liable as a result of the liquidation  
20 and any national association of guaranty associations to plan for  
21 transition to liquidation.

22 (b) Because the protection of the interests of insureds,  
23 claimants, and the public requires the timely performance of all  
24 insurance policy obligations, if the payment of policy obligations  
25 is suspended in substantial part for a period of six months at any  
26 time after the appointment of the rehabilitator and the  
27 rehabilitator has not filed an application for approval of a plan

1 under Section 443.103 [~~21A.103~~], the rehabilitator shall petition  
2 the receivership court for an order of liquidation.

3 (c) The rehabilitator or the directors of the insurer may at  
4 any time petition the receivership court for, or the receivership  
5 court on its own motion may enter, an order terminating  
6 rehabilitation of an insurer. Subject to the provisions of Section  
7 443.351 [~~21A.351~~], if the receivership court finds that  
8 rehabilitation has been accomplished and that grounds for  
9 rehabilitation under Section 443.057 [~~21A.057~~] no longer exist, it  
10 shall order that the insurer be restored to title and possession of  
11 its property and the control of the business.

12 (p) Sections 21A.151(b) and (e), Insurance Code,  
13 redesignated as Sections 443.151(b) and (e), Insurance Code,  
14 respectively, by Subsection (a)(1)(D) of this section, are amended  
15 to conform to the additional changes made by Subsection (a)(1) of  
16 this section to read as follows:

17 (b) Upon issuance of the order of liquidation, the rights  
18 and liabilities of the insurer and of its creditors, policyholders,  
19 shareholders, members, and all other persons interested in its  
20 estate become fixed as of the date of entry of the order of  
21 liquidation, except as provided by Sections 443.152 and 443.255  
22 [~~21A.152 and 21A.255~~], unless otherwise fixed by the court.

23 (e) In the event an order of liquidation is set aside on  
24 appeal, the company may not be released from delinquency  
25 proceedings except in accordance with Section 443.351 [~~21A.351~~].

26 (q) Sections 21A.152(b), (c), and (d), Insurance Code,  
27 redesignated as Sections 443.152(b), (c), and (d), Insurance Code,

1 respectively, by Subsection (a)(1)(D) of this section, are amended  
2 to conform to the additional changes made by Subsection (a)(1) of  
3 this section to read as follows:

4 (b) Notwithstanding any policy or contract language or any  
5 other statute, all policies, insurance contracts other than  
6 reinsurance by which the insurer has ceded insurance obligations to  
7 another person, and surety bonds or surety undertakings, other than  
8 life or health insurance or annuities, in effect at the time of  
9 issuance of an order of liquidation, unless further extended by the  
10 receiver with the approval of the receivership court, continue in  
11 force only until the earlier of:

12 (1) the 30th day after the date of entry of the  
13 liquidation order;

14 (2) the date of expiration of the policy coverage;

15 (3) the date the insured has replaced the insurance  
16 coverage with equivalent insurance with another insurer or  
17 otherwise terminated the policy;

18 (4) the date the liquidator has effected a transfer of  
19 the policy obligation pursuant to Section 443.154(h) [~~21A.154(h)~~];  
20 or

21 (5) the date proposed by the liquidator and approved  
22 by the receivership court to cancel coverage.

23 (c) An order of liquidation under Section 443.151 [~~21A.151~~]  
24 must terminate coverages at the time specified by Subsections (a)  
25 and (b) for purposes of any other statute.

26 (d) Policies of life or health insurance or annuities  
27 covered by a guaranty association and any portion of policies of

1 life or health insurance or annuities covered by a guaranty  
2 association continue in force for the period and under the terms  
3 provided for by any applicable guaranty association law. Policies  
4 of life or health insurance or annuities not covered by a guaranty  
5 association and any portion of policies of life or health insurance  
6 or annuities not covered by a guaranty association terminate under  
7 Subsection (b), except to the extent the liquidator proposes and  
8 the receivership court approves the use of property of the estate,  
9 consistent with Section 443.301 [~~21A.301~~], for the purpose of  
10 continuing the contracts or coverage by transferring them to an  
11 assuming reinsurer.

12 (r) Sections 21A.154(a), (b), (h), (k), (l), (y), and (z),  
13 Insurance Code, redesignated as Sections 443.154(a), (b), (h), (k),  
14 (l), (y), and (z), Insurance Code, respectively, by Subsection  
15 (a)(1)(D) of this section, are amended to conform to the additional  
16 changes made by Subsection (a)(1) of this section to read as  
17 follows:

18 (a) The liquidator may appoint a special deputy or deputies  
19 to act for the liquidator under this chapter and employ or contract  
20 with legal counsel, actuaries, accountants, appraisers,  
21 consultants, clerks, assistants, and other personnel the  
22 liquidator may deem necessary to assist in the liquidation. A  
23 special deputy has all powers of the liquidator granted by this  
24 section, unless specifically limited by the liquidator, and serves  
25 at the pleasure of the liquidator. A special deputy or any other  
26 person with whom the liquidator contracts under this subsection may  
27 act on behalf of the commissioner only in the commissioner's

1 capacity as liquidator. Any person with whom the liquidator  
2 contracts is not considered to be an agent of the state and any  
3 contract under this subsection is not a contract with the state.  
4 The provisions of any law governing the procurement of goods and  
5 services by the state do not apply to any contract entered into by  
6 the commissioner as liquidator. This subsection does not waive any  
7 immunity granted by Section 443.014 [~~21A.014~~] or create any cause  
8 of action against the state.

9 (b) The liquidator may determine the reasonable  
10 compensation for any special deputies, employees, or contractors  
11 retained by the liquidator as provided in Subsection (a) and pay  
12 compensation in accordance with Section 443.015 [~~21A.015~~].

13 (h) The liquidator may use property of the estate of an  
14 insurer under a liquidation order to transfer to a solvent assuming  
15 insurer policy obligations or the insurer's obligations under  
16 surety bonds and surety undertakings as well as collateral held by  
17 the insurer with respect to the reimbursement obligations of the  
18 principals under those surety bonds and surety undertakings, if the  
19 transfer can be arranged without prejudice to applicable priorities  
20 under Section 443.301 [~~21A.301~~]. If all insureds, principals,  
21 third-party claimants, and obligees under the policies, surety  
22 bonds, and surety undertakings consent or if the receivership court  
23 so orders, the estate has no further liability under the  
24 transferred policies, surety bonds, or surety undertakings after  
25 the transfer is made.

26 (k) The liquidator may enter into contracts as necessary to  
27 carry out the order to liquidate and, subject to the provisions of

1 Section 443.013 [~~21A.013~~], may assume or reject any executory  
2 contract or unexpired lease to which the insurer is a party.

3 (1) The liquidator may continue to prosecute and institute  
4 in the name of the insurer or in the liquidator's own name any and  
5 all suits and other legal proceedings, in this state or elsewhere,  
6 and abandon the prosecution of claims the liquidator deems  
7 unprofitable to pursue further. If the insurer is dissolved under  
8 Section 443.153 [~~21A.153~~], the liquidator has the power to apply to  
9 any court in this state or elsewhere for leave to substitute the  
10 liquidator for the insurer as a party.

11 (y) The liquidator may hypothecate, encumber, lease, sell,  
12 transfer, abandon, or otherwise dispose of or deal with any  
13 property of the insurer, settle or resolve any claim brought by the  
14 liquidator on behalf of the insurer, or commute or settle any claim  
15 of reinsurance under any contract of reinsurance, as follows:

16 (1) if the property or claim has a market or settlement  
17 value that does not exceed the lesser of \$1 million or 10 percent of  
18 the general assets of the estate as shown on the receivership's  
19 financial statements, the liquidator may take action at the  
20 liquidator's discretion, provided that the receivership court may,  
21 upon petition of the liquidator, increase the threshold upon a  
22 showing that compliance with this requirement is burdensome to the  
23 liquidator in administering the estate and is unnecessary to  
24 protect the material interests of creditors;

25 (2) in all instances other than those described in  
26 Subdivision (1), the liquidator may take the action only after  
27 obtaining approval of the receivership court as provided by Section

1 443.007 [~~21A.007~~];

2 (3) the liquidator may, at the liquidator's  
3 discretion, request the receivership court to approve a proposed  
4 action as provided by Section 443.007 [~~21A.007~~] if the value of the  
5 property or claim appears to be less than the threshold provided by  
6 Subdivision (1) but cannot be ascertained with certainty, or for  
7 any other reason as determined by the liquidator; and

8 (4) after obtaining approval of the receivership court  
9 as provided in Section 443.007 [~~21A.007~~], the liquidator may,  
10 subject to Subsection (z), transfer rights to payment under ceding  
11 reinsurance agreements covering policies to a third-party  
12 transferee.

13 (z) The transferee of a right to payment under Subsection  
14 (y)(4) has the rights to collect and enforce collection of the  
15 reinsurance for the amount payable to the ceding insurer or to its  
16 receiver, without diminution because of the insolvency or because  
17 the receiver has failed to pay all or a portion of the claim, based  
18 on the amounts paid or allowed pursuant to Section 443.211  
19 [~~21A.211~~]. The transfer of the rights does not give rise to any  
20 defense regarding the reinsurer's obligations under the  
21 reinsurance agreement regardless of whether an agreement or other  
22 applicable law prohibits the transfer of rights under the  
23 reinsurance agreement. Except as provided in this subsection, any  
24 transfer of rights pursuant to Subsection (y)(4) does not impair  
25 any rights or defenses of the reinsurer that existed prior to the  
26 transfer or that would have existed in the absence of the transfer.  
27 Except as otherwise provided in this subsection, any transfer of



1 rights pursuant to Subsection (y)(4) does not relieve the  
2 transferee or the liquidator from obligations owed to the reinsurer  
3 pursuant to the reinsurance or other agreement.

4 (s) Section 21A.155(b), Insurance Code, redesignated as  
5 Section 443.155(b), Insurance Code, by Subsection (a)(1)(D) of this  
6 section, is amended to conform to the additional changes made by  
7 Subsection (a)(1) of this section to read as follows:

8 (b) The notice of the entry of an order of liquidation must  
9 contain or provide directions for obtaining the following  
10 information:

11 (1) a statement that the insurer has been placed in  
12 liquidation;

13 (2) a statement that certain acts are stayed under  
14 Section 443.008 [~~21A.008~~] and describe any additional injunctive  
15 relief ordered by the receivership court;

16 (3) a statement whether, and to what extent, the  
17 insurer's policies continue in effect;

18 (4) to the extent applicable, a statement that  
19 coverage by state guaranty associations may be available for all or  
20 part of policy benefits in accordance with applicable state  
21 guaranty laws;

22 (5) a statement of the deadline for filing claims, if  
23 established, and the requirements for filing a proof of claim  
24 pursuant to Section 443.251 [~~21A.251~~] on or before that date;

25 (6) a statement of the date, time, and location of any  
26 initial status hearing scheduled at the time the notice is sent;

27 (7) a description of the process for obtaining notice

1 of matters before the receivership court; and

2 (8) any other information the liquidator or the  
3 receivership court deems appropriate.

4 (t) Section 21A.156(a), Insurance Code, redesignated as  
5 Section 443.156(a), Insurance Code, by Subsection (a)(1)(D) of this  
6 section, is amended to conform to the additional changes made by  
7 Subsection (a)(1) of this section to read as follows:

8 (a) Every person who represented the insurer as an agent and  
9 receives notice in the form prescribed in Section 443.155 [~~21A.155~~]  
10 that the insurer is the subject of a liquidation order, not later  
11 than the 30th day after the date of the notice, shall provide to the  
12 liquidator, in addition to the information the agent may be  
13 required to provide pursuant to Section 443.010 [~~21A.010~~], the  
14 information in the agent's records related to any policy issued by  
15 the insurer through the agent and any policy issued by the insurer  
16 through an agent under contract to the agent, including the name and  
17 address of any subagent. For purposes of this subsection, a policy  
18 is issued through an agent if the agent has a property interest in  
19 the expiration of the policy or if the agent has had in the agent's  
20 possession a copy of the declarations of the policy at any time  
21 during the life of the policy, except where the ownership of the  
22 expiration of the policy has been transferred to another.

23 (u) Sections 21A.207(a), (d), and (f), Insurance Code,  
24 redesignated as Sections 443.207(a), (d), and (f), Insurance Code,  
25 respectively, by Subsection (a)(1)(E) of this section, are amended  
26 to conform to the additional changes made by Subsection (a)(1) of  
27 this section to read as follows:

1 (a) Except as otherwise provided in this section, to the  
2 extent that the receiver obtains an order under Section 443.201  
3 [~~21A.201~~] or avoids a transfer under Section 443.202, 443.203,  
4 443.204, 443.205, or 443.206 [~~Sections 21A.202, 21A.203, 21A.204,~~  
5 ~~21A.205, or 21A.206~~], the receiver may recover the property  
6 transferred, or the value of the property, from:

7 (1) the initial transferee of the transfer or the  
8 entity for whose benefit the transfer was made; or

9 (2) any immediate or mediate transferee of the initial  
10 transferee.

11 (d) In addition to the remedies specifically provided under  
12 Sections 443.201-443.206 [~~21A.201-21A.206~~] and Subsection (a), if  
13 the receiver is successful in establishing a claim to the property  
14 or any part of the property, the receiver is entitled to recover  
15 judgment for:

16 (1) rental for the use of the tangible property from  
17 the later of the entry of the receivership order or the date of the  
18 transfer;

19 (2) in the case of funds or intangible property, the  
20 greater of:

21 (A) the actual interest or income earned by the  
22 property; or

23 (B) interest at the statutory rate for judgments  
24 from the later of the date of the entry of the receivership order or  
25 the date of the transfer; and

26 (3) except as to recoveries from guaranty  
27 associations, all costs, including investigative costs and other

1 expenses necessary to the recovery of the property or funds, and  
2 reasonable attorney's fees.

3 (f) In any action under Sections 443.201-443.206  
4 [~~21A.201-21A.206~~], the receiver has the burden of proving the  
5 avoidability of a transfer, and the person against whom recovery or  
6 avoidance is sought has the burden of proving the nature and extent  
7 of any affirmative defense.

8 (v) Section 21A.208(b), Insurance Code, redesignated as  
9 Section 443.208(b), Insurance Code, by Subsection (a)(1)(E) of this  
10 section, is amended to conform to the additional changes made by  
11 Subsection (a)(1) of this section to read as follows:

12 (b) A claim allowable under Subsection (a) by reason of the  
13 avoidance, whether voluntary or involuntary, or a preference, lien,  
14 conveyance, transfer, assignment, or encumbrance, may be filed as  
15 an excused late filing under Section 443.251(b) [~~21A.251(b)~~] if  
16 filed not later than the 30th day after the date of the avoidance,  
17 or within the further time allowed by the receivership court under  
18 Subsection (a).

19 (w) Section 21A.210(j), Insurance Code, redesignated as  
20 Section 443.210(j), Insurance Code, by Subsection (a)(1)(E) of this  
21 section, is amended to conform to the additional changes made by  
22 Subsection (a)(1) of this section to read as follows:

23 (j) Any claim filed by an assessee who fails to pay an  
24 assessment, after the conclusion of any legal action by the  
25 assessee objecting to the assessment, is deemed a late filed claim  
26 under Section 443.251 [~~21A.251~~].

27 (x) Sections 21A.211(b) and (f), Insurance Code,

1 redesignated as Sections 443.211(b) and (f), Insurance Code,  
2 respectively, by Subsection (a)(1)(E) of this section, are amended  
3 to conform to the additional changes made by Subsection (a)(1) of  
4 this section and to the recodification and repeal of Articles  
5 21.28-C and 21.28-D, Insurance Code, by Chapter 727, Acts of the  
6 79th Legislature, Regular Session, 2005, to read as follows:

7 (b) Except as provided by Subsection (a), any reinsurance  
8 shall be payable to the receiver under a policy reinsured by the  
9 assuming insurer on the basis of claims:

10 (1) allowed under Section 443.253 [~~21A.253~~]; and

11 (2) paid under:

12 (A) Chapter 462, 463, or [~~Article 21.28-C or~~  
13 ~~21.28-D,~~

14 [~~(B) Chapter~~] 2602; or

15 (B) [~~(C)~~] the guaranty associations of other  
16 states.

17 (f) Nothing in this chapter shall be construed as  
18 authorizing the receiver, or other entity, to compel payment from a  
19 non-life reinsurer on the basis of estimated incurred but not  
20 reported losses or outstanding reserves, except outstanding  
21 reserves with respect to claims made pursuant to Section 443.255  
22 [~~21A.255~~] and approved workers compensation claims filed under  
23 Section 443.252(d) [~~21A.252(d)~~].

24 (y) Sections 21A.212(a), (b), and (c), Insurance Code,  
25 redesignated as Sections 443.212(a), (b), and (c), Insurance Code,  
26 respectively, by Subsection (a)(1)(E) of this section, are amended  
27 to conform to the additional changes made by Subsection (a)(1) of

1 this section to read as follows:

2 (a) An insured shall pay, either directly to the receiver or  
3 to any agent that has paid or is obligated to pay the receiver on  
4 behalf of the insured, any unpaid earned premium or retrospectively  
5 rated premium due the insurer based on the termination of coverage  
6 under Section 443.152 [~~21A.152~~]. Premium on surety business is  
7 deemed earned at inception if a policy term cannot be determined.  
8 All other premium is deemed earned and is prorated equally over the  
9 determined policy term, regardless of any provision in the bond,  
10 guaranty, contract or other agreement.

11 (b) Any person, other than the insured, shall turn over to  
12 the receiver any unpaid premium due and owing as shown on the  
13 records of the insurer, including any amount representing  
14 commissions, for the full policy term due the insurer at the time of  
15 the entry of the receivership order, whether earned or unearned,  
16 based on the termination of coverage under Section 443.152  
17 [~~21A.152~~]. The unpaid premium due the receiver from any person  
18 other than the insured excludes any premium not collected from the  
19 insured and not earned based on the termination of coverage under  
20 Section 443.152 [~~21A.152~~].

21 (c) Any person, other than the insured, responsible for the  
22 remittance of a premium, shall turn over to the receiver any  
23 unearned commission of the person based on the termination of  
24 coverage under Section 443.152 [~~21A.152~~]. Credits, setoffs, or  
25 both may not be allowed to an agent, broker, premium finance  
26 company, or any other person for any amounts advanced to the insurer  
27 by the person on behalf of, but in the absence of a payment by, the

1 insured, or for any other amount paid by the person to any other  
2 person after the entry of the order of receivership.

3 (z) Sections 21A.213(h) and (i), Insurance Code,  
4 redesignated as Sections 443.213(h) and (i), Insurance Code,  
5 respectively, by Subsection (a)(1)(E) of this section, are amended  
6 to conform to the additional changes made by Subsection (a)(1) of  
7 this section to read as follows:

8 (h) To the extent a guaranty association is required by  
9 applicable law to pay any claims for which the insurer would have  
10 been entitled to reimbursement from the policyholder, the following  
11 provisions apply:

12 (1) The receiver shall promptly invoice the  
13 policyholder for the reimbursement due under the agreement, and the  
14 policyholder is obligated to pay the amount invoiced to the  
15 receiver for the benefit of the guaranty associations that paid the  
16 claims. Neither the insolvency of the insurer nor the insurer's  
17 inability to perform any obligations under the deductible agreement  
18 is a defense to the policyholder's reimbursement obligation under  
19 the deductible agreement. At the time the policyholder  
20 reimbursements are collected, the receiver shall promptly forward  
21 those amounts to the guaranty association, based on the claims paid  
22 by the guaranty association that were subject to the deductible.

23 (2) If the collateral is insufficient to reimburse the  
24 guaranty association for claims paid within the deductible, the  
25 receiver shall use any existing collateral to make a partial  
26 reimbursement to the guaranty association, subject to any  
27 allocation under Subsection (d), (e), or (f). If more than one

1 guaranty association has a claim against the same collateral, the  
2 receiver shall prorate payments to each guaranty association based  
3 on the amount of the claims each guaranty association has paid.

4 (3) The receiver is entitled to deduct from  
5 reimbursements owed to a guaranty association or collateral to be  
6 returned to a policyholder reasonable actual expenses incurred in  
7 fulfilling the receiver's responsibilities under this section.  
8 Expenses incurred to collect reimbursements for the benefit of a  
9 guaranty association are subject to the approval of the guaranty  
10 association. Any remaining expenses that are not deducted from the  
11 reimbursements are payable subject to Section 443.015 [~~21A.015~~].

12 (4) The receiver shall provide any affected guaranty  
13 associations with a complete accounting of the receiver's  
14 deductible billing and collection activities on a quarterly basis,  
15 or at other intervals as may be agreed to between the receiver and  
16 the guaranty associations. Accountings under this subdivision must  
17 include copies of the policyholder billings, the reimbursements  
18 collected, the available amounts and use of collateral for each  
19 account, and any prorating of payments.

20 (5) If the receiver fails to make a good faith effort  
21 to collect reimbursements due from a policyholder under a  
22 deductible agreement within 120 days of receipt of claims payment  
23 reports from a guaranty association, the guaranty association may,  
24 after notice to the receiver, collect the reimbursements that are  
25 due, and, in so doing, the guaranty association shall have the same  
26 rights and remedies as the receiver. A guaranty association shall  
27 report any amounts collected under this subdivision and expenses



1 incurred in collecting those amounts to the receiver.

2 (6) The receiver shall periodically adjust the  
3 collateral held as the claims subject to the deductible agreement  
4 are paid, provided that adequate collateral is maintained. The  
5 receiver is not required to adjust the collateral more than once a  
6 year. The receiver shall inform the guaranty associations of all  
7 collateral reviews, including the basis for the adjustment.

8 (7) Reimbursements received or collected by a guaranty  
9 association under this section may not be considered a distribution  
10 of the insurer's assets. A guaranty association shall provide the  
11 receiver with an accounting of any amounts it has received or  
12 collected under this section and any expenses incurred in  
13 connection with that receipt or collection. The amounts received,  
14 net of any expenses incurred in connection with collection of the  
15 amounts, must be set off against the guaranty association's claim  
16 filed under Section 443.251 [~~21A.251~~] for the payments that were  
17 reimbursed.

18 (8) To the extent that a guaranty association pays a  
19 claim within the deductible amount that is not reimbursed by either  
20 the receiver or by policyholder payments, the guaranty association  
21 has a claim for those amounts in the delinquency proceeding in  
22 accordance with Section 443.251 [~~21A.251~~].

23 (9) Nothing in this section limits any rights of a  
24 guaranty association under applicable law to obtain reimbursement  
25 for claims payments made by the guaranty association under policies  
26 of the insurer or for the association's related expenses.

27 (i) If a claim that is subject to a deductible agreement and

1 secured by collateral is not covered by any guaranty association,  
2 the following provisions apply:

3 (1) The receiver is entitled to retain as an asset of  
4 the estate any collateral or deductible reimbursements obtained by  
5 the receiver.

6 (2) If a policyholder fails to assume an obligation  
7 under a deductible agreement to pay a claim, the receiver shall use  
8 the collateral to adjust and pay the claim to the extent that the  
9 available collateral, after any allocation under Subsection (d),  
10 (e), or (f), is sufficient to pay all outstanding and anticipated  
11 claims within the deductible. If the collateral is exhausted and  
12 all reasonable means of collection against the insured have been  
13 exhausted, the remaining claims shall be subject to the provisions  
14 of Sections 443.251 and 443.301 [~~21A.251 and 21A.301~~].

15 (3) The receiver is entitled to deduct from collateral  
16 reasonable actual expenses incurred in fulfilling the receiver's  
17 responsibilities under this section. Any remaining expenses that  
18 are not deducted from the reimbursements are payable subject to  
19 Section 443.015 [~~21A.015~~].

20 (aa) Sections 21A.251(a) and (b), Insurance Code,  
21 redesignated as Sections 443.251(a) and (b), Insurance Code,  
22 respectively, by Subsection (a)(1)(F) of this section, are amended  
23 to conform to the additional changes made by Subsection (a)(1) of  
24 this section to read as follows:

25 (a) Except as provided by this subsection, proof of all  
26 claims must be filed with the liquidator in the form required by  
27 Section 443.252 [~~21A.252~~] on or before the last day for filing

1 specified in the notice required under Section 443.155 [~~21A.155~~],  
2 which date may not be later than 18 months after entry of the order  
3 of liquidation, unless the receivership court, for good cause  
4 shown, extends the time, except that proofs of claims for cash  
5 surrender values or other investment values in life insurance and  
6 annuities and for any other policies insuring the lives of persons  
7 need not be filed unless the liquidator expressly so requires. The  
8 receivership court, only upon application of the liquidator, may  
9 allow alternative procedures and requirements for the filing of  
10 proofs of claim or for allowing or proving claims. Upon  
11 application, if the receivership court dispenses with the  
12 requirements of filing a proof of claim by a person or a class or  
13 group of persons, a proof of claim for the person, class, or group  
14 is deemed to have been filed for all purposes, except that the  
15 receivership court's waiver of proof of claim requirements does not  
16 impact guaranty association proof of claim filing requirements or  
17 coverage determinations to the extent the guaranty fund statute or  
18 filing requirements are inconsistent with the receivership court's  
19 waiver of proof.

20 (b) The liquidator shall permit a claimant that makes a late  
21 filing to share ratably in distributions, whether past or future,  
22 as if the claim were not filed late, to the extent that the payment  
23 will not prejudice the orderly administration of the liquidation,  
24 under the following circumstances:

25 (1) the eligibility to file a proof of claim was not  
26 known to the claimant, and the claimant filed a proof of claim not  
27 later than the 90th day after the date of first learning of the

1 eligibility;

2 (2) a transfer to a creditor was avoided under Section  
3 443.202, 443.203, 443.204, or 443.206 [~~21A.202, 21A.203, 21A.204,~~  
4 ~~or 21A.206~~], or was voluntarily surrendered under Section 443.208  
5 [~~21A.208~~], and the filing satisfies the conditions of Section  
6 443.208 [~~21A.208~~]; or

7 (3) the valuation under Section 443.260 [~~21A.260~~], of  
8 security held by a secured creditor shows a deficiency, and the  
9 claim for the deficiency is filed not later than the 30th day after  
10 the valuation.

11 (bb) Sections 21A.253(b), (d), (i), and (k), Insurance  
12 Code, redesignated as Sections 443.253(b), (d), (i), and (k),  
13 Insurance Code, respectively, by Subsection (a)(1)(F) of this  
14 section, are amended to conform to the additional changes made by  
15 Subsection (a)(1) of this section to read as follows:

16 (b) Pursuant to the review, the liquidator shall provide  
17 written notice of the claim determination by any means authorized  
18 by Section 443.007 [~~21A.007~~] to the claimant or the claimant's  
19 attorney and may provide notice to any reinsurer that is or may be  
20 liable in respect of the claim. The notice must set forth the  
21 amount of the claim allowed by the liquidator, if any, and the  
22 priority class of the claim as established in Section 443.301  
23 [~~21A.301~~].

24 (d) A claim that has not become mature as of the coverage  
25 termination date established under Section 443.201 [~~21A.201~~]  
26 because payment on the claim is not yet due may be allowed as if it  
27 were mature. A claim that is allowed under this subsection may be

1 discounted to present value based upon a reasonable estimated date  
2 of the payment, if the liquidator determines that the present value  
3 of the payment is materially less than the amount of the payment.

4 (i) A claim that does not contain all the applicable  
5 information required by Section 443.252 [~~21A.252~~] need not be  
6 further reviewed or adjudicated, and may be denied or disallowed by  
7 the liquidator subject to the notice and objection procedures in  
8 this section.

9 (k) The liquidator is not required to process claims for any  
10 class until it appears reasonably likely that property will be  
11 available for a distribution to that class. If there are  
12 insufficient assets to justify processing all claims for any class  
13 listed in Section 443.301 [~~21A.301~~], the liquidator shall report  
14 the facts to the receivership court and make such recommendations  
15 as may be appropriate for handling the remainder of the claims.

16 (cc) Section 21A.254, Insurance Code, redesignated as  
17 Section 443.254, Insurance Code, by Subsection (a)(1)(F) of this  
18 section, is amended to conform to the additional changes made by  
19 Subsection (a)(1) of this section to read as follows:

20 Sec. 443.254 [~~21A.254~~]. CLAIMS UNDER OCCURRENCE POLICIES,  
21 SURETY BONDS, AND SURETY UNDERTAKINGS. (a) Subject to the  
22 provisions of Section 443.253 [~~21A.253~~], any insured has the right  
23 to file a claim for the protection afforded under the insured's  
24 policy, regardless of whether a claim is known at the time of  
25 filing, if the policy is an occurrence policy.

26 (b) Subject to the provisions of Section 443.253 [~~21A.253~~],  
27 an obligee under a surety bond or surety undertaking has the right

1 to file a claim for the protection afforded under the surety bond or  
2 surety undertaking issued by the insurer under which the obligee is  
3 the beneficiary, regardless of whether a claim is known at the time  
4 of filing.

5 (c) After a claim is filed under Subsection (a) or (b), at  
6 the time that a specific claim is made by or against the insured or  
7 by the obligee, the insured or the obligee shall supplement the  
8 claim, and the receiver shall treat the claim as a contingent or  
9 unliquidated claim under Section 443.255 [~~21A.255~~].

10 (dd) Sections 21A.255(a) and (c), Insurance Code,  
11 redesignated as Sections 443.255(a) and (c), Insurance Code,  
12 respectively, by Subsection (a)(1)(F) of this section, are amended  
13 to conform to the additional changes made by Subsection (a)(1) of  
14 this section to read as follows:

15 (a) A claim of an insured or third party may be allowed under  
16 Section 443.253 [~~21A.253~~], regardless of the fact that the claim  
17 was contingent or unliquidated, if any contingency is removed in  
18 accordance with Subsection (b) and the value of the claim is  
19 determined. For purposes of this section, a claim is contingent if:

20 (1) the accident, casualty, disaster, loss, event, or  
21 occurrence insured, reinsured, or bonded or reinsured against  
22 occurred on or before the date fixed under Section 443.151  
23 [~~21A.151~~]; and

24 (2) the act or event triggering the insurer's  
25 obligation to pay has not occurred as of the date fixed under  
26 Section 443.151 [~~21A.151~~].

27 (c) The liquidator may petition the receivership court to

1 set a date before which all claims under this section are final. In  
2 addition to the notice requirements of Section 443.007 [~~21A.007~~],  
3 the liquidator shall give notice of the filing of the petition to  
4 all claimants with claims that remain contingent or unliquidated  
5 under this section.

6 (ee) Section 21A.256(c), Insurance Code, redesignated as  
7 Section 443.256(c), Insurance Code, by Subsection (a)(1)(F) of this  
8 section, is amended to conform to the additional changes made by  
9 Subsection (a)(1) of this section to read as follows:

10 (c) The liquidator may make recommendations to the  
11 receivership court for the allowance of an insured's claim after  
12 consideration of the probable outcome of any pending action against  
13 the insured on which the claim is based, the probable damages  
14 recoverable in the action, and the probable costs and expenses of  
15 defense. After allowance by the receivership court, the liquidator  
16 shall withhold any distribution payable on the claim, pending the  
17 outcome of litigation and negotiation between the insured and the  
18 third party. The liquidator may reconsider the claim as provided in  
19 Section 443.253(j) [~~21A.253(j)~~]. As claims against the insured are  
20 settled or barred, the insured or third party, as appropriate,  
21 shall be paid from the amount withheld the same percentage  
22 distribution as was paid on other claims of like priority, based on  
23 the lesser of the amount actually due from the insured by action or  
24 paid by agreement plus the reasonable costs and expense of defense,  
25 or the amount allowed on the claims by the receivership court.  
26 After all claims are settled or barred, any sum remaining from the  
27 amount withheld shall revert to the undistributed property of the

1 insurer.

2 (ff) Section 21A.257(a), Insurance Code, redesignated as  
3 Section 443.257(a), Insurance Code, by Subsection (a)(1)(F) of this  
4 section, is amended to conform to the additional changes made by  
5 Subsection (a)(1) of this section to read as follows:

6 (a) When objections to the liquidator's proposed treatment  
7 of a claim are filed and the liquidator does not alter the  
8 determination of the claim as a result of the objections, the  
9 liquidator shall ask the receivership court for a hearing pursuant  
10 to Section 443.007 [~~21A.007~~].

11 (gg) Section 21A.258, Insurance Code, redesignated as  
12 Section 443.258, Insurance Code, by Subsection (a)(1)(F) of this  
13 section, is amended to conform to the additional changes made by  
14 Subsection (a)(1) of this section to read as follows:

15 Sec. 443.258 [~~21A.258~~]. LIQUIDATOR'S RECOMMENDATIONS TO  
16 RECEIVERSHIP COURT. The liquidator shall present to the  
17 receivership court, for approval, reports of claims settled or  
18 determined by the liquidator under Section 443.253 [~~21A.253~~]. The  
19 reports must be presented from time to time as determined by the  
20 liquidator and must include information identifying the claim and  
21 the amount and priority class of the claim.

22 (hh) Sections 21A.260(e) and (g), Insurance Code,  
23 redesignated as Sections 443.260(e) and (g), Insurance Code,  
24 respectively, by Subsection (a)(1)(F) of this section, are amended  
25 to conform to the additional changes made by Subsection (a)(1) of  
26 this section to read as follows:

27 (e) If collateral is insufficient to satisfy in full all



1 potential claims against it under Subsections (c) and (g), the  
2 claims against the collateral must be paid on a pro rata basis, and  
3 an obligee or completion contractor under Subsection (c) has a  
4 claim, subject to allowance under Section 443.253 [~~21A.253~~], for  
5 any deficiency.

6 (g) To the extent that a guaranty association has made a  
7 payment relating to a claim against a surety bond, the guaranty  
8 association shall first be reimbursed for that payment and related  
9 expenses out of the available collateral or proceeds related to the  
10 surety bond. To the extent that the collateral is sufficient, the  
11 guaranty association shall be reimbursed 100 percent of its  
12 payment. If the collateral is insufficient to satisfy in full all  
13 potential claims against the collateral under Subsection (c) and  
14 this subsection, a guaranty association that has paid claims on the  
15 surety bond is entitled to a pro rata share of the available  
16 collateral in accordance with Subsection (e), and the guaranty  
17 association has claims against the general assets of the estate in  
18 accordance with Section 443.253 [~~21A.253~~] for any deficiency. Any  
19 payment made to a guaranty association under this subsection from  
20 collateral may not be deemed early access or otherwise deemed a  
21 distribution out of the general assets or property of the estate,  
22 and the guaranty association receiving payment shall subtract any  
23 payment from the collateral from the association's final claims  
24 against the estate.

25 (ii) Sections 21A.261(a) and (e), Insurance Code,  
26 redesignated as Sections 443.261(a) and (e), Insurance Code,  
27 respectively, by Subsection (a)(1)(F) of this section, are amended

1 to conform to the additional changes made by Subsection (a)(1) of  
2 this section to read as follows:

3 (a) Notwithstanding any other provision of this chapter,  
4 including any other provision of this chapter permitting the  
5 modification of contracts, or other law of this state, a person may  
6 not be stayed or prohibited from exercising:

7 (1) a contractual right to terminate, liquidate, or  
8 close out any netting agreement or qualified financial contract  
9 with an insurer because of:

10 (A) the insolvency, financial condition, or  
11 default of the insurer at any time, provided that the right is  
12 enforceable under applicable law other than this chapter; or

13 (B) the commencement of a formal delinquency  
14 proceeding under this chapter;

15 (2) any right under a pledge, security, collateral, or  
16 guarantee agreement, or any other similar security arrangement or  
17 credit support document, relating to a netting agreement or  
18 qualified financial contract; or

19 (3) subject to any provision of Section 443.209(b)  
20 [~~21A.209(b)~~], any right to set off or net out any termination value,  
21 payment amount, or other transfer obligation arising under or in  
22 connection with a netting agreement or qualified financial contract  
23 where the counterparty or its guarantor is organized under the laws  
24 of the United States or a state or foreign jurisdiction approved by  
25 the Securities Valuation Office of the National Association of  
26 Insurance Commissioners as eligible for netting.

27 (e) Notwithstanding any other provision of this chapter, a

1 receiver may not avoid a transfer of money or other property arising  
2 under or in connection with a netting agreement or qualified  
3 financial contract, or any pledge, security, or collateral or  
4 guarantee agreement or any other similar security arrangement or  
5 credit support document relating to a netting agreement or  
6 qualified financial contract, that is made before the commencement  
7 of a formal delinquency proceeding under this chapter. However, a  
8 transfer may be avoided under Section 443.205(a) [~~21A.205(a)~~] if  
9 the transfer was made with actual intent to hinder, delay, or  
10 defraud the insurer, a receiver appointed for the insurer, or  
11 existing or future creditors.

12 (jj) Section 21A.301, Insurance Code, redesignated as  
13 Section 443.301, Insurance Code, by Subsection (a)(1)(G) of this  
14 section, is amended to conform to the additional changes made by  
15 Subsection (a)(1) of this section and to the recodification and  
16 repeal of Section 2(3), Article 21.28-C, and Section 12, Article  
17 21.28-D, Insurance Code, by Chapter 727, Acts of the 79th  
18 Legislature, Regular Session, 2005, to read as follows:

19 Sec. 443.301 [~~21A.301~~]. PRIORITY OF DISTRIBUTION. The  
20 priority of payment of distributions on unsecured claims must be in  
21 accordance with the order in which each class of claims is set forth  
22 in this section. Every claim in each class shall be paid in full, or  
23 adequate funds retained for their payment, before the members of  
24 the next class receive payment, and all claims within a class must  
25 be paid substantially the same percentage of the amount of the  
26 claim. Except as provided by Subsections (a)(2), (a)(3), (i), and  
27 (k), subclasses may not be established within a class. No claim by

1 a shareholder, policyholder, or other creditor shall be permitted  
2 to circumvent the priority classes through the use of equitable  
3 remedies. The order of distribution of claims shall be:

4 (a) Class 1. (1) The costs and expenses of administration  
5 expressly approved or ratified by the liquidator, including the  
6 following:

7 (A) the actual and necessary costs of preserving  
8 or recovering the property of the insurer;

9 (B) reasonable compensation for all services  
10 rendered on behalf of the administrative supervisor or receiver;

11 (C) any necessary filing fees;

12 (D) the fees and mileage payable to witnesses;

13 (E) unsecured loans obtained by the receiver; and

14 (F) expenses, if any, approved by the  
15 rehabilitator of the insurer and incurred in the course of the  
16 rehabilitation that are unpaid at the time of the entry of the order  
17 of liquidation.

18 (2) The reasonable expenses of a guaranty association,  
19 including overhead, salaries and other general administrative  
20 expenses allocable to the receivership to include administrative  
21 and claims handling expenses and expenses in connection with  
22 arrangements for ongoing coverage, other than expenses incurred in  
23 the performance of duties under Section 462.002(3), 463.108,  
24 463.111, 463.113, 463.353, or 2602.113~~[, Section 2(3) of Article~~  
25 ~~21.28-C, and Section 12 of Article 21.28-D]~~ or similar duties under  
26 the statute governing a similar organization in another state. In  
27 the case of the Texas Property and Casualty Insurance Guaranty

1 Association and other property and casualty guaranty associations,  
2 the expenses shall include loss adjustment expenses, including  
3 adjusting and other expenses and defense and cost containment  
4 expenses. In the event that there are insufficient assets to pay  
5 all of the costs and expenses of administration under Subsection  
6 (a)(1) and the expenses of a guaranty association, the costs and  
7 expenses under Subsection (a)(1) shall have priority over the  
8 expenses of a guaranty association. In this event, the expenses of  
9 a guaranty association shall be paid on a pro rata basis after the  
10 payment of costs and expenses under Subsection (a)(1) in full.

11 (3) For purposes of Subsection (a)(1)(E), any  
12 unsecured loan obtained by the receiver, unless by its terms it  
13 otherwise provides, has priority over all other costs of  
14 administration. Absent agreement to the contrary, all claims in  
15 this subclass share pro rata.

16 (4) Except as expressly approved by the receiver, any  
17 expenses arising from a duty to indemnify the directors, officers,  
18 or employees of the insurer are excluded from this class and, if  
19 allowed, are Class 5 claims.

20 (b) Class 2. All claims under policies of insurance,  
21 including third-party claims, claims under nonassessable policies  
22 for unearned premium, claims of obligees and, subject to the  
23 discretion of the receiver, completion contractors under surety  
24 bonds and surety undertakings other than bail bonds, mortgage or  
25 financial guaranties, or other forms of insurance offering  
26 protection against investment risk, claims by principals under  
27 surety bonds and surety undertakings for wrongful dissipation of

1 collateral by the insurer or its agents, and claims incurred during  
2 the extension of coverage provided for in Section 443.152  
3 [~~21A.152~~]. All other claims incurred in fulfilling the statutory  
4 obligations of a guaranty association not included in Class 1,  
5 including indemnity payments on covered claims and, in the case of  
6 the Life, Accident, Health, and Hospital Service Insurance Guaranty  
7 Association or another life and health guaranty association, all  
8 claims as a creditor of the impaired or insolvent insurer for all  
9 payments of and liabilities incurred on behalf of covered claims or  
10 covered obligations of the insurer and for the funds needed to  
11 reinsure those obligations with a solvent insurer. Notwithstanding  
12 any provision of this chapter, the following claims are excluded  
13 from Class 2 priority:

14 (1) obligations of the insolvent insurer arising out  
15 of reinsurance contracts;

16 (2) obligations, excluding unearned premium claims on  
17 policies other than reinsurance agreements, incurred after:

18 (A) the expiration date of the insurance policy;

19 (B) the policy has been replaced by the insured  
20 or canceled at the insured's request; or

21 (C) the policy has been canceled as provided by  
22 this chapter;

23 (3) obligations to insurers, insurance pools, or  
24 underwriting associations and their claims for contribution,  
25 indemnity, or subrogation, equitable or otherwise;

26 (4) any claim that is in excess of any applicable  
27 limits provided in the insurance policy issued by the insurer;

1           (5) any amount accrued as punitive or exemplary  
2 damages unless expressly covered under the terms of the policy;

3           (6) tort claims of any kind against the insurer and  
4 claims against the insurer for bad faith or wrongful settlement  
5 practices; and

6           (7) claims of the guaranty associations for  
7 assessments not paid by the insurer, which must be paid as claims in  
8 Class 5.

9           (c) Class 3. Claims of the federal government not included  
10 in Class 3.

11           (d) Class 4. Debts due employees for services or benefits  
12 to the extent that the debts do not exceed \$5,000 or two months  
13 salary, whichever is the lesser, and represent payment for services  
14 performed within one year before the entry of the initial order of  
15 receivership. This priority is in lieu of any other similar  
16 priority that may be authorized by law as to wages or compensation  
17 of employees.

18           (e) Class 5. Claims of other unsecured creditors not  
19 included in Classes 1 through 4, including claims under reinsurance  
20 contracts, claims of guaranty associations for assessments not paid  
21 by the insurer, and other claims excluded from Class 2.

22           (f) Class 6. Claims of any state or local governments,  
23 except those specifically classified elsewhere in this section.  
24 Claims of attorneys for fees and expenses owed them by an insurer  
25 for services rendered in opposing a formal delinquency proceeding.  
26 In order to prove the claim, the claimant must show that the insurer  
27 that is the subject of the delinquency proceeding incurred the fees

1 and expenses based on its best knowledge, information, and belief,  
2 formed after reasonable inquiry, indicating opposition was in the  
3 best interests of the insurer, was well grounded in fact, and was  
4 warranted by existing law or a good faith argument for the  
5 extension, modification, or reversal of existing law, and that  
6 opposition was not pursued for any improper purpose, such as to  
7 harass or to cause unnecessary delay or needless increase in the  
8 cost of the litigation.

9 (g) Class 7. Claims of any state or local government for a  
10 penalty or forfeiture, but only to the extent of the pecuniary loss  
11 sustained from the act, transaction, or proceeding out of which the  
12 penalty or forfeiture arose, with reasonable and actual costs  
13 occasioned thereby. The balance of the claims must be treated as  
14 Class 9 claims under Subsection (i).

15 (h) Class 8. Except as provided in Sections 443.251(b)  
16 [~~21A.251(b)~~] and (d), late filed claims that would otherwise be  
17 classified in Classes 2 through 7.

18 (i) Class 9. Surplus notes, capital notes or contribution  
19 notes or similar obligations, premium refunds on assessable  
20 policies, and any other claims specifically assigned to this class.  
21 Claims in this class are subject to any subordination agreements  
22 related to other claims in this class that existed before the entry  
23 of the liquidation order.

24 (j) Class 10. Interest on allowed claims of Classes 1  
25 through 9, according to the terms of a plan proposed by the  
26 liquidator and approved by the receivership court.

27 (k) Class 11. Claims of shareholders or other owners



1 arising out of their capacity as shareholders or other owners, or  
2 any other capacity, except as they may be qualified in Class 2, 5,  
3 or 10. Claims in this class are subject to any subordination  
4 agreements related to other claims in this class that existed  
5 before the entry of the liquidation order.

6 (kk) Section 21A.302(f), Insurance Code, redesignated as  
7 Section 443.302(f), Insurance Code, by Subsection (a)(1)(G) of this  
8 section, is amended to conform to the additional changes made by  
9 Subsection (a)(1) of this section to read as follows:

10 (f) Any claim payments made under Subsection (d) and any  
11 related expenses must be treated as early access payments under  
12 Section 443.303 [~~21A.303~~] to the guaranty association responsible  
13 for the claims.

14 (ll) Sections 21A.303(a), (b), (c), (e), (f), and (g),  
15 Insurance Code, redesignated as Sections 443.303(a), (b), (c), (e),  
16 (f), and (g), Insurance Code, respectively, by Subsection (a)(1)(G)  
17 of this section, are amended to conform to the additional changes  
18 made by Subsection (a)(1) of this section to read as follows:

19 (a) For purposes of this section, "distributable assets"  
20 means all general assets of the liquidation estate less:

21 (1) amounts reserved, to the extent necessary and  
22 appropriate, for the entire Section 443.301(a) [~~21A.301(a)~~]  
23 expenses of the liquidation through and after its closure; and

24 (2) to the extent necessary and appropriate, reserves  
25 for distributions on claims other than those of the guaranty  
26 associations falling within the priority classes of claims  
27 established in Section 443.301(c) [~~21A.301(c)~~].

1           (b) Early access payments to guaranty associations must be  
2 made as soon as possible after the entry of a liquidation order and  
3 as frequently as possible after the entry of the order, but at least  
4 annually if distributable assets are available to be distributed to  
5 the guaranty associations, and must be in amounts consistent with  
6 this section. Amounts advanced to an affected guaranty association  
7 pursuant to this section shall be accounted for as advances against  
8 distributions to be made under Section 443.302 [~~21A.302~~]. Where  
9 sufficient distributable assets are available, amounts advanced  
10 are not limited to the claims and expenses paid to date by the  
11 guaranty associations; however, the liquidator may not distribute  
12 distributable assets to the guaranty associations in excess of the  
13 anticipated entire claims of the guaranty associations falling  
14 within the priority classes of claims established in Sections  
15 443.301(b) [~~21A.301(b)~~] and (c).

16           (c) Within 120 days after the entry of an order of  
17 liquidation by the receivership court, and at least annually after  
18 the entry of the order, the liquidator shall apply to the  
19 receivership court for approval to make early access payments out  
20 of the general assets of the insurer to any guaranty associations  
21 having obligations arising in connection with the liquidation or  
22 shall report that there are no distributable assets at that time  
23 based on financial reporting as required in Section 443.016  
24 [~~21A.016~~]. The liquidator may apply to the receivership court for  
25 approval to make early access payments more frequently than  
26 annually based on additional information or the recovery of  
27 material assets.

1 (e) Notice of each application for early access payments, or  
2 of any report required pursuant to this section, must be given in  
3 accordance with Section 443.007 [~~21A.007~~] to the guaranty  
4 associations that may have obligations arising from the  
5 liquidation. Notwithstanding the provisions of Section 443.007  
6 [~~21A.007~~], the liquidator shall provide these guaranty  
7 associations with at least 30 days' actual notice of the filing of  
8 the application and with a complete copy of the application prior to  
9 any action by the receivership court. Any guaranty association  
10 that may have obligations arising in connection with the  
11 liquidation has:

12 (1) the right to request additional information from  
13 the liquidator, who may not unreasonably deny such request; and

14 (2) the right to object as provided by Section 443.007  
15 [~~21A.007~~] to any part of each application or to any report filed by  
16 the liquidator pursuant to this section.

17 (f) In each application regarding early access payments,  
18 the liquidator shall, based on the best information available to  
19 the liquidator at the time, provide, at a minimum, the following:

20 (1) to the extent necessary and appropriate, the  
21 amount reserved for the entire expenses of the liquidation through  
22 and after its closure and for distributions on claims falling  
23 within the priority classes of claims established in Sections  
24 443.301(b) [~~21A.301(b)~~] and (c);

25 (2) the computation of distributable assets and the  
26 amount and method of equitable allocation of early access payments  
27 to each of the guaranty associations; and

1           (3) the most recent financial information filed with  
2 the National Association of Insurance Commissioners by the  
3 liquidator.

4           (g) Each guaranty association that receives any payments  
5 pursuant to this section agrees, upon depositing the payment in any  
6 account to its benefit, to return to the liquidator any amount of  
7 these payments that may be required to pay claims of secured  
8 creditors and claims falling within the priority classes of claims  
9 established in Section 443.301(a) [~~21A.301(a)~~], (b), or (c). No  
10 bond may be required of any guaranty association.

11           (mm) Sections 21A.304(a), (b), and (d), Insurance Code,  
12 redesignated as Sections 443.304(a), (b), and (d), Insurance Code,  
13 respectively, by Subsection (a)(1)(G) of this section, are amended  
14 to conform to the additional changes made by Subsection (a)(1) of  
15 this section to read as follows:

16           (a) If any funds of the receivership estate remain unclaimed  
17 after the final distribution under Section 443.302 [~~21A.302~~], the  
18 funds must be placed in a segregated unclaimed funds account held by  
19 the commissioner. If the owner of any of the unclaimed funds  
20 presents proof of ownership satisfactory to the commissioner before  
21 the second anniversary of the date of the termination of the  
22 delinquency proceeding, the commissioner shall remit the funds to  
23 the owner. The interest earned on funds held in the unclaimed funds  
24 account may be used to pay any administrative costs related to the  
25 handling or return of unclaimed funds.

26           (b) If any amounts held in the unclaimed funds account  
27 remain unclaimed on or after the second anniversary of the date of

1 the termination of the delinquency proceeding, the commissioner may  
2 file a motion for an order directing the disposition of the funds in  
3 the court in which the delinquency proceeding was pending. Any  
4 costs incurred in connection with the motion may be paid from the  
5 unclaimed funds account. The motion shall identify the name of the  
6 insurer, the names and last known addresses of the persons entitled  
7 to the unclaimed funds, if known, and the amount of the funds.  
8 Notice of the motion shall be given as directed by the court. Upon a  
9 finding by the court that the funds have not been claimed before the  
10 second anniversary of the date of the termination of the  
11 delinquency proceeding, the court shall order that any claims for  
12 unclaimed funds and any interest earned on the unclaimed funds that  
13 has not been expended under Subsection (a) are abandoned and that  
14 the funds must be disbursed under one of the following methods:

15 (1) the amounts may be deposited in the general  
16 receivership expense account under Subsection (c);

17 (2) the amounts may be transferred to the comptroller,  
18 and deposited into the general revenue fund; or

19 (3) the amounts may be used to reopen the receivership  
20 in accordance with Section 443.353 [~~21A.353~~] and be distributed to  
21 the known claimants with approved claims.

22 (d) Any advance to a receivership under Subsection (c)(2)  
23 may be treated as a claim under Section 443.301 [~~21A.301~~] as agreed  
24 at the time the advance is made or, in the absence of an agreement,  
25 in the priority determined to be appropriate by the court.

26 (nn) Section 21A.352, Insurance Code, redesignated as  
27 Section 443.352, Insurance Code, by Subsection (a)(1)(H) of this

1 section, is amended to conform to the additional changes made by  
2 Subsection (a)(1) of this section to read as follows:

3 Sec. 443.352 [~~21A.352~~]. TERMINATION OF LIQUIDATION  
4 PROCEEDINGS. When all property justifying the expense of  
5 collection and distribution has been collected and distributed  
6 under this chapter, the liquidator shall apply to the receivership  
7 court for an order discharging the liquidator and terminating the  
8 proceeding. The receivership court may grant the application and  
9 make any other orders, including orders to transfer any remaining  
10 funds that are uneconomic to distribute, or pursuant to Section  
11 443.302(c) [~~21A.302(c)~~], assign any assets that remain  
12 unliquidated, including claims and causes of action, as may be  
13 deemed appropriate.

14 (oo) Section 21A.354(b), Insurance Code, redesignated as  
15 Section 443.354(b), Insurance Code, by Subsection (a)(1)(H) of this  
16 section, is amended to conform to the additional changes made by  
17 Subsection (a)(1) of this section to read as follows:

18 (b) If the receiver determines that any records should be  
19 maintained after the closing of the delinquency proceeding, the  
20 receiver may reserve property from the receivership estate for the  
21 maintenance of the records, and any amounts so retained are  
22 administrative expenses of the estate under Section 443.301(a)  
23 [~~21A.301(a)~~]. Any records retained pursuant to this subsection  
24 must be transferred to the custody of the commissioner, and the  
25 commissioner may retain or dispose of the records as appropriate,  
26 at the commissioner's discretion. Any records of a delinquent  
27 insurer that are transferred to the commissioner may not be

1 considered records of the department for any purposes, and Chapter  
2 552, Government Code, does not apply to those records.

3 (pp) Sections 21A.401(a) and (d), Insurance Code,  
4 redesignated as Sections 443.401(a) and (d), Insurance Code,  
5 respectively, by Subsection (a)(1)(I) of this section, are amended  
6 to conform to the changes made by Subsection (a)(1) of this section  
7 and to the recodification and repeal of Section 17, Article  
8 21.28-C, and Section 18, Article 21.28-D, Insurance Code, by  
9 Chapter 727, Acts of the 79th Legislature, Regular Session, 2005,  
10 to read as follows:

11 (a) The commissioner may initiate an action against a  
12 foreign insurer pursuant to Section 443.051 [~~21A.051~~] on any of the  
13 grounds stated in that section or on the basis that:

14 (1) any of the foreign insurer's property has been  
15 sequestered, garnished, or seized by official action in its  
16 domiciliary state or in any other state;

17 (2) the foreign insurer's certificate of authority to  
18 do business in this state has been revoked or was never issued and  
19 there are residents of this state with unpaid claims or in-force  
20 policies; or

21 (3) initiation of the action is necessary to enforce a  
22 stay under Section 462.309, 463.404, or [~~17, Article 21.28-C,~~  
23 ~~Section 18, Article 21.28-D, or Section~~] 2602.259.

24 (d) Notwithstanding Section 443.201(c) [~~21A.201(c)~~], the  
25 conservator shall hold and conserve the assets located in this  
26 state until the commissioner in the insurer's domiciliary state is  
27 appointed its receiver or until an order terminating conservation

1 is entered under Subsection (g). Once a domiciliary receiver is  
2 appointed, the conservator shall turn over to the domiciliary  
3 receiver all property subject to an order under this section.

4 (qq) Sections 21A.402(a) and (c), Insurance Code,  
5 redesignated as Sections 443.402(a) and (c), Insurance Code,  
6 respectively, by Subsection (a)(1)(I) of this section, are amended  
7 to conform to the additional changes made by Subsection (a)(1) of  
8 this section to read as follows:

9 (a) A domiciliary receiver appointed in another state is  
10 vested by operation of law with title to, and may summarily take  
11 possession of, all property and records of the insurer in this  
12 state. Notwithstanding any other provision of law regarding  
13 special deposits, special deposits held in this state shall be,  
14 upon the entry of an order of liquidation with a finding of  
15 insolvency, distributed to the guaranty associations in this state  
16 as early access payments subject to Section 443.303 [~~21A.303~~], in  
17 relation to the lines of business for which the special deposits  
18 were made. The holder of any special deposit shall account to the  
19 domiciliary receiver for all distributions from the special deposit  
20 at the time of the distribution. The statutory provisions of  
21 another state and all orders entered by courts of competent  
22 jurisdiction in relation to the appointment of a domiciliary  
23 receiver of an insurer and any related proceedings in another state  
24 must be given full faith and credit in this state. For purposes of  
25 this section, "another state" means any state other than this  
26 state. This state shall treat any other state than this state as a  
27 reciprocal state.



1           (c) Except as provided in Subsection (a), the domiciliary  
2 receiver shall handle special deposits and special deposit claims  
3 in accordance with federal law and the statutes pursuant to which  
4 the special deposits are required. All amounts in excess of the  
5 estimated amount necessary to administer the special deposit and  
6 pay the unpaid special deposit claims are deemed general assets of  
7 the estate. If there is a deficiency in any special deposit so that  
8 the claims secured by the special deposit are not fully discharged  
9 from the deposit, the claimants may share in the general assets of  
10 the insurer to the extent of the deficiency at the same priority as  
11 other claimants in their class of priority under Section 443.301  
12 [~~21A.301~~], but the sharing must be deferred until the other  
13 claimants of their class have been paid percentages of their claims  
14 equal to the percentage paid from the special deposit. The intent  
15 of this provision is to equalize to this extent the advantage gained  
16 by the security provided by the special deposits.

17           (rr) Section 442.801, Insurance Code, redesignated as  
18 Section 444.001, Insurance Code, by Subsection (a)(2) of this  
19 section, is amended to conform to the repeal of Article 21.28,  
20 Insurance Code, and the enactment of Chapter 21A, Insurance Code,  
21 by Chapter 995, Acts of the 79th Legislature, Regular Session,  
22 2005, and to the changes made by Subsection (a)(1) of this section  
23 to read as follows:

24           Sec. 444.001 [~~442.801~~]. REQUIRED CONTRACT PROVISION. An  
25 agency contract entered into on or after August 27, 1973, by an  
26 insurer writing fire and casualty insurance in this state must  
27 contain, or shall be construed to contain, the following provision:

1           Notwithstanding any other provision of this contract, the  
2 obligation of the agent to remit written premiums to the insurer  
3 shall be changed on the commencement of a delinquency proceeding as  
4 defined by Chapter 443 [~~442~~], Insurance Code, as amended. After the  
5 commencement of the delinquency proceeding, the obligation of the  
6 agent to remit premiums is limited to premiums earned before the  
7 cancellation date of insurance policies stated in the order of a  
8 court of competent jurisdiction under Chapter 443 [~~442~~], Insurance  
9 Code, canceling the policies. The agent does not owe and may not be  
10 required to remit to the insurer or to the receiver any premiums  
11 that are unearned as of the cancellation date stated in the order.

12           (ss) Section 442.803, Insurance Code, redesignated as  
13 Section 444.003, Insurance Code, by Subsection (a)(2) of this  
14 section, is amended to conform to the additional changes made by  
15 Subsection (a)(2) of this section to read as follows:

16           Sec. 444.003 [~~442.803~~]. EFFECT OF CHAPTER [~~SUBCHAPTER~~] ON  
17 ACTION BY RECEIVER AGAINST AGENT. This chapter [~~subchapter~~] does  
18 not prejudice a cause of action by the receiver against an agent to  
19 recover:

20           (1) unearned premiums that were not returned to  
21 policyholders; or

22           (2) earned premiums that were not promptly remitted to  
23 the receiver.

24           (tt) Section 442.804, Insurance Code, redesignated as  
25 Section 444.004, Insurance Code, by Subsection (a)(2) of this  
26 section, is amended to conform to the additional changes made by  
27 Subsection (a)(2) of this section to read as follows:

1           Sec. 444.004 [~~442.804~~]. AGENT NOT RECEIVER'S AGENT. This  
2 chapter [~~subchapter~~] does not render the agent an agent of the  
3 receiver for earned or unearned premiums.

4           SECTION 9.005. (a) Section 462.007(b), Insurance Code, is  
5 amended to conform to Section 2, Chapter 995, Acts of the 79th  
6 Legislature, Regular Session, 2005, to read as follows:

7           (b) Except as provided by Subchapter F, this chapter does  
8 not apply to:

- 9                   (1) life, annuity, health, or disability insurance;
- 10                   (2) mortgage guaranty, financial guaranty, or other  
11 kinds of insurance offering protection against investment risks;
- 12                   (3) a fidelity or surety bond, or any other bonding  
13 obligation;
- 14                   (4) credit insurance, vendors' single-interest  
15 insurance, collateral protection insurance, or similar insurance  
16 protecting a creditor's interest arising out of a creditor-debtor  
17 transaction;
- 18                   (5) insurance of warranties or service contracts;
- 19                   (6) title insurance;
- 20                   (7) ocean marine insurance;
- 21                   (8) a transaction or combination of transactions  
22 between a person, including an affiliate of the person, and an  
23 insurer, including an affiliate of the insurer, that involves the  
24 transfer of investment or credit risk unaccompanied by the transfer  
25 of insurance risk, including transactions, except for workers'  
26 compensation insurance, involving captive insurers, policies in  
27 which deductible or self-insured retention is substantially equal

1 in amount to the limit of the liability under the policy, and  
2 transactions in which the insured retains a substantial portion of  
3 the risk; or

4 (9) insurance provided by or guaranteed by government.

5 (b) Section 2, Chapter 995, Acts of the 79th Legislature,  
6 Regular Session, 2005, which amended former Subsection (a),  
7 Section 3, Article 21.28-C, Insurance Code, is repealed.

8 SECTION 9.006. (a) Section 462.207, Insurance Code, is  
9 amended to conform to Section 3, Chapter 995, Acts of the 79th  
10 Legislature, Regular Session, 2005, to read as follows:

11 Sec. 462.207. CLAIMS NOT COVERED: AMOUNTS DUE CERTAIN  
12 ENTITIES. (a) Any amount directly or indirectly due any  
13 reinsurer, insurer, self-insurer, insurance pool, or underwriting  
14 association, as a subrogation recovery, reinsurance recovery,  
15 contribution, or indemnification, or otherwise, is not a covered  
16 claim.

17 (b) An impaired insurer's insured is not liable, and the  
18 reinsurer, insurer, self-insurer, insurance pool, or underwriting  
19 association is not entitled to sue or continue a suit against the  
20 insured, for a subrogation recovery, reinsurance recovery,  
21 contribution, ~~or~~ indemnification, or any other claim asserted  
22 directly or indirectly by a reinsurer, insurer, insurance pool, or  
23 underwriting association to the extent of the applicable liability  
24 limits of the insurance policy written and issued to the insured by  
25 the insolvent insurer.

26 (b) Section 3, Chapter 995, Acts of the 79th Legislature,  
27 Regular Session, 2005, which amended former Subdivision (8),

1 Section 5, Article 21.28-C, Insurance Code, is repealed.

2 SECTION 9.007. (a) Section 462.211, Insurance Code, is  
3 amended to conform to Section 4, Chapter 995, Acts of the 79th  
4 Legislature, Regular Session, 2005, and Section 6.070, Chapter 265,  
5 Acts of the 79th Legislature, Regular Session, 2005, to read as  
6 follows:

7 Sec. 462.211. CLAIMS NOT COVERED: LATE FILED CLAIMS. (a)  
8 Notwithstanding any other provision of this chapter or any other  
9 law to the contrary, and subject to [~~except as provided by~~]  
10 Subsection (b), a claim that is filed with the association on a date  
11 that is later than 18 months after the date of the order of  
12 liquidation or that is unknown and unreported as of the date is not  
13 a covered claim.

14 (b) This section does not apply to a claim for workers'  
15 compensation benefits governed by Title 5, Labor Code, and the  
16 applicable rules of the commissioner of workers' compensation  
17 [~~Texas Workers' Compensation Commission~~].

18 (b) Subchapter C, Chapter 462, Insurance Code, is amended to  
19 conform to Section 4, Chapter 995, Acts of the 79th Legislature,  
20 Regular Session, 2005, by adding Section 462.1121 to read as  
21 follows:

22 Sec. 462.1121. ACTION TO OBTAIN INFORMATION CONCERNING  
23 INSURER IN RECEIVERSHIP AUTHORIZED. (a) The association may bring  
24 an action against any third-party administrator, agent, attorney,  
25 or other representative of an insurer for which a receiver has been  
26 appointed to obtain custody and control of all information,  
27 including files, records, and electronic data, related to the

1 insurer that is appropriate or necessary for the association, or a  
2 similar association in other states, to carry out its duties under  
3 this chapter or a similar law of another state. The association has  
4 the absolute right to obtain information under this section through  
5 emergency equitable relief, regardless of where the information is  
6 physically located.

7 (b) In bringing an action under this section, the  
8 association is not subject to any defense, possessory lien or other  
9 type of lien, or other legal or equitable ground for refusal to  
10 surrender the information that may be asserted against the receiver  
11 of the insurer.

12 (c) The association is entitled to an award of reasonable  
13 attorney's fees and costs incurred by the association in any action  
14 to obtain information under this section.

15 (d) The rights granted to the association under this section  
16 do not affect the receiver's title to information, and information  
17 obtained under this section remains the property of the receiver  
18 while in the custody of the association.

19 (c) The following are repealed:

20 (1) Section 4, Chapter 995, Acts of the 79th  
21 Legislature, Regular Session, 2005, which amended former Section 8,  
22 Article 21.28-C, Insurance Code, by amending Subsection (d) and  
23 adding Subsection (i); and

24 (2) Section 6.070, Chapter 265, Acts of the 79th  
25 Legislature, Regular Session, 2005, which amended former  
26 Subsection (d), Section 8, Article 21.28-C, Insurance Code.

27 SECTION 9.008. (a) Section 462.017(b), Insurance Code, is

1 amended to conform to Section 5, Chapter 995, Acts of the 79th  
2 Legislature, Regular Session, 2005, to read as follows:

3 (b) Venue in a suit by or against the commissioner or  
4 association relating to an action or ruling of the commissioner or  
5 association under this chapter is in Travis County. The  
6 commissioner or association is not required to give an appeal bond  
7 in an appeal of a cause of action arising under this chapter.

8 (b) Section 5, Chapter 995, Acts of the 79th Legislature,  
9 Regular Session, 2005, which amended former Subsection (g), Section  
10 10, Article 21.28-C, Insurance Code, is repealed.

11 SECTION 9.009. (a) Sections 462.308(a) and (c), Insurance  
12 Code, are amended to conform to Section 6, Chapter 995, Acts of the  
13 79th Legislature, Regular Session, 2005, to read as follows:

14 (a) The association is entitled to recover:

15 (1) the amount of a covered claim and the cost of  
16 defense paid on behalf of [~~under this chapter from the person on~~  
17 ~~whose behalf the payment was made if the person is:~~

18 [~~(1)~~] a person:

19 (A) who is an affiliate of the impaired insurer;

20 and

21 (B) whose liability obligations to other persons  
22 are satisfied wholly or partly by payment made under this chapter;  
23 and [~~or~~]

24 (2) the amount of a covered claim for workers'  
25 compensation insurance benefits and the costs of administration and  
26 defense of the claim paid under this chapter from an insured  
27 employer [~~+~~]

1                    [~~(A)~~] whose net worth on December 31 of the year  
2 preceding the date the insurer becomes an impaired insurer exceeds  
3 \$50 million[~~, and~~

4                    [~~(B) whose obligations under a liability policy~~  
5 ~~or contract of insurance written, issued, and placed in force after~~  
6 ~~January 1, 1992, are satisfied wholly or partly by payment made~~  
7 ~~under this chapter].~~

8            (c) For purposes of Subsection (a)(2), an insured's net  
9 worth is deemed to include [~~includes~~] the aggregate net worth of the  
10 insured and of the insured's parent, subsidiary, and affiliated  
11 companies[~~7~~] computed on a consolidated basis.

12            (b) Section 6, Chapter 995, Acts of the 79th Legislature,  
13 Regular Session, 2005, which amended former Subsection (b), Section  
14 11, Article 21.28-C, Insurance Code, is repealed.

15            SECTION 9.010. (a) Section 462.212, Insurance Code, is  
16 amended to conform to Section 7, Chapter 995, Acts of the 79th  
17 Legislature, Regular Session, 2005, to read as follows:

18            Sec. 462.212. NET WORTH EXCLUSION. (a) Except for a  
19 workers' compensation claim governed by Title 5, Labor Code, a  
20 covered claim does not include, and the association is not liable  
21 for, any claim arising from an insurance policy of any [~~The~~  
22 ~~association is not liable to pay a first-party claim of an~~] insured  
23 whose net worth on December 31 of the year preceding the date the  
24 insurer becomes an impaired insurer exceeds \$50 million.

25            (b) For purposes of this section, an insured's net worth  
26 includes the aggregate net worth of the insured and of the insured's  
27 parent, subsidiary, and affiliated companies[~~7~~] computed on a



1 consolidated basis.

2 (c) This section does not apply:

3 (1) to third-party claims against an insured that has:

4 (A) applied for or consented to the appointment  
5 of a receiver, trustee, or liquidator for all or a substantial part  
6 of the insurer's assets;

7 (B) filed a voluntary petition in bankruptcy; or

8 (C) filed a petition or an answer seeking a  
9 reorganization or arrangement with creditors or to take advantage  
10 of any insolvency law; or

11 (2) if an order, judgment, or decree is entered by a  
12 court of competent jurisdiction, on the application of a creditor,  
13 adjudicating the insured bankrupt or insolvent or approving a  
14 petition seeking reorganization of the insured or of all or a  
15 substantial part of its assets.

16 (d) In an instance described by Subsection (c), the  
17 association is entitled to assert a claim in the bankruptcy or  
18 receivership proceeding to recover the amount of any covered claim  
19 and costs of defense paid on behalf of the insured.

20 (e) The association may establish procedures for requesting  
21 financial information from an insured or claimant on a confidential  
22 basis for the purpose of applying sections concerning the net worth  
23 of first-party and third-party claimants, subject to any  
24 information requested under this subsection being shared with any  
25 other association similar to the association and with the  
26 liquidator for the impaired insurer on the same confidential basis.  
27 If the insured or claimant refuses to provide the requested

1 financial information, the association requests an auditor's  
2 certification of that information, and the auditor's certification  
3 is available but not provided, the association may deem the net  
4 worth of the insured or claimant to be in excess of \$50 million at  
5 the relevant time.

6 (f) In any lawsuit contesting the applicability of Section  
7 462.308 or this section when the insured or claimant has declined to  
8 provide financial information under the procedure provided in the  
9 plan of operation under Section 462.103, the insured or claimant  
10 bears the burden of proof concerning its net worth at the relevant  
11 time. If the insured or claimant fails to prove that its net worth  
12 at the relevant time was less than the applicable amount, the court  
13 shall award the association its full costs, expenses, and  
14 reasonable attorney's fees in contesting the claim [~~This section~~  
15 ~~does not exclude the payment of a covered claim for workers'~~  
16 ~~compensation benefits otherwise payable under this chapter].~~

17 (b) Section 7, Chapter 995, Acts of the 79th Legislature,  
18 Regular Session, 2005, which amended former Section 11A, Article  
19 21.28-C, Insurance Code, is repealed.

20 SECTION 9.011. (a) Sections 462.309(c) and (e), Insurance  
21 Code, are amended to conform to Section 8, Chapter 995, Acts of the  
22 79th Legislature, Regular Session, 2005, to read as follows:

23 (c) A deadline imposed under the Texas Rules of Civil  
24 Procedure or the Texas Rules of Appellate Procedure is tolled  
25 during the stay. Statutes of limitation or repose are not tolled  
26 during the stay, and any action filed during the stay is stayed upon  
27 the filing of the action.

1 (e) The commissioner may bring an ancillary conservation  
2 [~~delinquency~~] proceeding under Section 443.401 [~~Sections 442.751,~~  
3 ~~442.752, and 442.754~~] for the [~~limited~~] purpose of determining the  
4 application, enforcement, and extension of the stay to an impaired  
5 insurer that is not domiciled in this state.

6 (b) Section 8, Chapter 995, Acts of the 79th Legislature,  
7 Regular Session, 2005, which amended former Subsection (a), Section  
8 17, Article 21.28-C, Insurance Code, is repealed.

9 SECTION 9.012. (a) The heading to Chapter 463, Insurance  
10 Code, is amended to conform to Section 9, Chapter 753, Acts of the  
11 79th Legislature, Regular Session, 2005, to read as follows:

12 CHAPTER 463. TEXAS LIFE, ACCIDENT, HEALTH, AND HOSPITAL SERVICE  
13 INSURANCE GUARANTY ASSOCIATION

14 (b) Section 463.001, Insurance Code, is amended to conform  
15 to Section 9, Chapter 753, Acts of the 79th Legislature, Regular  
16 Session, 2005, to read as follows:

17 Sec. 463.001. SHORT TITLE. This chapter may be cited as  
18 the Texas Life, Accident, Health, and Hospital Service Insurance  
19 Guaranty Association Act.

20 SECTION 9.013. (a) Section 463.003, Insurance Code, is  
21 amended to conform to Sections 2 and 3, Chapter 753, Acts of the  
22 79th Legislature, Regular Session, 2005, and to more closely  
23 conform to the source law from which the section was derived, to  
24 read as follows:

25 Sec. 463.003. GENERAL DEFINITIONS. In this chapter:

26 (1) "Association" means the Texas Life, Accident,  
27 Health, and Hospital Service Insurance Guaranty Association.

1           (1-a) "Benefit plan" means a specific employee, union,  
2 or association of natural persons benefit plan.

3           (2) "Board" means the board of directors of the  
4 association.

5           (3) "Contractual obligation" means an obligation  
6 under a policy or contract or certificate under a group policy or  
7 contract, or part of a policy or contract or certificate, for which  
8 coverage is provided under Subchapter E.

9           (4) "Covered policy" means a policy or contract, or  
10 portion of a policy or contract, with respect to which this chapter  
11 provides coverage as determined under Subchapter E.

12           (5) "Impaired insurer" means a member insurer that is  
13 designated an "impaired insurer" by the commissioner and is:

14                   (A) [is] placed by a court in this state or  
15 another state under an order of supervision, liquidation,  
16 rehabilitation, or conservation ~~[under Chapter 441 or 442 and is~~  
17 ~~designated by the commissioner as an impaired insurer]; [or]~~

18                   (B) placed under an order of liquidation or  
19 rehabilitation under Chapter 443; or

20                   (C) placed under an order of supervision or  
21 conservation by the commissioner under Chapter 441 ~~[is determined~~  
22 ~~in good faith by the commissioner to be unable or potentially unable~~  
23 ~~to fulfill the insurer's contractual obligations].~~

24           (6) "Insolvent insurer" means a member insurer that ~~[+~~  
25                   ~~[(A)]~~ has been placed under an order of  
26 liquidation with a finding of insolvency by a court in this state or  
27 another state ~~[a minimum free surplus, if a mutual insurance~~

1 ~~company, or required capital, if a stock insurance company, that is~~  
2 ~~impaired to an extent prohibited by law; and~~

3 ~~[(B) the commissioner designates as an insolvent~~  
4 ~~insurer].~~

5 (7) "Member insurer" means an insurer that is required  
6 to participate in the association under Section 463.052.

7 (7-a) "Owner" means the owner of a policy or contract  
8 and "policy owner" and "contract owner" mean the person who is  
9 identified as the legal owner under the terms of the policy or  
10 contract or who is otherwise vested with legal title to the policy  
11 or contract through a valid assignment completed in accordance with  
12 the terms of the policy or contract and is properly recorded as the  
13 owner on the books of the insurer. The terms "owner," "contract  
14 owner," and "policy owner" do not include persons with a mere  
15 beneficial interest in a policy or contract.

16 (8) "Person" means an individual, corporation,  
17 limited liability company, partnership, association, governmental  
18 body or entity, or voluntary organization.

19 (8-a) "Plan sponsor" means:

20 (A) the employer in the case of a benefit plan  
21 established or maintained by a single employer;

22 (B) the employee organization in the case of a  
23 benefit plan established or maintained by an employee organization;  
24 or

25 (C) in a case of a benefit plan established or  
26 maintained by two or more employers or jointly by one or more  
27 employers and one or more employee organizations, the association,

1 committee, joint board of trustees, or other similar group of  
2 representatives of the parties who establish or maintain the  
3 benefit plan.

4 (9) "Premium" means an amount received on a covered  
5 policy, less any premium, consideration, or deposit returned on the  
6 policy, and any dividend or experience credit on the policy. The  
7 term does not include:

8 (A) an amount received for a policy or contract  
9 or part of a policy or contract for which coverage is not provided  
10 under Section 463.202, except that assessable premiums may not be  
11 reduced because of:

12 (i) an interest limitation provided by  
13 Section 463.203(b)(3); or

14 (ii) a limitation provided by Section  
15 463.204 with respect to a single individual, participant,  
16 annuitant, or contract owner [~~holder~~];

17 (B) premiums in excess of \$5 million on an  
18 unallocated annuity contract not issued under a governmental  
19 benefit [~~retirement~~] plan established under Section 401, 403(b),  
20 or 457, Internal Revenue Code of 1986; [~~or~~]

21 (C) premiums received from the state treasury or  
22 the United States treasury for insurance for which this state or the  
23 United States contracts to:

24 (i) provide welfare benefits to designated  
25 welfare recipients; or

26 (ii) implement Title 2, Human Resources  
27 Code, or the Social Security Act (42 U.S.C. Section 301 et seq.); or

1           (D) premiums in excess of \$5 million with respect  
2 to multiple nongroup policies of life insurance owned by one owner,  
3 regardless of whether the policy owner is an individual, firm,  
4 corporation, or other person and regardless of whether the persons  
5 insured are officers, managers, employees, or other persons,  
6 regardless of the number of policies or contracts held by the owner.

7           (10) "Resident" means a person who resides in this  
8 state on the earlier of the date a member insurer becomes an  
9 impaired insurer or the date of entry of a court order that  
10 determines a member insurer to be an impaired insurer or the date of  
11 entry of a court order that determines a member insurer to be an  
12 insolvent insurer and to whom the [at the time a] member insurer  
13 [that] owes a contractual obligation [to the person is determined  
14 to be impaired or insolvent]. For the purposes of this subdivision:

15           (A) a person is considered to be a resident of  
16 only one state; ~~and~~

17           (B) a person other than an individual is  
18 considered to be a resident of the state in which the person's  
19 principal place of business is located; and

20           (C) a United States citizen who is either a  
21 resident of a foreign country or a resident of a United States  
22 possession, territory, or protectorate that does not have an  
23 association similar to the association created by this chapter is  
24 considered a resident of the state of domicile of the insurer that  
25 issued the policy or contract.

26           (10-a) "Structured settlement annuity" means an  
27 annuity purchased to fund periodic payments for a plaintiff or

1 other claimant in payment for or with respect to personal injury  
2 suffered by the plaintiff or other claimant.

3 (11) "Supplemental contract" means a written [~~an~~]  
4 agreement for the distribution of policy or contract proceeds.

5 (12) "Unallocated annuity contract" means an annuity  
6 contract or group annuity certificate that is not issued to and  
7 owned by an individual, except to the extent of any annuity benefits  
8 guaranteed to an individual by an insurer under the contract or  
9 certificate.

10 (b) Subchapter A, Chapter 463, Insurance Code, is amended to  
11 conform to Section 3, Chapter 753, Acts of the 79th Legislature,  
12 Regular Session, 2005, by adding Section 463.0031 to read as  
13 follows:

14 Sec. 463.0031. DEFINITION OF PRINCIPAL PLACE OF BUSINESS OF  
15 PLAN SPONSOR OR OTHER PERSON. (a) Except as otherwise provided by  
16 this section, in this chapter, the "principal place of business" of  
17 a plan sponsor or a person other than an individual means the single  
18 state in which the individuals who establish policy for the  
19 direction, control, and coordination of the operations of the plan  
20 sponsor or person as a whole primarily exercise that function, as  
21 determined by the association in its reasonable judgment by  
22 considering the following factors:

23 (1) the state in which the primary executive and  
24 administrative headquarters of the plan sponsor or person is  
25 located;

26 (2) the state in which the principal office of the  
27 chief executive officer of the plan sponsor or person is located;



1           (3) the state in which the board of directors, or  
2 similar governing person or persons, of the plan sponsor or person  
3 conduct the majority of their meetings;

4           (4) the state in which the executive or management  
5 committee of the board of directors, or similar governing person or  
6 persons, of the plan sponsor or person conduct the majority of their  
7 meetings;

8           (5) the state from which the management of the overall  
9 operations of the plan sponsor or person is directed; and

10           (6) in the case of a benefit plan sponsored by  
11 affiliated companies comprising a consolidated corporation, the  
12 state in which the holding company or controlling affiliate has its  
13 principal place of business as determined using the factors  
14 described by Subdivisions (1)-(5).

15           (b) In the case of a plan sponsor, if more than 50 percent of  
16 the participants in the benefit plan are employed in a single state,  
17 that state is the principal place of business of the plan sponsor.

18           (c) The principal place of business of a plan sponsor of a  
19 benefit plan described in Section 463.003(8-a)(C) is the principal  
20 place of business of the association, committee, joint board of  
21 trustees, or other similar group of representatives of the parties  
22 who establish or maintain the benefit plan that, in lieu of a  
23 specific or clear designation of a principal place of business,  
24 shall be deemed to be the principal place of business of the  
25 employer or employee organization that has the largest investment  
26 in that benefit plan.

27           (c) Section 463.052(b), Insurance Code, is amended to

1 conform to Section 2, Chapter 753, Acts of the 79th Legislature,  
2 Regular Session, 2005, to read as follows:

3 (b) The following do not participate as member insurers:

4 (1) a health maintenance organization;

5 (2) a fraternal benefit society;

6 (3) a mandatory state pooling plan;

7 (4) a reciprocal or interinsurance exchange; ~~and~~

8 (5) an organization which has a certificate of  
9 authority or license limited to the issuance of charitable gift  
10 annuities, as defined by this code or rules adopted by the  
11 commissioner; and

12 (6) an entity similar to an entity described by  
13 Subdivision (1), (2), (3), ~~or~~ (4), or (5).

14 (d) Section 463.204, Insurance Code, is amended to conform  
15 to Section 2, Chapter 753, Acts of the 79th Legislature, Regular  
16 Session, 2005, to read as follows:

17 Sec. 463.204. OBLIGATIONS EXCLUDED. A contractual  
18 obligation does not include:

19 (1) death benefits in an amount in excess of \$300,000  
20 or a net cash surrender or net cash withdrawal value in an amount in  
21 excess of \$100,000 ~~[in the aggregate]~~ under one or more policies on  
22 a single life;

23 (2) an amount in excess of:

24 (A) \$100,000 in the present value ~~[aggregate]~~  
25 under one or more annuity contracts issued with respect to a single  
26 life under ~~[to the same holder of]~~ individual annuity policies or  
27 ~~[to the same annuitant or participant under]~~ group annuity

1 policies; or

2 (B) \$5 million in unallocated annuity contract  
3 benefits with respect to a single contract owner [~~holder~~]  
4 regardless of the number of those contracts;

5 (3) an amount in excess of the following amounts,  
6 including any net cash surrender or cash withdrawal values,  
7 [~~\$200,000 in the aggregate~~] under one or more accident, health,  
8 [~~or~~] accident and health, or long-term care insurance policies on a  
9 single life;

10 (A) \$500,000 for basic hospital,  
11 medical-surgical, or major medical insurance, as those terms are  
12 defined by this code or rules adopted by the commissioner;

13 (B) \$300,000 for disability and long-term care  
14 insurance, as those terms are defined by this code or rules adopted  
15 by the commissioner; or

16 (C) \$200,000 for coverages that are not defined  
17 as basic hospital, medical-surgical, major medical, disability, or  
18 long-term care insurance;

19 (4) an amount in excess of \$100,000 in present value  
20 annuity benefits, in the aggregate, including any net cash  
21 surrender and net cash withdrawal values, with respect to each  
22 individual participating in a governmental retirement benefit plan  
23 established under Section 401, 403(b), or 457, Internal Revenue  
24 Code of 1986 (26 U.S.C. Sections 401, 403(b), and 457), covered by  
25 an unallocated annuity contract or the beneficiary or beneficiaries  
26 of the individual if the individual is deceased;

27 (5) an amount in excess of \$100,000 in present value

1 annuity benefits, in the aggregate, including any net cash  
2 surrender and net cash withdrawal values, with respect to each  
3 payee of a structured settlement annuity or the beneficiary or  
4 beneficiaries of the payee if the payee is deceased;

5 (6) aggregate benefits in an amount in excess of  
6 \$300,000 with respect to a single life, except with respect to:

7 (A) benefits paid under basic hospital,  
8 medical-surgical, or major medical insurance policies, described  
9 by Subdivision (3)(A), in which case the aggregate benefits are  
10 \$500,000; and

11 (B) benefits paid to one owner of multiple  
12 nongroup policies of life insurance, whether the policy owner is an  
13 individual, firm, corporation, or other person, and whether the  
14 persons insured are officers, managers, employees, or other  
15 persons, in which case the maximum benefits are \$5 million  
16 regardless of the number of policies and contracts held by the  
17 owner;

18 (7) an amount in excess of \$5 million in benefits, with  
19 respect to either one plan sponsor whose plans own directly or in  
20 trust one or more unallocated annuity contracts not included in  
21 Subdivision (4) irrespective of the number of contracts with  
22 respect to the contract owner or plan sponsor or one contract owner  
23 provided coverage under Section 463.201(a)(3)(B), except that, if  
24 one or more unallocated annuity contracts are covered contracts  
25 under this chapter and are owned by a trust or other entity for the  
26 benefit of two or more plan sponsors, coverage shall be afforded by  
27 the association if the largest interest in the trust or entity

1 owning the contract or contracts is held by a plan sponsor whose  
2 principal place of business is in this state, and in no event shall  
3 the association be obligated to cover more than \$5 million in  
4 benefits with respect to all these unallocated contracts;

5 (8) any contractual obligations of the insolvent or  
6 impaired insurer under a covered policy or contract that do not  
7 materially affect the economic value of economic benefits of the  
8 covered policy or contract; or

9 (9) [~~4~~] punitive, exemplary, extracontractual, or  
10 bad faith damages, regardless of whether the damages are:

11 (A) agreed to or assumed by an insurer or  
12 insured; or

13 (B) imposed by a court.

14 (e) The following are repealed:

15 (1) Section 2, Chapter 753, Acts of the 79th  
16 Legislature, Regular Session, 2005, which amended former Section 5,  
17 Article 21.28-D, Insurance Code, by amending Subdivisions (2), (3),  
18 (4), (5), (6), (7), (9), (10), (11), and (12) and adding  
19 Subdivisions (2-a), (8-a), (9-a), and (11-a); and

20 (2) Section 3, Chapter 753, Acts of the 79th  
21 Legislature, Regular Session, 2005, which added Section 5A to  
22 former Article 21.28-D, Insurance Code.

23 SECTION 9.014. (a) Section 463.051(a), Insurance Code, is  
24 amended to conform to Section 4, Chapter 753, Acts of the 79th  
25 Legislature, Regular Session, 2005, to read as follows:

26 (a) The Texas Life, Accident, Health, and Hospital Service  
27 Insurance Guaranty Association is a nonprofit legal entity existing

1 to pay benefits and continue coverage as provided by this chapter.

2 (b) Section 4, Chapter 753, Acts of the 79th Legislature,  
3 Regular Session, 2005, which amended former Subsection (a), Section  
4 6, Article 21.28-D, Insurance Code, is repealed.

5 SECTION 9.015. (a) Section 463.101(a), Insurance Code, is  
6 amended to conform to Section 5, Chapter 753, Acts of the 79th  
7 Legislature, Regular Session, 2005, to read as follows:

8 (a) The association may:

9 (1) enter into contracts as necessary or proper to  
10 carry out this chapter and the purposes of this chapter;

11 (2) sue or be sued, including taking:

12 (A) necessary or proper legal action to:

13 (i) recover an unpaid assessment under  
14 Subchapter D; or

15 (ii) settle a claim or potential claim  
16 against the association; or

17 (B) necessary legal action to avoid payment of an  
18 improper claim;

19 (3) borrow money to effect the purposes of this  
20 chapter;

21 (4) exercise, for the purposes of this chapter and to  
22 the extent approved by the commissioner, the powers of a domestic  
23 life, accident, or health insurance company or a group hospital  
24 service corporation, except that the association may not issue an  
25 insurance policy or annuity contract other than to perform the  
26 association's obligations under this chapter; ~~and~~

27 (5) to further the association's purposes, exercise

1 the association's powers, and perform the association's duties,  
2 join an organization of one or more state associations that have  
3 similar purposes;

4 (6) request information from a person seeking coverage  
5 from the association in determining its obligations under this  
6 chapter with respect to the person, and the person shall promptly  
7 comply with the request; and

8 (7) take any other necessary or appropriate action to  
9 discharge the association's duties and obligations under this  
10 chapter or to exercise the association's powers under this chapter.

11 (b) Subchapter E, Chapter 463, Insurance Code, is amended to  
12 conform to Section 5, Chapter 753, Acts of the 79th Legislature,  
13 Regular Session, 2005, by adding Section 463.206 to read as  
14 follows:

15 Sec. 463.206. ASSOCIATION DISCRETION IN MANNER OF PROVIDING  
16 BENEFITS. (a) The board shall have discretion and may exercise  
17 reasonable business judgment to determine the means by which the  
18 association is to provide the benefits of this chapter in an  
19 economical and efficient manner.

20 (b) If the association arranges or offers to provide the  
21 benefits of this chapter to a covered person under a plan or  
22 arrangement that fulfills the association's obligations under this  
23 chapter, the person is not entitled to benefits from the  
24 association in addition to or other than those provided under the  
25 plan or arrangement.

26 (c) Section 463.259, Insurance Code, is amended to conform  
27 to Section 5, Chapter 753, Acts of the 79th Legislature, Regular

1 Session, 2005, to read as follows:

2           Sec. 463.259. PREMIUM DUE DURING RECEIVERSHIP. After a  
3 court enters an order of receivership with respect to an impaired or  
4 insolvent insurer, a premium due for coverage issued by the insurer  
5 is owned by and is payable at the direction of the association. The  
6 association is liable for an unearned premium owed to a policy or  
7 contract owner that arises after the court enters the order.

8           (d) Section 463.261, Insurance Code, is amended to conform  
9 to Section 5, Chapter 753, Acts of the 79th Legislature, Regular  
10 Session, 2005, by adding Subsections (d) and (e) to read as follows:

11           (d) The rights of the association under Subsection (c)  
12 include, in the case of a structured settlement annuity, any rights  
13 of the owner, beneficiary, or payee of the annuity, to the extent of  
14 benefits received under this chapter, against any person originally  
15 or by succession responsible for the losses arising from the  
16 personal injury relating to the annuity or payment for the annuity,  
17 other than a person responsible solely by reason of serving as an  
18 assignee in respect of a qualified assignment under Section 130,  
19 Internal Revenue Code of 1986 (26 U.S.C. Section 130).

20           (e) If a provision of this section is invalid or ineffective  
21 with respect to any person or claim for any reason, the amount  
22 payable by the association with respect to the related covered  
23 obligations is reduced by the amount realized by any other person  
24 with respect to the person or claim that is attributable to the  
25 policies, or portion of the policies, covered by the association.  
26 If the association has provided benefits with respect to a covered  
27 obligation and a person recovers amounts as to which the



1 association has rights described in this section, the person shall  
2 pay to the association the portion of the recovery attributable to  
3 the policies, or portion of the policies, covered by the  
4 association.

5 (e) Subchapter F, Chapter 463, Insurance Code, is amended to  
6 conform to Section 5, Chapter 753, Acts of the 79th Legislature,  
7 Regular Session, 2005, by adding Section 463.263 to read as  
8 follows:

9 Sec. 463.263. DEPOSIT TO BE PAID TO ASSOCIATION. (a) A  
10 deposit in this state, held under law or required by the  
11 commissioner for the benefit of creditors, including policy owners,  
12 that is not turned over to the domiciliary receiver on the entry of  
13 a final order of liquidation or order approving a rehabilitation  
14 plan of an insurer domiciled in this state or a reciprocal state in  
15 accordance with Section 443.402 shall be promptly paid to the  
16 association.

17 (b) The association is entitled to retain a portion of any  
18 amount paid to the association under this section equal to the  
19 percentage determined by dividing the aggregate amount of policy  
20 owners' claims related to that insolvency for which the association  
21 has provided statutory benefits by the aggregate amount of all  
22 policy owners' claims in this state related to that insolvency and  
23 shall remit to the domiciliary receiver the amount paid to the  
24 association and retained under this section.

25 (c) The amount paid to the association under this section,  
26 less the amount retained by the association under this section, is  
27 treated as a distribution of estate assets under Section 443.303 or

1 the similar law of the state of domicile of the impaired or  
2 insolvent insurer.

3 (f) Section 5, Chapter 753, Acts of the 79th Legislature,  
4 Regular Session, 2005, which amended former Section 8, Article  
5 21.28-D, Insurance Code, by amending Subsections (e), (n), and (v)  
6 and adding Subsections (u-1), (u-2), (u-3), (x), and (y), is  
7 repealed.

8 SECTION 9.016. (a) Section 463.151, Insurance Code, is  
9 amended to conform to Section 6, Chapter 753, Acts of the 79th  
10 Legislature, Regular Session, 2005, by amending Subsection (a) and  
11 adding Subsection (a-1) to read as follows:

12 (a) The association shall assess member insurers,  
13 separately for each account under Section 463.105, in the amounts  
14 and at the times the board determines necessary to provide money for  
15 the association to exercise the association's powers, perform the  
16 association's duties, and carry out the purposes of this chapter.  
17 The association may not authorize and call ~~make~~ an assessment to  
18 meet the requirements of the association with respect to an  
19 impaired or insolvent insurer until the assessment is necessary to  
20 carry out the purposes of this chapter. The board shall classify  
21 assessments under Section 463.152 and determine the amount of  
22 assessments with reasonable accuracy, recognizing that exact  
23 determinations may not always be possible.

24 (a-1) The association shall notify each member insurer of  
25 its anticipated pro rata share of an authorized assessment not yet  
26 called not later than the 180th day after the date the assessment is  
27 authorized.

1 (b) Section 463.152, Insurance Code, is amended to conform  
2 to Section 6, Chapter 753, Acts of the 79th Legislature, Regular  
3 Session, 2005, by amending Subsections (b) and (c) and adding  
4 Subsection (d) to read as follows:

5 (b) Class A assessments are authorized and called ~~made~~ to  
6 pay:

7 (1) the association's administrative costs;

8 (2) administrative expenses that:

9 (A) are properly incurred under this chapter; and

10 (B) relate to an unauthorized insurer or to an  
11 entity that is not a member insurer; and

12 (3) other general expenses not related to a particular  
13 impaired or insolvent insurer.

14 (c) Class B assessments are authorized and called ~~made~~ to  
15 the extent necessary for the association to carry out the  
16 association's powers and duties under Sections 463.101, 463.103,  
17 463.109, and 463.111(c) and Subchapter F with regard to an impaired  
18 or insolvent insurer.

19 (d) For purposes of this section, an assessment is  
20 authorized at the time a resolution by the board is passed under  
21 which an assessment will be called immediately or in the future from  
22 member insurers for a specified amount and an assessment is called  
23 at the time a notice has been issued by the association to member  
24 insurers requiring that an authorized assessment be paid within a  
25 period stated in the notice. An authorized assessment becomes a  
26 called assessment at the time notice is mailed by the association to  
27 member insurers.

1 (c) Sections 463.153(b) and (c), Insurance Code, are  
2 amended to conform to Section 6, Chapter 753, Acts of the 79th  
3 Legislature, Regular Session, 2005, to read as follows:

4 (b) Class B assessments against a member insurer for each  
5 account under Section 463.105 shall be authorized and called ~~[made]~~  
6 in the proportion that the premiums received on ~~[all]~~ business in  
7 this state by the insurer on policies or contracts covered by each  
8 account for the three most recent calendar years for which  
9 information is available preceding the year in which the insurer  
10 became impaired or insolvent bear to ~~[the]~~ premiums received on  
11 ~~[all]~~ business in this state for those calendar years by all  
12 assessed member insurers. The amount of a Class B assessment shall  
13 be allocated ~~[divided]~~ among the separate accounts in accordance  
14 with an allocation formula that may be based on:

15 (1) the premiums or reserves of the impaired or  
16 insolvent insurer; or

17 (2) any other standard deemed by the board in the  
18 board's sole discretion as being fair and reasonable under the  
19 circumstances ~~[the proportion that the premiums on the policies~~  
20 ~~covered by each account were received by the impaired or insolvent~~  
21 ~~insurer from all covered policies during the year preceding the~~  
22 ~~date of the impairment, as shown in the annual statements for the~~  
23 ~~year preceding the date of the assessment].~~

24 (c) The total amount of assessments on a member insurer for  
25 each account under Section 463.105 may not exceed two ~~[one]~~ percent  
26 of the insurer's premiums on the policies covered by the account  
27 during the three ~~[in a single]~~ calendar years preceding the year in

1 which the insurer became an impaired or insolvent insurer. If two  
2 or more assessments are authorized in a calendar year with respect  
3 to insurers that become impaired or insolvent in different calendar  
4 years, the average annual premiums for purposes of the aggregate  
5 assessment percentage limitation described by this subsection  
6 shall be equal to the higher of the three-year average annual  
7 premiums for the applicable subaccount or account as computed in  
8 accordance with this section [~~year~~]. If the maximum assessment and  
9 the other assets of the association do not provide in a year an  
10 amount sufficient to carry out the association's responsibilities,  
11 the association shall make necessary additional assessments as soon  
12 as this chapter permits.

13 (d) Section 6, Chapter 753, Acts of the 79th Legislature,  
14 Regular Session, 2005, which amended former Section 9, Article  
15 21.28-D, Insurance Code, by amending Subsections (b), (d), (f),  
16 (g), and (h) and adding Subsection (b-1), is repealed.

17 SECTION 9.017. (a) Section 463.161(a), Insurance Code, is  
18 amended to conform to Section 7, Chapter 753, Acts of the 79th  
19 Legislature, Regular Session, 2005, to read as follows:

20 (a) A member insurer is entitled to show as an admitted  
21 asset a certificate of contribution in the form the commissioner  
22 approves under Section 463.156. Unless the commissioner requires a  
23 longer period, the certificate may be shown at:

24 (1) for the calendar year of issuance, an amount equal  
25 to the certificate's original face value approved by the  
26 commissioner; and

27 (2) beginning with the year following the calendar

1 year of issuance, an amount equal to the certificate's original  
2 face value, reduced by 20 [~~10~~] percent a year for each year after  
3 the year of issuance, for a period of five [~~10~~] years.

4 (b) Section 7, Chapter 753, Acts of the 79th Legislature,  
5 Regular Session, 2005, which amended former Subsection (a), Section  
6 (13), Article 21.28-D, Insurance Code, is repealed.

7 SECTION 9.018. (a) Section 463.201, Insurance Code, is  
8 amended to conform to Section 1, Chapter 753, Acts of the 79th  
9 Legislature, Regular Session, 2005, and to conform more closely to  
10 the source law from which the section was derived to read as  
11 follows:

12 Sec. 463.201. INSUREDS COVERED. (a) Subject to Subsections  
13 (b) and (c), this [~~This~~] chapter provides coverage for a policy or  
14 contract described by Section 463.202 to a person who is:

15 (1) a person, other than a certificate holder under a  
16 group policy or contract who is not a resident, who is a  
17 beneficiary, assignee, or payee of a person described by  
18 Subdivision (2);

19 (2) a person who is [~~subject to Subsection (b),~~] an  
20 owner of or certificate holder under a policy or contract specified  
21 by Section 463.202, other than [~~or a contract holder under~~] an  
22 unallocated annuity contract or structured settlement annuity, and  
23 who is:

24 (A) a resident; or

25 (B) not a resident, but only under all of the  
26 following conditions:

27 (i) the insurers that issued the policies

1 or contracts are domiciled in this state;

2 (ii) the state in which the person resides  
3 has an association similar to the association; and

4 (iii) the person is not eligible for  
5 coverage by an association in any other state because the insurer  
6 was not licensed in the state at the time specified in that state's  
7 guaranty association law;

8 (3) a person who is the owner of an unallocated annuity  
9 contract issued to or in connection with:

10 (A) a benefit plan whose plan sponsor has the  
11 sponsor's principal place of business in this state; or

12 (B) a government lottery, if the owner is a  
13 resident; or

14 (4) a person who is the payee under a structured  
15 settlement annuity, or beneficiary of the payee if the payee is  
16 deceased, if:

17 (A) the payee is a resident, regardless of where  
18 the contract owner resides;

19 (B) the payee is not a resident, the contract  
20 owner of the structured settlement annuity is a resident, and the  
21 payee is not eligible for coverage by the association in the state  
22 in which the payee resides; or

23 (C) the payee and the contract owner are not  
24 residents, the insurer that issued the structured settlement  
25 annuity is domiciled in this state, the state in which the contract  
26 owner resides has an association similar to the association, and  
27 neither the payee or, if applicable, the payee's beneficiary, nor

1 the contract owner is eligible for coverage by the association in  
2 the state in which the payee or contract owner resides [~~(2) a~~  
3 ~~beneficiary, assignee, or payee, other than a certificate holder~~  
4 ~~under a group policy or contract who is not a resident, of a person~~  
5 ~~described by Subdivision (1)]].~~

6 (b) This chapter does not provide coverage to:

7 (1) a person who is a payee or the beneficiary of a  
8 payee with respect to a contract the owner of which is a resident of  
9 this state, if the payee or the payee's beneficiary is afforded any  
10 coverage by the association of another state; or

11 (2) a person otherwise described by Subsection (a)(3),  
12 if any coverage is provided by the association of another state to  
13 that person.

14 (c) This chapter is intended to provide coverage to persons  
15 who are residents of this state, and in those limited circumstances  
16 as described in this chapter, to nonresidents. In order to avoid  
17 duplicate coverage, if a person who would otherwise receive  
18 coverage under this chapter is provided coverage under the laws of  
19 any other state, the person may not be provided coverage under this  
20 chapter. In determining the application of the provisions of this  
21 subsection in situations in which a person could be covered by the  
22 association of more than one state, whether as an owner, payee,  
23 beneficiary, or assignee, this chapter shall be construed in  
24 conjunction with other state laws to result in coverage by only one  
25 association. [Coverage under Subsection (a)(1) applies to a person  
26 who is not a resident, only if:

27 [~~(1) the insurer that issued the policy or contract is~~



1 ~~domiciled in this state,~~

2 ~~[(2) the insurer never held a certificate of authority~~  
3 ~~in the state in which the person resides,~~

4 ~~[(3) the state in which the person resides has an~~  
5 ~~association similar to the association; and~~

6 ~~[(4) the person is not eligible for coverage by the~~  
7 ~~association in the state in which the person resides.]~~

8 (b) Sections 463.202(a) and (c), Insurance Code, are  
9 amended to conform to Section 1, Chapter 753, Acts of the 79th  
10 Legislature, Regular Session, 2005, to read as follows:

11 (a) Except as limited by this chapter, the coverage provided  
12 by this chapter to a person specified by Section 463.201, subject to  
13 Sections 463.201(b) and (c), applies with respect to the following  
14 policies and contracts issued by a member insurer:

15 (1) a direct, nongroup life, health, accident,  
16 annuity, or supplemental policy or contract;

17 (2) a certificate under a direct group policy or  
18 contract;

19 (3) a group hospital service contract; and

20 (4) an unallocated annuity contract.

21 (c) For the purposes of this section, an annuity contract or  
22 a certificate under a group annuity contract includes:

23 (1) a guaranteed investment contract;

24 (2) a deposit administration contract;

25 (3) an allocated or unallocated funding agreement;

26 (4) a structured settlement annuity [~~agreement~~];

27 (5) an annuity issued to or in connection with a

1 government lottery [~~a lottery contract~~]; and

2 (6) an immediate or deferred annuity contract.

3 (c) Section 463.203, Insurance Code, is amended to conform  
4 to Section 1, Chapter 753, Acts of the 79th Legislature, Regular  
5 Session, 2005, by amending Subsection (b) and adding Subsection (c)  
6 to read as follows:

7 (b) This chapter does not provide coverage for:

8 (1) any part of a policy or contract not guaranteed by  
9 the insurer or under which the risk is borne by the policy or  
10 contract owner [~~holder~~];

11 (2) a policy or contract of reinsurance, unless an  
12 assumption certificate has been issued;

13 (3) any part of a policy or contract to the extent that  
14 the rate of interest on which that part is based:

15 (A) as averaged over the period of four years  
16 before the date the member insurer becomes impaired or insolvent  
17 under this chapter, whichever is earlier [~~association became~~  
18 ~~obligated with respect to the policy or contract~~], exceeds a rate of  
19 interest determined by subtracting two percentage points from  
20 Moody's Corporate Bond Yield Average averaged for the same  
21 four-year period or for a lesser period if the policy or contract  
22 was issued less than four years before the date the member insurer  
23 becomes impaired or insolvent under this chapter, whichever is  
24 earlier [~~association became obligated~~]; and

25 (B) on and after the date the member insurer  
26 becomes impaired or insolvent under this chapter, whichever is  
27 earlier [~~association became obligated with respect to the policy or~~

1 ~~contract~~], exceeds the rate of interest determined by subtracting  
2 three percentage points from Moody's Corporate Bond Yield Average  
3 as most recently available;

4 (4) a portion of a policy or contract issued to a plan  
5 or program of an employer, association, ~~or~~ similar entity, or  
6 other person to provide life, health, or annuity benefits to the  
7 entity's employees, ~~or~~ members, or others, to the extent that the  
8 plan or program is self-funded or uninsured, including benefits  
9 payable by an employer, association, or similar entity under:

10 (A) a multiple employer welfare arrangement as  
11 defined by Section 3, Employee Retirement Income Security Act of  
12 1974 (29 U.S.C. Section 1002);

13 (B) a minimum premium group insurance plan;

14 (C) a stop-loss group insurance plan; or

15 (D) an administrative services-only contract;

16 (5) any part of a policy or contract to the extent that  
17 the part provides dividends, ~~or~~ experience rating credits, or  
18 voting rights, or provides that fees or allowances be paid to any  
19 person, including the policy or contract owner ~~[holder]~~, in  
20 connection with the service to or administration of the policy or  
21 contract;

22 (6) a policy or contract issued in this state by a  
23 member insurer at a time the insurer was not authorized to issue the  
24 policy or contract in this state;

25 (7) an unallocated annuity contract issued to or in  
26 connection with a ~~[an employee]~~ benefit plan protected under the  
27 federal Pension Benefit Guaranty Corporation, regardless of

1 whether the Pension Benefit Guaranty Corporation has not yet become  
2 liable to make any payments with respect to the benefit plan;

3 (8) any part of an unallocated annuity contract that  
4 is not issued to or in connection with a specific employee, a  
5 benefit plan for a union or association of individuals, or a  
6 governmental lottery; [~~or~~]

7 (9) any part of a financial guarantee, funding  
8 agreement, or guaranteed investment contract that:

9 (A) does not contain a mortality guarantee; and

10 (B) is not issued to or in connection with a  
11 specific employee, a benefit plan, or a governmental lottery;

12 (10) a part of a policy or contract to the extent that  
13 the assessments required by Subchapter D with respect to the policy  
14 or contract are preempted by federal or state law;

15 (11) a contractual agreement that established the  
16 member insurer's obligations to provide a book value accounting  
17 guaranty for defined contribution benefit plan participants by  
18 reference to a portfolio of assets that is owned by the benefit plan  
19 or the plan's trustee in a case in which neither the benefit plan  
20 sponsor nor its trustee is an affiliate of the member insurer; or

21 (12) a part of a policy or contract to the extent the  
22 policy or contract provides for interest or other changes in value  
23 that are to be determined by the use of an index or external  
24 reference stated in the policy or contract, but that have not been  
25 credited to the policy or contract, or as to which the policy or  
26 contract owner's rights are subject to forfeiture, as of the date  
27 the member insurer becomes an impaired or insolvent insurer under

1 this chapter, whichever date is earlier, subject to Subsection (c).

2 (c) For purposes of determining the values that have been  
3 credited and are not subject to forfeiture as described by  
4 Subsection (b)(12), if a policy's or contract's interest or changes  
5 in value are credited less frequently than annually, the interest  
6 or change in value determined by using the procedures defined in the  
7 policy or contract is credited as if the contractual date of  
8 crediting interest or changing values is the earlier of the date of  
9 impairment or the date of insolvency, and is not subject to  
10 forfeiture.

11 (d) Section 463.260(a), Insurance Code, is amended to  
12 conform to Section 1, Chapter 753, Acts of the 79th Legislature,  
13 Regular Session, 2005, to read as follows:

14 (a) The association is not liable for benefits that exceed  
15 the contractual obligations for which the insurer is liable or  
16 would have been liable if not impaired or insolvent. The  
17 association has no obligation to provide benefits outside the  
18 express written terms of the policy or contract, including:

19 (1) claims based on marketing materials;

20 (2) claims based on side letters, riders, or other  
21 documents that were issued without meeting applicable policy form  
22 filing or approval requirements;

23 (3) claims based on misrepresentation of or regarding  
24 policy benefits;

25 (4) extracontractual claims; or

26 (5) claims for penalties or consequential or  
27 incidental damages.

1 (e) Subchapter F, Chapter 463, Insurance Code, is amended to  
2 conform to Section 1, Chapter 753, Acts of the 79th Legislature,  
3 Regular Session, 2005, by adding Section 463.262 to read as  
4 follows:

5 Sec. 463.262. EFFECT OF SUBROGATION AND ASSIGNMENT OF  
6 RIGHTS AND AVAILABLE ASSETS ON ASSOCIATION OBLIGATION. (a) The  
7 limitations set forth in this chapter are limitations on the  
8 benefits for which the association is obligated before taking into  
9 account either the association's subrogation and assignment rights  
10 or the extent to which those benefits could be provided out of the  
11 assets of the impaired or insolvent insurer attributable to covered  
12 policies.

13 (b) The costs of the association's obligations under this  
14 chapter may be met by the use of assets attributable to covered  
15 policies or reimbursed to the association pursuant to the  
16 association's subrogation and assignment rights.

17 (f) Section 1, Chapter 753, Acts of the 79th Legislature,  
18 Regular Session, 2005, which amended former Section 3, Article  
19 21.28-D, Insurance Code, is repealed.

20 SECTION 9.019. (a) Section 463.302(d), Insurance Code, is  
21 amended to conform to Section 8, Chapter 753, Acts of the 79th  
22 Legislature, Regular Session, 2005, to read as follows:

23 (d) The maximum amount recoverable under Subsections (b)  
24 and (c) is the amount needed in excess of all other available assets  
25 of the impaired or insolvent insurer to pay the insurer's  
26 contractual obligations.

27 (b) Section 463.304, Insurance Code, is amended to conform

1 to Section 8, Chapter 753, Acts of the 79th Legislature, Regular  
2 Session, 2005, to read as follows:

3           Sec. 463.304. DISTRIBUTION OF OWNERSHIP RIGHTS OF IMPAIRED  
4 OR INSOLVENT INSURER. In making an equitable distribution of the  
5 ownership rights of an impaired or insolvent insurer before the  
6 termination of a receivership, the court:

7           (1) shall consider the welfare of the policyholders of  
8 the continuing or successor insurer; and

9           (2) may consider the contributions of the respective  
10 parties, including the association, the shareholders and  
11 policyholders of the impaired or insolvent insurer, and any other  
12 party with a bona fide interest.

13           (c) Section 8, Chapter 753, Acts of the 79th Legislature,  
14 Regular Session, 2005, which amended former Subsections (d) and  
15 (i), Section 14, Article 21.28-D, Insurance Code, is repealed.

16           SECTION 9.020. (a) Article 21.79H, Insurance Code, is  
17 transferred to Chapter 542, Insurance Code, redesignated as  
18 Subchapter G of that chapter, and amended to read as follows:

19           SUBCHAPTER G. INSURER'S RECOVERY FROM UNINSURED THIRD PARTY

20           Sec. 542.301. APPLICABILITY OF SUBCHAPTER [~~Art. 21.79H.~~  
21 ~~RECOVERY OF CERTAIN COSTS FROM THIRD PARTY~~]. [~~(a)~~] This subchapter  
22 [~~article~~] applies to any insurer that delivers, issues for  
23 delivery, or renews a private passenger automobile insurance policy  
24 in this state, including a county mutual, a reciprocal or  
25 interinsurance exchange, or a Lloyd's plan.

26           Sec. 542.302. RECOVERY IN SUIT OR OTHER ACTION. [~~(b)~~] An  
27 insurer that brings suit or takes other action described by Section

1 542.202 [~~of this code~~] against a responsible third party relating  
2 to a loss that is covered under a private passenger automobile  
3 insurance policy issued by the insurer and for which the  
4 responsible third party is uninsured is entitled to recover, in  
5 addition to payments made by the insurer or insured, the costs of  
6 bringing the suit or taking the action, including reasonable  
7 attorney's fees and court costs.

8 (b) For organizational purposes, the heading to Subchapter  
9 E, Chapter 542, Insurance Code, is amended to read as follows:

10 SUBCHAPTER E. RECOVERY OF DEDUCTIBLE [~~COLLECTION~~] FROM THIRD  
11 PARTIES UNDER CERTAIN AUTOMOBILE INSURANCE POLICIES

12 SECTION 9.021. (a) Section 544.303, Insurance Code, is  
13 amended to conform to Section 1, Chapter 149, Acts of the 79th  
14 Legislature, Regular Session, 2005, to read as follows:

15 Sec. 544.303. PROHIBITION OF CERTAIN UNDERWRITING  
16 DECISIONS BASED ON PREVIOUS MOLD CLAIM OR DAMAGE. An insurer may  
17 not make an underwriting decision regarding a residential property  
18 insurance policy based on previous mold damage or a claim for mold  
19 damage if:

20 (1) the applicant for insurance coverage has property  
21 eligible for coverage under a residential property policy;

22 (2) the property has had mold damage;

23 (3) mold remediation has been performed on the  
24 property; and

25 (4) the property was:

26 (A) remediated, as evidenced by a certificate of  
27 mold remediation issued to the property owner under Section



1 1958.154, Occupations Code, that establishes with reasonable  
2 certainty that the underlying cause of the mold at the property has  
3 been remediated; or

4 (B) inspected by an independent assessor or  
5 adjustor who determined, based on the inspection, that the property  
6 does not contain evidence of mold damage.

7 (b) Section 1, Chapter 149, Acts of the 79th Legislature,  
8 Regular Session, 2005, which amended former Section 3, Article  
9 21.21-11, Insurance Code, is repealed.

10 SECTION 9.022. (a) Section 544.352, Insurance Code, is  
11 amended to conform to Section 1, Chapter 528, Acts of the 79th  
12 Legislature, Regular Session, 2005, and further amended to read as  
13 follows:

14 Sec. 544.352. DEFINITIONS. In this subchapter:

15 (1) "Appliance" means a household device operated by  
16 gas or electric current, including hoses directly attached to the  
17 device. The term includes air conditioning units, heating units,  
18 refrigerators, dishwashers, icemakers, clothes washers, water  
19 heaters, and disposals.

20 (2) "Insurer" means an insurance company, reciprocal  
21 or interinsurance exchange, mutual insurance company, capital  
22 stock company, county mutual insurance company, farm mutual  
23 insurance company, association, Lloyd's plan, or other entity  
24 writing residential property insurance in this state. The term  
25 includes an affiliate, as described by Section 823.003(a), if that  
26 affiliate is authorized to write and is writing residential  
27 property insurance in this state. The term does not include:

1 (A) the Texas Windstorm Insurance Association  
2 created and operated under Chapter 2210 [~~Article 21.49~~]; or

3 (B) the FAIR Plan created and operated under  
4 Chapter 2211 [~~Article 21.49A~~].

5 (3) [~~(2)~~] "Residential property insurance" means  
6 insurance against loss to residential real property at a fixed  
7 location or tangible personal property provided in a homeowners  
8 policy, which includes a tenant policy, a condominium owners  
9 policy, or a residential fire and allied lines policy.

10 (4) [~~(3)~~] "Underwriting guideline" means a rule,  
11 standard, guideline, or practice, whether written, oral, or  
12 electronic, that is used by an insurer or an agent of an insurer to:

13 (A) decide whether to accept or reject an  
14 application for a residential property insurance policy; or

15 (B) determine how to classify the risks that are  
16 accepted for the purpose of determining a rate.

17 (b) Section 1, Chapter 528, Acts of the 79th Legislature,  
18 Regular Session, 2005, which added Subdivision (4) to former  
19 Section 2, Article 5.35-4, Insurance Code, is repealed.

20 SECTION 9.023. (a) Chapter 544, Insurance Code, is amended  
21 to codify Article 21.53X, Insurance Code, as added by Section 8,  
22 Chapter 97, Acts of the 79th Legislature, Regular Session, 2005, by  
23 adding Subchapter J and is further amended to read as follows:

24 SUBCHAPTER J. PROHIBITED PRACTICES RELATING TO EXPOSURE TO  
25 ASBESTOS OR SILICA

26 Sec. 544.451. DEFINITION. In this subchapter, "health  
27 benefit plan" means a plan that provides benefits for medical,

1 surgical, or other treatment expenses incurred as a result of a  
2 health condition, a mental health condition, an accident, sickness,  
3 or substance abuse, including an individual, group, blanket, or  
4 franchise insurance policy or insurance agreement, a group hospital  
5 service contract, or an individual or group evidence of coverage or  
6 similar coverage document. The term includes:

7 (1) a small employer health benefit plan or a health  
8 benefit plan written to provide coverage with a cooperative under  
9 Chapter 1501;

10 (2) a standard health benefit plan offered under  
11 Subchapter A or Subchapter B, Chapter 1507; and

12 (3) a health benefit plan offered under Chapter 1551,  
13 1575, 1579, or 1601.

14 Sec. 544.452. APPLICABILITY OF SUBCHAPTER. This subchapter  
15 applies to any entity that offers a health benefit plan or an  
16 annuity or life insurance policy or contract in this state,  
17 including:

18 (1) a stock or mutual life, health, or accident  
19 insurance company;

20 (2) a group hospital service corporation operating  
21 under Chapter 842;

22 (3) a fraternal benefit society operating under  
23 Chapter 885;

24 (4) a stipulated premium insurance company operating  
25 under Chapter 884;

26 (5) a Lloyd's plan operating under Chapter 941;

27 (6) an exchange operating under Chapter 942;

1           (7) a health maintenance organization operating under  
2 Chapter 843;

3           (8) a multiple employer welfare arrangement that holds  
4 a certificate of authority under Chapter 846;

5           (9) an approved nonprofit health corporation that  
6 holds a certificate of authority under Chapter 844;

7           (10) a statewide mutual assessment company operating  
8 under Chapter 881;

9           (11) a local mutual aid association operating under  
10 Chapter 886; and

11           (12) a local mutual burial association operating under  
12 Chapter 888.

13           Sec. 544.453. PROHIBITION. An entity that offers a health  
14 benefit plan or an annuity or life insurance policy or contract may  
15 not use the fact that a person has been exposed to asbestos fibers  
16 or silica or has filed a claim governed by Chapter 90, Civil  
17 Practice and Remedies Code, to reject, deny, limit, cancel, refuse  
18 to renew, increase the premiums for, or otherwise adversely affect  
19 the person's eligibility for or coverage under the policy or  
20 contract.

21           (b) Article 21.53X, Insurance Code, as added by Section 8,  
22 Chapter 97, Acts of the 79th Legislature, Regular Session, 2005, is  
23 repealed.

24           SECTION 9.024. Section 551.004, Insurance Code, is amended  
25 to correct references to read as follows:

26           Sec. 551.004. TRANSFER NOT CONSIDERED A REFUSAL TO RENEW.  
27 For purposes of this chapter and Subchapters C and D, Chapter 1952

1 [~~Articles 5.06-1 and 5.06-3 of this code~~], the transfer of a  
2 policyholder between admitted companies within the same insurance  
3 group is not considered a refusal to renew.

4 SECTION 9.0245. (a) Subchapter A, Chapter 551, Insurance  
5 Code, is amended to conform to the enactment of Article 21.49-2V,  
6 Insurance Code, by Section 8.02, Chapter 206, Acts of the 78th  
7 Legislature, Regular Session, 2003, by adding Section 551.005 to  
8 read as follows:

9 Sec. 551.005. MEMBERSHIP DUES. (a) In this section,  
10 "insurer" includes a county mutual insurance company, a Lloyd's  
11 plan, and a reciprocal or interinsurance exchange.

12 (b) Except as otherwise provided by law, an insurer may  
13 require that membership dues in its sponsoring organization be paid  
14 as a condition for issuance or renewal of a policy.

15 (b) Article 21.49-2V, Insurance Code, as added by Section  
16 8.02, Chapter 206, Acts of the 78th Legislature, Regular Session,  
17 2003, is repealed.

18 SECTION 9.025. Section 843.318(a), Insurance Code, is  
19 amended to conform more closely to the source law from which the  
20 section was derived to read as follows:

21 (a) This chapter and this code do not prohibit a physician  
22 or provider who is participating in a health maintenance  
23 organization delivery network, whether by contracting with a health  
24 maintenance organization under Section 843.101 or by  
25 subcontracting with a physician or provider in the health  
26 maintenance organization delivery network, from entering into a  
27 contractual arrangement [~~authorized by this section~~] within a

1 health maintenance organization delivery network described by  
2 Subsections (b)-(e).

3 SECTION 9.026. Section 941.003(b), Insurance Code, as  
4 amended by Chapters 631 and 1295, Acts of the 79th Legislature,  
5 Regular Session, 2005, is reenacted and is amended to correct  
6 references to read as follows:

7 (b) A Lloyd's plan is subject to:

8 (1) Subchapter [~~Section 5, Article 1.10;~~

9 [~~(2) Article 1.15A;~~

10 [~~(3) Subchapters] A, [~~Q, T, and U,~~] Chapter 5, Chapter  
11 254, Subchapters A and B, Chapter 1806, and Subtitle C, Title 10;~~

12 (2) [~~(4)]~~ Articles [~~5.20,~~] 5.35, [~~5.38,~~] 5.39, and  
13 5.40;

14 (3) [~~(5) Article 21.49-8;~~

15 [~~(6) Sections 822.203, 822.205, 822.210, and 822.212;~~

16 [~~(7)]~~ Article 5.13-2, as provided by that article,  
17 Subchapters A-D, Chapter 2251, as provided by that chapter, and  
18 Chapter 2301, as provided by that chapter;

19 (4) [~~(8)]~~ Chapters 251, 252, 402, [~~and~~] 541, and 2253;

20 (5) Subchapter A, Chapter 401;

21 (6) Subchapter B, Chapter 404;

22 (7) Subchapter C, Chapter 1806; and

23 (8) Sections [~~(9) Section]~~ 38.001, 501.159, 822.203,  
24 822.205, 822.210, 822.212, 2002.005, 2002.051, and 2002.052.

25 SECTION 9.027. Section 942.003(b), Insurance Code, as  
26 amended by Chapters 631 and 1295, Acts of the 79th Legislature,  
27 Regular Session, 2005, is reenacted and is amended to correct

1 references to read as follows:

2 (b) An exchange is subject to:

3 (1) Subchapter [~~Section 5, Article 1.10,~~

4 [~~(2) Articles 1.15, 1.15A, and 1.16,~~

5 [~~(3) Subchapters~~] A, [~~Q, T, and U,~~] Chapter 5, Chapter

6 254, Subchapters A and B, Chapter 1806, and Subtitle C, Title 10;

7 (2) [(4)] Articles [~~5.20,~~] 5.35, [~~5.37, 5.38,~~] 5.39,

8 and 5.40;

9 (3) [(5)] Article [~~21.49-8,~~

10 [~~(6) Sections 822.203, 822.205, 822.210, 822.212,~~

11 ~~861.254(a)-(f), 861.255, 862.001(b), and 862.003,~~

12 [(7)] Article 5.13-2, as provided by that article,

13 Subchapters A-D, Chapter 2251, as provided by that chapter, and

14 Chapter 2301, as provided by that chapter;

15 (4) Chapters 402, [(8) Chapter] 541, and 2253;

16 (5) Subchapter A, Chapter 401, and Sections 401.051,

17 401.052, 401.054, 401.055, 401.056, 401.057, 401.058, 401.059,

18 401.060, 401.061, 401.062, 401.151, 401.152, 401.155, and 401.156;

19 (6) Subchapter B, Chapter 404;

20 (7) Subchapter C, Chapter 1806; and

21 (8) Sections [(9) ~~Section~~] 38.001, 501.159, 822.203,

22 822.205, 822.210, 822.212, 861.254(a)-(f), 861.255, 862.001(b),

23 862.003, 2002.002, 2002.005, 2002.051, and 2002.052.

24 SECTION 9.0271. (a) Section 1301.004, Insurance Code, to  
 25 conform more closely to the source law from which it was derived, is  
 26 transferred to Section 1301.061, Insurance Code, redesignated as  
 27 Subsection (c) of that section, and amended to read as follows:

1           (c) [~~Sec. 1301.004. COMPLIANCE WITH CHAPTER~~  
2 ~~REQUIRED.~~] Each preferred provider benefit plan offered in this  
3 state must comply with this chapter.

4           (b) Subchapter A, Chapter 1301, Insurance Code, is amended  
5 to conform more closely to the source law from which Chapter 1301  
6 was derived by adding Section 1301.0041 to read as follows:

7           Sec. 1301.0041. APPLICABILITY. This chapter applies to any  
8 preferred provider benefit plan in which an insurer provides,  
9 through the insurer's health insurance policy, for the payment of a  
10 level of coverage that is different from the basic level of coverage  
11 provided by the health insurance policy if the insured uses a  
12 preferred provider.

13           SECTION 9.028. Section 1365.004, Insurance Code, is amended  
14 to conform more closely to the source law from which the section was  
15 derived to read as follows:

16           Sec. 1365.004. RIGHT TO REJECT COVERAGE OR SELECT  
17 ALTERNATIVE BENEFITS [~~COVERAGE~~]. An offer of coverage required  
18 under Section 1365.003 is subject to the right of the group contract  
19 holder to reject the coverage or to select an alternative level of  
20 benefits [~~coverage~~] that is offered by or negotiated with the group  
21 health benefit plan issuer.

22           SECTION 9.0281. Section 1367.053(c), Insurance Code, is  
23 amended to conform more closely to the source law from which the  
24 section was derived to read as follows:

25           (c) In addition to the immunizations required under  
26 Subsection (a), a health maintenance organization that issues a  
27 health benefit plan shall provide under the plan coverage for



1 immunization against rotovirus and any other immunization required  
2 for a child by law.

3 SECTION 9.029. (a) Section 1507.003(b), Insurance Code, is  
4 amended to conform to Section 2, Chapter 577, Acts of the 79th  
5 Legislature, Regular Session, 2005, to read as follows:

6 (b) For purposes of this subchapter, "state-mandated health  
7 benefits" does not include benefits that are mandated by federal  
8 law or standard provisions or rights required under this code or  
9 other laws of this state to be provided in an individual, blanket,  
10 or group policy for accident and health insurance that are  
11 unrelated to a specific health illness, injury, or condition of an  
12 insured, including provisions related to:

13 (1) continuation of coverage under:

14 (A) Subchapters F and G, Chapter 1251;

15 (B) Section 1201.059; and

16 (C) Subchapter B, Chapter 1253;

17 (2) termination of coverage under Sections 1202.051  
18 and 1501.108;

19 (3) preexisting conditions under Subchapter D,  
20 Chapter 1201, and Sections 1501.102-1501.105;

21 (4) coverage of children, including newborn or adopted  
22 children, under:

23 (A) Subchapter D, Chapter 1251;

24 (B) Sections 1201.053, 1201.061,  
25 1201.063-1201.065, and Subchapter A, Chapter 1367;

26 (C) Chapter 1504;

27 (D) Chapter 1503;

- 1 (E) Section 1501.157;
- 2 (F) Section 1501.158; and
- 3 (G) Sections 1501.607-1501.609;
- 4 (5) services of practitioners under:
- 5 (A) Subchapters A, B, and C, Chapter 1451; or
- 6 (B) Section 1301.052;
- 7 (6) supplies and services associated with the
- 8 treatment of diabetes under Subchapter B, Chapter 1358;
- 9 (7) coverage for serious mental illness under
- 10 Subchapter A, Chapter 1355 [~~, if the standard health benefit plan is~~
- 11 ~~issued to a large employer as defined by Section 1501.002~~];
- 12 (8) coverage for childhood immunizations and hearing
- 13 screening as required by Subchapters B and C, Chapter 1367, other
- 14 than Section 1367.053(c) and Chapter 1353;
- 15 (9) coverage for reconstructive surgery for certain
- 16 craniofacial abnormalities of children as required by Subchapter D,
- 17 Chapter 1367;
- 18 (10) coverage for the dietary treatment of
- 19 phenylketonuria as required by Chapter 1359;
- 20 (11) coverage for referral to a non-network physician
- 21 or provider when medically necessary covered services are not
- 22 available through network physicians or providers, as required by
- 23 Section 1271.055; and
- 24 (12) coverage for cancer screenings under:
- 25 (A) Chapter 1356;
- 26 (B) Chapter 1362; [~~and~~]
- 27 (C) Chapter 1363; and

1                    (D) Chapter 1370.

2            (b) Section 2, Chapter 577, Acts of the 79th Legislature,  
3 Regular Session, 2005, which amended former Subsection (b), Section  
4 3, Article 3.80, Insurance Code, is repealed.

5            SECTION 9.030. (a) Section 1507.053(b), Insurance Code, is  
6 amended to conform to Section 3, Chapter 577, Acts of the 79th  
7 Legislature, Regular Session, 2005, to read as follows:

8            (b) For purposes of this subchapter, "state-mandated health  
9 benefits" does not include coverage that is mandated by federal law  
10 or standard provisions or rights required under this code or other  
11 laws of this state to be provided in an evidence of coverage that  
12 are unrelated to a specific health illness, injury, or condition of  
13 an enrollee, including provisions related to:

14            (1) continuation of coverage under Subchapter G,  
15 Chapter 1251;

16            (2) termination of coverage under Sections 1202.051  
17 and 1501.108;

18            (3) preexisting conditions under Subchapter D,  
19 Chapter 1201, and Sections 1501.102-1501.105;

20            (4) coverage of children, including newborn or adopted  
21 children, under:

22                    (A) Chapter 1504;

23                    (B) Chapter 1503;

24                    (C) Section 1501.157;

25                    (D) Section 1501.158; and

26                    (E) Sections 1501.607-1501.609;

27            (5) services of providers under Section 843.304;

1 (6) coverage for serious mental health illness under  
2 Subchapter A, Chapter 1355 [~~, if the standard health benefit plan is~~  
3 ~~issued to a large employer as defined by Section 1501.002~~]; and

4 (7) coverage for cancer screenings under:

5 (A) Chapter 1356;

6 (B) Chapter 1362; [~~and~~]

7 (C) Chapter 1363; and

8 (D) Chapter 1370.

9 (b) Section 3, Chapter 577, Acts of the 79th Legislature,  
10 Regular Session, 2005, which amended former Subsection (d), Article  
11 20A.09N, Insurance Code, is repealed.

12 SECTION 9.031. Section 1801.002, Insurance Code, is  
13 repealed to conform to Section 5.01(4), Chapter 1227, Acts of the  
14 79th Legislature, Regular Session, 2005.

15 SECTION 9.032. (a) Section 1806.101, Insurance Code, is  
16 amended to conform to Section 2, Chapter 631, Acts of the 79th  
17 Legislature, Regular Session, 2005, to read as follows:

18 Sec. 1806.101. DEFINITIONS. In this subchapter:

19 (1) "Insurance" includes a suretyship.

20 (2) "Insurer" means an insurance company or other  
21 legal entity described by Sections 1806.102(a) and (b).

22 (3) "Policy" includes a bond.

23 (b) Sections 1806.104(a) and (b), Insurance Code, are  
24 amended to conform to Section 2, Chapter 631, Acts of the 79th  
25 Legislature, Regular Session, 2005, to read as follows:

26 (a) Except as otherwise provided by this subchapter, an  
27 insurer, an insurer's employee, or a broker or agent may not

1 knowingly:

2 (1) issue an insurance policy that is not in  
3 accordance with an applicable filing [~~that is filed and in effect~~  
4 ~~under Chapter 2251 or 2301 or Article 5.13-2~~]; or

5 (2) charge, demand, or receive a premium on an  
6 insurance policy that is not in accordance with an applicable  
7 filing [~~that is filed and in effect under Chapter 2251 or 2301 or~~  
8 ~~Article 5.13-2~~].

9 (b) Except as provided in an applicable filing [~~that is~~  
10 ~~filed and in effect under Chapter 2251 or 2301 or Article 5.13-2~~],  
11 an insurer, an insurer's employee, or a broker or agent may not  
12 directly or indirectly pay, allow, or give, or offer to pay, allow,  
13 or give, as an inducement to insurance, or after insurance has been  
14 written, a rebate, discount, abatement, credit or reduction of the  
15 premium stated in an insurance policy, or a special favor or  
16 advantage in the dividends or other benefits to accrue on the  
17 policy, or any valuable consideration or inducement, not specified  
18 in the policy.

19 (c) Section 2, Chapter 631, Acts of the 79th Legislature,  
20 Regular Session, 2005, which amended former Subsections (a) and  
21 (d), Article 5.20, Insurance Code, is repealed.

22 SECTION 9.033. Section 1806.102, Insurance Code, is amended  
23 to conform to Section 1, Chapter 631, Acts of the 79th Legislature,  
24 Regular Session, 2005, to read as follows:

25 Sec. 1806.102. APPLICABILITY OF SUBCHAPTER. (a) This  
26 [~~Except as provided by Subsections (b) and (c), this~~] subchapter  
27 applies to an insurer, including a corporation, reciprocal or

1 interinsurance exchange, mutual insurance company, association,  
2 Lloyd's plan, or other organization, writing casualty insurance or  
3 writing fidelity, surety, or guaranty bonds, on risks or operations  
4 in this state.

5 (b) This subchapter applies [~~does not apply~~] to:

6 (1) a farm mutual insurance company with respect to  
7 each line of insurance that a farm mutual insurance company is  
8 authorized to write under Section 911.151 [~~or association regulated~~  
9 ~~under Chapter 911~~]; and [~~or~~]

10 (2) a county mutual insurance company with respect to  
11 each line of insurance that a county mutual insurance company is  
12 authorized to write under Section 912.151 [~~regulated under Chapter~~  
13 ~~912~~].

14 (c) Except as otherwise provided by this subchapter, this  
15 [~~This~~] subchapter does not apply to the writing of:

16 (1) automobile insurance;

17 (2) life, health, or accident insurance;

18 (3) professional liability insurance;

19 (4) reinsurance;

20 (5) aircraft insurance;

21 (6) fraternal benefit insurance;

22 (7) fire insurance;

23 (8) workers' compensation insurance;

24 (9) marine insurance, including noncommercial inland  
25 marine insurance and ocean marine insurance;

26 (10) title insurance;

27 (11) explosion insurance, except insurance against

1 loss from personal injury or property damage resulting accidentally  
2 from:

3 (A) a steam boiler;

4 (B) a heater or pressure vessel;

5 (C) an electrical device;

6 (D) an engine; or

7 (E) all machinery and appliances used in

8 connection with or in the operation of a boiler, heater, vessel,

9 electrical device, or engine described by Paragraphs (A)-(D); or

10 (12) insurance coverage for any of the following  
11 conditions or risks:

12 (A) weather or climatic conditions, including  
13 lightning, tornado, windstorm, hail, cyclone, rain, or frost and  
14 freeze;

15 (B) earthquake or volcanic eruption;

16 (C) smoke or smudge;

17 (D) excess or deficiency of moisture;

18 (E) flood;

19 (F) the rising water of an ocean or an ocean's  
20 tributary;

21 (G) bombardment, invasion, insurrection, riot,  
22 civil war or commotion, military or usurped power, or any order of a  
23 civil authority made to prevent the spread of a conflagration,  
24 epidemic or catastrophe;

25 (H) vandalism or malicious mischief;

26 (I) strike or lockout;

27 (J) water or other fluid or substance resulting

1 from:

2 (i) the breakage or leakage of a sprinkler,  
3 pump, or other apparatus erected for extinguishing fire, or a water  
4 pipe or other conduit or container; or

5 (ii) casual water entering a building  
6 through a leak or opening in the building or by seepage through  
7 building walls; or

8 (K) accidental damage to a sprinkler, pump, fire  
9 apparatus, pipe, or other conduit or container described by  
10 Paragraph (J)(i).

11 SECTION 9.034. (a) Section 1901.054(b), Insurance Code, is  
12 amended to conform to Section 1, Chapter 1135, Acts of the 79th  
13 Legislature, Regular Session, 2005, to read as follows:

14 (b) A rate is not excessive unless[+]

15 [~~(1)~~] the rate is unreasonably high for the insurance  
16 coverage provided[~~, and~~

17 [~~(2) a reasonable degree of competition does not exist~~  
18 ~~in the area with respect to the classification to which the rate~~  
19 ~~applies].~~

20 (b) Section 1901.057, Insurance Code, is amended to conform  
21 to Section 1, Chapter 1135, Acts of the 79th Legislature, Regular  
22 Session, 2005, to read as follows:

23 Sec. 1901.057. CONSIDERATIONS IN APPROVING RATES. In  
24 approving rates under this chapter, the department [~~commissioner~~]  
25 shall consider the impact of risk management courses taken by  
26 physicians and health care providers in this state.

27 (c) Section 1, Chapter 1135, Acts of the 79th Legislature,



1 Regular Session, 2005, which amended former Section 3, Article  
2 5.15-1, Insurance Code, is repealed.

3 SECTION 9.035. (a) Subchapter B, Chapter 1901, Insurance  
4 Code, is amended by adding Section 1901.0541 to conform to Section  
5 2, Chapter 1135, Acts of the 79th Legislature, Regular Session,  
6 2005, to read as follows:

7 Sec. 1901.0541. USE IN UNDERWRITING OF CERTAIN INFORMATION  
8 RELATED TO LAWSUITS; REFUND. (a) Notwithstanding any other  
9 provision of this code, an insurer may not consider for the purpose  
10 of setting premiums or reducing a claims-free discount for a  
11 particular insured physician's professional liability insurance a  
12 lawsuit filed against the physician if:

13 (1) before trial, the lawsuit was dismissed by the  
14 claimant or nonsuited; and

15 (2) no payment was made to the claimant under a  
16 settlement agreement.

17 (b) An insurer that, in setting premiums or reducing a  
18 claims-free discount for a physician's professional liability  
19 insurance, considers a lawsuit filed against the physician shall  
20 refund to the physician any increase in premiums paid by the  
21 physician that is attributable to that lawsuit or reinstate the  
22 claims-free discount if the lawsuit is dismissed by the claimant or  
23 nonsuited without payment to the claimant under a settlement  
24 agreement. The insurer shall issue the refund or reinstate the  
25 discount on or before the 30th day after the date the insurer  
26 receives written evidence that the lawsuit was dismissed or  
27 nonsuited without payment to the claimant under a settlement

1 agreement.

2 (c) This section does not prohibit an insurer from  
3 considering and using aggregate historical loss and expense  
4 experience applicable generally to a classification of physicians'  
5 professional liability insurance to set rates for that  
6 classification to the extent authorized by Chapter 2251 and Article  
7 5.13-2. Notwithstanding Section 2251.052(c), an insurer may not  
8 assign a physician to a particular classification based on a factor  
9 described by Subsection (a).

10 (b) Subchapter F, Chapter 1901, Insurance Code, is amended  
11 by adding Section 1901.254 to conform to Section 2, Chapter 1135,  
12 Acts of the 79th Legislature, Regular Session, 2005, to read as  
13 follows:

14 Sec. 1901.254. PROHIBITION OF USE OF CERTAIN INFORMATION  
15 FOR PHYSICIAN OR HEALTH CARE PROVIDER. (a) For the purpose of  
16 writing professional liability insurance for physicians and health  
17 care providers, an insurer may not consider whether, or the extent  
18 to which, a physician or health care provider provides services in  
19 this state to individuals who are recipients of Medicaid or covered  
20 by the state child health plan program established by Chapter 62,  
21 Health and Safety Code, including any consideration resulting in:

- 22 (1) denial of coverage;  
23 (2) refusal to renew coverage;  
24 (3) cancellation of coverage;  
25 (4) limitation of the amount, extent, or kind of  
26 coverage available; or  
27 (5) a determination of the rate or premium to be paid.

1       (b) The commissioner may adopt rules as necessary to  
2 implement this section.

3       (c) Section 2, Chapter 1135, Acts of the 79th Legislature,  
4 Regular Session, 2005, which added Sections 12 and 13 to former  
5 Article 5.15-1, Insurance Code, is repealed.

6       SECTION 9.036. (a) Subchapter F, Chapter 1901, Insurance  
7 Code, is amended by adding Section 1901.255 to conform to Section 1,  
8 Chapter 184, Acts of the 79th Legislature, Regular Session, 2005,  
9 to read as follows:

10       Sec. 1901.255. COVERAGE FOR VOLUNTEER HEALTH CARE  
11 PROVIDERS. (a) In this section:

12               (1) "Charitable organization" has the meaning  
13 assigned by Section 84.003, Civil Practice and Remedies Code.

14               (2) "Volunteer health care provider" has the meaning  
15 assigned by Section 84.003, Civil Practice and Remedies Code.

16       (b) An insurer may make available professional liability  
17 insurance covering a volunteer health care provider for an act or  
18 omission resulting in death, damage, or injury to a patient while  
19 the person is acting in the course and scope of the person's duties  
20 as a volunteer health care provider as described by Chapter 84,  
21 Civil Practice and Remedies Code.

22       (c) This section does not affect the liability of a  
23 volunteer health care provider who is serving as a direct service  
24 volunteer of a charitable organization. Section 84.004(c), Civil  
25 Practice and Remedies Code, applies to the volunteer health care  
26 provider without regard to whether the volunteer health care  
27 provider obtains liability insurance under this section.

1        (d) An insurer may make professional liability insurance  
2 available under this section to a volunteer health care provider  
3 without regard to whether the volunteer health care provider is a  
4 "health care provider" as defined by Section 1901.001.

5        (b) Section 1, Chapter 184, Acts of the 79th Legislature,  
6 Regular Session, 2005, which added Section 12 to former Article  
7 5.15-1, Insurance Code, is repealed.

8        SECTION 9.037. (a) Section 1952.101(c), Insurance Code, is  
9 amended to conform to Section 3, Chapter 1159, Acts of the 79th  
10 Legislature, Regular Session, 2005, to read as follows:

11        (c) The coverage required by this subchapter does not apply  
12 if any insured named in the insurance policy rejects the coverage in  
13 writing. Unless the named insured requests in writing the coverage  
14 required by this subchapter, the insurer is not required to provide  
15 that coverage in or supplemental to a reinstated insurance policy  
16 or renewal insurance policy if the named insured rejected the  
17 coverage in connection with that insurance policy or an insurance  
18 policy previously issued to the insured by the same insurer or by an  
19 affiliated insurer.

20        (b) Section 3, Chapter 1159, Acts of the 79th Legislature,  
21 Regular Session, 2005, which amended former Section (1), Article  
22 5.06-1, Insurance Code, is repealed.

23        SECTION 9.038. (a) Section 1952.152(b), Insurance Code, is  
24 amended to conform to Section 4, Chapter 1159, Acts of the 79th  
25 Legislature, Regular Session, 2005, to read as follows:

26        (b) The coverage required by this subchapter does not apply  
27 if any insured named in the insurance policy rejects the coverage in

1 writing. Unless the named insured requests in writing the coverage  
2 required by this subchapter, the insurer is not required to provide  
3 that coverage in or supplemental to a reinstated insurance policy  
4 or renewal insurance policy if the named insured rejected the  
5 coverage in connection with that insurance policy or an insurance  
6 policy previously issued to the insured by the same insurer or by an  
7 affiliated insurer.

8 (b) Section 4, Chapter 1159, Acts of the 79th Legislature,  
9 Regular Session, 2005, which amended former Subsection (a), Article  
10 5.06-3, Insurance Code, is repealed.

11 SECTION 9.039. (a) Section 1952.155, Insurance Code, is  
12 amended by amending Subsection (b) and adding Subsection (c) to  
13 conform to Section 2, Chapter 1074, Acts of the 79th Legislature,  
14 Regular Session, 2005, to read as follows:

15 (b) Except as provided by Subsection (c), an [An] insurer  
16 paying benefits under coverage required by this subchapter does not  
17 have a right of subrogation or claim against any other person or  
18 insurer to recover any benefits by reason of the alleged fault of  
19 the other person in causing or contributing to the accident.

20 (c) An insurer paying benefits pursuant to this subchapter,  
21 including a county mutual insurance company, shall have a right of  
22 subrogation and a claim against a person causing or contributing to  
23 the accident if, on the date of loss, financial responsibility as  
24 required by Chapter 601, Transportation Code, has not been  
25 established for a motor vehicle involved in the accident and  
26 operated by that person.

27 (b) Section 2, Chapter 1074, Acts of the 79th Legislature,

1 Regular Session, 2005, which amended former Article 5.06-3,  
2 Insurance Code, by amending Subsection (c) and adding Subsection  
3 (i), is repealed.

4 SECTION 9.040. (a) Section 2006.052, Insurance Code, is  
5 amended to conform to Sections 4 and 6, Chapter 291, Acts of the  
6 79th Legislature, Regular Session, 2005, by amending Subsection (b)  
7 and adding Subsection (c) to read as follows:

8 (b) This section applies to an insurer that uses a tier  
9 classification or discount program that has a premium consequence  
10 based in whole or in part on claims experience, regardless of  
11 whether any of the policies that continuously covered the  
12 policyholder was a different kind of residential property insurance  
13 policy from the policy eligible for the premium discount.

14 (c) A residential property insurance claim under this  
15 section does not include a claim:

- 16 (1) resulting from a loss caused by natural causes;  
17 (2) that is filed but is not paid or payable under the  
18 policy; or  
19 (3) that an insurer is prohibited from using under  
20 Section 544.353.

21 (b) Subchapter B, Chapter 2006, Insurance Code, is amended  
22 to conform to Section 4, Chapter 291, Acts of the 79th Legislature,  
23 Regular Session, 2005, by adding Section 2006.0521 to read as  
24 follows:

25 Sec. 2006.0521. COMPLIANCE WITH OTHER LAW REQUIRED. Any  
26 change in the amount of a premium discount provided under this  
27 subchapter must comply with the requirements of Section 551.107.

1 (c) Sections 4 and 6, Chapter 291, Acts of the 79th  
2 Legislature, Regular Session, 2005, which amended former Article  
3 5.43, Insurance Code, by amending Subsection (d) and adding  
4 Subsections (a-1) and (f), are repealed.

5 SECTION 9.041. (a) Section 2051.151(a), Insurance Code, is  
6 amended to conform to Section 6.062, Chapter 265, Acts of the 79th  
7 Legislature, Regular Session, 2005, to read as follows:

8 (a) Except as otherwise provided by Subsection (b), an  
9 insurance company that writes workers' compensation insurance in  
10 this state shall notify a policyholder of a claim that is filed  
11 against the policyholder's policy and, after the initial notice,  
12 the company shall notify the policyholder of:

13 (1) any proposal to settle the claim; or

14 (2) on receipt of a written request from the  
15 policyholder, any administrative or judicial proceeding relating  
16 to the resolution of the claim[~~, including a benefit review  
17 conference conducted by the Texas Workers' Compensation  
18 Commission~~].

19 (b) Section 6.062, Chapter 265, Acts of the 79th  
20 Legislature, Regular Session, 2005, which amended former Section  
21 (a), Article 5.65A, Insurance Code, is repealed.

22 SECTION 9.042. (a) Section 2053.001, Insurance Code, is  
23 amended to conform to Section 5.01, Chapter 265, Acts of the 79th  
24 Legislature, Regular Session, 2005, by amending Subdivision (2) and  
25 adding Subdivision (2-a) to read as follows:

26 (2) "Insurance company" means a person authorized to  
27 engage in the business of workers' compensation insurance in this

1 state. The term includes:

- 2 (A) the Texas Mutual Insurance Company;  
3 (B) a Lloyd's plan under Chapter 941; and  
4 (C) a reciprocal and interinsurance exchange  
5 under Chapter 942.

6 (2-a) "Premium" means the amount charged for a  
7 workers' compensation insurance policy, including any  
8 endorsements, after the application of individual risk variations  
9 based on loss or expense considerations.

10 (b) Section 5.01, Chapter 265, Acts of the 79th Legislature,  
11 Regular Session, 2005, which amended former Section 1, Article  
12 5.55, Insurance Code, by amending Subdivision (2) and adding  
13 Subdivision (2-a), is repealed.

14 SECTION 9.043. (a) Sections 2053.002(a) and (b), Insurance  
15 Code, are amended to conform to Section 5.02, Chapter 265, Acts of  
16 the 79th Legislature, Regular Session, 2005, to read as follows:

- 17 (a) In setting rates, an insurance company shall consider:  
18 (1) past and prospective loss cost experience;  
19 (2) operation expenses;  
20 (3) investment income;  
21 (4) a reasonable margin for profit and contingencies;  
22 [~~and~~]  
23 (5) the effect on premiums of individual risk  
24 variations based on loss or expense considerations; and  
25 (6) any other relevant factor.

26 (b) A rate or premium established under this subchapter may  
27 not be excessive, inadequate, or unfairly discriminatory.



1 (b) Section 5.02, Chapter 265, Acts of the 79th Legislature,  
2 Regular Session, 2005, which amended former Subsections (b) and  
3 (d), Section 2, Article 5.55, Insurance Code, is repealed.

4 SECTION 9.044. Section 2053.007(c), Insurance Code, is  
5 repealed to conform to Section 5.04, Chapter 265, Acts of the 79th  
6 Legislature, Regular Session, 2005.

7 SECTION 9.045. (a) Section 2053.010, Insurance Code, is  
8 amended to conform to Section 5.05, Chapter 265, Acts of the 79th  
9 Legislature, Regular Session, 2005, to read as follows:

10 Sec. 2053.010. PENALTIES [~~ADMINISTRATIVE PENALTY~~]. If a  
11 workers' compensation insurance policy is issued and the  
12 commissioner subsequently disapproves the rate or filing on which  
13 the premium is based, the commissioner, after notice and the  
14 opportunity for a hearing, may:

15 (1) impose sanctions under Chapter 82;

16 (2) issue a cease and desist order under Chapter 83;

17 (3) impose administrative penalties under Chapter 84;

18 or

19 (4) take any combination of these actions. [~~(a) The~~  
20 ~~commissioner may assess an administrative penalty against an~~  
21 ~~insurance company if the commissioner determines, based on a~~  
22 ~~pattern of charges for premiums, that the company is consistently~~  
23 ~~overcharging or undercharging the company's policyholders for~~  
24 ~~workers' compensation insurance.~~

25 [~~(b) An administrative penalty under this section must be:~~

26 [~~(1) assessed in accordance with Section 415.021,~~  
27 ~~Labor Code, and~~

1           ~~[(2) set by the commissioner in an amount reasonable~~  
2 ~~and necessary to deter overcharging or undercharging of~~  
3 ~~policyholders.]~~

4           (b) Section 5.05, Chapter 265, Acts of the 79th Legislature,  
5 Regular Session, 2005, which amended former Section 7, Article  
6 5.55, Insurance Code, is repealed.

7           SECTION 9.046. (a) Subchapter A, Chapter 2053, Insurance  
8 Code, is amended to conform to Section 5.055, Chapter 265, Acts of  
9 the 79th Legislature, Regular Session, 2005, by adding Section  
10 2053.011 to read as follows:

11           Sec. 2053.011. EXCLUSIVE JURISDICTION. The department has  
12 exclusive jurisdiction over all rates and premiums subject to this  
13 subchapter.

14           (b) Section 5.055, Chapter 265, Acts of the 79th  
15 Legislature, Regular Session, 2005, which added Section 8 to former  
16 Article 5.55, Insurance Code, is repealed.

17           SECTION 9.047. (a) Subchapter A, Chapter 2053, Insurance  
18 Code, is amended to conform to Section 5.03, Chapter 265, Acts of  
19 the 79th Legislature, Regular Session, 2005, by adding Sections  
20 2053.012 and 2053.013 to read as follows:

21           Sec. 2053.012. REPORT ON LEGISLATIVE REFORMS REQUIRED. (a)  
22 Not later than December 1 of each even-numbered year, the  
23 commissioner shall report to the governor, lieutenant governor, and  
24 speaker of the house of representatives regarding the impact that  
25 legislation enacted during the regular session of the 79th  
26 Legislature reforming the workers' compensation system of this  
27 state has had on the affordability and availability of workers'

1 compensation insurance for the employers of this state. The report  
2 must include an analysis of:

3 (1) the projected workers' compensation premium  
4 savings realized by employers as a result of the reforms;

5 (2) the impact of the reforms on:

6 (A) the percentage of employers who provide  
7 workers' compensation insurance coverage for their employees; and

8 (B) to the extent possible, economic development  
9 and job creation;

10 (3) the effects of the reforms on market competition  
11 and carrier financial solvency, including an analysis of how  
12 carrier loss ratios, combined ratios, and use of individual risk  
13 variations have changed since implementation of the reforms; and

14 (4) the extent of participation in workers'  
15 compensation health care networks by small and medium-sized  
16 employers.

17 (b) If the commissioner determines that workers'  
18 compensation rate filings or premium levels analyzed by the  
19 department do not appropriately reflect the savings associated with  
20 the reforms described by Subsection (a), the commissioner shall  
21 include in the report required under Subsection (a) any  
22 recommendations, including any recommended legislative changes,  
23 necessary to identify the tools needed by the department to more  
24 effectively regulate workers' compensation rates.

25 (c) At the request of the department, each insurance company  
26 shall submit to the department all data and other information  
27 considered necessary by the commissioner to generate the report

1 required under Subsection (a). Failure by an insurance company to  
2 submit the data and information in a timely fashion, as determined  
3 by commissioner rule, constitutes grounds for sanctions under  
4 Chapter 82.

5 Sec. 2053.013. REVIEW OF RATES; CONSIDERATION OF OTHER LAW.

6 In reviewing rates under this subchapter, the commissioner shall  
7 consider any state or federal legislation that has been enacted and  
8 that may impact rates and premiums for workers' compensation  
9 insurance coverage in this state.

10 (b) Section 5.03, Chapter 265, Acts of the 79th Legislature,  
11 Regular Session, 2005, which added Subsections (e) through (h) to  
12 former Section 3, Article 5.55, Insurance Code, is repealed.

13 SECTION 9.048. (a) Chapter 2053, Insurance Code, is  
14 amended to conform to Section 5.06, Chapter 265, Acts of the 79th  
15 Legislature, Regular Session, 2005, by adding Subchapter A-1 to  
16 read as follows:

17 SUBCHAPTER A-1. UNDERWRITING GUIDELINES

18 Sec. 2053.031. DEFINITIONS. In this subchapter:

19 (1) "Insurance company" has the meaning assigned by  
20 Section 2053.001.

21 (2) "Underwriting guideline" means a rule, standard,  
22 guideline, or practice, whether written, oral, or electronic, that  
23 is used by an insurance company or its agent to decide whether to  
24 accept or reject an application for coverage under a workers'  
25 compensation insurance policy or to determine how to classify those  
26 risks that are accepted for the purpose of determining a rate.

27 Sec. 2053.032. UNDERWRITING GUIDELINES. Each underwriting

1 guideline used by an insurance company in writing workers'  
2 compensation insurance must be sound, actuarially justified, or  
3 otherwise substantially commensurate with the contemplated risk.  
4 An underwriting guideline may not be unfairly discriminatory.

5 Sec. 2053.033. ENFORCEMENT. This subchapter may be  
6 enforced in the manner provided by Section 38.003(g).

7 Sec. 2053.034. FILING REQUIREMENTS. Each insurance company  
8 shall file with the department a copy of the insurance company's  
9 underwriting guidelines. The insurance company shall update its  
10 filing each time the underwriting guidelines are changed. If a  
11 group of insurance companies files one set of underwriting  
12 guidelines for the group, the group shall identify which  
13 underwriting guidelines apply to each insurance company in the  
14 group.

15 Sec. 2053.035. APPLICABILITY OF SECTION 38.003. Section  
16 38.003 applies to this subchapter to the extent consistent with  
17 this subchapter.

18 (b) Section 5.06, Chapter 265, Acts of the 79th Legislature,  
19 Regular Session, 2005, which added Article 5.55A to former  
20 Subchapter D, Chapter 5, Insurance Code, is repealed.

21 SECTION 9.049. (a) Subchapter B, Chapter 2053, Insurance  
22 Code, is amended to conform to Section 5.08, Chapter 265, Acts of  
23 the 79th Legislature, Regular Session, 2005, by adding Section  
24 2053.056 to read as follows:

25 Sec. 2053.056. RATE HEARINGS. (a) The commissioner shall  
26 conduct a public hearing each biennium, beginning not later than  
27 December 1, 2008, to review rates to be charged for workers'

1 compensation insurance written in this state. A public hearing  
2 under this section is not a contested case as defined by Section  
3 2001.003, Government Code.

4 (b) Not later than the 30th day before the date of the public  
5 hearing required under Subsection (a), each insurance company  
6 subject to this subtitle and Article 5.66 shall file the insurance  
7 company's rates, supporting information, and supplementary rating  
8 information with the commissioner.

9 (c) The commissioner shall review the information submitted  
10 under Subsection (b) to determine the positive or negative impact  
11 of the enactment of workers' compensation reform legislation  
12 enacted by the 79th Legislature, Regular Session, 2005, on workers'  
13 compensation rates and premiums. The commissioner may consider  
14 other factors, including relativities under Section 2053.051, in  
15 determining whether a change in rates has impacted the premium  
16 charged to policyholders.

17 (d) The commissioner shall implement rules as necessary to  
18 mandate rate reductions or to modify the use of individual risk  
19 variations if the commissioner determines that the rates or  
20 premiums charged by insurance companies do not meet the rating  
21 standards as defined in this code.

22 (e) The commissioner shall adopt rules as necessary to  
23 mandate rate or premium reductions by insurance companies for the  
24 use of cost-containment strategies that result in savings to the  
25 workers' compensation system, including use of a workers'  
26 compensation health care network health care delivery system, as  
27 described by Chapter 1305.

1 (b) Section 5.08, Chapter 265, Acts of the 79th Legislature,  
2 Regular Session, 2005, which amended former Article 5.60A,  
3 Insurance Code, is repealed.

4 SECTION 9.050. (a) Section 2053.151(b), Insurance Code, is  
5 amended to conform to Section 5.07, Chapter 265, Acts of the 79th  
6 Legislature, Regular Session, 2005, to read as follows:

7 (b) For purposes of Subsection (a), the commissioner shall  
8 establish standards and procedures for categorizing insurance and  
9 medical benefits required to be reported on each workers'  
10 compensation claim. In establishing the standards, the  
11 commissioner shall consult with the commissioner of workers'  
12 compensation [~~Texas Workers' Compensation Commission~~] to ensure  
13 that the data collection methodology will yield data necessary for  
14 research and medical cost containment efforts.

15 (b) Section 5.07, Chapter 265, Acts of the 79th Legislature,  
16 Regular Session, 2005, which amended former Subsection (b), Article  
17 5.58, Insurance Code, is repealed.

18 SECTION 9.051. (a) Section 2054.008(d), Insurance Code, is  
19 amended to conform to Section 6.065, Chapter 265, Acts of the 79th  
20 Legislature, Regular Session, 2005, to read as follows:

21 (d) Except as provided by Subsection (e), a company  
22 investigation file:

23 (1) is confidential and not subject to required  
24 disclosure under Chapter 552, Government Code; and

25 (2) may be disclosed only:

26 (A) in a criminal proceeding;

27 (B) in a hearing conducted by the division of

1 workers' compensation of the department [~~commission~~];

2 (C) on a judicial determination of good cause; or

3 (D) to a governmental agency, political  
4 subdivision, or regulatory body if the disclosure is necessary or  
5 proper for the enforcement of a law of this state, another state, or  
6 the United States.

7 (b) Section 6.065, Chapter 265, Acts of the 79th  
8 Legislature, Regular Session, 2005, which amended former  
9 Subsection (a), Section 10, Article 5.76-3, Insurance Code, is  
10 repealed.

11 SECTION 9.052. (a) Section 2054.204(a), Insurance Code, is  
12 amended to conform to Section 6.066, Chapter 265, Acts of the 79th  
13 Legislature, Regular Session, 2005, to read as follows:

14 (a) The company shall file annual statements with the  
15 department [~~and commission~~] in the same manner as is required of  
16 other workers' compensation insurance companies.

17 (b) Section 6.066, Chapter 265, Acts of the 79th  
18 Legislature, Regular Session, 2005, which amended former  
19 Subsection (e), Section 12, Article 5.76-3, Insurance Code, is  
20 repealed.

21 SECTION 9.053. (a) Section 2054.206, Insurance Code, is  
22 amended to conform to Section 6.067, Chapter 265, Acts of the 79th  
23 Legislature, Regular Session, 2005, to read as follows:

24 Sec. 2054.206. ADDITIONAL REPORTS. The company shall file  
25 with the department [~~and the commission~~] all reports required of  
26 other workers' compensation insurance companies.

27 (b) Section 6.067, Chapter 265, Acts of the 79th



1 Legislature, Regular Session, 2005, which amended former  
2 Subsection (b), Section 16, Article 5.76-3, Insurance Code, is  
3 repealed.

4 SECTION 9.0531. Section 2054.253(b), Insurance Code, is  
5 amended to conform more closely to the source law from which the  
6 section was derived to read as follows:

7 (b) The systems may provide for a higher or lower premium  
8 payment by an insured based on[+]

9 [1] the company's evaluation of the underwriting  
10 characteristics of the individual risk[+] and

11 [2] the appropriate premium to be charged for the  
12 policy coverages.

13 SECTION 9.054. (a) Section 2054.451(b), Insurance Code, is  
14 amended to conform to Section 6.064, Chapter 265, Acts of the 79th  
15 Legislature, Regular Session, 2005, to read as follows:

16 (b) The company shall cooperate with the division of  
17 workers' compensation of the department [~~commission~~] to compile and  
18 maintain information necessary to detect practices or patterns of  
19 conduct that violate this code relating to workers' compensation  
20 insurance or that violate Subtitle A, Title 5, Labor Code.

21 (b) Section 2054.452, Insurance Code, is amended to conform  
22 to Section 6.064, Chapter 265, Acts of the 79th Legislature,  
23 Regular Session, 2005, to read as follows:

24 Sec. 2054.452. INVESTIGATIONS; COORDINATION [~~WITH~~  
25 ~~COMMISSION~~]. (a) The company may investigate cases of suspected  
26 fraud and violations of this code relating to workers' compensation  
27 insurance.

1 (b) The company may:

2 (1) coordinate the company's investigations with those  
3 conducted by the division of workers' compensation of the  
4 department [~~commission~~] to avoid duplication of efforts; and

5 (2) refer to the division of workers' compensation of  
6 the department [~~commission~~] a case that is not otherwise resolved  
7 by the company so that the division [~~commission~~] may:

8 (A) perform any further investigation necessary  
9 under the circumstances;

10 (B) conduct administrative violation  
11 proceedings; and

12 (C) assess and collect penalties and  
13 restitution.

14 (c) Section 2054.454, Insurance Code, is amended to conform  
15 to Section 6.064, Chapter 265, Acts of the 79th Legislature,  
16 Regular Session, 2005, to read as follows:

17 Sec. 2054.454. DEPOSIT AND USE OF PENALTIES COLLECTED BY  
18 DIVISION [~~COMMISSION~~]. A penalty collected under Section  
19 2054.452(b):

20 (1) must be deposited in the Texas Department of  
21 Insurance operating account [~~general revenue fund to the credit of~~  
22 ~~the commission~~]; and

23 (2) may be appropriated only to the division of  
24 workers' compensation of the department [~~commission~~] to offset the  
25 costs of the program under Section 2054.451.

26 (d) Section 6.064, Chapter 265, Acts of the 79th  
27 Legislature, Regular Session, 2005, which amended former

1 Subsections (a), (b), and (e), Section 9, Article 5.76-3, Insurance  
2 Code, is repealed.

3 SECTION 9.055. (a) Section 2054.501, Insurance Code, is  
4 amended to conform to Section 6.063, Chapter 265, Acts of the 79th  
5 Legislature, Regular Session, 2005, to read as follows:

6 Sec. 2054.501. DEFINITION. In this subchapter, "division"  
7 means the [~~commission's~~] division of workers' compensation of the  
8 department [~~health and safety~~].

9 (b) Section 2054.502, Insurance Code, is amended to conform  
10 to Section 6.063, Chapter 265, Acts of the 79th Legislature,  
11 Regular Session, 2005, to read as follows:

12 Sec. 2054.502. REQUIREMENTS FOR PREVENTION OF INJURIES.  
13 The company may make and enforce requirements for the prevention of  
14 injuries to an employee of a policyholder or applicant for  
15 insurance under this chapter. On reasonable notice, a policyholder  
16 or applicant shall grant representatives of the company[~~, the~~  
17 ~~commission,~~] or the department free access to the premises of the  
18 policyholder or applicant during regular working hours for purposes  
19 of this section.

20 (c) Section 2054.506, Insurance Code, is amended to conform  
21 to Section 6.063, Chapter 265, Acts of the 79th Legislature,  
22 Regular Session, 2005, to read as follows:

23 Sec. 2054.506. SAFETY CONSULTANT REPORT. A safety  
24 consultant acting under this subchapter shall file a written report  
25 with the division [~~commission~~] and the policyholder specifying any  
26 hazardous condition or practice identified in the safety  
27 consultation.

1 (d) Section 2054.509, Insurance Code, is amended to conform  
2 to Section 6.063, Chapter 265, Acts of the 79th Legislature,  
3 Regular Session, 2005, to read as follows:

4 Sec. 2054.509. FOLLOW-UP INSPECTION. (a) Not earlier than  
5 the 90th day after or later than the sixth month after the date an  
6 accident prevention plan is developed under Section 2054.507, the  
7 division shall conduct a follow-up inspection of the policyholder's  
8 premises in accordance with rules adopted by the commissioner of  
9 workers' compensation [~~commission~~].

10 (b) The division [~~commission~~] may require the participation  
11 of the safety consultant who performed the initial consultation and  
12 developed the accident prevention plan.

13 (c) If the commissioner of workers' compensation [~~division~~]  
14 determines that a policyholder has complied with the terms of the  
15 accident prevention plan or has implemented other accepted  
16 corrective measures, the commissioner of workers' compensation  
17 [~~division~~] shall certify that determination.

18 (d) If the commissioner of workers' compensation [~~division~~]  
19 determines that a policyholder has failed or refuses to implement  
20 the accident prevention plan or other suitable hazard abatement  
21 measures, the policyholder may elect to cancel coverage not later  
22 than the 30th day after the date of the determination.

23 (e) Sections 2054.510(a), (c), and (d), Insurance Code, are  
24 amended to conform to Section 6.063, Chapter 265, Acts of the 79th  
25 Legislature, Regular Session, 2005, to read as follows:

26 (a) If a policyholder described by Section 2054.509(d) does  
27 not elect to cancel coverage as provided by that section:

1           (1) the company may cancel the coverage; or  
2           (2) the commissioner of workers' compensation  
3 ~~[commission]~~ may impose an administrative penalty on the  
4 policyholder.

5           (c) In imposing an administrative penalty, the commissioner  
6 of workers' compensation ~~[commission]~~ may consider any matter that  
7 justice may require and shall consider:

8           (1) the seriousness of the violation, including the  
9 nature, circumstances, consequences, extent, and gravity of the  
10 prohibited act;

11           (2) the history and extent of previous administrative  
12 violations;

13           (3) the demonstrated good faith of the violator,  
14 including actions taken to rectify the consequences of the  
15 prohibited act;

16           (4) any economic benefit resulting from the prohibited  
17 act; and

18           (5) the penalty necessary to deter future violations.

19           (d) A penalty collected under this section ~~[must be]~~:

20           (1) must be deposited in the general revenue fund ~~[to~~  
21 ~~the credit of the commission]~~; and ~~[or]~~

22           (2) may be appropriated ~~[reappropriated]~~ to the  
23 division ~~[commission]~~ to offset the costs of implementing and  
24 administering this subchapter.

25           (f) Section 2054.512, Insurance Code, is amended to conform  
26 to Section 6.063, Chapter 265, Acts of the 79th Legislature,  
27 Regular Session, 2005, to read as follows:

1           Sec. 2054.512. FEES FOR SERVICES. The division  
2 ~~[commission]~~ shall:

3           (1) charge a policyholder for the reasonable cost of  
4 services provided to the policyholder under Sections 2054.505,  
5 2054.506, 2054.507, 2054.509, and 2054.510(a); and

6           (2) set the fees for the services at a  
7 cost-reimbursement level, including a reasonable allocation of the  
8 division's ~~[commission's]~~ administrative costs.

9           (g) Section 2054.513, Insurance Code, is amended to conform  
10 to Section 6.063, Chapter 265, Acts of the 79th Legislature,  
11 Regular Session, 2005, to read as follows:

12           Sec. 2054.513. ENFORCEMENT OF SUBCHAPTER. The ~~[compliance~~  
13 ~~and practices]~~ division ~~[of the commission]~~ shall enforce  
14 compliance with this subchapter through the administrative  
15 violation proceedings under Chapter 415, Labor Code.

16           (h) Section 6.063, Chapter 265, Acts of the 79th  
17 Legislature, Regular Session, 2005, which amended former  
18 Subsections (a), (e), (g), (h), (i), (k), and (l), Section 8,  
19 Article 5.76-3, Insurance Code, is repealed.

20           SECTION 9.056. Section 2054.001(2), Insurance Code, is  
21 repealed to conform to Section 7.01, Chapter 265, Acts of the 79th  
22 Legislature, Regular Session, 2005.

23           SECTION 9.057. Section 6.068, Chapter 265, Acts of the 79th  
24 Legislature, Regular Session, 2005, which amended former  
25 Subsections (a) and (c), Section 10, Article 5.76-5, Insurance  
26 Code, is repealed.

27           SECTION 9.058. Section 2151.154, Insurance Code, is amended

1 to conform more closely to the source law from which the section was  
2 derived to read as follows:

3 Sec. 2151.154. ASSIGNMENT DISTRIBUTION PLAN. (a) The  
4 plan of operation must include a voluntary, competitive limited  
5 assignment distribution plan that allows an authorized insurer to  
6 contract directly with a servicing carrier [~~insurer~~] to accept  
7 assignments to the servicing carrier [~~insurer~~] by the association.

8 (b) A servicing carrier [~~insurer~~] must be authorized to  
9 write automobile insurance in this state and must:

10 (1) have written automobile liability insurance in  
11 this state for at least five years; or

12 (2) be currently engaged as a servicing carrier  
13 [~~insurer~~] for assigned risk automobile business in at least one  
14 other state.

15 (c) After notice and hearing, the commissioner may prohibit  
16 an insurer from acting as a servicing carrier [~~insurer~~].

17 (d) An authorized insurer and a servicing carrier [~~insurer~~]  
18 shall determine through negotiation the terms of a contract  
19 described by this section, including the buy-out fee.

20 (e) The governing committee may:

21 (1) adopt reasonable rules for the conduct of business  
22 under a contract described by this section; and

23 (2) establish reasonable standards of eligibility for  
24 servicing carriers [~~insurers~~].

25 SECTION 9.059. (a) Section 2154.005(a), Insurance Code, is  
26 amended to conform to Section 1, Chapter 217, Acts of the 79th  
27 Legislature, Regular Session, 2005, to read as follows:

1 (a) The fund is an account in a depository selected by the  
2 board of regents of The Texas A&M University System in the manner  
3 provided by Section 51.003, Education Code, for funds subject to  
4 the control of institutions of higher education under Section  
5 51.002, Education Code [~~the general revenue fund~~].

6 (b) Section 1, Chapter 217, Acts of the 79th Legislature,  
7 Regular Session, 2005, which amended former Subsections (a) and  
8 (c), Section 5, Article 21.61, Insurance Code, is repealed.

9 SECTION 9.0591. (a) The following changes are made to  
10 Subtitle A, Title 5, Labor Code, and Subtitle E, Title 10, Insurance  
11 Code, for organizational purposes:

12 (1) Chapter 406A, Labor Code, is redesignated as  
13 Chapter 2055, Subtitle E, Title 10, Insurance Code; and

14 (2) Sections 406A.001, 406A.002, 406A.003, 406A.004,  
15 406A.005, 406A.006, 406A.007, and 406A.008 in the redesignated  
16 chapter are redesignated as Sections 2055.001, 2055.002, 2055.003,  
17 2055.004, 2055.005, 2055.006, 2055.007, and 2055.008, Insurance  
18 Code, respectively.

19 (b) Section 406A.001, Labor Code, redesignated as Section  
20 2055.001, Insurance Code, by Subsection (a)(2) of this section, is  
21 amended to conform to that redesignation to read as follows:

22 Sec. 2055.001 [~~406A.001~~]. DEFINITION [~~DEFINITIONS~~]. In  
23 this chapter, "business"

24 [~~(1) "Business~~] entity" means a business enterprise  
25 owned by a single person or a corporation, organization, business  
26 trust, trust, partnership, joint venture, association, or other  
27 business entity.



1           ~~[(2) "Commissioner" means the commissioner of~~  
2 ~~insurance.~~

3           ~~[(3) "Department" means the Texas Department of~~  
4 ~~Insurance.]~~

5           (c) Section 406A.008, Labor Code, redesignated as Section  
6 2055.008, Insurance Code, by Subsection (a)(2) of this section, is  
7 amended to conform to that redesignation to read as follows:

8           Sec. 2055.008 ~~[406A.008]~~. APPLICABILITY OF OTHER LAW. (a)  
9 A group established under this chapter is entitled to any deviation  
10 applicable under Section 2052.004, 2053.051, or 2053.052(a) or  
11 (b) ~~[, Insurance Code]~~.

12           (b) A member of a group is not subject to the discounts and  
13 surcharges established under Subchapter F, Chapter 2053~~[,~~  
14 ~~Insurance Code]~~.

15           (d) Section 36.002, Insurance Code, is amended to conform to  
16 the redesignation of Chapter 406A, Labor Code, as Chapter 2055,  
17 Insurance Code, by Subsection (a)(1) of this section to read as  
18 follows:

19           Sec. 36.002. ADDITIONAL RULEMAKING AUTHORITY.       The  
20 commissioner may adopt reasonable rules that are:

21           (1) necessary to effect the purposes of a provision  
22 of:

- 23                   (A) Subchapter B, Chapter 5;  
24                   (B) Subchapter C, Chapter 1806;  
25                   (C) Subchapter A, Chapter 2301;  
26                   (D) Chapter 251, as that chapter relates to  
27 casualty insurance and fidelity, guaranty, and surety bond

1 insurance;

2 (E) Chapter 253;

3 (F) Chapter 2251 or 2252; or

4 (G) Subtitle B, Title 10; or

5 (2) appropriate to accomplish the purposes of a  
6 provision of:

7 (A) Section 37.051(a), 403.002, 492.051(b) or  
8 (c), 501.159, 941.003(b)(3) or (c), or 942.003(b)(3) or (c);

9 (B) Subchapter H, Chapter 544;

10 (C) Chapter 251, as that chapter relates to:

11 (i) automobile insurance;

12 (ii) casualty insurance and fidelity,  
13 guaranty, and surety bond insurance;

14 (iii) fire insurance and allied lines;

15 (iv) workers' compensation insurance; or

16 (v) aircraft insurance;

17 (D) Chapter 5, 252, 253, 254, 255, 256, 426, 493,  
18 494, 1804, 1805, 1806, or 2171;

19 (E) Subtitle B, C, D, E, F, H, or I, Title 10;

20 (F) Section 417.008, Government Code; or

21 (G) [~~Chapter 406A, Labor Code, or~~

22 [~~H~~] Chapter 2154, Occupations Code.

23 (e) Section 1805.001, Insurance Code, is amended to conform  
24 to the redesignation of Chapter 406A, Labor Code, as Chapter 2055,  
25 Insurance Code, by Subsection (a)(1) of this section to read as  
26 follows:

27 Sec. 1805.001. APPLICABILITY OF CHAPTER. This chapter

1 applies to the kinds of insurance and insurers subject to:

2 (1) Section 403.002;

3 (2) Section 941.003 with respect to the application of  
4 a law described by Section 941.003(b)(3) or (c);

5 (3) Section 942.003 with respect to the application of  
6 a law described by Section 942.003(b)(3) or (c);

7 (4) Subchapter A, B, C, or D, Chapter 5;

8 (5) Subchapter H, Chapter 544;

9 (6) Subchapter A, Chapter 2301;

10 (7) Chapter 252, 253, 254, 255, 426, 1806, 1807, 2001,  
11 2002, 2003, 2004, 2005, 2006, 2051, 2052, 2053, 2055, 2171, 2251, or  
12 2252;

13 (8) Subtitle B or C, Title 10; or

14 (9) [~~Chapter 406A, Labor Code, or~~

15 [~~10~~] Chapter 2154, Occupations Code.

16 (f) Section 2051.002, Insurance Code, is amended to conform  
17 to the redesignation of Chapter 406A, Labor Code, as Chapter 2055,  
18 Insurance Code, by Subsection (a)(1) of this section to read as  
19 follows:

20 Sec. 2051.002. CONSTRUCTION OF CERTAIN LAWS. The following  
21 shall be construed and applied independently of any other law that  
22 relates to insurance rates and forms or prescribes the duties of the  
23 commissioner or the department:

24 (1) this chapter;

25 (2) Subchapter D, Chapter 5;

26 (3) Chapter 251, as that chapter relates to workers'  
27 compensation insurance; and

1 (4) Chapters 255, 426, 2052, [~~and~~] 2053, and 2055[~~+~~  
2 ~~and~~  
3 [~~(5) Chapter 406A, Labor Code~~].

4 SECTION 9.060. (a) Subchapter C, Chapter 2203, Insurance  
5 Code, is amended to conform to Section 1, Chapter 246, Acts of the  
6 79th Legislature, Regular Session, 2005, and Section 2, Chapter  
7 1136, Acts of the 79th Legislature, Regular Session, 2005, by  
8 adding Section 2203.1021 to read as follows:

9 Sec. 2203.1021. VOLUNTEER HEALTH CARE PROVIDERS. (a) In  
10 this section:

11 (1) "Charitable organization" has the meaning  
12 assigned by Section 84.003, Civil Practice and Remedies Code.

13 (2) "Volunteer health care provider" has the meaning  
14 assigned by Section 84.003, Civil Practice and Remedies Code.

15 (b) The association shall make available medical liability  
16 insurance or appropriate health care liability insurance covering a  
17 volunteer health care provider for the legal liability of the  
18 person against any loss, damage, or expense incident to a claim  
19 arising out of the death or injury of any person as the result of  
20 negligence in rendering or the failure to render professional  
21 service while acting in the course and scope of the person's duties  
22 as a volunteer health care provider as described by Chapter 84,  
23 Civil Practice and Remedies Code.

24 (c) A volunteer health care provider who is serving as a  
25 direct service volunteer of a charitable organization is eligible  
26 to obtain from the association the liability insurance made  
27 available under this section. A volunteer health care provider who

1 obtains coverage under this section is subject to Section 2203.302  
2 and the other provisions of this chapter in the same manner as  
3 physicians who are eligible to obtain medical liability insurance  
4 from the association.

5 (d) This section does not affect the liability of a  
6 volunteer health care provider who is serving as a direct service  
7 volunteer of a charitable organization. Section 84.004(c), Civil  
8 Practice and Remedies Code, applies to the volunteer health care  
9 provider without regard to whether the volunteer health care  
10 provider obtains liability insurance under this section.

11 (b) Section 1, Chapter 246, Acts of the 79th Legislature,  
12 Regular Session, 2005, and Section 2, Chapter 1136, Acts of the 79th  
13 Legislature, Regular Session, 2005, which added Section 3C to  
14 former Article 21.49-3, Insurance Code, are repealed.

15 SECTION 9.061. (a) Sections 2210.004(a) and (g), Insurance  
16 Code, are amended to conform to Section 1, Chapter 1153, Acts of the  
17 79th Legislature, Regular Session, 2005, to read as follows:

18 (a) For purposes of this chapter and subject to this  
19 section, "insurable property" means immovable property at a fixed  
20 location in a catastrophe area or corporeal movable property  
21 located in that immovable property, as designated in the plan of  
22 operation, that is determined by the association according to the  
23 criteria specified in the plan of operation to be in an insurable  
24 condition against windstorm and hail or fire and explosion, as  
25 appropriate, as determined by normal underwriting standards. The  
26 term includes property described by Section 2210.209.

27 (g) For purposes of this chapter, a residential structure is

1 insurable property if:

2 (1) the residential structure is not:

3 (A) a condominium, apartment, duplex, or other  
4 multifamily residence; or

5 (B) a hotel or resort facility;

6 (2) the residential structure is located within an  
7 area designated as a unit under the Coastal Barrier Resources Act  
8 (Pub. L. No. 97-348); and

9 (3) a building permit or plat for the residential  
10 structure was filed with the municipality, the county, or the  
11 United States Army Corps of Engineers before June 11, 2003 [~~January~~  
12 ~~1, 2004~~].

13 (b) Section 1, Chapter 1153, Acts of the 79th Legislature,  
14 Regular Session, 2005, which amended former Subsection (f), Section  
15 3, Article 21.49, Insurance Code, is repealed.

16 SECTION 9.062. (a) Subchapter E, Chapter 2210, Insurance  
17 Code, is amended to conform to Section 2, Chapter 1153, Acts of the  
18 79th Legislature, Regular Session, 2005, by adding Section 2210.209  
19 to read as follows:

20 Sec. 2210.209. WINDSTORM AND HAIL INSURANCE: COVERAGE FOR  
21 CERTAIN PROPERTY LOCATED OVER WATER. (a) A windstorm and hail  
22 insurance policy issued by the association may include coverage  
23 for:

24 (1) a building or other structure located in the  
25 seacoast territory that is built wholly or partially over water;  
26 and

27 (2) the corporeal movable property contained in a

1 building or structure described by Subdivision (1).

2 (b) The association may impose appropriate limits of  
3 coverage and deductibles for coverage described by Subsection (a).

4 (c) The board of directors of the association shall submit  
5 any proposed changes to the plan of operation necessary to  
6 implement Subsections (a) and (b) to the commissioner in the manner  
7 provided by Section 2210.153.

8 (d) The commissioner shall adopt rules as necessary to  
9 implement this section, including any rules necessary to implement  
10 changes in the plan of operation proposed under Subsection (c).

11 (b) Section 2, Chapter 1153, Acts of the 79th Legislature,  
12 Regular Session, 2005, which added Section 3A to former Article  
13 21.49, Insurance Code, is repealed.

14 SECTION 9.063. (a) Section 2210.006(b), Insurance Code, is  
15 amended to conform to Section 1, Chapter 1251, Acts of the 79th  
16 Legislature, Regular Session, 2005, to read as follows:

17 (b) This chapter does not apply to:

18 (1) a farm mutual insurance company operating under  
19 Chapter 911;

20 (2) a nonaffiliated county mutual fire insurance  
21 company described by Section 912.310 that is writing exclusively  
22 industrial fire insurance policies as described by Section  
23 912.310(a)(2); or

24 (3) a mutual insurance company or a statewide mutual  
25 assessment company engaged in business under Chapter 12 or 13,  
26 Title 78, Revised Statutes, respectively, before those chapters'  
27 repeal by Section 18, Chapter 40, Acts of the 41st Legislature, 1st

1 Called Session, 1929, as amended by Section 1, Chapter 60, General  
2 Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, that  
3 retains the rights and privileges under the repealed law to the  
4 extent provided by those sections.

5 (b) Section 1, Chapter 1251, Acts of the 79th Legislature,  
6 Regular Session, 2005, which amended former Subsection (k), Section  
7 3, Article 21.49, Insurance Code, is repealed.

8 SECTION 9.0631. Section 2210.359(a), Insurance Code, is  
9 amended to conform more closely to the source law from which it was  
10 derived to read as follows:

11 (a) Except as otherwise provided by this subsection, a [A]  
12 rate approved by the commissioner under this subchapter may not  
13 reflect an average rate change that is more than 10 percent higher  
14 or lower than the rate for commercial windstorm and hail insurance  
15 or 10 percent higher or lower than the rate for noncommercial  
16 windstorm and hail insurance in effect on the date the filing is  
17 made. The rate may not reflect a rate change for an individual  
18 rating class that is 15 percent higher or lower than the rate for  
19 that individual rating class in effect on the date the filing is  
20 made. This subsection does not apply to a rate filed under Sections  
21 2210.351(a)-(d).

22 SECTION 9.064. Subchapter I, Chapter 2210, Insurance Code,  
23 is repealed to conform to Section 1, Chapter 222, Acts of the 79th  
24 Legislature, Regular Session, 2005.

25 SECTION 9.065. (a) Section 2211.051, Insurance Code, is  
26 amended to conform to Section 1, Chapter 1082, Acts of the 79th  
27 Legislature, Regular Session, 2005, to read as follows:



1           Sec. 2211.051. ESTABLISHMENT OF FAIR PLAN.           The  
2 commissioner may establish a Fair Access to Insurance Requirements  
3 Plan to deliver residential property insurance to residents of this  
4 state in underserved areas if the commissioner determines, after a  
5 public hearing, that:

6           (1) in all or any part of the state, residential  
7 property insurance is not reasonably available in the voluntary  
8 market to a substantial number of insurable risks; or ~~[and]~~

9           (2) at least 25 percent of the applicants to the  
10 residential property market assistance program who are qualified  
11 under that program's plan of operation have not been placed with an  
12 insurer in the preceding six months.

13           (b) Section 2211.052, Insurance Code, is amended to conform  
14 to Section 2, Chapter 1082, Acts of the 79th Legislature, Regular  
15 Session, 2005, by amending Subsections (b) and (d) and adding  
16 Subsection (e) to read as follows:

17           (b) The governing committee is composed of 11 members  
18 appointed by the commissioner as follows:

19           (1) five members who represent the interests of  
20 insurers;

21           (2) four public members who reside in this state; and

22           (3) two members who are general property and casualty  
23 agents.

24           (d) Each member of the governing committee who represents  
25 the interests of insurers must be a full-time employee of an insurer  
26 that is a member of the association.

27           (e) The commissioner may remove a member of the governing

1 committee without cause and may replace the member in accordance  
2 with Subsection (b).

3 (c) Subchapter B, Chapter 2211, Insurance Code, is amended  
4 to conform to Section 2, Chapter 1082, Acts of the 79th Legislature,  
5 Regular Session, 2005, by adding Section 2211.0521 to read as  
6 follows:

7 Sec. 2211.0521. MEETINGS OF GOVERNING BODY. (a)  
8 Notwithstanding Chapter 551, Government Code, or any other law,  
9 members of the governing committee may meet by telephone conference  
10 call, video conference, or other similar telecommunication method.  
11 The governing committee may use telephone conference call, video  
12 conference, or other similar telecommunication method for purposes  
13 of establishing a quorum or voting or for any other meeting purpose  
14 in accordance with this subsection and Subsection (b). This  
15 subsection applies without regard to the subject matter discussed  
16 or considered by the members of the governing committee at the  
17 meeting.

18 (b) A meeting held by telephone conference call, video  
19 conference, or other similar telecommunication method:

20 (1) is subject to the notice requirements applicable  
21 to other meetings of the governing committee;

22 (2) may not be held unless notice of the meeting  
23 specifies the location of the meeting at which at least one member  
24 of the governing committee is physically present;

25 (3) must be audible to the public at the location  
26 specified in the notice under Subdivision (2); and

27 (4) must provide two-way audio communication between

1 all members of the governing committee attending the meeting during  
2 the entire meeting, and if the two-way audio communication link  
3 with members attending the meeting is disrupted so that a quorum of  
4 the governing committee is no longer participating in the meeting,  
5 the meeting may not continue until the two-way audio communication  
6 link is reestablished.

7 (d) Sections 2211.101(b) and (c), Insurance Code, are  
8 amended to conform to Sections 1, 2, and 3, Chapter 1082, Acts of  
9 the 79th Legislature, Regular Session, 2005, to read as follows:

10 (b) Except as provided by this subsection, each ~~Each~~  
11 insurer, as a condition of the insurer's authority to engage in the  
12 business of residential property insurance in this state, shall  
13 participate in the association in accordance with this chapter,  
14 including participating in the association's assessments  
15 ~~[writings, expenses, and losses]~~ in the proportion that the  
16 insurer's net direct premiums written in this state during the  
17 preceding calendar year bear to the aggregate net direct premiums  
18 written in this state by all participating insurers. The Texas  
19 Windstorm Insurance Association established by Chapter 2210 may not  
20 participate in the association for any purpose.

21 (c) An insurer's participation under Subsection (b) in the  
22 association's assessments ~~[writings, expenses, and losses]~~ must be  
23 determined in accordance with the residential property statistical  
24 plan adopted by the commissioner.

25 (e) The following are repealed:

26 (1) Section 1, Chapter 1082, Acts of the 79th  
27 Legislature, Regular Session, 2005, which amended former

1 Subsections (a) and (b), Section 1, Article 21.49A, Insurance Code;

2 (2) Section 2, Chapter 1082, Acts of the 79th  
3 Legislature, Regular Session, 2005, which amended former Section 3,  
4 Article 21.49A, Insurance Code, by amending Subsections (b), (d),  
5 and (e) and adding Subsections (f) and (g); and

6 (3) Section 3, Chapter 1082, Acts of the 79th  
7 Legislature, Regular Session, 2005, which amended former  
8 Subsection (d), Section 5, Article 21.49A, Insurance Code.

9 SECTION 9.066. (a) Section 2211.104, Insurance Code, is  
10 amended to conform to Section 4, Chapter 1082, Acts of the 79th  
11 Legislature, Regular Session, 2005, by amending Subsections (b),  
12 (c), and (d) and adding Subsection (e) to read as follows:

13 (b) As reimbursement for assessments paid under this  
14 section or service fees paid under Section 2211.209, each [~~If the~~  
15 ~~association assesses participating insurers under this section,~~  
16 ~~each~~] insurer may charge a premium surcharge on every property  
17 insurance policy insuring property in this state that the insurer  
18 issues, the effective date of which is within the three-year period  
19 beginning on the 90th day after the date of the assessment or the  
20 90th day after the date the service fee under Section 2211.209 is  
21 paid, as applicable.

22 (c) The insurer shall compute the amount of the surcharge  
23 under Subsection (b) as a uniform percentage of the premium on each  
24 policy described by Subsection (b). The percentage must be equal to  
25 one-third of the ratio of the amount of the participating insurer's  
26 assessment or service fee payment to the amount of the insurer's  
27 direct earned premiums, as reported to the department in the

1 insurer's financial statement for the calendar year preceding the  
2 year in which the assessment or service fee payment is made so that,  
3 over the three-year period, the aggregate of all surcharges by the  
4 insurer under this section is at least equal to ~~[equals]~~ the amount  
5 of the assessment or service fee payment.

6 (d) The amount of any assessment paid and surcharged under  
7 this section may be carried by the insurer as an admitted asset of  
8 the insurer for all purposes, including exhibition in annual  
9 statements under Section 862.001, until collected ~~[The minimum~~  
10 ~~surcharge on a policy may be \$1. A surcharge may be rounded to the~~  
11 ~~nearest dollar]~~.

12 (e) The commissioner shall adopt rules and procedures as  
13 necessary to implement this section.

14 (b) Section 4, Chapter 1082, Acts of the 79th Legislature,  
15 Regular Session, 2005, which amended former Section 11, Article  
16 21.49A, Insurance Code, is repealed.

17 SECTION 9.067. (a) Subchapter B, Chapter 2211, Insurance  
18 Code, is amended to conform to Section 5, Chapter 1082, Acts of the  
19 79th Legislature, Regular Session, 2005, by adding Section 2211.059  
20 to read as follows:

21 Sec. 2211.059. ASSETS OF ASSOCIATION. On dissolution of the  
22 association, all assets of the association shall be deposited in  
23 the general revenue fund.

24 (b) Section 5, Chapter 1082, Acts of the 79th Legislature,  
25 Regular Session, 2005, which added Section 16 to former Article  
26 21.49A, Insurance Code, is repealed.

27 SECTION 9.068. (a) Subchapter D, Chapter 2211, Insurance

1 Code, is amended to conform to Section 3, Chapter 1153, Acts of the  
2 79th Legislature, Regular Session, 2005, by adding Section 2211.157  
3 to read as follows:

4 Sec. 2211.157. COVERAGE FOR CERTAIN WINDSTORM AND HAIL  
5 DAMAGE; COVERAGE FOR CERTAIN PROPERTY LOCATED OVER WATER. (a) A  
6 policy issued by the association may include coverage against loss  
7 or damage by windstorm or hail for:

8 (1) a building or other structure that is built wholly  
9 or partially over water; and

10 (2) the corporeal movable property contained in a  
11 building or structure described by Subdivision (1).

12 (b) The association may impose appropriate limits of  
13 coverage and deductibles for coverage described by Subsection (a).

14 (c) The governing committee of the association shall submit  
15 any proposed changes to the plan of operation necessary to  
16 implement Subsections (a) and (b) to the commissioner for the  
17 approval of the commissioner in the manner provided by Section  
18 2211.053.

19 (d) The commissioner shall adopt rules as necessary to  
20 implement this section, including any rules necessary to implement  
21 changes in the plan of operation proposed under Subsections (a) and  
22 (b).

23 (b) Section 3, Chapter 1153, Acts of the 79th Legislature,  
24 Regular Session, 2005, which added Section 5A to former Article  
25 21.49A, Insurance Code, is repealed.

26 SECTION 9.069. (a) Section 2212.001, Insurance Code, is  
27 amended to conform to Section 2, Chapter 184, Acts of the 79th

1 Legislature, Regular Session, 2005; Section 2, Chapter 246, Acts of  
2 the 79th Legislature, Regular Session, 2005; and Section 3, Chapter  
3 1136, Acts of the 79th Legislature, Regular Session, 2005, to read  
4 as follows:

5 Sec. 2212.001. DEFINITIONS. In this chapter:

6 (1) "Charitable organization" has the meaning  
7 assigned by Section 84.003, Civil Practice and Remedies Code.

8 (2) "Dentist" means a person licensed to practice  
9 dentistry in this state.

10 (3) [~~(2)~~] "Health care liability claim" means a cause  
11 of action against a physician or dentist for treatment, lack of  
12 treatment, or other claimed departure from accepted standards of  
13 health care or safety that proximately results in injury to or death  
14 of the patient, whether the patient's claim or cause of action  
15 sounds in tort or contract.

16 (4) [~~(3)~~] "Physician" means a person licensed to  
17 practice medicine in this state.

18 (5) [~~(4)~~] "Trust" means a self-insurance trust  
19 organized and operated under this chapter.

20 (6) "Volunteer health care provider" has the meaning  
21 assigned by Section 84.003, Civil Practice and Remedies Code.

22 (b) Section 2, Chapter 184, Acts of the 79th Legislature,  
23 Regular Session, 2005; Section 2, Chapter 246, Acts of the 79th  
24 Legislature, Regular Session, 2005; and Section 3, Chapter 1136,  
25 Acts of the 79th Legislature, Regular Session, 2005, all of which  
26 added Subdivisions (4) and (5) to former Subsection (a), Article  
27 21.49-4, Insurance Code, are repealed.

1 SECTION 9.070. (a) Subchapter C, Chapter 2212, Insurance  
2 Code, is amended to conform to Section 3, Chapter 184, Acts of the  
3 79th Legislature, Regular Session, 2005; Section 3, Chapter 246,  
4 Acts of the 79th Legislature, Regular Session, 2005; and Section 4,  
5 Chapter 1136, Acts of the 79th Legislature, Regular Session, 2005,  
6 by adding Section 2212.102 to read as follows:

7 Sec. 2212.102. COVERAGE FOR VOLUNTEER HEALTH CARE  
8 PROVIDERS. (a) The trust, in accordance with Section 2212.054, may  
9 make available professional liability insurance covering a  
10 volunteer health care provider for an act or omission resulting in  
11 death, damage, or injury to a patient while the person is acting in  
12 the course and scope of the person's duties as a volunteer health  
13 care provider as described by Chapter 84, Civil Practice and  
14 Remedies Code.

15 (b) This section does not affect the liability of a  
16 volunteer health care provider who is serving as a direct service  
17 volunteer of a charitable organization. Section 84.004(c), Civil  
18 Practice and Remedies Code, applies to the volunteer health care  
19 provider without regard to whether the volunteer health care  
20 provider obtains liability insurance under this section.

21 (c) The trust may make professional liability insurance  
22 available under this section to a volunteer health care provider  
23 without regard to whether the volunteer health care provider is a  
24 physician or dentist.

25 (b) Section 3, Chapter 184, Acts of the 79th Legislature,  
26 Regular Session, 2005; Section 3, Chapter 246, Acts of the 79th  
27 Legislature, Regular Session, 2005; and Section 4, Chapter 1136,



1 Acts of the 79th Legislature, Regular Session, 2005, all of which  
2 added Subsection (c-1) to former Article 21.49-4, Insurance Code,  
3 are repealed.

4 SECTION 9.071. (a) Section 2251.003(b), Insurance Code, is  
5 amended to conform to Section 1, Chapter 70, Acts of the 79th  
6 Legislature, Regular Session, 2005; Section 1, Chapter 71, Acts of  
7 the 79th Legislature, Regular Session, 2005; and Section 4, Chapter  
8 102, Acts of the 79th Legislature, Regular Session, 2005, to read as  
9 follows:

10 (b) This subchapter and Subchapters B, C, D, and E apply to  
11 all lines of the following kinds of insurance written under an  
12 insurance policy or contract issued by an insurer authorized to  
13 engage in the business of insurance in this state:

14 (1) general liability insurance;

15 (2) residential and commercial property insurance,  
16 including farm and ranch insurance and farm and ranch owners  
17 insurance;

18 (3) personal and commercial casualty insurance,  
19 except as provided by Section 2251.004;

20 (4) medical professional liability insurance;

21 (5) fidelity, guaranty, and surety bonds other than  
22 criminal court appearance bonds;

23 (6) personal umbrella insurance;

24 (7) personal liability insurance;

25 (8) guaranteed auto protection (GAP) insurance;

26 (9) involuntary unemployment insurance;

27 (10) financial guaranty insurance;

- 1 (11) inland marine insurance;
- 2 (12) rain insurance;
- 3 (13) hail insurance on farm crops; ~~and~~
- 4 (14) personal and commercial automobile insurance;
- 5 (15) multi-peril insurance; and
- 6 (16) identity theft insurance issued under Chapter
- 7 706.

8 (b) Section 2301.003(b), Insurance Code, is amended to  
9 conform to Section 1, Chapter 70, Acts of the 79th Legislature,  
10 Regular Session, 2005; Section 1, Chapter 71, Acts of the 79th  
11 Legislature, Regular Session, 2005; and Section 4, Chapter 102,  
12 Acts of the 79th Legislature, Regular Session, 2005, to read as  
13 follows:

14 (b) This subchapter applies to all lines of the following  
15 kinds of insurance written under an insurance policy or contract  
16 issued by an insurer authorized to engage in the business of  
17 insurance in this state:

- 18 (1) general liability insurance;
- 19 (2) residential and commercial property insurance,  
20 including farm and ranch insurance and farm and ranch owners  
21 insurance;
- 22 (3) personal and commercial casualty insurance,  
23 except as provided by Section 2301.005;
- 24 (4) medical professional liability insurance;
- 25 (5) fidelity, guaranty, and surety bonds other than  
26 criminal court appearance bonds;
- 27 (6) personal umbrella insurance;

- 1           (7) personal liability insurance;  
2           (8) guaranteed auto protection (GAP) insurance;  
3           (9) involuntary unemployment insurance;  
4           (10) financial guaranty insurance;  
5           (11) inland marine insurance;  
6           (12) rain insurance;  
7           (13) hail insurance on farm crops; ~~and~~  
8           (14) personal and commercial automobile insurance;  
9           (15) multi-peril insurance; and  
10           (16) identity theft insurance issued under Chapter  
11 706.

12           (c) Section 1, Chapter 70, Acts of the 79th Legislature,  
13 Regular Session, 2005; Section 1, Chapter 71, Acts of the 79th  
14 Legislature, Regular Session, 2005; and Section 4, Chapter 102,  
15 Acts of the 79th Legislature, Regular Session, 2005, all of which  
16 amended former Subsection (a), Section 2, Article 5.13-2, Insurance  
17 Code, are repealed.

18           SECTION 9.072. (a) Subchapter E, Chapter 2251, Insurance  
19 Code, is amended by adding Section 2251.205 to conform to Section 1,  
20 Chapter 1118, Acts of the 79th Legislature, Regular Session, 2005,  
21 to read as follows:

22           Sec. 2251.205. APPLICATION OF FILING REQUIREMENTS TO OTHER  
23 INSURERS. An insurer is subject to the filing requirements  
24 determined by the commissioner by rule under Section 2251.204 if:

25           (1) the insurer, along with the insurer's affiliated  
26 companies or group, issues personal automobile liability insurance  
27 policies only below 101 percent of the minimum limits required by

1 Chapter 601, Transportation Code; and

2 (2) the insurer, along with the insurer's affiliated  
3 companies or group, has a market share of less than 3.5 percent of  
4 the personal automobile insurance market in this state.

5 (b) Section 1, Chapter 1118, Acts of the 79th Legislature,  
6 Regular Session, 2005, which added Subsection (h) to former Section  
7 13, Article 5.13-2, Insurance Code, is repealed.

8 SECTION 9.073. (a) Section 2253.001, Insurance Code, is  
9 amended to conform to Section 2, Chapter 291, Acts of the 79th  
10 Legislature, Regular Session, 2005, to read as follows:

11 Sec. 2253.001. RATING TERRITORIES. (a) Notwithstanding  
12 any other provision of this code, an insurer, in writing  
13 residential property or personal automobile insurance, may use  
14 rating territories that subdivide a county only if:

15 (1) the county is subdivided; and

16 (2) the rate for any subdivision in the county is not  
17 greater than 15 percent higher than the rate used in any other  
18 subdivision in the county by that insurer.

19 (b) The [~~For residential property insurance or personal~~  
20 ~~automobile insurance, the~~] commissioner by rule may allow a greater  
21 rate difference than the rate difference specified by Subsection  
22 (a).

23 (b) Section 2, Chapter 291, Acts of the 79th Legislature,  
24 Regular Session, 2005, which amended former Article 5.171,  
25 Insurance Code, is repealed.

26 SECTION 9.074. Section 4151.206(a), Insurance Code, is  
27 amended to conform more closely to the source law from which the

1 section was derived to read as follows:

2 (a) The commissioner shall collect and an applicant or  
3 administrator shall pay to the commissioner fees in an amount to be  
4 determined by the commissioner as follows:

5 (1) a filing fee not to exceed \$1,000 for processing an  
6 original application for a certificate of authority for an  
7 administrator;

8 (2) a fee not to exceed \$500 for an examination under  
9 Section 4151.201 [~~4201.201~~]; and

10 (3) a filing fee not to exceed \$200 for an annual  
11 report.

12 SECTION 9.075. (a) Sections 4201.054(a) and (d), Insurance  
13 Code, are amended to conform to Section 6.072, Chapter 265, Acts of  
14 the 79th Legislature, Regular Session, 2005, to read as follows:

15 (a) Except as provided by this section, this chapter applies  
16 to utilization review of a health care service provided to a person  
17 eligible for workers' compensation medical benefits under Title 5,  
18 Labor Code. The commissioner of workers' compensation shall  
19 regulate as provided by this chapter a person who performs  
20 utilization review of a medical benefit provided under Title 5  
21 [~~Chapter 408~~], Labor Code.

22 (d) The commissioner of workers' compensation [~~and the~~  
23 ~~Texas Workers' Compensation Commission~~] may adopt rules [~~and enter~~  
24 ~~into memoranda of understanding~~] as necessary to implement this  
25 section.

26 (b) Section 4201.054(b), Insurance Code, is repealed to  
27 conform to Section 6.072, Chapter 265, Acts of the 79th

1 Legislature, Regular Session, 2005.

2 (c) Section 6.072, Chapter 265, Acts of the 79th  
3 Legislature, Regular Session, 2005, which amended former  
4 Subsection (c), Section 14, Article 21.58A, Insurance Code, is  
5 repealed.

6 SECTION 9.076. (a) Section 4201.207(b), Insurance Code, is  
7 amended to conform to Section 6.071, Chapter 265, Acts of the 79th  
8 Legislature, Regular Session, 2005, to read as follows:

9 (b) A health care provider's charges for providing medical  
10 information to a utilization review agent may not:

11 (1) exceed the cost of copying records regarding a  
12 workers' compensation claim as set by rules adopted by the  
13 commissioner of workers' compensation [~~Texas Workers' Compensation~~  
14 ~~Commission~~]; or

15 (2) include any costs otherwise recouped as part of  
16 the charges for health care.

17 (b) Section 6.071, Chapter 265, Acts of the 79th  
18 Legislature, Regular Session, 2005, which amended former  
19 Subsection (1), Section 4, Article 21.58A, Insurance Code, is  
20 repealed.

21 ARTICLE 10. CHANGES RELATING TO LABOR CODE

22 SECTION 10.001. Section 204.022(a), Labor Code, as amended  
23 by Chapters 39, 493, and 728, Acts of the 79th Legislature, Regular  
24 Session, 2005, is reenacted and amended to read as follows:

25 (a) Benefits computed on benefit wage credits of an employee  
26 or former employee may not be charged to the account of an employer  
27 if the employee's last separation from the employer's employment

1 before the employee's benefit year:

2 (1) was required by a federal statute;

3 (2) was required by a statute of this state or an  
4 ordinance of a municipality of this state;

5 (3) would have disqualified the employee under Section  
6 207.044, 207.045, 207.051, or 207.053 if the employment had been  
7 the employee's last work;

8 (4) imposes a disqualification under Section 207.044,  
9 207.045, 207.051, or 207.053;

10 (5) was caused by a medically verifiable illness of  
11 the employee or the employee's minor child;

12 (6) was based on a natural disaster that results in a  
13 disaster declaration by the president of the United States under  
14 the Robert T. Stafford Disaster Relief and Emergency Assistance Act  
15 (42 U.S.C. Section 5121 et seq.), if the employee would have been  
16 entitled to unemployment assistance benefits under Section 410 of  
17 that act (42 U.S.C. Section 5177) had the employee not received  
18 state unemployment compensation benefits;

19 (7) was caused by a natural disaster, fire, flood, or  
20 explosion that causes employees to be separated from one employer's  
21 employment;

22 (8) was based on a disaster that results in a disaster  
23 declaration by the governor under Section 418.014, Government Code;

24 (9) resulted from the employee's resigning from  
25 partial employment to accept other employment that the employee  
26 reasonably believed would increase the employee's weekly wage;

27 (10) was caused by the employer being called to active

1 military service in any branch of the United States armed forces on  
2 or after January 1, 2003;

3 (11) resulted from the employee leaving the employee's  
4 workplace to protect the employee from family violence or stalking  
5 as evidenced by:

6 (A) an active or recently issued protective order  
7 documenting family violence against, or the stalking of, the  
8 employee or the potential for family violence against, or the  
9 stalking of, the employee;

10 (B) a police record documenting family violence  
11 against, or the stalking of, the employee; and

12 (C) a physician's statement or other medical  
13 documentation of family violence against the employee; [~~or~~]

14 (12) resulted from a move from the area of the  
15 employee's employment that:

16 (A) was made with the employee's spouse who is a  
17 member of the armed forces of the United States; and

18 (B) resulted from the spouse's permanent change  
19 of station of longer than 120 days or a tour of duty of longer than  
20 one year; or

21 (13) [~~(12)~~] was caused by the employee being unable to  
22 perform the work as a result of a disability for which the employee  
23 is receiving disability insurance benefits under 42 U.S.C. Section  
24 423.

25 SECTION 10.002. Section 204.022(c), Labor Code, is amended  
26 to correct a reference to read as follows:

27 (c) Except as provided by law, evidence regarding an



1 employee described by Subsection (a)(11) [~~(a)(9)~~] may not be  
2 disclosed to any person without the consent of the employee.

3 SECTION 10.003. Section 402.081(d), Labor Code, as amended  
4 by Chapters 265, 329, and 716, Acts of the 79th Legislature, Regular  
5 Session, 2005, is reenacted and amended to read as follows:

6 (d) The division [~~commission~~] may charge a reasonable fee  
7 for making available for inspection any of its information that  
8 contains confidential information that must be redacted before the  
9 information is made available. However, when a request for  
10 information is for the inspection of 10 or fewer pages, and a copy  
11 of the information is not requested, the division [~~commission~~] may  
12 charge only the cost of making a copy of the page from which  
13 confidential information must be redacted. The fee for access to  
14 information under Chapter 552, Government Code, shall be in accord  
15 with the rules of the attorney general [~~Texas Building and~~  
16 ~~Procurement Commission~~] that prescribe the method for computing the  
17 charge for copies under that chapter.

18 ARTICLE 11. CHANGES RELATING TO LOCAL GOVERNMENT CODE

19 SECTION 11.001. Section 143.027(a), Local Government Code,  
20 as amended by Chapters 869 and 909, Acts of the 79th Legislature,  
21 Regular Session, 2005, is reenacted to read as follows:

22 (a) A person appointed to a beginning position in the fire  
23 or police department must serve a probationary period of one year  
24 beginning on that person's date of employment as a fire fighter,  
25 police officer, or academy trainee. In a municipality with a  
26 population of less than 1.9 million, the commission by rule may  
27 extend the probationary period by not more than six months for a

1 person who:

2 (1) is not employed by a department in which a  
3 collective bargaining agreement or a meet-and-confer agreement  
4 currently exists or previously existed; and

5 (2) is required to attend a basic training academy for  
6 initial certification by the Texas Commission on Fire Protection or  
7 the Commission on Law Enforcement Officer Standards and Education.

8 ARTICLE 12. CHANGES RELATING TO OCCUPATIONS CODE

9 SECTION 12.001. Section 1701.354, Occupations Code, as  
10 amended by Chapters 735 and 954, Acts of the 79th Legislature,  
11 Regular Session, 2005, is reenacted to read as follows:

12 Sec. 1701.354. CONTINUING EDUCATION FOR DEPUTY CONSTABLES.

13 (a) If the commission requires a state, county, special district,  
14 or municipal agency that employs a deputy constable to provide the  
15 deputy constable with a training program under Section 1701.352,  
16 the commission shall require the deputy constable to attend at  
17 least 20 hours of instruction in civil process.

18 (b) The commission shall adopt rules and procedures  
19 concerning a civil process course, including rules providing for:

20 (1) approval of course content and standards; and

21 (2) issuance of course credit.

22 (c) The commission may waive the instruction requirements  
23 for a deputy constable under this section:

24 (1) if a constable requests a waiver for the deputy  
25 constable based on a representation that the deputy constable's  
26 duty assignment does not involve civil process responsibilities; or

27 (2) if the deputy constable requests a waiver because

1 of hardship and the commission determines that a hardship exists.

2 SECTION 12.002. Section 1702.324(b), Occupations Code, as  
3 amended by Chapters 518, 728, 1102, and 1155, Acts of the 79th  
4 Legislature, Regular Session, 2005, is reenacted to read as  
5 follows:

6 (b) This chapter does not apply to:

7 (1) a manufacturer or a manufacturer's authorized  
8 distributor who sells equipment intended for resale and does not  
9 perform any other service that requires a license under this  
10 chapter;

11 (2) a person engaged exclusively in the business of  
12 obtaining and providing information to:

13 (A) determine creditworthiness;

14 (B) collect debts; or

15 (C) ascertain the reliability of information  
16 provided by an applicant for property, life, or disability  
17 insurance or an indemnity or surety bond;

18 (3) a person engaged exclusively in the business of  
19 repossessing property that is secured by a mortgage or other  
20 security interest;

21 (4) a person who:

22 (A) is engaged in the business of psychological  
23 testing or other testing and interviewing services, including  
24 services to determine attitudes, honesty, intelligence,  
25 personality, and skills, for preemployment purposes; and

26 (B) does not perform any other service that  
27 requires a license under this chapter;

1           (5) a person who:

2                   (A) is engaged in obtaining information that is a  
3 public record under Chapter 552, Government Code, regardless of  
4 whether the person receives compensation;

5                   (B) is not a full-time employee, as defined by  
6 Section 61.001, Labor Code, of a person licensed under this  
7 chapter; and

8                   (C) does not perform any other act that requires  
9 a license under this chapter;

10           (6) a licensed engineer practicing engineering or  
11 directly supervising engineering practice under Chapter 1001,  
12 including forensic analysis, burglar alarm system engineering, and  
13 necessary data collection;

14           (7) an employee of a cattle association who inspects  
15 livestock brands under the authority granted to the cattle  
16 association by the Grain Inspection, Packers and Stockyards  
17 Administration of the United States Department of Agriculture;

18           (8) a landman performing activities in the course and  
19 scope of the landman's business;

20           (9) an attorney while engaged in the practice of law;

21           (10) a person who obtains a document for use in  
22 litigation under an authorization or subpoena issued for a written  
23 or oral deposition;

24           (11) an admitted insurer, insurance adjuster, agent,  
25 or insurance broker licensed by the state, performing duties in  
26 connection with insurance transacted by that person;

27           (12) a person who on the person's own property or on

1 property owned or managed by the person's employer:

2 (A) installs, changes, or repairs a mechanical  
3 security device;

4 (B) repairs an electronic security device; or

5 (C) cuts or makes a key for a security device;

6 (13) security personnel, including security contract  
7 personnel, working at a commercial nuclear power plant licensed by  
8 the United States Nuclear Regulatory Commission;

9 (14) a person or firm licensed as an accountant or  
10 accounting firm under Chapter 901, an owner of an accounting firm,  
11 or an employee of an accountant or accounting firm; or

12 (15) a retailer, wholesaler, or other person who sells  
13 mechanical security devices, including locks and deadbolts, but who  
14 does not:

15 (A) service mechanical security devices for the  
16 public outside of the person's premises; or

17 (B) claim to act as a locksmith.

18 SECTION 12.003. Section 2002.054(c), Occupations Code, as  
19 amended by Chapters 929 and 1006, Acts of the 79th Legislature,  
20 Regular Session, 2005, is reenacted and amended to read as follows:

21 (c) Except as provided by Section 2002.0541, the  
22 organization may not permit a person who is not [~~a member of the~~  
23 ~~organization or who is not~~] authorized by the organization to sell  
24 or offer to sell raffle tickets.

25 SECTION 12.004. Section 2303.158, Occupations Code, as  
26 added by Chapters 737 and 953, Acts of the 79th Legislature, Regular  
27 Session, 2005, is repealed to conform to Chapter 1197, Acts of the

1 79th Legislature, Regular Session, 2005.

2 ARTICLE 12A. CHANGES RELATING TO PENAL CODE

3 SECTION 12A.001. Section 46.01(6), Penal Code, is amended  
4 to read as follows:

5 (6) "Illegal knife" means a:

6 (A) knife with a blade over five and one-half  
7 inches;

8 (B) hand instrument designed to cut or stab  
9 another by being thrown;

10 (C) dagger, including but not limited to a dirk,  
11 stiletto [~~stiletto~~], and poniard;

12 (D) bowie knife;

13 (E) sword; or

14 (F) spear.

15 ARTICLE 13. CHANGES RELATING TO SPECIAL DISTRICT LOCAL LAWS CODE

16 SECTION 13.001. Section 1006.151(a), Special District  
17 Local Laws Code, as added by Section 1.01, Chapter 729, Acts of the  
18 79th Legislature, Regular Session, 2005, is amended to correct a  
19 reference to read as follows:

20 (a) The district administrator shall prepare an annual  
21 budget for approval by the board. The budget must be for the fiscal  
22 year prescribed by Section 1006.152 [~~1007.152~~].

23 SECTION 13.002. Section 1006.202(a), Special District  
24 Local Laws Code, as added by Section 1.01, Chapter 729, Acts of the  
25 79th Legislature, Regular Session, 2005, is amended to correct a  
26 reference to read as follows:

27 (a) At the time general obligation bonds are issued under

1 Section 1006.201 [~~1007.201~~], the board shall impose an ad valorem  
2 tax at a rate sufficient to:

- 3 (1) create an interest and sinking fund; and  
4 (2) pay the principal of and interest on the bonds as  
5 the bonds mature.

6 SECTION 13.003. Section 1008.253(b), Special District  
7 Local Laws Code, is amended to conform more closely to the source  
8 law from which the section was derived to read as follows:

9 (b) The board must specify in the order calling the  
10 election:

- 11 (1) the date of the election;  
12 (2) [~~the hours during which the polls must be open;~~  
13 [~~3~~] the location of the polling places;  
14 (3) [~~4~~] the presiding and alternate election judges  
15 for each polling place;  
16 (4) [~~5~~] the amount of the bonds to be authorized;  
17 and  
18 (5) [~~6~~] the maximum maturity of the bonds.

19 SECTION 13.0035. (a) Section 5001.001, Special District  
20 Local Laws Code, is amended to conform to Section 1, Chapter 81,  
21 Acts of the 62nd Legislature, Regular Session, 1971, to read as  
22 follows:

23 Sec. 5001.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

- 24 (1) "Commission" means the navigation and canal  
25 commission of the district.  
26 (2) "Commissioner" means a member of the commission.  
27 (3) "District" [~~"district"~~] means the Aransas County

1 Navigation District No. 1.

2 (b) Chapter 5001, Special District Local Laws Code, is  
3 amended to conform to Chapter 81, Acts of the 62nd Legislature,  
4 Regular Session, 1971, by adding Subchapter A-1 to read as follows:

5 SUBCHAPTER A-1. COMMISSION

6 Sec. 5001.021. GOVERNING BODY; TERMS. (a) The district is  
7 governed by a commission consisting of five commissioners, each  
8 elected to a navigation and canal commissioner's office by number.

9 (b) Commissioners serve two-year terms.

10 Sec. 5001.022. QUALIFICATIONS. To be eligible for election  
11 to any of the following offices, a person must have the following  
12 qualifications:

13 (1) for the office of Navigation and Canal  
14 Commissioner No. 1, a person must reside in and be a freehold  
15 property taxpaying voter of Aransas County Commissioners' Precinct  
16 No. 1;

17 (2) for the office of Navigation and Canal  
18 Commissioner No. 2, a person must reside in and be a freehold  
19 property taxpaying voter of Aransas County Commissioners' Precinct  
20 No. 2;

21 (3) for the office of Navigation and Canal  
22 Commissioner No. 3, a person must reside in and be a freehold  
23 property taxpaying voter of Aransas County Commissioners' Precinct  
24 No. 3;

25 (4) for the office of Navigation and Canal  
26 Commissioner No. 4, a person must reside in and be a freehold  
27 property taxpaying voter of Aransas County Commissioners' Precinct



1 No. 4; and

2 (5) for the office of Navigation and Canal  
3 Commissioner No. 5, a person must reside in and be a freehold  
4 property taxpaying voter of Aransas County.

5 Sec. 5001.023. ELECTION OF COMMISSIONERS. On a uniform  
6 election date in each odd-numbered year, five commissioners shall  
7 be elected.

8 Sec. 5001.024. NOTICE OF ELECTION. The secretary of the  
9 commission shall give notice of an election by posting or  
10 publishing the notice for at least 20 days before the date of the  
11 election.

12 Sec. 5001.025. VACANCIES. (a) A vacancy in the office of a  
13 commissioner that occurs for any reason shall be filled by the  
14 remaining members of the commission except as provided by this  
15 section.

16 (b) If three or more vacancies in commissioners' offices  
17 occur at the same time, a special election may be called as provided  
18 by Section 62.066, Water Code.

19 Sec. 5001.026. REMOVAL FROM OFFICE. (a) A commissioner may  
20 be removed from office for malfeasance or nonfeasance in office by  
21 unanimous vote of the commissioners court of Aransas County after a  
22 hearing.

23 (b) Appeal from a judgment of removal may be taken to a  
24 district court in Aransas County. The court shall try the case de  
25 novo.

26 (c) Section 5001.051, Special District Local Laws Code, is  
27 amended to read as follows:

1           Sec. 5001.051. DEFINITION [~~DEFINITIONS~~].       In this  
2 subchapter, "fund" [~~+~~

3           ~~[(1) "Commission" means the navigation and canal~~  
4 ~~commission of the district.~~

5           ~~[(2) "Fund"]~~ means a promotion and development fund  
6 created by the district.

7           SECTION 13.004. Section 7202.005, Special District Local  
8 Laws Code, as added by Chapter 895, Acts of the 79th Legislature,  
9 Regular Session, 2005, is repealed as duplicative of Section  
10 7202.006, Special District Local Laws Code, as added by Chapter  
11 770, Acts of the 79th Legislature, Regular Session, 2005.

12           SECTION 13.005. (a) Section 8101.003(a), Special District  
13 Local Laws Code, is amended to conform to Section 1, Chapter 993,  
14 Acts of the 78th Legislature, Regular Session, 2003, to read as  
15 follows:

16           (a) The legislature finds that [~~+~~

17           ~~[(1) all of the lands and other property included in~~  
18 ~~the boundaries of the authority will benefit from the improvements~~  
19 ~~and facilities to be constructed, acquired, or otherwise provided~~  
20 ~~under this chapter, and~~

21           ~~[(2)]~~ the authority is created to serve a public use  
22 and benefit.

23           (b) Section 8101.051, Special District Local Laws Code, is  
24 amended to conform to Section 1, Chapter 993, Acts of the 78th  
25 Legislature, Regular Session, 2003, to read as follows:

26           Sec. 8101.051. BOUNDARIES. [~~(a)~~] The authority is in  
27 Henderson County and, unless modified as provided by Section

1 8101.052, ~~[or]~~ by Subchapter J, Chapter 49, Water Code, or by  
2 Subchapter O, Chapter 51, Water Code, the boundaries of the  
3 authority are coextensive with the corporate limits of the city of  
4 Athens, Henderson County, Texas, as those corporate limits existed  
5 on September 1, 2003 ~~[May 2, 1957]~~.

6 ~~[(b) Territory annexed by the City of Athens after May 2,~~  
7 ~~1957, does not become a part of the authority solely because of its~~  
8 ~~annexation to the city.]~~

9 ~~[(c) A defect or irregularity in the boundaries of the city~~  
10 ~~of Athens as they existed on May 2, 1957, or in a proceeding related~~  
11 ~~to the territory of or an annexation by the city before that date~~  
12 ~~does not affect the validity of the authority or any of its rights,~~  
13 ~~powers, privileges, or functions.]~~

14 (c) Section 8101.052(a), Special District Local Laws Code,  
15 is amended to conform to Section 1, Chapter 993, Acts of the 78th  
16 Legislature, Regular Session, 2003, to read as follows:

17 (a) The board, as provided by this section, may annex  
18 territory the City of Athens annexes ~~[after May 2, 1957]~~. The  
19 authority may not annex territory under this section if bonds  
20 supported by ad valorem taxes previously voted on remain unissued  
21 and unsold.

22 (d) Section 1, Chapter 993, Acts of the 78th Legislature,  
23 2003, which amended former Subsections (a) and (b), Section 2,  
24 Chapter 142, Acts of the 55th Legislature, Regular Session, 1957,  
25 is repealed.

26 SECTION 13.006. (a) Chapter 221, Water Code, is renumbered  
27 as Chapter 8502, Special District Local Laws Code, and Sections

1 221.001, 221.002, 221.003, 221.004, 221.005, 221.006, 221.007,  
2 221.008, 221.009, 221.010, 221.011, 221.012, 221.013, 221.014,  
3 221.015, 221.016, 221.017, 221.018, and 221.019, Water Code, are  
4 renumbered as Sections 8502.001, 8502.002, 8502.003, 8502.004,  
5 8502.005, 8502.006, 8502.007, 8502.008, 8502.009, 8502.010,  
6 8502.011, 8502.012, 8502.013, 8502.014, 8502.015, 8502.016,  
7 8502.017, 8502.018, and 8502.019, Special District Local Laws Code,  
8 respectively.

9 (b) Chapter 222, Water Code, is renumbered as Chapter 8503,  
10 Special District Local Laws Code, and Sections 222.001, 222.002,  
11 222.003, 222.004, 222.005, 222.006, 222.007, 222.008, 222.009,  
12 222.010, 222.011, 222.012, 222.013, 222.014, 222.015, 222.016,  
13 222.017, 222.018, 222.019, 222.020, 222.021, 222.022, 222.023,  
14 222.024, 222.025, 222.026, 222.027, 222.028, 222.029, 222.030, and  
15 222.031, Water Code, are renumbered as Sections 8503.001, 8503.002,  
16 8503.003, 8503.004, 8503.005, 8503.006, 8503.007, 8503.008,  
17 8503.009, 8503.010, 8503.011, 8503.012, 8503.013, 8503.014,  
18 8503.015, 8503.016, 8503.017, 8503.018, 8503.019, 8503.020,  
19 8503.021, 8503.022, 8503.023, 8503.024, 8503.025, 8503.026,  
20 8503.027, 8503.028, 8503.029, 8503.030, and 8503.031, Special  
21 District Local Laws Code, respectively.

22 (c) Subsection (m), Section 8502.004, Special District  
23 Local Laws Code, as renumbered from Section 221.004, Water Code, by  
24 this section, is amended to read as follows:

25 (m) This chapter does not confer on the authority any power  
26 under Chapter 36, Water Code, to regulate the groundwater of other  
27 landowners.

1 (d) Section 8502.010, Special District Local Laws Code, as  
2 renumbered from Section 221.010, Water Code, by this section, is  
3 amended to read as follows:

4 Sec. 8502.010 [~~221.010~~]. CREATION OF MASTER DISTRICT; WATER  
5 CONTROL AND IMPROVEMENT DISTRICT. A master district is created  
6 having all the powers, duties, and functions, and subject to  
7 applicable and practicable procedures for those districts, to  
8 accomplish the purposes of this chapter, as provided by Chapter 49,  
9 Water Code, and the provisions of the Water Code [~~this code~~]  
10 applicable to water control and improvement districts.

11 (e) Subsection (a), Section 8502.012, Special District  
12 Local Laws Code, as renumbered from Section 221.012, Water Code, by  
13 this section, is amended to read as follows:

14 (a) The authority is a district and a river authority as  
15 defined by Chapter 30, Water Code. All the provisions of Chapter  
16 30, Water Code, are applicable to the authority.

17 (f) Section 8503.002, Special District Local Laws Code, as  
18 renumbered from Section 222.002, Water Code, by this section, is  
19 amended by adding Subdivision (2-a) to read as follows:

20 (2-a) "Commission" means the Texas Commission on  
21 Environmental Quality.

22 (g) Subsections (p) and (q), Section 8503.004, Special  
23 District Local Laws Code, as renumbered from Section 222.004, Water  
24 Code, by this section, are amended to read as follows:

25 (p) The authority may borrow money for its corporate  
26 purposes on notes or other written evidence of indebtedness for a  
27 period not to exceed five years as may be authorized from time to

1 time by an affirmative vote of 12 members of the board and repay the  
2 loans or indebtedness from the proceeds of bonds of the authority at  
3 the next bond offering. The authority may borrow money and accept  
4 grants from the United States, this state, or any corporation or  
5 agency created or designated by the United States or this state and,  
6 in connection with the loan or grant, may enter into an agreement  
7 that the United States, this state, or the corporation or agency  
8 requires. The authority may make and issue negotiable bonds for  
9 money borrowed in the manner provided by Sections 8503.013  
10 [~~222.013~~] and 8503.014 [~~222.014~~] or other general law. This  
11 chapter does not authorize the issuance of any bonds, notes, or  
12 other evidences of indebtedness of the authority except as  
13 specifically provided by this chapter or other general law.

14 (q) The authority may provide for the study, correcting, and  
15 control of both artificial and natural pollution, including  
16 organic, inorganic, and thermal, of all groundwater or surface  
17 water of the Colorado River and its tributaries within the  
18 boundaries of the authority. The authority may adopt by ordinance  
19 rules with regard to the pollution, both artificial and natural,  
20 and possesses police power to enforce its rules. The authority may  
21 provide a reasonable penalty for the violation of any rule. The  
22 penalty is cumulative of any penalties fixed by the general law of  
23 this state. A penalty under this subsection may not exceed the  
24 limit for penalties provided by Section 49.004, Water Code. An  
25 ordinance enacted under this section may not be adopted in any  
26 county or counties outside the existing boundaries of the  
27 authority.

1           (h) Subsections (a), (b), (j), and (k), Section 8503.006,  
2 Special District Local Laws Code, as renumbered from Section  
3 222.006, Water Code, by this section, are amended to read as  
4 follows:

5           (a) The powers, rights, privileges, and functions of the  
6 authority shall be exercised by the board. The board shall consist  
7 of 15 directors and shall include at least one director from each of  
8 the counties named in Section 8503.003 [~~222.003~~] except Travis  
9 County, which shall have two directors. Three directors shall be  
10 appointed at large from the counties served with electric power,  
11 other than the counties included in Section 8503.003 [~~222.003~~].

12           (b) A director appointed at large may not serve for a period  
13 of more than six consecutive years. A county other than a county  
14 included in Section 8503.003 [~~222.003~~] may not be represented on  
15 the board for more than six consecutive years. A county other than  
16 Travis County may not have two directors for a period greater than  
17 six consecutive years.

18           (j) Each director is entitled to receive fees of office of  
19 not more than \$150 per day and reimbursement of actual expenses  
20 incurred in accordance with Chapter 49, Water Code. However, no  
21 director may be paid per diem in excess of 150 days in any one  
22 calendar year.

23           (k) Eight directors constitute a quorum at any meeting and,  
24 except as otherwise provided by this chapter or in the bylaws, all  
25 action may be taken by the affirmative vote of a majority of the  
26 directors present at any meeting, except that bonds, notes, or  
27 other evidence of indebtedness are subject to the requirements of

1 Sections 8503.004(p) [~~222.004(p)~~] and 8503.013(f) [~~222.013(f)~~],  
2 and no amendment of the bylaws shall be valid unless authorized or  
3 ratified by the affirmative vote of at least eight directors,  
4 unless otherwise specifically provided by this chapter.

5 (i) Subsections (c) and (h), Section 8503.013, Special  
6 District Local Laws Code, as renumbered from Section 222.013, Water  
7 Code, by this section, are amended to read as follows:

8 (c) The proceeds of the bonds and any net operating revenues  
9 derived from the sale of electric power or water that may be  
10 available after paying the interest on outstanding bonds and the  
11 principal amount of the bonds and after setting aside sufficient  
12 funds for working capital, including a reasonable amount for  
13 contingencies, and setting aside funds for reserves to secure  
14 payment of principal of and interest on outstanding bonds, shall be  
15 used:

16 (1) to build and construct dams or other structures  
17 within the authority, on the Colorado River and its tributaries,  
18 for the impounding and storage of floodwater and surface water;

19 (2) to purchase and install in the dams on the Colorado  
20 River hydroelectric generators and other related facilities for the  
21 generation of hydroelectric power;

22 (3) for the construction of additional lines and the  
23 purchase and installation of additional equipment the board  
24 considers necessary or expedient to enable the authority to  
25 continue to meet the demand for electric power in the areas within  
26 the authority directly served by its transmission lines and  
27 distribution systems on January 1, 1975, and other areas within the



1 service area served by the authority on January 1, 1975, that cannot  
2 receive comparable service from any other power source and to  
3 provide electric power to this state as provided by Section  
4 8503.004 [~~222.004~~]; provided, however, that no steam generating  
5 capacity shall be installed by the authority, except that the  
6 authority may acquire, install, construct, enlarge and make  
7 additions to, and operate one or more steam generating plants, the  
8 sum of whose aggregate capacity may not be more than 5,000  
9 megawatts, to be located within the boundaries of either one or more  
10 of Colorado, Fayette, Bastrop, Travis, Blanco, Burnet, Llano, or  
11 San Saba counties and to be utilized for the purpose of serving the  
12 area directly served by the authority's transmission lines and  
13 distribution systems on January 1, 1975, and to provide electric  
14 power to this state as provided by Section 8503.004 [~~222.004~~];

15 (4) to own or acquire an interest in one or more steam  
16 generating plants at any location within or outside the authority,  
17 if the plant or plants are owned in conjunction with one or more  
18 other utilities, public, private, or municipal, provided that an  
19 interest owned or acquired by the authority shall be utilized for  
20 the sole purpose of providing electric power and energy only in the  
21 areas within the authority directly served by its transmission  
22 lines and distribution systems as they existed on January 1, 1975;

23 (5) for the purpose of building dams, levees, or other  
24 flood control structures between the city of Austin and the mouth of  
25 the Colorado River that are considered necessary and desirable by  
26 the board and for acquiring or installing facilities necessary to  
27 supply water for irrigation and other useful purposes within the

1 counties composing the authority; and

2 (6) in aid of any soil conservation or soil  
3 reclamation projects within the authority that the board determines  
4 to be in the public interest.

5 (h) A resolution authorizing bonds may contain provisions  
6 that are part of the contract between the authority and the holder  
7 of the bonds from time to time:

8 (1) reserving the right to redeem the bonds at the time  
9 or times, in the amounts, and at the prices, not exceeding 105  
10 percent of the principal amount of the bonds, plus accrued  
11 interest, as may be provided;

12 (2) providing for the setting aside of interest and  
13 sinking funds or reserve funds and the regulation and disposition  
14 of those funds;

15 (3) pledging, to secure the payment of the principal  
16 of and interest on the bonds and of the sinking fund or reserve fund  
17 payments agreed to be made with respect to the bonds, all or any  
18 part of the gross or net revenues received by the authority with  
19 respect to the property, real, personal, or mixed, acquired or  
20 constructed or to be acquired or constructed with the bonds or the  
21 proceeds of the bonds, or all or any part of the gross or net  
22 revenues previously or thereafter received by the authority from  
23 any source;

24 (4) prescribing the purposes to which the bonds or any  
25 bonds issued later are to be applied;

26 (5) agreeing to set and collect rates and charges  
27 sufficient to produce revenues adequate to pay the items specified

1 in Section 8503.011(a) [~~222.011(a)~~] and prescribing the use and  
2 disposition of all revenues;

3 (6) prescribing limitations on the issuance of  
4 additional bonds and on the agreements that may be made with the  
5 purchasers and successive holders of the bonds;

6 (7) relating to the construction, extension,  
7 improvement, reconstruction, operation, maintenance, and repair of  
8 the properties of the authority and the carrying of insurance on all  
9 or any part of the properties covering loss or damage or loss of use  
10 and occupancy resulting from specified risks;

11 (8) setting the procedure, if any, by which, if the  
12 authority so desires, the terms of a contract with the bondholders  
13 may be amended or abrogated, the amount of bonds whose holders must  
14 consent to that amendment or abrogation, and the manner in which the  
15 consent may be given;

16 (9) providing for the execution and delivery by the  
17 authority, to a bank or trust company authorized by law to accept  
18 trusts, of indentures and agreements for the benefit of the  
19 bondholders setting forth all of the agreements authorized by this  
20 chapter to be made with or for the benefit of the bondholders and  
21 other provisions that are customary in those kinds of indentures or  
22 agreements; and

23 (10) making other provisions, not inconsistent with  
24 this chapter or other general law, that the board approves,  
25 provided that an agreement, contract, or commitment may not be made  
26 that, under any contingency, could or would result in the United  
27 States government or any of its agencies or bureaus claiming the

1 right or privilege of controlling or managing the properties and  
2 facilities of the authority or the control or disposition of the  
3 water of the Colorado River or its tributaries; provided, however,  
4 that nothing in this chapter shall be construed as limiting or  
5 restricting the rights or powers as set out in Section 8503.014  
6 [~~222.014~~] in the event of a default on the part of the authority;  
7 and provided further that nothing in this chapter is intended to  
8 prohibit compliance with existing federal regulations, if  
9 compliance with those regulations is done on the advice and  
10 approval of the attorney general.

11 (j) Subsections (b) and (c), Section 8503.014, Special  
12 District Local Laws Code, as renumbered from Section 222.014, Water  
13 Code, by this section, are amended to read as follows:

14 (b) If a default described by Subsection (a) has occurred  
15 and has continued for a period, if any, prescribed by the resolution  
16 authorizing the issuance of the bonds, the trustee under an  
17 indenture entered into with respect to the bonds authorized by the  
18 resolution, or, if there is no indenture, a trustee appointed in the  
19 manner provided in the resolution by the holders of 25 percent in  
20 aggregate principal amount of the bonds authorized by the  
21 resolution and then outstanding, shall, in the trustee's own name  
22 but for the equal and proportionate benefit of all of the  
23 bondholders, and with or without having possession of the bonds:

24 (1) by mandamus or other suit, action, or proceeding  
25 at law or in equity, enforce all rights of the bondholders,  
26 including the requirements of Section 8503.011 [~~222.011~~];

27 (2) bring suit on the bonds or the appurtenant

1 coupons;

2 (3) by action or suit in equity, require the authority  
3 to act as if it were the trustee of an express trust for the  
4 bondholders;

5 (4) by action or suit in equity, enjoin any acts or  
6 things that may be unlawful or in violation of the rights of the  
7 bondholders; or

8 (5) after such notice to the authority as the  
9 resolution may provide, declare the principal of all of the bonds  
10 due and payable, and if all defaults have been made good, then with  
11 the written consent of the holders of 25 percent in aggregate  
12 principal amount of the bonds then outstanding, annul the  
13 declaration and its consequences; provided, however, that the  
14 holders of more than a majority in principal amount of the bonds  
15 authorized by the resolution and then outstanding shall, by written  
16 instrument delivered to the trustee, have the right to direct and  
17 control any and all action taken or to be taken by the trustee under  
18 this section.

19 (c) A resolution, indenture, or agreement relating to bonds  
20 may provide that in a suit, action, or proceeding under this  
21 section, the trustee, whether or not all of the bonds have been  
22 declared due and payable and with or without possession of any of  
23 the bonds, is entitled as of right to the appointment of a receiver  
24 who may enter and take possession of all or any part of the  
25 properties of the authority, operate and maintain the properties,  
26 and set, collect, and receive rates and charges sufficient to  
27 provide revenues adequate to pay the items set forth in Section

1 8503.011(a) [~~222.011(a)~~] and the costs and disbursements of the  
2 suit, action, or proceeding and apply the revenues in conformity  
3 with this chapter and the resolution authorizing the bonds.

4 (k) Section 8503.015, Special District Local Laws Code, as  
5 renumbered from Section 222.015, Water Code, by this section, is  
6 amended to read as follows:

7 Sec. 8503.015 [~~222.015~~]. AUDIT. The authority is subject  
8 to the audit provisions of Subchapter G, Chapter 49, Water Code.

9 (l) Subsections (b) and (c), Section 8503.020, Special  
10 District Local Laws Code, as renumbered from Section 222.020, Water  
11 Code, by this section, are amended to read as follows:

12 (b) Nothing in this chapter shall be construed as  
13 authorizing the sale of any property or interest by the authority or  
14 by any receiver of any of its properties or through any court  
15 proceeding or otherwise, unless, by the affirmative vote of  
16 three-fourths of its statutory membership, the board has determined  
17 that the property or interest is not necessary or convenient or of  
18 beneficial use to the business of the authority and has approved the  
19 terms of the sale. Except by sale as expressly authorized in this  
20 section, authority property or interest may not come into the  
21 ownership or control, directly or indirectly, of any person, firm,  
22 or corporation other than a public authority created under the laws  
23 of this state or a nonprofit corporation created by the authority  
24 under Chapter 152, Water Code.

25 (c) The limitations on the sale of property of the authority  
26 in this section do not and are not intended to preclude the  
27 authority from selling any interest owned or held by the authority

1 in any jointly owned electric power and generating facilities  
2 constructed, or to be constructed, under Section 8503.004(t)  
3 [~~222.004(t)~~], provided that the sale of an ownership interest in a  
4 joint project is provided for and in conformance with any contract  
5 with other owners regarding the electric power and energy  
6 generating facilities.

7 (m) Section 8503.022, Special District Local Laws Code, as  
8 renumbered from Section 222.022, Water Code, by this section, is  
9 amended to read as follows:

10 Sec. 8503.022 [~~222.022~~]. PROPERTY USEFUL IN THE PRODUCTION  
11 OR UTILIZATION OF ELECTRIC ENERGY. This chapter does not prohibit  
12 or restrict the sale, lease, or other disposition, to an electric  
13 cooperative, municipality, nonprofit corporation created by the  
14 authority under Chapter 152, Water Code, or other governmental  
15 agency or body politic and corporate of this state, of any property  
16 acquired or constructed by the authority and incidental to or used  
17 or useful in the generation, production, transmission,  
18 distribution, or sale of electric energy. The authority may pledge  
19 the proceeds of a sale under this section to the same extent and in  
20 the same manner in which it is authorized to pledge its revenues.

21 (n) Subsection (a), Section 8503.023, Special District  
22 Local Laws Code, as renumbered from Section 222.023, Water Code, by  
23 this section, is amended to read as follows:

24 (a) The authority may not prevent the public use of its  
25 lands for recreational purposes and fishing except at such points  
26 where, in the opinion of the board, the use would interfere with the  
27 proper conduct of the business of the authority or would interfere

1 with the lawful use of the property. A lease of authority lands,  
2 except one expressly permitted by Section 8503.022 [~~222.022~~], is  
3 not lawful unless it provides for free public use of the lands for  
4 recreational purposes and fishing.

5 (o) Subsection (b), Section 8503.025, Special District  
6 Local Laws Code, as renumbered from Section 222.025, Water Code, by  
7 this section, is amended to read as follows:

8 (b) Nothing in this chapter shall prevent the authority from  
9 issuing bonds under any applicable general law of this state,  
10 provided, however, that no bonds are issued that would be in  
11 conflict with Section 8503.024 [~~222.024~~].

12 (p) Subsection (b), Section 8503.027, Special District  
13 Local Laws Code, as renumbered from Section 222.027, Water Code, by  
14 this section, is amended to read as follows:

15 (b) Nothing in this chapter affects the meaning of Section  
16 8503.011 [~~222.011~~], formerly Section 222.011, Water Code, and  
17 Section 9, Chapter 74, Acts of the 64th Legislature, Regular  
18 Session, 1975, as it existed prior to the adoption of the former  
19 Chapter 222, Water Code [~~this chapter~~], except where specifically  
20 amended.

21 (q) Section 8503.028, Special District Local Laws Code, as  
22 renumbered from Section 222.028, Water Code, by this section, is  
23 amended to read as follows:

24 Sec. 8503.028 [~~222.028~~]. AUTHORITY POWERS IN LAMPASAS  
25 COUNTY. Notwithstanding any other provision of this chapter, the  
26 authority may exercise all powers within Lampasas County that it  
27 may otherwise exercise within the 10 counties specified in Section



1 8503.003 [~~222.003~~], except that the authority may not provide water  
2 or wastewater services in the portion of Lampasas County outside  
3 the Colorado River watershed without the consent of the Brazos  
4 River Authority.

5 (r) Subsection (b), Section 8503.030, Special District  
6 Local Laws Code, as renumbered from Section 222.030, Water Code, by  
7 this section, is amended to read as follows:

8 (b) In this section and Section 8503.031 [~~222.031~~]:

9 (1) "Municipality" includes a municipally owned  
10 utility.

11 (2) "Water service area" means the area in which the  
12 authority is authorized to use, distribute, and sell water on  
13 January 1, 2001.

14 (s) Section 8503.031, Special District Local Laws Code, as  
15 renumbered from Section 222.031, Water Code, by this section, is  
16 amended to read as follows:

17 Sec. 8503.031 [~~222.031~~]. AUTHORITY OF MUNICIPALITY TO  
18 CONTRACT FOR WATER. Section 8503.030 [~~222.030~~] constitutes full  
19 authority for a municipality or municipally owned utility to enter  
20 into a contract with the authority under that section. The payments  
21 made under a contract authorized by that section are operation and  
22 maintenance expenses of the municipality's utility system. A  
23 municipality or municipally owned utility that enters into a  
24 contract under that section may use proceeds from the sale of its  
25 revenue bonds to make any such payments.

26 (t) Title 6, Water Code, is repealed.

ARTICLE 14. CHANGES RELATING TO TAX CODE

SECTION 14.001. Section 26.05(a), Tax Code, is amended to correct a reference to read as follows:

(a) The governing body of each taxing unit, before the later of September 30 or the 60th day after the date the certified appraisal roll is received by the taxing unit, shall adopt a tax rate for the current tax year and shall notify the assessor for the unit of the rate adopted. The tax rate consists of two components, each of which must be approved separately. The components are:

(1) for a taxing unit other than a school district, the rate that, if applied to the total taxable value, will impose the total amount published under Section 26.04(e)(3)(C), less any amount of additional sales and use tax revenue that will be used to pay debt service, or, for a school district, the rate published under Section 44.004(c)(5)(A)(ii)(b) [~~44.004(c)(2)(A)(ii)(b)~~], Education Code; and

(2) the rate that, if applied to the total taxable value, will impose the amount of taxes needed to fund maintenance and operation expenditures of the unit for the next year.

SECTION 14.002. Section 311.004(c), Tax Code, is amended to correct a reference to read as follows:

(c) To designate a reinvestment zone under Section 311.005(a)(4) [~~311.005(a)(5)~~], the governing body of a municipality or county must specify in the ordinance or order that the reinvestment zone is designated under that section.

SECTION 14.003. Section 311.005(a), Tax Code, as amended by Section 37, Chapter 1094, and Section 1, Chapter 1347, Acts of the

1 79th Legislature, Regular Session, 2005, is reenacted and amended  
2 to read as follows:

3 (a) To be designated as a reinvestment zone, an area must:

4 (1) substantially arrest or impair the sound growth of  
5 the municipality or county creating the zone, retard the provision  
6 of housing accommodations, or constitute an economic or social  
7 liability and be a menace to the public health, safety, morals, or  
8 welfare in its present condition and use because of the presence of:

9 (A) a substantial number of substandard, slum,  
10 deteriorated, or deteriorating structures;

11 (B) the predominance of defective or inadequate  
12 sidewalk or street layout;

13 (C) faulty lot layout in relation to size,  
14 adequacy, accessibility, or usefulness;

15 (D) unsanitary or unsafe conditions;

16 (E) the deterioration of site or other  
17 improvements;

18 (F) tax or special assessment delinquency  
19 exceeding the fair value of the land;

20 (G) defective or unusual conditions of title;

21 (H) conditions that endanger life or property by  
22 fire or other cause; or

23 (I) structures, other than single-family  
24 residential structures, less than 10 percent of the square footage  
25 of which has been used for commercial, industrial, or residential  
26 purposes during the preceding 12 years, if the municipality has a  
27 population of 100,000 or more;

1           (2) be predominantly open and, because of obsolete  
2 platting, deterioration of structures or site improvements, or  
3 other factors, substantially impair or arrest the sound growth of  
4 the municipality or county;

5           (3) be in a federally assisted new community located  
6 in the municipality or county or in an area immediately adjacent to  
7 a federally assisted new community; or

8           (4) [~~(5)~~] be an area described in a petition  
9 requesting that the area be designated as a reinvestment zone, if  
10 the petition is submitted to the governing body of the municipality  
11 or county by the owners of property constituting at least 50 percent  
12 of the appraised value of the property in the area according to the  
13 most recent certified appraisal roll for the county in which the  
14 area is located.

15           SECTION 14.004. Section 311.006(e), Tax Code, is amended to  
16 correct a reference to read as follows:

17           (e) Subsection (a)(1) does not apply to a reinvestment zone  
18 designated under Section 311.005(a)(4) [~~311.005(a)(5)~~].

19           SECTION 14.005. Section 311.0087(a), Tax Code, is amended  
20 to correct a reference to read as follows:

21           (a) This section applies only to a proposed reinvestment  
22 zone:

23           (1) the designation of which is requested in a  
24 petition submitted under Section 311.005(a)(4) [~~311.005(a)(5)~~]  
25 before July 31, 2004, to the governing body of a home-rule  
26 municipality that:

27           (A) has a population of more than 1.1 million;

1 (B) is located primarily in a county with a  
2 population of 1.5 million or less; and

3 (C) has created at least 20 reinvestment zones  
4 under this chapter; and

5 (2) that is the subject of a resolution of intent that  
6 was adopted before October 31, 2004, by the governing body of the  
7 municipality.

8 SECTION 14.006. Section 311.009(b), Tax Code, is amended to  
9 correct a reference to read as follows:

10 (b) If the zone was designated under Section 311.005(a)(4)  
11 [~~311.005(a)(5)~~], the board of directors of the zone consists of  
12 nine members. Each school district, county, or municipality, other  
13 than the municipality or county that created the zone, that levies  
14 taxes on real property in the zone may appoint one member of the  
15 board if the school district, county, or municipality has approved  
16 the payment of all or part of the tax increment produced by the  
17 unit. The member of the state senate in whose district the zone is  
18 located is a member of the board, and the member of the state house  
19 of representatives in whose district the zone is located is a member  
20 of the board, except that either may designate another individual  
21 to serve in the member's place at the pleasure of the member. If the  
22 zone is located in more than one senate or house district, this  
23 subsection applies only to the senator or representative in whose  
24 district a larger portion of the zone is located than any other  
25 senate or house district, as applicable. The remaining members of  
26 the board are appointed by the governing body of the municipality or  
27 county that created the zone.

1 SECTION 14.007. Section 311.0091(c), Tax Code, is amended  
2 to correct a reference to read as follows:

3 (c) If the zone was designated under Section 311.005(a)(4)  
4 [~~311.005(a)(5)~~], the board of directors of the zone consists of  
5 nine members, unless a greater number of members is necessary to  
6 comply with this subsection. Each taxing unit that approves the  
7 payment of all or part of its tax increment into the tax increment  
8 fund is entitled to appoint a number of members to the board in  
9 proportion to the taxing unit's pro rata share of the total  
10 anticipated tax increment to be deposited into the tax increment  
11 fund during the term of the zone. In determining the number of  
12 members a taxing unit may appoint to the board, the taxing unit's  
13 percentage of anticipated pro rata contributions to the tax  
14 increment fund is multiplied by nine, and a number containing a  
15 fraction that is one-half or greater shall be rounded up to the next  
16 whole number. Notwithstanding any other provision of this  
17 subsection, each taxing unit that approves the payment of all or  
18 part of its tax increment into the tax increment fund is entitled to  
19 appoint at least one member of the board, and the municipality that  
20 designated the zone is entitled to appoint at least as many members  
21 of the board as any other participating taxing unit. A taxing unit  
22 may waive its right to appoint a director. The member of the state  
23 senate in whose district the zone is located is a member of the  
24 board, and the member of the state house of representatives in whose  
25 district the zone is located is a member of the board, except that  
26 either may designate another individual to serve in the member's  
27 place at the pleasure of the member. If the zone is located in more

1 than one senate or house district, this subsection applies only to  
2 the senator or representative in whose district a larger portion of  
3 the zone is located than any other senate or house district, as  
4 applicable.

5 SECTION 14.008. Section 311.010(c), Tax Code, is amended to  
6 correct a reference to read as follows:

7 (c) Subject to the approval of the governing body of the  
8 municipality that created the zone, the board of a zone designated  
9 by the governing body of a municipality under Section 311.005(a)(4)  
10 [~~311.005(a)(5)~~] may exercise the power granted by Chapter 211,  
11 Local Government Code, to the governing body of the municipality  
12 that created the zone to restrict the use or uses of property in the  
13 zone. The board may provide that a restriction adopted by the board  
14 continues in effect after the termination of the zone. In that  
15 event, after termination of the zone the restriction is treated as  
16 if it had been adopted by the governing body of the municipality.

17 SECTION 14.009. Section 311.0101(a), Tax Code, is amended  
18 to correct a reference to read as follows:

19 (a) It is the goal of the legislature, subject to the  
20 constitutional requirements spelled out by the United States  
21 Supreme Court in J. A. Croson Company v. City of Richmond (822 F.2d  
22 1355) and as hereafter further elaborated by federal and state  
23 courts, that all disadvantaged businesses in the zone designated  
24 under Section 311.005(a)(4) [~~311.005(a)(5)~~] be given full and  
25 complete access to the procurement process whereby supplies,  
26 materials, services, and equipment are acquired by the board. It is  
27 also the intent of the legislature that to the extent

1 constitutionally permissible, a preference be given to  
2 disadvantaged businesses. The board and general contractor shall  
3 give preference, among bids or other proposals that are otherwise  
4 comparable, to a bid or other proposal by a disadvantaged business  
5 having its home office located in this state.

6 SECTION 14.010. Section 311.011(f), Tax Code, is amended to  
7 correct a reference to read as follows:

8 (f) In a zone designated under Section 311.005(a)(4)  
9 [~~311.005(a)(5)~~] that is located in a county with a population of 3.3  
10 million or more, the project plan must provide that at least  
11 one-third of the tax increment of the zone be used to provide  
12 affordable housing during the term of the zone.

13 ARTICLE 15. CHANGES RELATING TO TRANSPORTATION CODE

14 SECTION 15.001. Section 22.0815, Transportation Code, is  
15 amended to add a heading to read as follows:

16 Sec. 22.0815. OFFENSE: UNAUTHORIZED GROUND TRANSPORTATION.

17 (a) In this section, "ground transportation business" means the  
18 transportation by motor vehicle of persons or baggage for  
19 compensation.

20 (b) A person commits an offense if, within the boundaries of  
21 an airport operated or controlled by a joint board for which the  
22 constituent agencies are populous home-rule municipalities, the  
23 person:

24 (1) solicits ground transportation business without  
25 the permission of the joint board, if required; or

26 (2) engages in ground transportation business without  
27 the permission of the joint board, if required.



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

2 SECTION 15.002. Sections 222.104(f) and (g),  
3 Transportation Code, as added by Chapter 994, Acts of the 79th  
4 Legislature, Regular Session, 2005, are repealed as duplicative of  
5 Sections 222.104(i) and (j), Transportation Code.

6 ARTICLE 16. CHANGES RELATING TO WATER CODE

7 SECTION 16.001. Section 5.131, Water Code, as added by  
8 Chapter 965, Acts of the 77th Legislature, Regular Session, 2001,  
9 is repealed as duplicative of Section 5.127, Water Code.

10 SECTION 16.002. The heading to Chapter 29, Water Code, is  
11 amended to conform to Section 21, Chapter 603, Acts of the 72nd  
12 Legislature, Regular Session, 1991, to read as follows:

13 CHAPTER 29. OIL AND GAS WASTE [~~SALT WATER~~] HAULERS

14 ARTICLE 17. RENUMBERING

15 SECTION 17.001. The following provisions of enacted codes  
16 are renumbered or relettered and appropriate cross-references are  
17 changed to eliminate duplicate citations or to relocate misplaced  
18 provisions:

19 (1) Section 12.039, Agriculture Code, as added by  
20 Chapter 214, Acts of the 79th Legislature, Regular Session, 2005,  
21 is renumbered as Section 12.040, Agriculture Code.

22 (2) Subsection (i), Section 11.61, Alcoholic Beverage  
23 Code, as added by Chapter 452, Acts of the 79th Legislature, Regular  
24 Session, 2005, is relettered as Subsection (j), Section 11.61,  
25 Alcoholic Beverage Code.

26 (3) Chapter 54, Alcoholic Beverage Code, as added by  
27 Chapter 1289, Acts of the 79th Legislature, Regular Session, 2005,

1 is renumbered as Chapter 50, Alcoholic Beverage Code, and Sections  
2 54.001, 54.002, and 54.003, Alcoholic Beverage Code, as added by  
3 that Act, are renumbered as Sections 50.001, 50.002, and 50.003,  
4 Alcoholic Beverage Code, respectively.

5 (4) Subsection (j), Section 61.71, Alcoholic Beverage  
6 Code, as added by Chapter 452, Acts of the 79th Legislature, Regular  
7 Session, 2005, is relettered as Subsection (l), Section 61.71,  
8 Alcoholic Beverage Code.

9 (5) Section 105.08, Alcoholic Beverage Code, as added  
10 by Chapter 239, Acts of the 79th Legislature, Regular Session,  
11 2005, is renumbered as Section 105.09, Alcoholic Beverage Code.

12 (6) Section 35.58, Business & Commerce Code, as added  
13 by Chapter 649, Acts of the 78th Legislature, Regular Session,  
14 2003, is renumbered as Section 35.60, Business & Commerce Code.

15 (7) Section 35.60, Business & Commerce Code, as added  
16 by Chapter 195, Acts of the 79th Legislature, Regular Session,  
17 2005, is renumbered as Section 35.63, Business & Commerce Code.

18 (8) Article 13.30, Code of Criminal Procedure, as  
19 added by Chapter 1008, Acts of the 79th Legislature, Regular  
20 Session, 2005, is renumbered as Article 13.31, Code of Criminal  
21 Procedure.

22 (9) Article 13.30, Code of Criminal Procedure, as  
23 added by Chapter 1275, Acts of the 79th Legislature, Regular  
24 Session, 2005, is renumbered as Article 13.32, Code of Criminal  
25 Procedure.

26 (10) Subsection (p), Article 42.037, Code of Criminal  
27 Procedure, as added by Chapter 543, Acts of the 79th Legislature,

1 Regular Session, 2005, is relettered as Subsection (q), Article  
2 42.037, Code of Criminal Procedure.

3 (11) Section 11.168, Education Code, as added by  
4 Chapter 1109, Acts of the 79th Legislature, Regular Session, 2005,  
5 is renumbered as Section 11.169, Education Code.

6 (12) Section 25.0341, Education Code, as added by  
7 Chapter 920, Acts of the 79th Legislature, Regular Session, 2005,  
8 is renumbered as Section 25.0342, Education Code.

9 (13) Subchapter D, Chapter 32, Education Code, as  
10 added by Chapter 1216, Acts of the 78th Legislature, Regular  
11 Session, 2003, is relettered as Subchapter F, Chapter 32, Education  
12 Code, and Sections 32.151, 32.152, 32.153, 32.154, 32.155, 32.156,  
13 32.157, 32.158, 32.159, 32.160, 32.161, 32.162, and 32.163,  
14 Education Code, as added by that Act, are renumbered as Sections  
15 32.251, 32.252, 32.253, 32.254, 32.255, 32.256, 32.257, 32.258,  
16 32.259, 32.260, 32.261, 32.262, and 32.263, Education Code,  
17 respectively.

18 (13-a) Section 51.355, Education Code, as added by  
19 Chapter 303, Acts of the 79th Legislature, Regular Session, 2005,  
20 is renumbered as Section 51.357, Education Code.

21 (14) Section 51.4032, Education Code, as added by  
22 Chapter 1230, Acts of the 79th Legislature, Regular Session, 2005,  
23 is renumbered as Section 51.4033, Education Code.

24 (15) Subsection (f), Section 54.007, Education Code,  
25 as added by Chapter 888, Acts of the 79th Legislature, Regular  
26 Session, 2005, is relettered as Subsection (g), Section 54.007,  
27 Education Code.

1           (16) Subsection (f), Section 54.007, Education Code,  
2 as added by Chapter 536, Acts of the 79th Legislature, Regular  
3 Session, 2005, is relettered as Subsection (h), Section 54.007,  
4 Education Code.

5           (17) Section 54.073, Education Code, as added by  
6 Chapter 888, Acts of the 79th Legislature, Regular Session, 2005,  
7 is renumbered as Section 54.066, Education Code.

8           (18) Subsection (h), Section 54.203, Education Code,  
9 as added by Chapter 888, Acts of the 79th Legislature, Regular  
10 Session, 2005, is relettered as Subsection (j), Section 54.203,  
11 Education Code.

12           (19) Subchapter I, Chapter 88, Education Code, as  
13 added by Chapter 388, Acts of the 76th Legislature, Regular  
14 Session, 1999, is relettered as Subchapter I-1, Chapter 88,  
15 Education Code.

16           (20) Subsection (d), Section 31.092, Election Code, as  
17 added by Chapter 1091, Acts of the 79th Legislature, Regular  
18 Session, 2005, is relettered as Subsection (e), Section 31.092,  
19 Election Code.

20           (21) Subchapter J, Chapter 153, Family Code, as added  
21 by Chapter 482, Acts of the 79th Legislature, Regular Session,  
22 2005, is relettered as Subchapter K, Chapter 153, Family Code.

23           (22) Section 231.122, Family Code, as added by Chapter  
24 925, Acts of the 79th Legislature, Regular Session, 2005, is  
25 renumbered as Section 231.123, Family Code.

26           (23) Subsection (i), Section 156.208, Finance Code, as  
27 added by Chapter 1018, Acts of the 79th Legislature, Regular

1 Session, 2005, is relettered as Subsection (j), Section 156.208,  
2 Finance Code.

3 (24) Subchapter BB, Chapter 54, Government Code, as  
4 added by Chapter 663, Acts of the 79th Legislature, Regular  
5 Session, 2005, is relettered as Subchapter A, Chapter 54,  
6 Government Code, and Sections 54.1351, 54.1352, 54.1353, 54.1354,  
7 54.1355, and 54.1356, Government Code, as added by that Act, are  
8 renumbered as Sections 54.001, 54.002, 54.003, 54.004, 54.005, and  
9 54.006, Government Code, respectively.

10 (25) Subchapter BB, Chapter 54, Government Code, as  
11 added by Chapter 109, Acts of the 79th Legislature, Regular  
12 Session, 2005, is relettered as Subchapter B, Chapter 54,  
13 Government Code, and Sections 54.1701, 54.1702, 54.1703, 54.1704,  
14 and 54.1705, Government Code, as added by that Act, are renumbered  
15 as Sections 54.101, 54.102, 54.103, 54.104, and 54.105, Government  
16 Code, respectively.

17 (26) Section 62.0142, Government Code, as added by  
18 Chapter 1360, Acts of the 79th Legislature, Regular Session, 2005,  
19 is renumbered as Section 62.0143, Government Code.

20 (27) Section 405.021, Government Code, as added by  
21 Chapter 407, Acts of the 79th Legislature, Regular Session, 2005,  
22 is renumbered as Section 405.022, Government Code.

23 (28) Section 442.019, Government Code, as added by  
24 Chapter 850, Acts of the 79th Legislature, Regular Session, 2005,  
25 is renumbered as Section 442.020, Government Code.

26 (29) Section 487.060, Government Code, as added by  
27 Chapter 634, Acts of the 79th Legislature, Regular Session, 2005,

1 is renumbered as Section 487.061, Government Code.

2 (30) Chapter 490, Government Code, as added by Chapter  
3 593, Acts of the 79th Legislature, Regular Session, 2005, is  
4 renumbered as Chapter 490A, Government Code, and Sections 490.001,  
5 490.002, 490.003, 490.004, 490.005, 490.006, 490.007, 490.008, and  
6 490.009, Government Code, as added by that Act, are renumbered as  
7 Sections 490A.001, 490A.002, 490A.003, 490A.004, 490A.005,  
8 490A.006, 490A.007, 490A.008, and 490A.009, Government Code,  
9 respectively.

10 (31) Chapter 490, Government Code, as added by Chapter  
11 1215, Acts of the 79th Legislature, Regular Session, 2005, is  
12 renumbered as Chapter 490B, Government Code, and Sections 490.001,  
13 490.002, 490.003, 490.004, and 490.005, Government Code, as added  
14 by that Act, are renumbered as Sections 490B.001, 490B.002,  
15 490B.003, 490B.004, and 490B.005, Government Code, respectively.

16 (32) Section 531.078, Government Code, as added by  
17 Chapter 268, Acts of the 79th Legislature, Regular Session, 2005,  
18 is renumbered as Section 531.088, Government Code.

19 (33) Section 531.078, Government Code, as added by  
20 Chapter 1008, Acts of the 79th Legislature, Regular Session, 2005,  
21 is renumbered as Section 531.089, Government Code.

22 (34) Section 531.080, Government Code, as added by  
23 Chapter 899, Acts of the 79th Legislature, Regular Session, 2005,  
24 is renumbered as Section 531.090, Government Code.

25 (35) Section 531.080, Government Code, as added by  
26 Chapter 666, Acts of the 79th Legislature, Regular Session, 2005,  
27 is renumbered as Section 531.091, Government Code.

1           (36) Section 531.082, Government Code, as added by  
2 Chapter 985, Acts of the 79th Legislature, Regular Session, 2005,  
3 is renumbered as Section 531.092, Government Code.

4           (37) Section 531.1532, Government Code, as added by  
5 Chapter 1131, Acts of the 79th Legislature, Regular Session, 2005,  
6 is renumbered as Section 531.1533, Government Code.

7           (38) Subsection (f), Section 533.009, Government  
8 Code, as added by Chapter 349, Acts of the 79th Legislature, Regular  
9 Session, 2005, is relettered as Subsection (c), Section 533.009,  
10 Government Code.

11           (39) Section 552.141, Government Code, as added by  
12 Chapter 401, Acts of the 78th Legislature, Regular Session, 2003,  
13 is renumbered as Section 552.145, Government Code.

14           (40) Section 662.051, Government Code, as added by  
15 Chapter 697, Acts of the 79th Legislature, Regular Session, 2005,  
16 is renumbered as Section 662.052, Government Code.

17           (41) Section 775.004, Government Code, as added by  
18 Chapter 351, Acts of the 79th Legislature, Regular Session, 2005,  
19 is renumbered as Section 775.005, Government Code.

20           (42) Section 2155.149, Government Code, as added by  
21 Chapter 514, Acts of the 79th Legislature, Regular Session, 2005,  
22 is renumbered as Section 2155.150, Government Code.

23           (43) Subchapter C, Chapter 44, Health and Safety Code,  
24 as added by Chapter 775, Acts of the 75th Legislature, Regular  
25 Session, 1997, is transferred to the Government Code and  
26 redesignated as Subchapter C, Chapter 420, Government Code, and  
27 Section 44.051, Health and Safety Code, as added by that Act, is

1 renumbered as Section 420.051, Government Code.

2 (44) Subchapter D, Chapter 44, Health and Safety Code,  
3 as added by Chapter 775, Acts of the 75th Legislature, Regular  
4 Session, 1997, is transferred to the Government Code and  
5 redesignated as Subchapter D, Chapter 420, Government Code, and  
6 Sections 44.071, 44.072, 44.073, 44.074, and 44.075, Health and  
7 Safety Code, as added by that Act, are renumbered as Sections  
8 420.071, 420.072, 420.073, 420.074, and 420.075, Government Code,  
9 respectively.

10 (45) Chapter 96, Health and Safety Code, as added by  
11 Chapter 326, Acts of the 79th Legislature, Regular Session, 2005,  
12 is renumbered as Chapter 97, Health and Safety Code, and Sections  
13 96.001, 96.002, 96.003, 96.004, 96.005, 96.006, and 96.007, Health  
14 and Safety Code, as added by that Act, are renumbered as Sections  
15 97.001, 97.002, 97.003, 97.004, 97.005, 97.006, and 97.007, Health  
16 and Safety Code, respectively.

17 (46) Chapter 113, Health and Safety Code, as added by  
18 Chapter 1016, Acts of the 79th Legislature, Regular Session, 2005,  
19 is renumbered as Chapter 109, Health and Safety Code, and Sections  
20 113.001, 113.002, 113.003, 113.004, 113.005, 113.006, 113.007,  
21 113.008, 113.009, 113.010, 113.011, 113.012, 113.013, and 113.014,  
22 Health and Safety Code, as added by that Act, are renumbered as  
23 Sections 109.001, 109.002, 109.003, 109.004, 109.005, 109.006,  
24 109.007, 109.008, 109.009, 109.010, 109.011, 109.012, 109.013, and  
25 109.014, Health and Safety Code, respectively.

26 (47) Chapter 322, Health and Safety Code, as added by  
27 Chapter 934, Acts of the 79th Legislature, Regular Session, 2005,



1 is renumbered as Chapter 323, Health and Safety Code, and Sections  
2 322.001, 322.002, 322.003, 322.004, 322.005, and 322.006, Health  
3 and Safety Code, as added by that Act, are renumbered as Sections  
4 323.001, 323.002, 323.003, 323.004, 323.005, and 323.006, Health  
5 and Safety Code, respectively.

6 (48) Section 361.123, Health and Safety Code, as added  
7 by Chapter 582, Acts of the 79th Legislature, Regular Session,  
8 2005, is renumbered as Section 361.124, Health and Safety Code.

9 (49) Section 756.106, Health and Safety Code, as added  
10 by Chapter 1337, Acts of the 79th Legislature, Regular Session,  
11 2005, is renumbered as Section 756.126, Health and Safety Code.

12 (50) Subsection (bb), Section 32.024, Human Resources  
13 Code, as added by Chapter 1314, Acts of the 79th Legislature,  
14 Regular Session, 2005, is relettered as Subsection (cc), Section  
15 32.024, Human Resources Code.

16 (51) Subchapter G, Chapter 544, Insurance Code, as  
17 added by Chapter 748, Acts of the 79th Legislature, Regular  
18 Session, 2005, is relettered as Subchapter J, Chapter 544,  
19 Insurance Code, and Sections 544.301, 544.302, and 544.303,  
20 Insurance Code, as added by that Act, are renumbered as Sections  
21 544.451, 544.452, and 544.453, Insurance Code, respectively.

22 (52) Section 1551.219, Insurance Code, as added by  
23 Chapter 213, Acts of the 78th Legislature, Regular Session, 2003,  
24 is renumbered as Section 1551.224, Insurance Code.

25 (53) Section 212.1335, Local Government Code, as added  
26 by Chapter 1044, Acts of the 78th Legislature, Regular Session,  
27 2003, is renumbered as Section 212.1535, Local Government Code.

1           (54) Section 212.138, Local Government Code, as added  
2 by Chapter 1044, Acts of the 78th Legislature, Regular Session,  
3 2003, is renumbered as Section 212.158, Local Government Code.

4           (55) Section 214.904, Local Government Code, as added  
5 by Chapter 1103, Acts of the 79th Legislature, Regular Session,  
6 2005, is renumbered as Section 214.905, Local Government Code.

7           (56) Section 230.007, Local Government Code, as added  
8 by Chapter 1399, Acts of the 77th Legislature, Regular Session,  
9 2001, is renumbered as Section 212.157, Local Government Code.

10          (57) Section 301.353, Occupations Code, as added by  
11 Chapter 966, Acts of the 79th Legislature, Regular Session, 2005,  
12 is renumbered as Section 301.354, Occupations Code.

13          (58) Section 562.111, Occupations Code, as added by  
14 Section 22, Chapter 1345, Acts of the 79th Legislature, Regular  
15 Session, 2005, is renumbered as Section 562.112, Occupations Code.

16          (58-a) Subdivision (1-a), Section 1702.002,  
17 Occupations Code, as added by Chapter 10, Acts of the 78th  
18 Legislature, 3rd Called Session, 2003, is renumbered as Subdivision  
19 (1-b), Section 1702.002, Occupations Code.

20          (59) Section 1702.331, Occupations Code, as added by  
21 Chapter 207, Acts of the 79th Legislature, Regular Session, 2005,  
22 is renumbered as Section 1702.332, Occupations Code.

23          (60) Section 62.002, Parks and Wildlife Code, as added  
24 by Chapter 1002, Acts of the 79th Legislature, Regular Session,  
25 2005, is renumbered as Section 62.0061, Parks and Wildlife Code.

26          (61) Subsections (g) and (h), Section 30.05, Penal  
27 Code, as added by Chapter 1093, Acts of the 79th Legislature,

1 Regular Session, 2005, are relettered as Subsections (i) and (j),  
2 Section 30.05, Penal Code, respectively.

3 (62) Subsection (i), Section 46.15, Penal Code, as  
4 added by Chapter 976, Acts of the 79th Legislature, Regular  
5 Session, 2005, is relettered as Subsection (j), Section 46.15,  
6 Penal Code.

7 (63) Section 5.014, Property Code, as added by Chapter  
8 825, Acts of the 79th Legislature, Regular Session, 2005, is  
9 renumbered as Section 5.015, Property Code.

10 (64) Section 92.016, Property Code, as added by  
11 Chapter 1344, Acts of the 79th Legislature, Regular Session, 2005,  
12 is renumbered as Section 92.018, Property Code.

13 (65) Chapter 9004, Special District Local Laws Code,  
14 as added by Chapter 729, Acts of the 79th Legislature, Regular  
15 Session, 2005, is renumbered as Chapter 9010, Special District  
16 Local Laws Code, and Sections 9004.001, 9004.002, 9004.003,  
17 9004.004, 9004.051, 9004.052, 9004.053, 9004.054, and 9004.055,  
18 Special District Local Laws Code, as added by that Act, are  
19 renumbered as Sections 9010.001, 9010.002, 9010.003, 9010.004,  
20 9010.051, 9010.052, 9010.053, 9010.054, and 9010.055, Special  
21 District Local Laws Code, respectively.

22 (66) Subsection (g), Section 32.065, Tax Code, as  
23 added by Chapter 1126, Acts of the 79th Legislature, Regular  
24 Session, 2005, is relettered as Subsection (h), Section 32.065, Tax  
25 Code.

26 (67) Section 201.617, Transportation Code, as added by  
27 Chapter 474, Acts of the 79th Legislature, Regular Session, 2005,

1 is renumbered as Section 201.619, Transportation Code.

2 (68) Subsection (a), Section 225.059, Transportation  
3 Code, as added by Chapter 286, Acts of the 79th Legislature, Regular  
4 Session, 2005, is relettered as Subsection (a-1), Section 225.059,  
5 Transportation Code.

6 (69) Section 225.059, Transportation Code, as added by  
7 Chapter 851, Acts of the 79th Legislature, Regular Session, 2005,  
8 is renumbered as Section 225.060, Transportation Code.

9 (70) Section 225.059, Transportation Code, as added by  
10 Chapter 1263, Acts of the 79th Legislature, Regular Session, 2005,  
11 is renumbered as Section 225.062, Transportation Code.

12 (71) Section 225.059, Transportation Code, as added by  
13 Chapter 1283, Acts of the 79th Legislature, Regular Session, 2005,  
14 is renumbered as Section 225.063, Transportation Code.

15 (72) Section 225.059, Transportation Code, as added by  
16 Chapter 651, Acts of the 79th Legislature, Regular Session, 2005,  
17 is renumbered as Section 225.064, Transportation Code.

18 (73) Section 225.059, Transportation Code, as added by  
19 Chapter 546, Acts of the 79th Legislature, Regular Session, 2005,  
20 is renumbered as Section 225.065, Transportation Code.

21 (74) Section 284.011, Transportation Code, as added by  
22 Chapter 877, Acts of the 79th Legislature, Regular Session, 2005,  
23 is renumbered as Section 284.013, Transportation Code.

24 (75) Subsection (c), Section 472.032, Transportation  
25 Code, as added by Chapter 565, Acts of the 79th Legislature, Regular  
26 Session, 2005, is relettered as Subsection (d), Section 472.032,  
27 Transportation Code.

1           SECTION 17.002. The following reference changes are made to  
2 conform the provisions amended to the renumbering changes made by  
3 Section 17.001 of this Act:

4           (1) Subsection (g), Article 18.18, Code of Criminal  
5 Procedure, is amended to read as follows:

6           (g) For purposes of this article:

7           (1) "criminal instrument" has the meaning defined in  
8 the Penal Code;

9           (2) "gambling device or equipment, altered gambling  
10 equipment or gambling paraphernalia" has the meaning defined in the  
11 Penal Code;

12           (3) "prohibited weapon" has the meaning defined in the  
13 Penal Code;

14           (4) "dog-fighting equipment" means:

15           (A) equipment used for training or handling a  
16 fighting dog, including a harness, treadmill, cage, decoy, pen,  
17 house for keeping a fighting dog, feeding apparatus, or training  
18 pen;

19           (B) equipment used for transporting a fighting  
20 dog, including any automobile, or other vehicle, and its  
21 appurtenances which are intended to be used as a vehicle for  
22 transporting a fighting dog;

23           (C) equipment used to promote or advertise an  
24 exhibition of dog fighting, including a printing press or similar  
25 equipment, paper, ink, or photography equipment; or

26           (D) a dog trained, being trained, or intended to  
27 be used to fight with another dog;

1 (5) "obscene device" and "obscene" have the meanings  
2 assigned by Section 43.21, Penal Code;

3 (6) "re-encoder" has the meaning assigned by Section  
4 35.60 [~~35.58~~], Business & Commerce Code;

5 (7) "scanning device" has the meaning assigned by  
6 Section 35.60 [~~35.58~~], Business & Commerce Code; and

7 (8) "obscene material" and "child pornography"  
8 include digital images and the media and equipment on which those  
9 images are stored.

10 (2) Subsection (a), Section 32.261, Education Code, as  
11 renumbered from Section 32.161, Education Code, by this article, is  
12 amended to read as follows:

13 (a) The agency may not use general revenue funds to pay the  
14 costs of developing, administering, and maintaining the portal.  
15 The agency may use amounts available to the agency from:

16 (1) gifts, grants, or donations;

17 (2) vendor payments described by Section 32.260(b)  
18 [~~32.160(b)~~]; or

19 (3) arrangements with nonprofit or private entities  
20 approved by the agency.

21 (3) Subsections (a) and (b), Section 420.072,  
22 Government Code, as renumbered from Section 44.072, Health and  
23 Safety Code, by this article, are amended to read as follows:

24 (a) A communication or record that is confidential under  
25 this subchapter may be disclosed in court or in an administrative  
26 proceeding if:

27 (1) the proceeding is brought by the survivor against

1 an advocate or a sexual assault program or is a criminal proceeding  
2 or a certification revocation proceeding in which disclosure is  
3 relevant to the claims or defense of the advocate or sexual assault  
4 program; or

5 (2) the survivor or a person authorized to act on  
6 behalf of the survivor consents in writing to the release of the  
7 confidential information as provided by Section 420.073 [~~44.073~~].

8 (b) A communication or record that is confidential under  
9 this subchapter may be disclosed only to:

10 (1) medical or law enforcement personnel if the  
11 advocate determines that there is a probability of imminent  
12 physical danger to any person for whom the communication or record  
13 is relevant or if there is a probability of immediate mental or  
14 emotional injury to the survivor;

15 (2) a governmental agency if the disclosure is  
16 required or authorized by law;

17 (3) a qualified person to the extent necessary for a  
18 management audit, financial audit, program evaluation, or  
19 research, except that a report of the research, audit, or  
20 evaluation may not directly or indirectly identify a survivor;

21 (4) a person who has the written consent of the  
22 survivor or of a person authorized to act on the survivor's behalf  
23 as provided by Section 420.073 [~~44.073~~]; or

24 (5) an advocate or a person under the supervision of a  
25 counseling supervisor who is participating in the evaluation or  
26 counseling of or advocacy for the survivor.

27 (4) Subsection (b), Section 490A.004, Government

1 Code, as renumbered from Section 490.004, Government Code, by this  
2 article, is amended to read as follows:

3 (b) The advisory board consists of one representative from  
4 each of the founding members of the network under Section  
5 490A.003(a) [~~490.003(a)~~] and at least one member from the private  
6 sector. An organization other than a founding member of the network  
7 under Section 490A.003(a) [~~490.003(a)~~] may have a representative on  
8 the advisory board only if the creation of an additional seat on the  
9 board is authorized by a two-thirds majority vote of the existing  
10 board.

11 (5) Subsection (a), Section 490A.005, Government  
12 Code, as renumbered from Section 490.005, Government Code, by this  
13 article, is amended to read as follows:

14 (a) The network shall train and refocus existing state and  
15 local resources to build a more prosperous, dynamic, and  
16 sustainable economy throughout this state by:

17 (1) providing coordinated training and services that  
18 enhance the value of the state's existing infrastructure  
19 investments and make the investments available to entrepreneur  
20 participants;

21 (2) developing a statewide network of  
22 entrepreneurship developers and entrepreneurship centers as  
23 provided by Section 490A.006 [~~490.006~~];

24 (3) developing a comprehensive network of knowledge,  
25 leadership, and financial capital resources accessible through the  
26 network's entrepreneurship developers and entrepreneurship  
27 centers;



1           (4) educating entrepreneur participants and  
2 generating awareness of the network and its programs;

3           (5) identifying the most promising ventures through  
4 activities, including business-plan competitions, and assisting  
5 the ventures' potential for job and wealth creation;

6           (6) developing evaluation methods to measure the  
7 effectiveness of the network and the impact of entrepreneurship on  
8 local and regional economies;

9           (7) developing best practices for successful  
10 entrepreneurship and applied research regarding critical success  
11 factors for entrepreneurial businesses to provide a strategic  
12 competitive advantage for businesses in this state; and

13           (8) collaborating with existing local, state, and  
14 federal agencies and economic development professionals to use the  
15 strengths and assets of the agencies and professionals.

16           (6) Subsection (c), Section 490A.008, Government  
17 Code, as renumbered from Section 490.008, Government Code, by this  
18 article, is amended to read as follows:

19           (c) The fund may be used only for network purposes, subject  
20 to Section 490A.009 [~~490.009~~].

21           (7) Subsection (g), Section 531.164, Government Code,  
22 is amended to read as follows:

23           (g) If a child's parent or guardian does not respond to a  
24 notice under Subsection (e) or (f), the ICF-MR or nursing facility,  
25 as applicable, must attempt to locate the parent or guardian by  
26 contacting another person whose information was provided by the  
27 parent or guardian under Section 531.1533(1)(B) [~~531.1532(1)(B)~~].

1           (8) Subsection (c), Section 2306.585, Government  
2 Code, is amended to read as follows:

3           (c) The advisory committee shall advise the colonia  
4 initiatives coordinator as provided by Section 775.005 [~~775.004~~].

5           (9) Subsection (e), Section 109.010, Health and Safety  
6 Code, as renumbered from Section 113.010, Health and Safety Code,  
7 by this article, is amended to read as follows:

8           (e) The report submitted under Subsection (d) must include  
9 recommendations from the partnership and any other advisory body  
10 formed under Section 109.003 [~~113.003~~].

11           (10) Subsection (a), Section 323.002, Health and  
12 Safety Code, as renumbered from Section 322.002, Health and Safety  
13 Code, by this article, is amended to read as follows:

14           (a) At the request of the department, a health care facility  
15 shall submit to the department for approval a plan for providing the  
16 services required by Section 323.004 [~~322.004~~] to sexual assault  
17 survivors who arrive for treatment at the emergency department of  
18 the health care facility.

19           (11) Subsection (a), Section 323.003, Health and  
20 Safety Code, as renumbered from Section 322.003, Health and Safety  
21 Code, by this article, is amended to read as follows:

22           (a) If a plan required under Section 323.002 [~~322.002~~] is  
23 not approved, the department shall:

24                   (1) return the plan to the health care facility; and

25                   (2) identify the specific provisions under Section  
26 323.004 [~~322.004~~] with which the plan conflicts or does not comply.

27           (12) Subsection (b), Section 323.004, Health and

1 Safety Code, as renumbered from Section 322.004, Health and Safety  
2 Code, by this article, is amended to read as follows:

3 (b) A health care facility providing care to a sexual  
4 assault survivor shall provide the survivor with:

5 (1) a forensic medical examination in accordance with  
6 Subchapter B, Chapter 420, Government Code, if the examination has  
7 been approved by a law enforcement agency;

8 (2) a private area, if available, to wait or speak with  
9 the appropriate medical, legal, or sexual assault crisis center  
10 staff or volunteer until a physician, nurse, or physician assistant  
11 is able to treat the survivor;

12 (3) access to a sexual assault program advocate, if  
13 available, as provided by Article 56.045, Code of Criminal  
14 Procedure;

15 (4) the information form required by Section 323.005  
16 [~~322.005~~];

17 (5) a private treatment room, if available;

18 (6) if indicated by the history of contact, access to  
19 appropriate prophylaxis for exposure to sexually transmitted  
20 infections; and

21 (7) the name and telephone number of the nearest  
22 sexual assault crisis center.

23 (13) Subsection (j), Section 30.05, Penal Code, as  
24 relettered from Subsection (h), Section 30.05, Penal Code, by this  
25 article, is amended to read as follows:

26 (h) For purposes of Subsection (i) [~~(g)~~], "recognized  
27 state" means another state with which the attorney general of this

1 state, with the approval of the governor of this state, negotiated  
2 an agreement after determining that the other state:

3 (1) has firearm proficiency requirements for peace  
4 officers; and

5 (2) fully recognizes the right of peace officers  
6 commissioned in this state to carry weapons in the other state.

7 SECTION 17.003. If the number, letter, or designation  
8 assigned by Section 17.001 of this Act conflicts with a number,  
9 letter, or designation assigned by another Act of the 80th  
10 Legislature:

11 (1) the other Act controls, and the change made by  
12 Section 17.001 of this Act has no effect; and

13 (2) any cross-reference change made by Section 17.002  
14 of this Act to conform to that change made by Section 17.001 of this  
15 Act has no effect.

16 ARTICLE 18. EFFECTIVE DATE

17 SECTION 18.001. This Act takes effect September 1, 2007.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 3167 was passed by the House on April 12, 2007, by the following vote: Yeas 143, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 3167 was passed by the Senate on May 15, 2007, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

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

Date

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Governor