

## **BILL ANALYSIS**

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S.B. 1779  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Citrus greening is a devastating disease that has caused the loss of as much as 100,000 acres of citrus in Florida. The disease has not yet been detected in Texas, but the vector which is known to carry citrus greening, the Asian citrus psyllid, is present in Texas. The disease and the insect that spreads it are both public nuisances and can create lasting damage on the Texas citrus industry if not properly managed.

A Citrus Greening Task Force appointed by the commissioner of agriculture has recommended that citrus producers seek to establish an entity and a mechanism for managing the disease if and when it appears within the Texas citrus growing areas. A grower-administrated, self-funded entity will give the industry the tools to work closely with the Texas Department of Agriculture (TDA) and scientific experts to develop a plan of attack to suppress the spread of citrus greening in Texas.

Upon petition by producers, TDA would administer an election among all the citrus producers in each pest management zone (zone) as to whether or not to create a zone, to assess funds, and to elect directors for each particular zone. After electing board members and establishing a zone, all citrus producers would be required to participate in the suppression program as the most effective means of controlling the psyllid and spread of disease and to ensure that all groves are properly treated.

Certified organic citrus groves would be exempt from the use of chemicals and the commissioner would be required to ensure a proper program was put in place to suppress the insect in those groves without jeopardizing the organic certification.

As proposed, S.B. 1779 provides that it is the intent of the legislature that the program of control and suppression of the Asian citrus psyllid be carried out with the best available integrated pest management techniques. This bill requires TDA to recognize The Texas Citrus Pest and Disease Management Corporation, Inc. (corporation), a Texas nonprofit corporation, as the entity to plan, carry out, and operate suppression programs to manage and control the Asian citrus psyllid and citrus greening in citrus plants in the state under the supervision of TDA. The bill sets forth provisions for the creation, operation, and oversight of the corporation.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of agriculture in SECTION 1 (Sections 80.005, 80.009, 80.011, 81.018, 80.020, 80.022, 80.024, 80.028, and 80.033, Agriculture Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle B, Title 5, Agriculture Code, by adding Chapter 80, as follows:

#### **CHAPTER 80. OFFICIAL CITRUS PRODUCERS' PEST AND DISEASE MANAGEMENT CORPORATION**

Sec. 80.001. FINDINGS AND DECLARATION OF POLICY. (a) Provides that the legislature finds that:

(1) the insect known as the Asian citrus psyllid and the disease known as citrus greening are public nuisances and menaces to the citrus industry, and their control and suppression is a public necessity;

(2) because of the natural migration patterns of the Asian citrus psyllid, the control and suppression of the nuisance can best be accomplished by dividing the commercial citrus-growing areas into separate zones so that integrated pest management programs may be developed for each zone;

(3) there is a need for a quasi-governmental entity acting under the supervision and control of the commissioner of agriculture (commissioner) whose members are actual citrus producers who would be represented on the board of the entity by directors elected by them to manage control and suppression programs and to furnish expertise in the field of insect control and suppression, because such an entity would enhance the interest and participation of citrus producers in the program;

(4) citrus producers, in partnership with the state and federal governments, have made significant investments toward the suppression of these pests and disease in this state; and

(5) it is essential to the well-being of the citrus industry and the agricultural economy of this state that the investments of the citrus producers and the state and federal governments be protected.

(b) Provides that it is the intent of the legislature that the program of control and suppression of the Asian citrus psyllid be carried out with the best available integrated pest management techniques.

(c) Authorizes the Texas Department of Agriculture (TDA) to recover costs for administration of this chapter.

Sec. 80.002. DESIGNATION OF ENTITY TO CARRY OUT ASIAN CITRUS PSYLLID AND CITRUS GREENING CONTROL AND SUPPRESSION. (a) Requires TDA to recognize the Texas Citrus Pest and Disease Management Corporation, Inc. (corporation), a Texas nonprofit corporation, as the entity to plan, carry out, and operate suppression programs to manage and control the Asian citrus psyllid and citrus greening in citrus plants in the state under the supervision of TDA as provided by this chapter.

(b) Authorizes the commissioner to terminate the corporation's designation as the entity recognized to carry out Asian citrus psyllid control and management by giving 45 days' written notice to the corporation and by designating a successor entity. Provides that if the commissioner designates a successor to the corporation, the successor has all the powers and duties of the corporation under this chapter. Requires any successor to the corporation to assume and to be responsible for all obligations and liabilities relating to any notes, security agreements, assignments, loan agreements, and any other contracts or other documents entered into by the corporation with or for the benefit of any financial institution or its predecessor, successor, or assignee.

Sec. 80.003. DEFINITIONS. Defines "board," "Asian citrus psyllid," "commissioner," "citrus," "citrus greening," "citrus producer," "suppression," "pest management zone," "corporation," "host," "infested," "integrated pest management," and "regulated article."

Sec. 80.004. ADVISORY COMMITTEES. (a) Authorizes the commissioner to appoint an advisory committee for an existing pest management zone or an area of the state that is to be considered by the commissioner for designation as or inclusion in a pest management zone. Requires the committee to gather advice, input, and guidance from citrus producers from the area represented by the committee concerning the interest in and concerns about the implementation of this chapter.

(b) Authorizes each advisory committee to consider and make recommendations to the commissioner and the corporation concerning the geographic boundaries for a proposed pest management zone, the amount of local interest in operating a suppression program, the basis and amount of an assessment necessary to support a suppression program, ongoing implementation of a suppression program approved by growers in a pest management zone, and any other matter requested by the commissioner or the corporation.

(c) Requires each advisory committee appointed under this section to include a sufficient number of citrus producers to ensure adequate representation across the pest management zone and other persons as determined by the commissioner.

(d) Provides that advisory committees appointed under this section are immune from lawsuits and liability to the same extent the corporation is immune from lawsuits and liability under Section 80.032.

(e) Provides that an advisory committee established under this section is subject to Chapters 551 (Open Meetings) and 552 (Public Information), Government Code.

Sec. 80.005. CREATION OF PEST MANAGEMENT ZONES. (a) Authorizes the commissioner by rule to designate an area of this state as a proposed pest management zone (zone).

(b) Authorizes the commissioner to hold a public hearing in the proposed zone to discuss the proposed geographic boundaries of the zone. Authorizes the public hearing to include any other topic allowed under this chapter.

(c) Requires the commissioner, after the adoption of a rule under Subsection (a), to conduct a referendum under Section 80.006.

Sec. 80.006. PEST MANAGEMENT ZONE REFERENDA. (a) Requires the commissioner to conduct a referendum in each proposed zone to determine whether citrus producers want to establish a zone.

(b) Requires that zone referenda be conducted under the procedures provided by Section 80.018.

(c) Requires that a proposed zone referendum ballot include or be accompanied by certain information about the proposed zone.

(d) Provides that if a referendum to establish a zone is not approved, the concurrent election of a board member from the proposed zone under Section 80.007 has no effect, and the commissioner is required to appoint a representative to the board of directors of the corporation (board) from the area.

(e) Authorizes the corporation to request the commissioner to call additional referenda in a proposed zone in which a referendum has not been approved. Prohibits an additional zone referendum and concurrent board election from being held before the first anniversary of the date of the preceding referendum.

(f) Requires the eligible voters, after the approval of any referendum, to be allowed, by subsequent referenda, to vote on whether to continue their assessments. Requires that the requirements for an initial referendum be complied with in a subsequent referendum.

Sec. 80.007. BOARD ELECTIONS. (a) Requires that the initial election for board members from a proposed zone be held concurrently with a zone referendum held under Section 80.006. Requires that each zone be represented on the board and remain represented on the board until suppression operations are concluded and all debt of the zone is paid.

(b) Requires that a board election be conducted under the procedures provided by this section and Section 80.018.

(c) Provides that a citrus producer who is eligible to vote in a referendum or election under this chapter is eligible to be a candidate for and member of the board if the person has at least seven years of experience as a citrus producer and otherwise meets the qualifications for the office.

(d) Requires a citrus producer who wants to be a candidate for the board to meet the qualifications for board membership and file an application with the commissioner. Requires that the application be filed not later than the 30th day before the date set for the board election, on a form approved by the commissioner, and signed by at least 10 citrus producers who are eligible to vote in the board election.

(e) Requires an applicant's name, on receipt of an application and verification that the application meets the requirements of Subsection (d), to be placed on the ballot for the board election.

(f) Authorizes an eligible voter to vote for a citrus producer whose name does not appear on the official ballot by writing that person's name on the ballot.

(g) Requires that a board election be preceded by at least 45 days' notice published in one or more newspapers published and distributed in the proposed or established zone. Requires that the notice be published not less than once a week for three consecutive weeks. Requires that direct written notice of the election, not later than the 45th day before the date of the election, be given to each AgriLife Extension agent in the zone.

(h) Requires each board member to be sworn into office by a representative of the commissioner by taking the oath of office required for elected officers of the state.

Sec. 80.008. COMPOSITION OF BOARD. (a) Provides that the board is composed of members elected from each zone established by referendum, members appointed by the commissioner from other citrus-growing areas of the state, and members appointed by the commissioner under Subsection (b). Requires the commissioner to appoint an initial board composed of 15 members. Prohibits the term of each board position, except as provided by Subsection (b), from exceeding four years.

(b) Requires the commissioner, in making appointments under this section, to appoint certain board members, selected from a variety of citrus-growing regions of the state, for four-year terms.

(c) Authorizes the commissioner to change the number of board positions or the zone representation on the board to accommodate changes in the number of zones. Prohibits a change under this subsection from contravening another provision of this chapter.

(d) Requires that a vacancy on the board be filled by appointment by the commissioner for the unexpired term.

(e) Authorizes the commissioner, on 30 days' notice and opportunity for hearing, to replace any unelected board member of the corporation.

Sec. 80.009. POWERS OF BOARD AND COMMISSIONER. (a) Authorizes the board to:

(1) conduct programs consistent with the declaration of policy stated in Section 80.001;

- (2) accept, as necessary to implement this chapter, gifts and grants;
  - (3) borrow money, with the approval of the commissioner, as necessary to execute this chapter;
  - (4) take other action and exercise other authority as necessary to execute any act authorized by this chapter or the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., V.T.C.S.); and
  - (5) form an advisory committee composed of individuals from this state, other states, or other countries and change membership on the committee, as necessary. Requires any advisory committee created under this subdivision for the purpose of establishing treatment methods to include among its members persons with knowledge of the effects of different treatments on the health of agricultural workers, the local population, and the ecosystem, including but not limited to the effects of a particular method of treatment on beneficial organisms and wildlife, the potential for secondary infestations from nontarget pests, and the potential for pest resistance to particular methods of treatment.
- (b) Authorizes the commissioner, on petition of at least 30 percent of the citrus producers eligible to vote in the proposed area, or at the commissioner's discretion, by rule, to add an area to a zone or transfer an area or county from one zone to another zone if citrus production has begun or could begin in the area; the area is adjacent to a zone or is in an area with biological characteristics similar to the zone; and the addition is approved in a referendum held in the area.
- (c) Requires the board to adopt a procurement policy, subject to approval by the commissioner, outlining the procedures to be used in purchasing.
- (d) Authorizes the commissioner at any time to inspect the books and other financial records of the corporation.

Sec. 80.010. BOARD DUTIES. (a) Requires the board to have an annual independent audit of the books, records of account, and minutes of proceedings maintained by the corporation prepared by an independent certified public accountant or a firm of independent certified public accountants. Requires that the audit include information for each zone in which a suppression program has been conducted under this chapter. Requires that the audit be filed with the board, the commissioner, and the state auditor and be made available to the public by the corporation or the commissioner. Authorizes the state auditor to examine any work papers from the independent audit or to audit the transactions of the corporation if the state auditor determines that an audit is necessary.

- (b) Requires the board, not later than the 45th day after the last day of the fiscal year, to submit to the commissioner a report itemizing all income and expenditures and describing all activities of the corporation during the fiscal year.
- (c) Requires the corporation to provide fidelity bonds in amounts determined by the board for employees or agents who handle money for the corporation.
- (d) Provides that the corporation and the board are state agencies for certain purposes only.
- (e) Provides that funds collected by the corporation are not state funds and are not required to be deposited in the state treasury. Requires the corporation to deposit all money collected under this chapter in a bank or other depository approved by the commissioner.
- (f) Provides that the corporation is a governmental unit under Section 101.001 (Definitions), Civil Practice and Remedies Code, and is entitled to governmental

immunity. Requires that a tort claim against the corporation be made under Chapter 101 (Tort Claims), Civil Practice and Remedies Code.

(g) Requires the board to collect data on the type and quantity of pesticides used in accordance with this chapter and the data to be filed with the commissioner.

(h) Requires that all money collected under this chapter be used solely to finance programs approved by the commissioner as consistent with this chapter.

(i) Provides that the corporation is subject to the requirements of the open meetings law, Chapter 551, Government Code; and the public information law, Chapter 552, Government Code.

(j) Prohibits a board member from voting on any matter in which the member has a direct pecuniary interest. Provides that a board member is subject to the same restrictions as a local public official under Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments), Local Government Code.

Sec. 80.011. ADMINISTRATIVE REVIEW. (a) Requires the commissioner by rule to establish procedures for the informal review and resolution of a claim arising out of certain acts taken by the corporation under this chapter. Requires that rules established under this section include a designation of the acts that are subject to review under this subsection and the appropriate remedial action, as authorized by this chapter.

(b) Authorizes a person dissatisfied with TDA's informal resolution of a claim under procedures adopted under Subsection (a) to appeal TDA's decision to the commissioner.

(c) Provides that a decision issued by the commissioner on a claim appealed under Subsection (b) is the final administrative action of TDA and is subject to judicial review under Chapter 2001 (Administrative Procedure), Government Code.

(d) Provides that this section does not constitute a waiver of the state's immunity from liability.

Sec. 80.012. LIABILITY OF CORPORATION MEMBERS, OFFICERS, AND EMPLOYEES. (a) Provides that except for instances of gross negligence, individual criminal actions, or acts of dishonesty, the corporation's members, directors, officers, and employees are not individually liable to a citrus producer or other person for errors in judgment, mistakes, or other acts or omissions.

(b) Provides that a corporation member, officer, or employee is not individually liable for an act or omission of another corporation member, officer, or employee.

Sec. 80.013. LIABILITY OF APPLICATORS. (a) Defines "applicator."

(b) Provides that an applicator is not jointly and severally liable for any act or omission of the corporation under this chapter.

(c) Requires the corporation to have liability coverage in effect for any control or suppression efforts for which it uses applicators. Requires that the coverage apply to acts and omissions of the corporation and volunteers and be in the amount of at least \$500,000 for each single occurrence of death, bodily injury, or property damage.

Sec. 80.014. CONTRACTING. (a) Authorizes the corporation, for a purchase of goods and services under this chapter, to purchase goods and services that provide the best value for the corporation.

(b) Provides that in determining the best value for the corporation, the purchase price, and whether the goods or services meet specifications are the most important considerations, but that the corporation is authorized to consider certain other relevant factors.

Sec. 80.015. BOARD MEMBER COMPENSATION. Provides that board members serve without compensation but are entitled to reimbursement for reasonable and necessary expenses incurred in the discharge of their duties.

Sec. 80.016. DISCONTINUATION OF PROGRAM AND CORPORATION AND DISPOSITION OF FUNDS ON DISCONTINUANCE. (a) Requires the corporation, on the determination by the corporation that the Asian citrus psyllid suppression program has been completed in all zones established under this chapter, to provide notice of the completion to the commissioner along with a request for discontinuance of the control and suppression program and collection of the assessment. Requires that any request under this subsection include documentation supporting the fact that the Asian citrus psyllid is no longer a threat to the state's citrus industry and a plan for discontinuance of the program and assessment.

(b) Requires the commissioner to determine whether or not the further suppression of the Asian citrus psyllid is necessary in the zones and approve or disapprove discontinuance of the corporation and the plan for dissolution.

(c) Requires the corporation, on completion of the dissolution, to file a final report with the commissioner, including a financial report, and submit all remaining funds into the trust of the commissioner. Requires that final books of the corporation be filed with the commissioner and provides that they are subject to audit by TDA.

(d) Requires the commissioner to pay from the corporation's remaining funds all of the corporation's outstanding obligations.

(e) Requires that funds remaining after payment under Subsection (d) be returned to contributing citrus producers on a pro rata basis.

(f) Requires the commissioner, if 30 percent or more of the citrus producers eligible to vote within a zone participating in the program present to the commissioner a petition calling for a referendum of the qualified voters on the proposition of discontinuing the program, to conduct a referendum for that purpose.

(g) Requires the commissioner to give notice of the referendum, the referendum to be conducted, and the results to be declared in the manner provided by law for the original referendum and election, with any necessary exceptions provided by rule of the commissioner.

(h) Requires the commissioner to conduct the referendum before the 90th day after the date the petition was filed, except that a referendum is prohibited from being held before the second anniversary of any other referendum in the zone pertaining to establishing or discontinuing the zone.

(i) Provides that approval of the proposition requires the same vote as required in a referendum under Section 80.018(g). Provides that if the proposition is approved, the suppression program is abolished and the pest management zone ceases to exist on payment of all debts of the pest management zone.

Sec. 80.017. ASSESSMENT REFERENDA. (a) Requires the commissioner to propose the assessment needed in each zone to ensure the stability of the citrus industry by suppressing the public nuisance caused by the Asian citrus psyllid.

- (b) Requires the commissioner to propose in a referendum the maximum assessment to be paid by citrus producers having production in the zone and time for which the assessment will be made.
- (c) Authorizes the corporation, with the commissioner's approval, to make an assessment in a zone at a level less than the assessment approved by the referendum.
- (d) Requires the commissioner to conduct an assessment referendum under the procedures provided by Section 80.018.
- (e) Authorizes the corporation to collect the assessment if an assessment referendum is approved.
- (f) Authorizes an assessment levied on citrus producers in a zone to be applied only to pest control in that zone; the corporation's operating costs, including payments on debt incurred for a corporation activity, except that the funds of one zone may not be used to pay another zone's bank loans or debts; and the conducting of other programs consistent with the declaration of policy stated in Section 80.001.
- (g) Requires that the assessment be adequate and necessary to achieve the goals of this chapter and the amount determined by certain criteria established by the commissioner.
- (h) Requires the commissioner to give notice of and hold a public hearing in the zone regarding the proposed assessment referendum. Requires the commissioner, before the referendum, to review and approve certain information.
- (i) Requires the commissioner to, on a zone-by-zone basis, set the date on which assessments are due and payable.
- (j) Requires the commissioner, each year, to review and approve the corporation's operating budget.
- (k) Requires the corporation to prepare and mail billing statements to each citrus producer subject to the assessment that state the amount due and the due date. Requires that the assessments be sent to the corporation.

Sec. 80.018. CONDUCT OF BOARD ELECTIONS AND REFERENDA; BALLOTING. (a) Requires the commissioner to conduct a referendum or board election authorized under this chapter.

- (b) Requires the corporation to bear all expenses incurred in conducting a referendum or board election.
- (c) Requires the commissioner to adopt rules for voting in board elections and referenda to establish zones. Requires that rules adopted under this subsection include provisions for determining who is a citrus producer eligible to vote in an election or referendum; whether a board member is elected by a plurality or a majority of the votes cast; and the area from which each board member is elected.
- (d) Entitles a citrus producer having citrus production in a proposed or established zone to vote in a referendum concerning the zone, and elect board members to represent the zone.
- (e) Authorizes an eligible citrus producer to vote only once in a referendum or board election.
- (f) Requires that ballots in a referendum or board election be mailed directly to a central location, as determined by the commissioner. Requires a citrus producer



eligible to vote in a referendum or board election who has not received a ballot from the commissioner, corporation, or another source be offered the option of requesting a ballot by mail or obtaining a ballot at the office of Texas AgriLife Extension or a government office distributing ballots in a county in the proposed or established zone in which the referendum or board election is conducted.

(g) Provides that a referendum is approved if at least two-thirds of those voting vote in favor of the referendum; or those voting in favor of the referendum cultivate more than 50 percent, as determined by the commissioner, of the citrus acreage in the relevant zone.

(h) Authorizes the commissioner, if a referendum under this chapter is not approved, to conduct another referendum, which is prohibited from being held before the first anniversary of the date on which the previous referendum on the same issue was held.

(i) Authorizes a public hearing regarding the proposed suppression program, including information regarding regulations to be promulgated by the commissioner, to be held by the commissioner in each of several locations in each Asian citrus psyllid zone.

(j) Provides that individual voter information, including an individual's vote in a referendum or board election conducted under this section, is confidential and is not subject to disclosure under Chapter 552 (Public Information), Government Code.

Sec. 80.019. PAYMENT OF ASSESSMENTS; ASSESSMENT LIENS. (a) Provides that a citrus producer who fails to pay an assessment levied under this chapter when due may be subject, after reasonable notice and opportunity for hearing, to a penalty set by the commissioner. Requires the commissioner, in determining the amount of the penalty to be assessed, to consider certain information.

(b) Authorizes the corporation to develop a compliance certificate program to manage the payment and collection of an assessment levied under this chapter. Authorizes the corporation, under the program, subject to TDA rules, to issue a compliance certificate for citrus for which an assessment has been paid.

(c) Authorizes the commissioner, in addition to any other remedies for the collection of assessments and penalties, to adopt rules relating to the compliance certificate program for suppression assessments. Authorizes the rules to include certain provisions.

(d) Provides that in addition to any other remedies for the collection of assessments and penalties, an assessment lien in favor of the corporation attaches and is perfected 60 days after the date the corporation mails notice of the assessment on citrus produced and harvested that year from the acreage that is subject to the assessment that is due and unpaid. Provides that an assessment lien is not an agricultural lien for the purposes of Chapter 9 (Secured Transactions), Business & Commerce Code, and is not subject to the provisions of that chapter. Provides that an assessment lien is subject to and preempted by the Food Security Act of 1985 (7 U.S.C. Section 1631 et seq.) and is required to be treated under that Act in the same manner as a security interest created by the seller. Provides that a buyer of citrus takes free of the assessment lien if the buyer meets certain requirements.

(e) Authorizes the corporation to assign, with the approval of the commissioner, assessments or liens in favor of the corporation as collateral for a loan to the corporation only if the proceeds of the loan are designated for use in the zone from which the assessments or liens originated.

(f) Authorizes TDA, if it believes that a violation of this section or a rule adopted under this section has occurred, to investigate and, during normal business hours, audit and inspect the records of the person who is the subject of the investigation.

Sec. 80.020. EXEMPTION FROM ASSESSMENT PENALTIES. (a) Requires the commissioner by rule to adopt criteria to exempt from payment of an assessment penalty under Section 80.019 a citrus producer for whom payment would impose an undue financial burden.

(b) Provides that a citrus producer is not eligible for an exemption under this section for a year in which the amount computed by subtracting the assessments and penalties due under this chapter from the citrus producer's net income subject to federal income taxation in the previous year is greater than \$15,000.

(c) Requires a citrus producer who applies for an exemption under this section to use a form prescribed by the commissioner and to file a separate application form for each year for which the citrus producer claims an exemption.

(d) Authorizes the commissioner to establish a payment plan for a citrus producer applying for an exemption under this section.

(e) Requires the commissioner to promptly notify an applicant of the determination regarding the applicant's request for an exemption.

(f) Provides that if an exemption under this section is denied, assessments and penalties for the year for which the application is made are due on the later of the date on which they would be due in the absence of an application for exemption; or 30 days after the date the applicant receives notice of the denial.

(g) Authorizes the commissioner, in addition to the authority provided under Subsections (a)-(f), to reduce or waive an assessment penalty as appropriate and necessary.

Sec. 80.021. ENTRY OF PREMISES; SUPPRESSION ACTIVITIES; INSPECTIONS. Authorizes TDA, the corporation, or a designated representative of either entity to enter citrus groves or other premises to carry out the purposes of this chapter, which include the treatment and monitoring of growing citrus or other host plants. Authorizes TDA, the corporation, or a designated representative of either entity to inspect groves or premises in this state for the purpose of determining whether the property is infested with the Asian citrus psyllid or citrus greening. Requires that an inspection be conducted during reasonable daylight hours. Requires TDA to give notice by publication of the planned schedule of dates for entry by TDA, the corporation, or a designated representative of either entity, to the owner or occupant of the groves or premises to carry out the purposes of this chapter, including treatment, monitoring, or inspection functions. Requires TDA to publish notice of the planned schedule to enter the groves or premises in a newspaper of general circulation in the zone not less than once a week for two weeks immediately before the scheduled dates of entry. Requires the corporation, in addition to the notice published by TDA, to post notice of the planned schedule to enter groves or premises to carry out the purposes of this chapter at the county courthouse of each county in the zone not later than the 15th day before the planned dates of entry.

Sec. 80.022. AUTHORITY TO PROHIBIT PLANTING OF CITRUS AND REQUIRE PARTICIPATION IN SUPPRESSION PROGRAM. (a) Authorizes the commissioner to adopt reasonable rules regarding areas where citrus is prohibited from being planted in a zone if there is reason to believe planting will jeopardize the success of the program or present a hazard to public health or safety.

(b) Authorizes the commissioner to adopt rules requiring all growers of citrus in a pest management zone to participate in an Asian citrus psyllid suppression program and growers of commercial citrus to participate in pest and disease management programs that include cost sharing as required by the rules.

(c) Requires that notice of a prohibition or requirement be given by publication for one day each week for three successive weeks in a newspaper having general circulation in the affected area.

(d) Authorizes the commissioner to adopt a reasonable schedule of penalty fees to be assessed against growers in a designated zone who do not meet the requirements of the rules issued by the commissioner relating to reporting of acreage and participation in cost sharing. Prohibits a penalty fee from exceeding \$50 per acre.

Sec. 80.023. **AUTHORITY FOR DESTRUCTION OR TREATMENT OF CITRUS IN PEST MANAGEMENT ZONES; COMPENSATION PAYABLE.** Authorizes TDA to destroy or treat, and establish procedures for the purchase and destruction of, citrus plants or hosts in zones if TDA determines the action is necessary to carry out the purposes of this chapter. Provides that TDA is not liable to the owner or lessee for the destruction of or injury to any citrus that was planted in a zone after the date notice is published as required by this chapter. Provides that the corporation is liable for the destruction of citrus if the citrus was planted in a zone before the date that notice is published.

Sec. 80.024. **AUTHORITY TO ADOPT RULES.** (a) Requires the commissioner to adopt rules to protect individuals, livestock, wildlife, and honeybee colonies on any premises in a zone on which citrus plants are being grown that have been or are being treated to control or suppress the Asian citrus psyllid and citrus greening.

(b) Requires that rules adopted under this section establish the criteria by which the corporation develops certain procedures and methods of treatment.

(c) Authorizes the commissioner to adopt other reasonable rules necessary to carry out the purposes of this chapter. Requires that all rules issued under this chapter be adopted and published in accordance with the laws of this state.

(d) Authorizes an advisory committee to be established to assist the commissioner in the development of rules under this section. Authorizes the advisory committee to be composed of certain persons.

Sec. 80.025. **REPORTS.** Requires each person in an active zone growing citrus in this state to furnish to the corporation on forms supplied by the corporation information that the corporation requires concerning the size and location of all commercial citrus orchards and of noncommercial citrus grown for ornamental or other purposes. Authorizes the corporation to provide an incentive for early and timely reporting.

Sec. 80.026. **DOCUMENTING REGULATED ARTICLES.** Authorizes TDA, to implement this chapter, to issue or authorize issuance of a certificate that indicates that a regulated article is not infested with the Asian citrus psyllid; and a permit that provides for the movement of a regulated article to a restricted destination for limited handling, use, or processing.

Sec. 80.027. **COOPERATIVE PROGRAMS AUTHORIZED.** (a) Authorizes the corporation to carry out programs to destroy and manage the Asian citrus psyllid and citrus greening in this state by cooperating through written agreements, as approved by the commissioner, with certain groups or agencies.

(b) Authorizes an agreement entered into under this section to provide for cost sharing and for division of duties and responsibilities under this chapter and to include other provisions to carry out the purposes of this chapter.

Sec. 80.028. **ORGANIC CITRUS PRODUCERS.** (a) Requires the commissioner to develop rules and procedures to protect the eligibility of organic citrus producers to be certified by the commissioner; ensure that organic and transitional certifications by the commissioner continue to meet national certification standards in order for organic citrus

to maintain international marketability; and in all events maintain the effectiveness of the Asian citrus psyllid suppression program and citrus greening management administered under this chapter.

(b) Prohibits the board from treating or requiring treatment of organic citrus groves with chemicals that are not approved for use on certified organic citrus. Authorizes rules adopted under Subsection (a) to provide indemnity for the organic citrus producers for reasonable losses that result from a prohibition of production of organic citrus or from any requirement of destruction of organic citrus.

Sec. 80.029. PENALTIES. (a) Provides that a person who violates this chapter or a rule adopted under this chapter or who alters, forges, counterfeits, or uses without authority a certificate, permit, or other document issued under this chapter or under a rule adopted under this chapter commits an offense.

(b) Provides that an offense under this section is a Class C misdemeanor.

(c) Authorizes the commissioner, if the commissioner determines that a violation of this chapter or a rule adopted under this chapter has occurred, to request that the attorney general or the county or district attorney of the county in which the alleged violation occurred or is occurring file suit for civil, injunctive, or other appropriate relief.

Sec. 80.030. SUNSET PROVISION. (a) Provides that the board of directors of the official citrus producers' pest and disease management corporation is subject to Chapter 325(Texas Sunset Act), Government Code, and unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2021.

(b) Authorizes the commissioner to order the dissolution of the corporation at any time the commissioner determines that the purposes of this chapter have been fulfilled or that the corporation is inoperative and abandoned. Requires that dissolution be conducted in accordance with Section 80.016.

(c) Provides that if the corporation is abolished or the suppression program discontinued for any reason, assessments approved, levied, or otherwise collectible on the date of abolishment remain valid as necessary to pay the financial obligations of the corporation.

Sec. 80.031. ANNUAL REPORT. Requires the board to issue to the commissioner and the appropriate oversight committee in the house of representatives an annual report detailing its efforts to carry out the purposes of this chapter.

Sec. 80.032. EXEMPTION FROM LAWSUITS, LIABILITY, TAXATION, AND LEGAL PROCESS. Provides that the legislature recognizes that the corporation, acting under the supervision and control of the commissioner, is carrying out an important governmental function and that therefore the corporation, as a quasi-governmental entity, is required to be immune from lawsuits and liability except to the extent provided in Chapter 101, Civil Practice and Remedies Code, and as provided by this section. Prohibits claims from being brought or continued against the corporation except claims allowed by Chapter 101, Civil Practice and Remedies Code. Provides that with the exception of finally adjudicated claims allowed by Chapter 101, Civil Practice and Remedies Code, all payments, contributions, funds, and assessments received or held by the foundation under this chapter are exempt from garnishment, attachment, execution, or other seizure and from state or local taxation, levies, sales, and any other process and are unassignable. Provides that nothing in this section affects or impairs any existing or future indebtedness or any existing or future security interest created under a note, security agreement, assignment, or other loan agreement between the corporation and a lender or any judgment, to the extent the judgment allows recovery against the corporation pursuant to a note, security agreement, loan agreement, or other document.

Sec. 80.033. USE OF BIO-INTENSIVE CONTROLS. (a) Requires the commissioner to develop and adopt rules to allow a citrus producer in a suppression program to use biological, botanical, or other nonsynthetic pest control methods. Requires the commissioner, in developing rules, to consider scientific studies and field trials of the effectiveness of a proposed alternative control method; the feasibility of using a proposed alternative control technique within a particular region; the degree of monitoring necessary to establish the success of the use of a proposed alternative control; and methods to prevent the use of substances that would impede the use of alternative controls and the promotion of beneficial insect populations.

(b) Requires a citrus producer that chooses to use an alternative method of control as provided in Subsection (a) to notify the board. Requires the board and the citrus producer to coordinate their actions to prevent the use of substances that would impede the use of alternative controls and the promotion of beneficial insect populations.

(c) Requires the citrus producer to pay any additional cost of bio-intensive control in addition to any assessment.

Sec. 80.034. VENUE. (a) Provides that venue for an action arising out of this chapter in which the corporation is a party is in Travis County.

(b) Provides that this section does not expand the liability of the corporation beyond the liability provided under Section 80.032.

SECTION 2. Effective date: September 1, 2009.