By:  Paddie H.B. No. 1520

A BILL TO BE ENTITLED

AN ACT

relating to the recovery and securitization of extraordinary costs incurred by certain gas utilities; authority to issue bonds.

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

SECTION 1.  Chapter 1232.002, Government Code, is amended by adding a new (3) to read as follows:

Sec. 1232.002.  PURPOSE. The purpose of this chapter is to provide a method of financing for:

(1)  the acquisition or construction of buildings;

(2)  the purchase or lease of equipment by executive or judicial branch state agencies; and

(3)  customer rate relief bonds authorized by the Railroad Commission of Texas.

SECTION 2.  Chapter 1232.06(a), Government Code is amended by adding (4) to read as follows:

Sec. 1232.06.  BOARD AUTHORITY. Sec. 1232.066. BOARD AUTHORITY. (a) The board's authority under this chapter is limited to the financing of:

(1)  the acquisition or construction of a building;

(2)  the purchase or lease of equipment;

(3)  stranded costs of a municipal power agency; or

(4)  customer rate relief bonds approved by the railroad commission.

SECTION 3.  Chapter 1232, Government Code is amended to add a new section to read as follows:

Sec. 1232.1072.  ISSUANCE OF OBLIGATIONS FOR CUSTOMER RATE RELIEF BONDS APPROVED BY THE RAILROAD COMMISSION OF TEXAS. (a) The authority may, either directly or by means of a trust or trusts established by it, issue obligations or other evidences of indebtedness for financing customer rate relief bonds approved by the Railroad Commission of Texas pursuant to Chapter 104, Utilities Code.

(b)  At the request of the Railroad Commission of Texas, the authority shall issue obligations or other evidences of indebtedness in the amount of the requested customer rate relief bonds, plus the issuance costs, and shall make a grant of the proceeds of the obligations or evidences of indebtedness to the Railroad Commission of Texas. The Railroad Commission of Texas' request under this subsection must include a statement of the payment terms for recovering customer rate relief costs.

(c)  Obligations or evidences of indebtedness issued by the authority under this section must be created pursuant to financing orders issued by the Railroad Commission of Texas. Such financing orders shall authorize the authority to create isolated bankruptcy remote financing entities to hold customer rate relief property, and the establishment of such financing entities is hereby authorized.

(d)  Obligations or evidences of indebtedness issued by the authority under this section shall also include administrative costs related to each approved customer rate relief financing, as part of the financing costs of each financing.

(e)  Obligations or evidences of indebtedness issued by the authority under this section must be secured by CRR property, as defined in Section 104.361 (10), Utilities Code, and non-bypassable CRR charges, as defined in Section 104.361 (9), Utilities Code, imposed by the authority on customers receiving natural gas services provided by the requesting gas utility, which must be consistent with the customer rate relief recovery terms stated in the gas utility's request unless otherwise approved by the Railroad Commission of Texas. Obligations or evidences of indebtedness issued by the authority under this section are not a debt of this state, the Railroad Commission of Texas, or any gas utility.

(f)  The Railroad Commission of Texas shall provide necessary assistance to the authority to ensure the collection and enforcement of the non-bypassable charges, either directly or by using the assistance and powers of the requesting gas utility as servicer.

(1)  The authority and the Railroad Commission of Texas have all the powers necessary to perform the duties and responsibilities described by this section. This section shall be interpreted broadly in a manner consistent with the most cost-effective financing of customer rate relief related costs. Obligations or evidences of indebtedness issued by the authority under this section may be structured so that any interest on the obligations or evidences of indebtedness is excluded from gross income for federal income tax purposes. Any interest on the obligations or evidences of indebtedness is not subject to taxation by and shall not be included as part of the measurement of a tax by this state or a political subdivision of this state.

(2)  The authority shall make periodic reports to the Railroad Commission of Texas and the public regarding each financing.

SECTION 4.  Chapter 1232.018, Government Code is amended to read as follows:

Sec. 1232.108.  LEGISLATIVE AUTHORIZATION REQUIRED. Except as permitted by Section 1232.109, 1232.1072, 2166.452, 1232.1072 or 2166.453, before the board may issue and sell bonds, the legislature by the General Appropriations Act or other law must have authorized:

(1)  the specific project for which the bonds are to be issued and sold; and

(2)  the estimated cost of the project or the maximum amount of bonded indebtedness that may be incurred by the issuance and sale of bonds for the project.

SECTION 5.  Chapter 104, Utilities Code, is amended by adding subchapter I to read as follows:

SUBCHAPTER I. CUSTOMER RATE RELIEF BONDS

Sec. 104.360.  PURPOSE. The purpose of this subchapter is to reduce the cost that customers would otherwise experience due to the extraordinary costs that gas utilities incurred and may incur to secure gas supply and provide service during natural and man-made disasters, system failures, and other catastrophic events and to restore gas utility systems after such events by providing securitization financing enabling gas utilities to recover these costs. This financing mechanism will provide rate relief to customers by extending the timeframe over which the extraordinary costs are recovered from customers and support the financial strength and stability of gas utility companies. The commission shall determine that securitization provides tangible and quantifiable benefits to customers, greater than would have been achieved absent the issuance of the CRR bonds, as defined herein. The commission shall determine that the structuring and pricing of the CRR bonds result in CRR bond charges consistent with the terms of the applicable financing order and market conditions at the time of the pricing of the CRR bonds. The proceeds of the CRR bonds shall be used solely for the purpose of reducing the amount of the regulatory asset determined by the commission to be reasonable and other purposes provided herein.

SECTION 6.  Chapter 104, Utilities Code, is amended by adding Section 104.361 to read as follows:

Sec. 104.361.  DEFINITIONS. In this subchapter:

(1)  "Ancillary agreement" means any bond, insurance policy, letter of credit, reserve account, surety bond, interest rate or currency swap arrangement, interest rate lock agreement, forward payment conversion agreement, or other hedging arrangement, liquidity or credit support arrangement, or other financial arrangement entered into in connection with the issuance or payment of CRR bonds that enhances the marketability, security, or creditworthiness of CRR bonds.

(2)  "Assignee" means any legally recognized entity to which an interest in CRR property is transferred, other than as security. The term includes a corporation, limited liability company, public authority, trust, general partnership or limited partnership, or other financing entity, including any assignee of that party.

(3)  "Authority" means the Texas Public Finance Authority, as the sponsoring issuer of CRR bonds.

(4)  "Bond administrative expenses" means expenses incurred to administer CRR bonds issued under this subchapter, including fees for paying agents, trustees, and attorneys, and for other professional services necessary to ensure compliance with applicable state or federal law.

(5)  "Bond obligations" means the principal of a CRR bond and any premium and interest on a CRR bond issued under this subchapter, together with any amount owed under a related ancillary agreement or credit agreement

(6)  "Commission" means the Railroad Commission of Texas.

(7)  "Credit agreement" means a loan agreement, a revolving credit agreement, an agreement establishing a line of credit, or any similar financing arrangement.

(8)  "CRR bonds" means bonds, notes, certificates, or other evidences of indebtedness or ownership that are issued by an assignee pursuant to an financing order, the proceeds of which are used directly or indirectly to recover, finance or refinance railroad commission-approved regulatory assets, including extraordinary costs, and related financing costs, and that are payable from and secured by CRR property and amounts on deposit in the obligation trust fund to the extent provided by the applicable financing order.

(9)  "CRR charges" means the amounts authorized by the commission to repay, finance, or refinance regulatory assets, including extraordinary costs, financing costs, and other costs authorized by the financing order and that are non-bypassable charges:

(a)  imposed on and part of customer bills of a gas utility who has received a regulatory asset determination under Section 104.363;

(b)  collected by a gas utility who has received a regulatory asset determination under Section 104.363, or its successors or assignees, or a collection agent, as servicer, in full, separate and apart from the gas utility's base rates; and

(c)  paid by all existing or future customers receiving service from a gas utility that has received a regulatory asset determination under Section 104.363 or its successors or assignees, even if a customer elects to purchase gas from an alternative gas supplier.

Such charges shall continue to be paid until all CRR bonds and financing costs are paid in full. CRR charges shall be designed as uniform volumetric charges applicable to all existing or future customers receiving service from a gas utility that has received a regulatory asset determination under Section 104.363.

(10)  "CRR property" means the property described in Section 104.365.

(11)  "Extraordinary costs" means:

(A)  Reasonable and necessary costs placed in a regulatory asset as defined in subpart (16) and approved by the commission in a regulatory asset determination pursuant to section 104.363. Extraordinary costs eligible for inclusion in a regulatory asset may include costs incurred to serve customers, including capital costs and other costs expensed, charged to self-insurance reserves, deferred, capitalized, or otherwise financed, that are incurred by a gas utility or on behalf of the gas utility for gas procurement, supply and system restoration and infrastructure, operations and administration in response to any tropical storm or hurricane, ice or snow storm, flood, or other weather-related event, other natural or man-made disaster, system failure, or other catastrophic event.

(B)  Extraordinary costs may include natural gas procurement costs above normalized market pricing, mobilization, staging, construction, reconstruction, replacement, or repair of system facilities. Extraordinary costs may include reasonable estimates of the costs of natural gas procurement above normalized market pricing and any activity or activities conducted or expected to be conducted by or on behalf of the gas utility in connection with the restoration of service or infrastructure associated with natural gas outages, and such estimates may be subject to reconciliation after the actual costs are known but before the commission makes a determination as to the utility's regulatory asset in accordance with Section 104.363.

(C)  Extraordinary costs may include:

(i)  a carrying charge interest rate at the gas utility's cost of long-term debt as last approved by the commission in a general rate proceeding if the final order (which may be an order on rehearing) approving the cost of long-term debt was filed less than three years before the application for regulatory asset recovery was filed;

(ii)  if the final order approving the gas utility's cost of long-term debt is not stated in a final order meeting the requirements of subsection (c)(i) or the final order was filed three or more years before the application for regulatory asset recovery was filed an alternative cost of long-term debt shall be used that reflects the average cost of long-term debt established by the commission for all gas utilities based on final orders issued in the most recent three-year period preceding the filing of the application for regulatory asset recovery; or

(iii)  the carrying charge interest rate set at the applicable cost of long-term debt set forth in subsection (c)(i-ii) shall be applied from the date on which the extraordinary costs were incurred until the date that CRR bonds are issued or until extraordinary costs are otherwise recovered by the gas utility pursuant to the provisions of this section.

Extraordinary costs include any costs of acquiring, retiring, and refunding the gas utility's existing debt and equity securities or credit facilities in connection with the issuance of CRR bonds.

(12)  "Financing costs" means any of the following:

(A)  interest and acquisition, defeasance, or redemption premiums that are payable on CRR bonds.

(B)  any payment required under an ancillary agreement and any amount required to fund or replenish reserve or other accounts established under the terms of any indenture, ancillary agreement, or other financing documents pertaining to CRR bonds.

(C)  issuance costs, and any ongoing costs related to supporting, repaying, servicing, and refunding CRR bonds, including but not limited to servicing fees, accounting and auditing fees, trustee fees, legal fees and expenses, consulting fees, administrative fees, printing fees, financial advisor fees and expenses, SEC registration fees, issuer fees, placement and underwriting fees, capitalized interest, overcollateralization funding requirements, rating agency fees, stock exchange listing and compliance fees, filing fees, and any other bond administration expenses. The term includes the costs to the commission of acquiring professional services for the purpose of evaluating extraordinary costs under this subchapter.

(13)  "Financing order" means an order of the commission adopted under Section 104.364 approving the issuance of CRR bonds and the creation of CRR property and associated CRR charges for the recovery of regulatory assets, including extraordinary costs, and related financing costs, and other costs authorized by such financing order.

(14)  "Financing party" means a holder of CRR bonds, including trustees, collateral agents, any party under an ancillary agreement and other persons acting for the benefit of the holder.

(15)  "Gas utility" shall mean:

(A)  An operator of natural gas distribution pipelines that delivers and sells natural gas to the public and that is subject to the commission's jurisdiction under Section 102.001 of this title; and

(B)  a gas utility that transmits, transports, delivers, or sells natural gas or synthetic natural gas to operators of natural gas distribution pipelines and whose rates for such services are established by the commission in a cost of service rate proceeding filed pursuant to Chapter 104 of this title.

(16)  "Non-bypassable" shall mean a charge that may not be offset by any credit.

(17)  "Normalized market pricing" shall be determined using the average monthly pricing at the Henry Hub for the three (3) preceding months prior to the month during which extraordinary costs were incurred, plus contractual adders to the index price, and other non-indexed gas procurement costs.

(18)  "Regulatory asset" includes the extraordinary costs recorded by the gas utility in its books and records in accordance with the Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act (FERC USOA) and Generally Accepted Accounting Principles (GAAP) or classified as a receivable or financial asset under International Financial Reporting Standards (IFRS) pursuant to the commission's authorization in the *Notice of Authorization for Regulatory Asset Accounting for Local Distribution Companies Affected by the February 2021 Winter Weather Event* issued on February 13, 2021, or any notice or order issued by the commission thereafter for other similarly authorized natural or man-made disasters or system failure events.

SECTION 7.  Chapter 104, Utilities Code, is amended by adding Section 104.361 to read as follows:

Sec. 104.361.  JURISDICTION AND POWERS OF THE COMMISSION AND OTHER REGULATORY AUTHORITIES. (a) The commission may authorize the issuance of CRR bonds if the commission finds pursuant to Section 104.363 that the proposed structuring, expected pricing, and proposed financing costs of the CRR bonds are reasonably expected to provide benefits to customers comparing the net present value of the costs to customers resulting from the issuance of CRR bonds and the costs that would result from the application of conventional methods of financing or recovering gas utility extraordinary costs and other costs authorized by a financing order.

(b)  The commission may assess to a gas utility costs associated with administering this subchapter and such assessments shall be recovered from rate-regulated customers as part of gas cost.

(c)  The commission has exclusive, original jurisdiction to issue financing orders that authorize the creation of CRR property, CRR charges to service CRR bonds and financing costs. CRR charges, if authorized by the commission through a financing order in its sole discretion, will be imposed pursuant to CRR property, and not by a gas utility.

(d)  Except as provided by (c), this subchapter does not in any way limit or impair a regulatory authority's plenary jurisdiction over the rates, charges and services rendered by gas utilities in this state under Chapter 102 of this subtitle.

SECTION 8.  Chapter 104, Utilities Code, is amended by adding Section 104.362 to read as follows:

Sec. 104.362.  REGULATORY ASSET DETERMINATION. (a) The commission shall, upon application of a gas utility to recover a regulatory asset, determine the regulatory asset amount to be recovered by the gas utility.

(b)  A gas utility desiring to participate in the CRR bond process pursuant to a financing order shall file an application with the commission no later than 90 days following the conclusion of the event for which regulatory asset recovery is requested or no later than 60 days following the effective date of this subchapter's passage. The application date deadline shall be determined by the commission consistent with this subpart.

(c)  If the commission does not make a final determination concerning the regulatory asset amount to be recovered by the gas utility not later than 90 days of an application filed under (a), the commission is considered to have approved the regulatory asset amount requested by the gas utility.

(d)  The regulatory asset determination shall not otherwise be subject to reduction, impairment, or adjustment by further action of the commission, except as permitted by Section 104.368.

(e)  The regulatory asset determination is not subject to rehearing by the commission. A regulatory asset determination may only be appealed to a Travis County district court by a party to the proceeding filed not later than 15 days after the order is signed by the commission. The judgment of the district court may be reviewed only by direct appeal to the Supreme Court of Texas filed not later than 15 days after entry of judgment. All appeals shall be heard and determined by the district court and the Supreme Court of Texas as expeditiously as possible with lawful precedence over other matters. Review on appeal shall be based solely on the record before the commission and briefs to the court and shall be limited to whether the financing order conforms to the constitution and laws of this state and the United States and is within the authority of the commission under this subchapter.

(f)  The commission shall issue an order to establish a schedule, filing requirements, and procedure for determining the prudence of the costs included in a gas utility's regulatory asset.

(g)  To extent a gas utility subject to this subchapter receives insurance proceeds, governmental grants, or any other sources of funding that compensates or otherwise reimburses or indemnifies it for extraordinary costs following the issuance of CRR bonds a gas utility may record the amount in a regulatory liability account and such amounts will be reviewed in a future proceeding. If any audit conducted under a valid gas purchase agreement identifies a change to the total amount of greater than 5% of the gas supply costs incurred during the extraordinary event set forth in Section 104.361(10)(A) is identified, the gas utility may record the amount in a regulatory asset or regulatory liability account and such amounts will be reviewed for recovery in a future proceeding.

SECTION 7.  Chapter 104, Utilities Code, is amended by adding Section 104.363 to read as follows:

Sec. 104.363.  FINANCING ORDERS AND ISSUANCE OF CRR BONDS BY OR ON BEHALF OF THE AUTHORITY. (a) If the commission determines that CRR bond financing for extraordinary costs is the most cost-effective method of funding several regulatory asset reimbursements to be made to gas utilities, the commission may, following the final resolution of all applications filed under Section 104.363, request the authority to issue CRR bonds on its behalf. Before making a request of the authority under this section, the commission must issue a financing order that complies with the provisions of this Section 104.363.

(b)  The financing order shall include a finding that the use of the securitization financing mechanism is in the public interest and that the financing order is consistent with the standards set forth in Section 104.360.

(c)  The financing order shall detail the total amount of the regulatory asset determinations to be included in the CRR bond issuance.

(d)  The financing order shall authorize the recovery of any tax obligation of the gas utilities arising or resulting from its receipt of CRR bond proceeds, or from the collection or remittance of CRR charges through the gas utilities' gas cost recovery mechanism or other means determined by the commission to be reasonable.

(e)  The financing order shall authorize the authority's issuance of CRR bonds through one or more legally isolated bankruptcy remote financing entities established by the authority.

(f)  The financing order shall include a statement of the aggregated regulatory asset determination to be included in the principal amount of the CRR bonds, not to exceed $10 billion for any separate bond issue, and the maximum scheduled final maturity of the CRR bonds may not exceed 30 years, however the legal final maturity may be longer, based upon rating agency and market considerations.

(g)  The financing order shall provide for the imposition and mandatory periodic formulaic adjustment of CRR charges in accordance with Section 104.368 and the collection thereof by all gas utilities for whom a regulatory asset determination has been made pursuant to Section 104.363 to guarantee that the bonds will be paid in full.

(h)  The financing order shall authorize the creation of CRR property in favor of the authority and the authority's transfer thereof.

(i)  The financing order shall direct the authority to disperse the proceeds of CRR bonds to gas utilities for which a regulatory asset determination has been made under Section 104.363 and the amounts to be distributed.

(j)  The principal amount determined by the commission under subsection (c) may be increased to include an amount sufficient to:

(1)  pay the financing costs for such issuance;

(2)  reimburse the authority for any costs incurred for the issuance;

(3)  provide a bond reserve fund; and

(4)  capitalize interest for the period determined necessary by the commission.

(k)  The authority, consistent with this subchapter and the terms of the financing order, shall issue CRR bonds on request by the commission, in accordance with the requirements of Chapter 1232, Government Code, as amended by this subchapter and other provisions of Title 9, Government Code, that apply to bond issuance by a state agency.

(l)  The authority, consistent with this subchapter and the terms of the financing order, shall determine the method of sale, type of bond, bond form, maximum interest rates, and other terms of the CRR bonds that, in the authority's judgment, best achieve the economic goals of the financing order and effect the financings at the lowest practicable cost.

(m)  The authority shall establish legally isolated bankruptcy remote financing entities and may enter into credit agreements or ancillary agreements in connection with the issuance of CRR bonds.

(n)  The financing order shall provide that CRR charges shall be collected and allocated among customers of each utility for whom a regulatory determination has been made under Section 104.363 through uniform, monthly volumetric charges to be paid by customers as a component of the gas utility's gas cost or in such other manner as determined by the commission to be reasonable.

(o)  The financing order shall reflect the commitment made by each gas utility receiving proceeds therefrom that such proceeds shall be in lieu of recovery of these costs through the regular rate-making process or other mechanism to the extent such costs are reimbursed to the gas utility by CRR bond financing proceeds.

(p)  The financing order shall become effective in accordance with its terms, and the financing order, together with the CRR property and the CRR charges authorized by the financing order, shall thereafter be irrevocable and not subject to reduction, impairment, or adjustment by further action of the commission, except as provided under subpart (r) and permitted by Section 104.368.

(q)  The commission shall issue a financing order under this Section not later than 90 days following the conclusion of all proceedings filed under Section 104.363.

(r)  A financing order is not subject to rehearing by the commission. A financing order may only be appealed to a Travis County district court by a party to the proceeding filed within 15 days after the financing order is signed by the commission. The judgment of the district court may be reviewed only by direct appeal to the Supreme Court of Texas filed within 15 days after entry of judgment. All appeals shall be heard and determined by the district court and the Supreme Court of Texas as expeditiously as possible with lawful precedence over other matters. Review on appeal shall be based solely on the record before the commission and briefs to the court and shall be limited to whether the financing order conforms to the constitution and laws of this state and the United States and is within the authority of the commission under this subchapter.

(s)  The authority shall issue CRR bonds within 45 days of the receipt of a financing order issued pursuant to this section. The authority shall deliver CRR bond proceeds net of upfront financing costs to each gas utility sufficient to reimburse the gas utility the regulatory asset amount determined to be reasonable under Section 104.363 within 15 days of issuance of the CRR bonds. For the weather event that took place in February 2021, the authority shall deliver CRR bond proceeds net of upfront financing costs to each gas utility no later than December 31, 2021.

SECTION 8.  Chapter 104, Utilities Code, is amended by adding Section 104.364 to read as follows:

Sec. 104.364.  PROPERTY RIGHTS. (a) The CRR bonds will be solely the obligation of the assignee or issuing financing entity and will not be a debt of a gas utility or a debt or a pledge of the faith and credit of the state or any political or governmental unit thereof.

(b)  The CRR bonds shall be nonrecourse to the credit or any assets of the state and the authority.

(c)  The rights and interests of the authority or successor under a financing order, including the right to impose and receive CRR charges authorized in the financing order, shall be only contract rights until they are first transferred to an assignee or pledged in connection with the issuance of the CRR bonds, at which time they will become "CRR property."

(d)  CRR property shall constitute a present property right for purposes of contracts concerning the sale or pledge of property, even though the imposition and collection of CRR charges depends on further acts of the gas utility or others that have not yet occurred. The financing order shall remain in effect, and the CRR property shall continue to exist for the same period as the pledge of the state described in Section 104.372.

(e)  All revenues and collections resulting from CRR charges shall constitute proceeds only of a property right arising from the financing order.

(f)  An amount owed by the authority or an issuer under a credit agreement shall be payable from and secured by the CRR property, including CRR charges and amounts to the extent provided in the proceedings authorizing the credit agreement.

SECTION 9.  Chapter 104, Utilities Code, is amended by adding Section 104.365 to read as follows:

Sec. 104.365.  NO SET-OFF. The interest of an assignee or pledgee in CRR property, including the revenues and collections arising from CRR charges are not subject to setoff, counterclaim, surcharge, or defense by the gas utility or any other person or in connection with the bankruptcy of the gas utility, the authority, or any other entity. A financing order shall remain in effect and unabated notwithstanding the bankruptcy of the gas utility, the authority or their successors, or assignees.

SECTION 10.  Chapter 104, Utilities Code, is amended by adding Section 104.366 to read as follows:

Sec. 104.366.  NO BYPASS. A financing order shall include terms ensuring that the imposition and collection of the CRR charge authorized in the order shall be non-bypassable.

SECTION 11.  Chapter 104, Utilities Code, is amended by adding Section 104.367 to read as follows:

Sec. 104.367.  TRUE-UP. The financing order shall include a formulaic true-up charge adjustment mechanism that requires that the CRR charges be reviewed and adjusted at least annually, at time periods and frequencies provided in the financing order, to correct any overcollections or under collections of the preceding 12 months and to ensure the expected recovery of amounts sufficient to provide for the timely payment of upcoming scheduled CRR bond payments and financing costs. Such true-up charge adjustments shall become effective within 30 days of the receipt of the true-up charge adjustment letter from the gas utility or replacement servicer to the commission that notifies the commission of the pending adjustment. Any administrative review of such charge adjustments shall be limited to notifying the servicer of mathematical or clerical errors in the calculation, and the servicer may correct its error and refile its letter, with the adjustment becoming effective as soon as possible within 30 days after the refiled letter.

SECTION 12.  Chapter 104, Utilities Code, is amended by adding Section 104.368 to read as follows:

Sec. 104.368.  SECURITY INTERESTS; ASSIGNMENT; COMMINGLING; DEFAULT. (a) CRR property does not constitute an account or general intangible under Section 9.106, Business & Commerce Code. The creation, granting, perfection, and enforcement of liens and security interests in CRR property are governed by this section and not by the Business & Commerce Code.

(b)  A valid and enforceable lien and security interest in CRR property may be created only by a financing order and the execution and delivery of a security agreement with a financing party in connection with the issuance of CRR bonds. The lien and security interest shall attach automatically from the time that value is received for the CRR bonds and, on perfection through the filing of notice with the secretary of state in accordance with the rules prescribed under subsection (d), shall be a continuously perfected lien and security interest in the CRR property and all proceeds of the property, whether accrued or not, shall have priority in the order of filing and take precedence over any subsequent judicial or other lien creditor. If notice is filed within 10 days after value is received for the CRR bonds, the security interest shall be perfected retroactive to the date value was received, otherwise, the security interest shall be perfected as of the date of filing.

(c)  Transfer of an interest in CRR property to an assignee shall be perfected against all third parties, including subsequent judicial or other lien creditors, when the financing order becomes effective, transfer documents have been delivered to the assignee, and a notice of that transfer has been filed in accordance with the rules prescribed under subsection (d); provided, however, that if notice of the transfer has not been filed in accordance with this subsection within 10 days after the delivery of transfer documentation, the transfer of the interest is not perfected against third parties until the notice is filed.

(d)  The secretary of state shall implement this section by establishing and maintaining a separate system of records for the filing of notices under this section and prescribing the rules for those filings based on Chapter 9, Business & Commerce Code, adapted to this subchapter and using the terms defined in this subchapter.

(e)  The priority of a lien and security interest perfected under this section is not impaired by any later modification of the financing order under Section 104.368 or by the commingling of funds arising from CRR charges with other funds, and any other security interest that may apply to those funds shall be terminated when they are transferred to a segregated account for the assignee or a financing party. If CRR property has been transferred to an assignee, any proceeds of that property shall be held in trust for the assignee.

(f)  If a default or termination occurs under the CRR bonds, the financing parties or their representatives, a district court of Travis County, on application by or on behalf of the financing parties, shall order the sequestration and payment to them of revenues arising from the CRR charges.

SECTION 13.  Chapter 104, Utilities Code, is amended by adding Section 104.369 to read as follows:

Sec. 104.369.  BOND PROCEEDS. (a) The proceeds of CRR bonds issued by or on behalf of the authority under this subchapter may be deposited with a trustee selected by the authority or held by the comptroller in a dedicated trust fund outside the state treasury in the custody of the comptroller.

(b)  Bond proceeds, including investment income, shall be held in trust for the exclusive benefit of the commission's policy of reimbursing such gas utility costs. The authority shall use the proceeds to:

(1)  reimburse each gas utility the regulatory asset amount determined to be reasonable for that gas utility in the financing order;

(2)  pay the financing costs of issuing the bonds; and

(3)  provide bond reserves, as applicable.

(c)  Any excess money remaining after the purposes for which the bonds were issued is satisfied may be used to provide credits to gas utility customers.

(d)  If there are no outstanding bonds or bond interest to be paid, the remaining proceeds shall be used to provide credits to gas utility customers.

SECTION 13.  Chapter 104, Utilities Code, is amended by adding Section 104.370 to read as follows:

Sec. 104.370.  REPAYMENT OF CRR BONDS. (a) If any CRR bonds and related financing costs remain outstanding, a uniform, monthly, volumetric CRR charges shall be paid by all existing and future customers that receive service from a gas utility for whom a regulatory asset determination under Section 104.363. A gas utility and its successors, assigns and or replacements, shall continue to bill and collect, as servicer, CRR charges from the gas utility's existing and future customers until all CRR bonds and financing costs are paid in full.

(b)  With regard to outstanding CRR bonds issued by the authority under this subchapter, the authority shall report to the commission the amount of the bond obligations outstanding and the estimated amount of bond administrative expenses each year.

(c)  All revenue collected from the CRR charges shall be promptly remitted by the applicable servicers to the authority to pay bond obligations, ongoing financing costs, and bond administrative expenses to ensure timely payment of bond obligations and financing costs.

(d)  Revenues received from the CRR charges may be applied only as provided by this subchapter.

(e)  Bond obligations are payable only from sources provided for payment in this subchapter.

SECTION 14.  Chapter 104, Utilities Code, is amended by adding Section 104.371 to read as follows:

Sec. 104.371.  PLEDGE OF STATE. (a) CRR bonds issued under this subchapter, and any related ancillary agreement, or credit agreement, are not a debt of the state or any state agency or political subdivision of the state and are not a pledge of the faith and credit of any of them. A CRR bond, ancillary agreement, or credit agreement is payable solely from CRR charges as provided by this subchapter.

(b)  The state, including the commission and the authority pledge, however, for the benefit and protection of the financing parties and the gas utility, that it will not take or permit any action that would impair the value of CRR property, or, except as permitted by Section 104.368, reduce, alter, or impair the CRR charges to be imposed, collected, and remitted to financing parties, until the principal, interest and premium, and contracts to be performed in connection with the related CRR bonds and financing costs have been paid and performed in full. The authority or any other entity issuing CRR bonds is authorized to include this pledge in any documentation relating to those bonds.

SECTION 15.  Chapter 104, Utilities Code, is amended by adding Section 104.372 to read as follows:

Sec. 104.372.  TAX EXEMPTION. (a) A CRR bond issued under this subchapter, any transaction relating to CRR bonds, and profits made from the sale of CRR bonds are exempt from taxation by this state or by a municipality or other political subdivision of this state.

(b)  A gas utility's receipt or collection of CRR charge amounts is exempt from state and local income, sales, franchise, gross receipts, and other taxes or similar assessment.

(c)  Any tax obligation of the gas utility arising from its receipt of CRR bond proceeds, or from the collection or remittance of CRR charges is an expense that shall be recovered by the gas utility.

SECTION 16.  Chapter 104, Utilities Code, is amended by adding Section 104.373 to read as follows:

Sec. 104.373.  NOT PUBLIC UTILITY. An assignee or financing party shall not be considered to be a public utility or person providing natural gas service solely by virtue of the transactions described in this subchapter.

SECTION 17.  Chapter 104, Utilities Code, is amended by adding Section 104.374 to read as follows:

Sec. 104.374.  NO PERSONAL LIABILITY. The Commissioners of the commission, commission employees, the board of directors of the authority, and the employees of the authority shall not be personally liable as a result of exercising the duties and responsibilities established under this subchapter.

SECTION 18.  Chapter 104, Utilities Code, is amended by adding Section 104.375 to read as follows:

Sec. 104.375.  SEVERABILITY. Effective on the date the CRR bonds are issued under this subchapter, if any provision in this title or portion of this title is held to be invalid or is invalidated, superseded, replaced, repealed, or expires for any reason, that occurrence does not affect the validity or continuation of this subchapter or any other provision of this title that is relevant to the issuance, administration, payment, retirement, or refunding of CRR bonds or to any actions of the gas utility, its successors, an assignee, a collection agent, or a financing party, which shall remain in full force and effect.

SECTION 20.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.