I certify this to be a true and correct copy of the indicated document as referred or transmitted to committee.

Chief Clerk of the House

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By: Swinford

H.B. No. 3167

A BILL TO BE ENTITLED

AN ACT

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

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

ARTICLE 1. GENERAL PROVISIONS

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

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

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

(3) making necessary corrections to enacted codifications; and

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

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

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

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

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

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

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

ARTICLE 2. CHANGES RELATING TO AGRICULTURE CODE

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

ARTICLE 2A. CHANGES RELATING TO BUSINESS & COMMERCE CODE

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

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

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

ARTICLE 3. CHANGES RELATING TO CODE OF CRIMINAL PROCEDURE

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

(f) This article does not apply to:

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

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

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

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

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

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

for or based on:

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 4. CHANGES RELATING TO EDUCATION CODE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 5. CHANGES RELATING TO ELECTION CODE

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

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

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

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

(1) 35 percent of the registered voters in the subdivision <u>who voted in the most recent gubernatorial election</u> for a ballot issue that permits voting for or against:

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 6. CHANGES RELATING TO FINANCE CODE

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

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

(1) Department of Agriculture;

(2) Texas Alcoholic Beverage Commission;

(3) Texas Appraiser Licensing and Certification Board;

(4) Texas Board of Architectural Examiners;

(5) Texas Board of Chiropractic Examiners;

(6) Comptroller of Public Accounts;

(7) Court Reporters Certification Board;

(8) State Board of Dental Examiners;

(9) Texas State Board of Examiners of Dietitians;

(10) Texas Funeral Service Commission;

(11) Department of State Health Services;

(12) Department of Aging and Disability Services;

(13) Texas Board of Professional Land Surveying;

(14) Texas Department of Licensing and Regulation;

(15) Texas State Board of Examiners of Marriage and Family Therapists;

(16) Texas State Board of Medical Examiners;

(17) Midwifery Board;

(18) Texas Commission on Environmental Quality;

(19) Board of Nurse Examiners;

(20) Texas Board of Occupational Therapy Examiners;

(21) Texas Optometry Board;

(22) Parks and Wildlife Department;

(23) Texas State Board of Examiners of Perfusionists;

(24) Texas State Board of Pharmacy;

(25) Texas Board of Physical Therapy Examiners;

(26) Texas State Board of Plumbing Examiners;

(27) Texas State Board of Podiatric Medical Examiners;

(28) Polygraph Examiners Board;

(29) Texas Private Security Board;

(30) Texas State Board of Examiners of Professional Counselors;

(31) Texas Board of Professional Engineers;

(32) Department of Family and Protective Services;

(33) Texas State Board of Examiners of Psychologists;

(34) Texas State Board of Public Accountancy;

(35) Department of Public Safety of the State of Texas;

(36) Public Utility Commission of Texas;

(37) Railroad Commission of Texas;

(38) Texas Real Estate Commission;

(39) State Bar of Texas;

(40) Texas State Board of Social Worker Examiners;

(41) State Board of Examiners for Speech-Language Pathology and Audiology;

(42) Texas Structural Pest Control Board;

(43) Board of Tax Professional Examiners;

(44) Secretary of State;

(45) Supreme Court of Texas;

(46) Texas Transportation Commission;

(47) State Board of Veterinary Medical Examiners;

(48) Texas Ethics Commission;

(49) Advisory Board of Athletic Trainers;

(50) State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments;

(51) Texas Board of Licensure for Professional Medical Physicists;

(52) Texas Department of Insurance;

(53) Texas Board of Orthotics and Prosthetics;

(54) savings and mortgage lending [~~loan~~] commissioner;

(55) Texas Juvenile Probation Commission; and

(56) Texas Lottery Commission under Chapter 466, Government Code.

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

(b) In this chapter, "finance agency" means:

(1) the Texas Department of Banking;

(2) the Department of Savings and Mortgage Lending [~~Loan Department~~]; or

(3) the Office of Consumer Credit Commissioner.

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

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

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

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

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

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

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

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

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

(c) The presiding officer may:

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

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

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

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

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

and consumer credit commissioner and staff of the finance agencies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the Department of Savings and Mortgage Lending [~~Loan Department~~];

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

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

(6) an explanation of the reason the file was closed, if the agency closed the file without taking action other than to investigate the complaint.

(d) The Department of Savings and Mortgage Lending [~~Loan Department~~] shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the Department of Savings and Mortgage Lending's [~~Loan Department's~~] policies and procedures relating to complaint investigation and resolution.

(e) The Department of Savings and Mortgage Lending [~~Loan Department~~], at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

SECTION 6.022. Section 13.012, Finance Code, is amended to read as follows:

Sec. 13.012. SUNSET PROVISION. The office of savings and mortgage lending [~~loan~~] commissioner and the Department of Savings

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

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

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

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

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

(b) The policy statement must include:

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

practices described by Chapter 21, Labor Code; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) the conditions under which records may be copied

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

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

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

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

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

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

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

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

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

(1) obligations incurred by the commissioner or the

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

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

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

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

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

(6) approved claims of subordinated creditors; and

(7) claims of shareholders of the association.

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

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

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

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

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

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

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

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

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

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

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

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

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

to read as follows:

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

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

(1) "Appropriate banking agency":

(A) means:

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

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

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

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

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

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

(B) includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

or overstated value of the asset;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) the title information that must be maintained;

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

(K) an appraisal report;

(L) the financial statement of a borrower;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

spouse of the commissioner or employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) the State Board for Educator Certification;

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

(3) the Texas State Board of Medical Examiners;

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

(5) the Board of Law Examiners;

(6) the State Bar of Texas;

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

(8) the Texas School for the Deaf;

(9) the Department of Family and Protective Services;

(10) the Texas Youth Commission;

(11) the Department of Assistive and Rehabilitative Services;

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

(13) the Texas Private Security Board;

(14) a municipal or volunteer fire department;

(15) the Board of Nurse Examiners;

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

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

(18) the Texas Juvenile Probation Commission;

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

(20) the Texas State Board of Public Accountancy;

(21) the Texas Department of Licensing and Regulation;

(22) the Health and Human Services Commission; and

(23) the Department of Aging and Disability Services.

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

Sec. 411.1385. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: SAVINGS AND MORTGAGE LENDING [~~LOAN~~] COMMISSIONER. (a) The savings and mortgage lending [~~loan~~] commissioner is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant for or holder of a mortgage broker or loan officer license issued under Chapter 156, Finance Code.

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

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

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

(1) the director or the director's representative;

(2) the savings and mortgage lending [~~loan~~] commissioner or the commissioner's representative;

(3) four members appointed by the director who represent community and consumer interests;

(4) four members appointed by the savings and mortgage lending [~~loan~~] commissioner who represent the mortgage lending industry; and

(5) a representative of the Texas Housing Research Consortium at The University of Texas at Austin.

(g) All information used to conduct the study must be accessible to the department, the Department of Savings and Mortgage Lending [~~Loan Department~~], and the legislature. The department shall prepare a consolidated analysis and recapitulation of the information used to conduct the study and shall make the analysis and recapitulation available to the public. The department shall ensure that the analysis and recapitulation of the information used to conduct the study contain only aggregate data and do not contain data specific to any mortgage.

SECTION 6.064. Section 12.018, Property Code, is amended to read as follows:

Sec. 12.018. TRANSFER BY RECEIVER OR CONSERVATOR OF FAILED DEPOSITORY INSTITUTION. If a bank, savings and loan association, savings bank, or other depository institution is placed in receivership or conservatorship by a state or federal agency, instrumentality, or institution, including the Banking Department of Texas, Department of Savings and Mortgage Lending [~~Loan~~

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

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

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

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

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

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

(1) Texas Commission on Fire Protection;

(2) Texas State Board of Pharmacy;

(3) Texas Department of Mental Health and Mental Retardation;

(4) Department of Public Safety of the State of Texas;

(5) the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice;

(6) Board of Pardons and Paroles;

(7) Parks and Wildlife Department;

(8) Railroad Commission of Texas;

(9) Texas Alcoholic Beverage Commission;

(10) Texas Department of Banking;

(11) Department of Savings and Mortgage Lending [~~Loan Department~~];

(12) Texas Juvenile Probation Commission;

(13) Texas Natural Resource Conservation Commission;

(14) Texas Youth Commission;

(15) Texas Lottery Commission;

(16) the office of the attorney general;

(17) Texas Department of Insurance; and

(18) an agency that receives an appropriation under an article of the General Appropriations Act that appropriates money to the legislature.

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

read as follows:

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

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

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

ARTICLE 7. CHANGES RELATING TO GOVERNMENT CODE

PART A. GENERAL CHANGES

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

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

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

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

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

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

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

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

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

(1) a person who is:

(A) an applicant for a license or certificate

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

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

(C) the holder of a license or certificate under that Act; [~~or~~]

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

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

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

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

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

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

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

(3) the governor; and

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

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

(c) The department shall provide the report to:

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

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

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

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

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

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

and reenacted to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

PART B. UPDATE OF COURT FEES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) expenses of service of process;

(B) postage; and

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

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

(1) appellate judicial system filing fees for:

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

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

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

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

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

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

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

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

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

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

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

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

~~Government Code) . . . $45; or~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(16) fee for performing a service:

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

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

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

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

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

. . . $30;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) additional filing fees:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[~~(B) postage; and~~

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

~~court for any proceeding;~~

[~~(39) fee for performing a service:~~

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

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

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

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

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

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

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

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

Sec. 101.0617. DISTRICT COURT FEES AND COSTS: TAX CODE. The clerk of a district court shall collect a [~~(43)~~] fee of $5 under Section 42.221, Tax Code, for filing an additional petition for review of an appraisal review board order relating to certain regulated property running through or operating in more than one county after the first petition for review relating to the same property is filed for a tax year [~~(Sec. 42.221, Tax Code) . . . $5~~].

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

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

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

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

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

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

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

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

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

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

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

(A) expenses of service of process;

(B) postage; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) an additional filing fee:

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

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

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

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

(A) in Bexar County Courts at Law:

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) attorneys;

(B) physicians;

(C) language interpreters;

(D) sign interpreters; and

(E) masters;

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

(A) attorney's fees;

(B) physician examination fees;

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

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

(E) prosecutors' fees authorized under Section

574.031, Health and Safety Code;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 101.0816. STATUTORY COUNTY COURT FEES AND COSTS:

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

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

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

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

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

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

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

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

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

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

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

[~~(B) postage; and~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[~~(A) attorneys;~~

[~~(B) physicians;~~

[~~(C) language interpreters;~~

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

[~~(E) masters;~~

[~~(33) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Sec. 571.018, Health and Safety Code):~~

[~~(A) attorney's fees;~~

[~~(B) physician examination fees;~~

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

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

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

[~~(34) expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated (Sec. 574.008, Health and Safety Code) . . . actual expenses unless certain arrangements are made to hold the hearing in the county in which the patient is receiving services;~~

[~~(35) expenses for expert witness testimony for an indigent patient (Sec. 574.010, Health and Safety Code) . . . if authorized by the court as reimbursement to the attorney ad litem, court-approved expenses;~~

[~~(36) fee for judge's services for holding a hearing on~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) attorneys;

(B) physicians;

(C) language interpreters;

(D) sign interpreters; and

(E) masters;

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

(A) attorney's fees;

(B) physician examination fees;

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

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

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

(6) expenses of transporting certain patients from the

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

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

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

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

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

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

(1) additional filing fee for filing any civil action

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Code):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[~~(12) jury fee for civil case (Sec. 51.604, Government Code) . . . $22;~~

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

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

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

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

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

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

[~~(A) attorneys;~~

[~~(B) physicians;~~

[~~(C) language interpreters;~~

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

[~~(E) masters;~~

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

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

[~~(A) attorney's fees;~~

[~~(B) physician examination fees;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) expenses of service of process;

(B) postage; and

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

court for any proceeding.

Sec. 101.1212. COUNTY COURT FEES AND COSTS: GOVERNMENT CODE. The clerk of a county court shall collect the following fees and costs under the Government Code:

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

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

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

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

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

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

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

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

(2) [~~(4)~~] a jury fee (Sec. 51.604, Government Code) . . . $22; and

(3) [~~(5)~~] a filing fee in each civil case filed to be used for court-related purposes for the support of the judiciary (Sec. 51.703, Government Code) . . . $40. [~~;~~]

Sec. 101.1213. COUNTY COURT FEES AND COSTS: HEALTH AND SAFETY CODE. The clerk of a county court shall collect the following fees and costs under the Health and Safety Code:

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

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

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

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

(A) attorneys;

(B) physicians;

(C) language interpreters;

(D) sign interpreters; and

(E) masters;

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

(A) attorney's fees;

(B) physician examination fees;

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

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

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

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

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

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

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

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

Sec. 101.1214. COUNTY COURT FEES AND COSTS: LOCAL

GOVERNMENT CODE. The clerk of a county court shall collect the following fees and costs under the Local Government Code:

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

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

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

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

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

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

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

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

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

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

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

(i) probate of a will with independent

executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title (Sec. 118.052, Local Government Code) . . . $40;

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

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

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

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

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

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

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

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

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

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

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

(vi) filing annual or final report of

guardian of a person (Sec. 118.052, Local Government Code) . . . $10; and

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

(C) adverse probate action (Secs. 118.052 and 118.057, Local Government Code) . . . $40; and

(D) claim against estate (Secs. 118.052 and 118.058, Local Government Code) . . . $2;

(4) [~~(12)~~] other fees (Sec. 118.052, Local Government Code):

(A) issuing document (Secs. 118.052 and 118.059, Local Government Code):

(i) original document and one copy (Sec. 118.052, Local Government Code) . . . $4; and

(ii) each additional set of an original and one copy (Sec. 118.052, Local Government Code) . . . $4;

(B) certified papers (Secs. 118.052 and 118.060, Local Government Code):

(i) for the clerk's certificate (Sec. 118.052, Local Government Code) . . . $5; and

(ii) a fee per page or part of a page (Sec. 118.052, Local Government Code) . . . $1;

(C) noncertified papers, for each page or part of

a page (Secs. 118.052 and 118.0605, Local Government Code) . . . $1;

(D) letters testamentary, letter of guardianship, letter of administration, or abstract of judgment (Secs. 118.052 and 118.061, Local Government Code) . . . $2;

(E) safekeeping of wills (Secs. 118.052 and 118.062, Local Government Code) . . . $5;

(F) mail service of process (Secs. 118.052 and 118.063, Local Government Code) . . . same as sheriff; and

(G) records management and preservation fee (Secs. 118.052, 118.0546, and 118.0645, Local Government Code) . . . $5;

(5) [~~(13)~~] deposit on filing petition requesting permission to create a municipal civic center authority (Sec. 281.013, Local Government Code) . . . $200;

(6) [~~(14)~~] additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . not to exceed $5;

(7) [~~(15)~~] additional filing fee for filing documents not subject to certain filing fees to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . $1;

(8) [~~(16)~~] additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed $20;

(9) [~~(17)~~] court cost in civil cases other than suits

for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed $35;

(10) additional filing fee for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $5; and

(11) on the filing of a civil suit an additional filing fee to be used for court-related purposes for the support of the judiciary (Sec. 133.154, Local Government Code) . . . $37.

Sec. 101.1215. COUNTY COURT FEES AND COSTS: TEXAS PROBATE CODE. The clerk of a county court shall collect the following fees and costs under the Texas Probate Code:

(1) [~~(18)~~] fee for deposit of a will with the county clerk during testator's lifetime (Sec. 71, Texas Probate Code) . . . $3;

(2) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding; and

(3) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate

Code) . . . probable cost of the guardianship proceeding.

Sec. 101.1216. COUNTY COURT FEES AND COSTS UNDER OTHER LAWS. The clerk of a county court shall collect the following fees and costs:

(1) [~~(19)~~] fee for county attorney in a suit regarding a railroad company's failure to keep roadbed and right-of-way in proper condition (Art. 6327, Vernon's Texas Civil Statutes) . . . $10; and

(2) [~~(20)~~] appeal bond from a petitioner or taxpayer in a water control and preservation district (Art. 7818, Vernon's Texas Civil Statutes) . . . $100[~~;~~

[~~(21) additional filing fee for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $5;~~

[~~(22) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

[~~(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs;~~

[~~(23) monthly payment for remaining court fees and~~

~~costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

[~~(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs that remain unpaid;~~

[~~(24) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):~~

[~~(A) expenses of service of process;~~

[~~(B) postage; and~~

[~~(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding;~~

[~~(25) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding;~~

[~~(26) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code)~~

~~. . . probable cost of the guardianship proceeding;~~

[~~(27) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Secs. 571.017 and 571.018, Health and Safety Code) . . . reasonable compensation to the following persons appointed under the Texas Mental Health Code:~~

[~~(A) attorneys;~~

[~~(B) physicians;~~

[~~(C) language interpreters;~~

[~~(D) sign interpreters; and~~

[~~(E) masters;~~

[~~(28) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Sec. 571.018, Health and Safety Code):~~

[~~(A) attorney's fees;~~

[~~(B) physician examination fees;~~

[~~(C) expense of transportation to a mental health facility or to a federal agency not to exceed $50 if transporting within the same county and not to exceed the reasonable cost of transportation if transporting between counties;~~

[~~(D) costs and salary supplements authorized under Section 574.031, Health and Safety Code; and~~

[~~(E) prosecutors' fees authorized under Section 574.031, Health and Safety Code;~~

[~~(29) expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated (Sec. 574.008, Health and Safety Code) . . .~~

~~actual expenses unless certain arrangements are made to hold the hearing in the county in which the patient is receiving services;~~

[~~(30) expenses for expert witness testimony for an indigent patient (Sec. 574.010, Health and Safety Code) . . . if authorized by the court as reimbursement to the attorney ad litem, court-approved expenses;~~

[~~(31) fee for judge's services for holding a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50;~~

[~~(32) expenses to reimburse judge for holding a hearing in a hospital or location other than the county courthouse (Sec. 574.031, Health and Safety Code) . . . reasonable and necessary expenses as certified; and~~

[~~(33) fee for services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50~~].

(b) Section 101.123, Government Code, is repealed.

SECTION 7.107. Subchapter H, Chapter 101, Government Code, is amended by amending Section 101.141 and adding Section 101.151 to read as follows:

Sec. 101.141. JUSTICE COURT AND SMALL CLAIMS COURT FEES AND COSTS COLLECTED BY CLERK. (a) A clerk of a justice court shall collect fees and costs under the Civil Practice and Remedies Code as follows:

(1) additional court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the commissioners court [~~of a county with a population of at least 2.5 million~~] (Sec. 152.005, Civil Practice and Remedies Code) . . . not to exceed $5 [~~$3~~];

(2) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(3) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid; and

(4) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or

frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding.

(b) A clerk of a justice court shall collect fees and costs under other laws as follows:

(1) the cost of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed $100;

(2) additional filing fees:

(A) to fund Dallas County civil court facilities (Sec. 51.705, Government Code) . . . not more than $15; and

(B) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $2;

(3) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . $1.50; and

(4) fee for hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 685.008, Transportation Code) . . . $20[~~+~~

[~~(5) court fees and costs, if ordered by the court, for~~

~~a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

[~~(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs;~~

[~~(6) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

[~~(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs that remain unpaid;~~

[~~(7) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):~~

[~~(A) expenses of service of process;~~

[~~(B) postage; and~~

[~~(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding; and~~

[~~(8) the cost of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed $100~~].

Sec. 101.151. JUSTICE COURT AND SMALL CLAIMS COURT FEES COLLECTED BY JUSTICE OF THE PEACE. (a) [~~(b)~~] A justice of the peace shall collect the following fees under the Local Government Code:

(1) services rendered before judgment (Secs. 118.121 and 118.122, Local Government Code):

(A) justice court (Sec. 118.121, Local Government Code) . . . $15; and

(B) small claims court (Sec. 118.121, Local Government Code) . . . $10; and

(2) services rendered after judgment (Secs. 118.121 and 118.123, Local Government Code):

(A) transcript (Sec. 118.121, Local Government Code) . . . $10;

(B) abstract of judgment (Sec. 118.121, Local Government Code) . . . $5;

(C) execution, order of sale, writ of restitution, or other writ or process (Sec. 118.121, Local Government Code) . . . $5 per page;

(D) certified copy of court papers (Secs. 118.121 and 118.1235, Local Government Code) . . . $2 for first page; $0.25 for each additional page; and

(E) issuing other document (no return required)

(Sec. 118.121, Local Government Code) . . . $1 for first page; $0.25 for each additional page. [~~;~~]

(b) A justice of the peace shall collect the following fees under the Civil Practice and Remedies Code:

(1) [~~(3)~~] court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(2) [~~(4)~~] monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid; and

(3) [~~(5)~~] the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious

or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding.

SECTION 7.108. Section 101.181, Government Code, as amended by Chapters 37, 296, and 737, Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

Sec. 101.181. MUNICIPAL COURTS OF RECORD FEES AND COSTS. The clerk of a municipal court of record shall collect the following fees and costs:

(1) from an appellant, a fee for preparation of the clerk's record (Sec. 30.00014, Government Code) . . . $25;

(2) from an appellant in the City of El Paso, an appellate court docket fee (Sec. 30.00147, Government Code) . . . $25; and

(3) the cost of a special program that a court may order a child to attend after finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program, not to exceed $100.

SECTION 7.109. (a) Subchapter B, Chapter 102, Government Code, is amended by reenacting and amending Section 102.021, as amended by Chapters 296, 992, and 1360, Acts of the 79th Legislature, Regular Session, 2005, and adding Sections 102.0211 through 102.0214 to read as follows:

Sec. 102.021. COURT COSTS ON CONVICTION: CODE OF CRIMINAL

PROCEDURE. A person convicted of an offense shall pay the following under the Code of Criminal Procedure, in addition to all other costs:

(1) court cost on conviction of any offense, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Art. 102.0045, Code of Criminal Procedure) . . . $4 [~~court costs on conviction of a felony (Sec. 133.102, Local Government Code) . . . $133~~];

(2) [~~court costs on conviction of a Class A or Class B misdemeanor (Sec. 133.102, Local Government Code) . . . $83,~~

[~~(3) court costs on conviction of a nonjailable misdemeanor offense, including a criminal violation of a municipal ordinance, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Sec. 133.102, Local Government Code) . . . $40,~~

[~~(4) court costs on certain convictions in statutory county courts (Sec. 51.702, Government Code) . . . $15,~~

[~~(5) court costs on certain convictions in certain county courts (Sec. 51.703, Government Code) . . . $15,~~

[~~(6) a time payment fee if convicted of a felony or misdemeanor for paying any part of a fine, court costs, or restitution on or after the 31st day after the date on which a judgment is entered assessing the fine, court costs, or restitution (Sec. 133.103, Local Government Code) . . . $25,~~

[~~(7)~~] a fee for services of prosecutor (Art. 102.008, Code of Criminal Procedure) . . . $25;

(3) [~~(8)~~] fees for services of peace officer:

(A) issuing a written notice to appear in court for certain violations (Art. 102.011, Code of Criminal Procedure) . . . $5;

(B) executing or processing an issued arrest warrant or capias (Art. 102.011, Code of Criminal Procedure) . . . $50;

(C) summoning a witness (Art. 102.011, Code of Criminal Procedure) . . . $5;

(D) serving a writ not otherwise listed (Art. 102.011, Code of Criminal Procedure) . . . $35;

(E) taking and approving a bond and, if necessary, returning the bond to courthouse (Art. 102.011, Code of Criminal Procedure) . . . $10;

(F) commitment or release (Art. 102.011, Code of Criminal Procedure) . . . $5;

(G) summoning a jury (Art. 102.011, Code of Criminal Procedure) . . . $5;

(H) attendance of a prisoner in habeas corpus case if prisoner has been remanded to custody or held to bail (Art. 102.011, Code of Criminal Procedure) . . . $8 each day;

(I) mileage for certain services performed (Art. 102.011, Code of Criminal Procedure) . . . $0.29 per mile; and

(J) services of a sheriff or constable who serves process and attends examining trial in certain cases (Art. 102.011, Code of Criminal Procedure) . . . not to exceed $5;

(4) [~~(9)~~] services of a peace officer in conveying a witness outside the county (Art. 102.011, Code of Criminal

Procedure) . . . $10 per day or part of a day, plus actual necessary travel expenses;

(5) [~~(10)~~] overtime of peace officer for time spent testifying in the trial or traveling to or from testifying in the trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;

(6) [~~(11)~~] court costs on an offense relating to rules of the road, when offense occurs within a school crossing zone (Art. 102.014, Code of Criminal Procedure) . . . $25;

(7) [~~(12)~~] court costs on an offense of passing a school bus (Art. 102.014, Code of Criminal Procedure) . . . $25;

(8) [~~(13)~~] court costs on an offense of truancy or contributing to truancy (Art. 102.014, Code of Criminal Procedure) . . . $20;

(9) [~~(14)~~] cost for visual recording of intoxication arrest before conviction (Art. 102.018, Code of Criminal Procedure) . . . $15;

(10) [~~(15)~~] cost of certain evaluations (Art. 102.018, Code of Criminal Procedure) . . . actual cost;

(11) [~~(16)~~] additional costs attendant to certain intoxication convictions under Chapter 49, Penal Code, for emergency medical services, trauma facilities, and trauma care systems (Art. 102.0185, Code of Criminal Procedure) . . . $100;

(12) [~~(16-a)~~] additional costs attendant to certain child sexual assault and related convictions, for child abuse prevention programs (Art. 102.0186, Code of Criminal Procedure) . . . $100;

(13) [~~(17)~~] cost for DNA testing for certain felonies

(Art. 102.020, Code of Criminal Procedure) . . . $250;

(14) [~~(18)~~] court cost on an offense of public lewdness or indecent exposure (Art. 102.020, Code of Criminal Procedure) . . . $50;

(15) if required by the court, a restitution fee for costs incurred in collecting restitution installments and for the compensation to victims of crime fund (Art. 42.037, Code of Criminal Procedure) . . . $12; and

(16) if directed by the justice of the peace or municipal court judge hearing the case, court costs on conviction in a criminal action (Art. 45.041, Code of Criminal Procedure) . . . part or all of the costs as directed by the judge.

Sec. 102.0211. COURT COSTS ON CONVICTION: GOVERNMENT CODE. A person convicted of an offense shall pay the following under the Government Code, in addition to all other costs:

(1) court costs on certain convictions in statutory county courts (Sec. 51.702, Government Code) . . . $15; and

(2) court costs on certain convictions in certain county courts (Sec. 51.703, Government Code) . . . $15.

Sec. 102.0212. COURT COSTS ON CONVICTION: LOCAL GOVERNMENT CODE. A person convicted of an offense shall pay the following under the Local Government Code, in addition to all other costs:

(1) court costs on conviction of a felony (Sec. 133.102, Local Government Code) . . . $133;

(2) court costs on conviction of a Class A or Class B misdemeanor (Sec. 133.102, Local Government Code) . . . $83;

(3) court costs on conviction of a nonjailable

misdemeanor offense, including a criminal violation of a municipal ordinance, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Sec. 133.102, Local Government Code) . . . $40;

(4) a time payment fee if convicted of a felony or misdemeanor for paying any part of a fine, court costs, or restitution on or after the 31st day after the date on which a judgment is entered assessing the fine, court costs, or restitution (Sec. 133.103, Local Government Code) . . . $25; and

(5) a cost on conviction of any offense, other than an offense relating to a pedestrian or the parking of a motor vehicle (Sec. 133.105, Local Government Code) . . . $4.

Sec. 102.0213. COURT COSTS ON CONVICTION: TRANSPORTATION CODE. A person convicted of an offense shall pay the following under the Transportation Code, in addition to all other costs:

(1) [~~(19)~~] court cost on conviction of a misdemeanor under Subtitle C, Title 7, Transportation Code (Sec. 542.403, Transportation Code) . . . $3;

(2) [~~(20)~~] cost for impoundment of vehicle (Sec. 601.263, Transportation Code) . . . $15 per day; and

(3) [~~(21)~~] a civil and criminal enforcement cost on conviction of an offense of, or related to, the nonpayment of a toll in certain counties (Sec. 284.2031, Transportation Code) . . . $1.[~~;~~]

Sec. 102.0214. COURT COSTS ON CONVICTION: PARKS AND WILDLIFE CODE. A person convicted of an offense shall pay under Section 12.110, Parks and Wildlife Code, in addition to all other

costs, [~~(22) if directed by the justice of the peace or municipal court judge hearing the case, court costs on conviction in a criminal action (Art. 45.041, Code of Criminal Procedure) . . . part or all of the costs as directed by the judge;~~

[~~(22)~~] the actual cost of any storage, care, feeding, cold storage, or processing necessary for an unlawfully taken, shipped, or possessed game bird, fowl, animal, game fish, or exotic animal [~~(Sec. 12.110, Parks and Wildlife Code) . . . actual cost; and~~

[~~(22) court cost on conviction of any offense, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Art. 102.0045, Code of Criminal Procedure) . . . $4~~].

(b) Section 102.022, Government Code, is repealed.

SECTION 7.110. Subchapter C, Chapter 102, Government Code, is amended by amending Section 102.041 and adding Section 102.042 to read as follows:

Sec. 102.041. ADDITIONAL COURT COSTS ON CONVICTION IN DISTRICT COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a district court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $20;

(2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . $40;

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . $25;

(4) a security fee on a felony offense (Art. 102.017, Code of Criminal Procedure) . . . $5;

(5) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $3; and

(6) a graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . $5.[~~; and~~]

Sec. 102.042. ADDITIONAL COURT COSTS ON CONVICTION IN DISTRICT COURT: HUMAN RESOURCES CODE. The clerk of a district court shall collect from a defendant [~~(7)~~] a court cost of $4 under Section 152.0522, Human Resources Code, on conviction in Comal County [~~(Sec. 152.0522, Human Resources Code) . . . $4~~].

SECTION 7.111. Subchapter D, Chapter 102, Government Code, is amended by reenacting and amending Section 102.061, as amended by Chapters 804 and 949, Acts of the 79th Legislature, Regular Session, 2005, and adding Section 102.062 to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $20;

(2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . $40;

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . $25;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $3;

(5) a graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . $5; and

(6) [~~a court cost on conviction in Comal County (Sec. 152.0522, Human Resources Code) . . . $4.~~

[~~(7)~~] a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed $5.

Sec. 102.062. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: HUMAN RESOURCES CODE. The clerk of a statutory county court shall collect from a defendant a court cost of $4 under Section 152.0522, Human Resources Code, on conviction in Comal County.

SECTION 7.112. Section 102.081, Government Code, is amended to read as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $20;

(2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . $40;

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . $25;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $3;

(5) a graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . $5; and

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed $5.

SECTION 7.113. Subchapter F, Chapter 102, Government Code, is amended by reenacting and amending Section 102.101, as amended by Chapters 240 and 949, Acts of the 79th Legislature, Regular Session, 2005, and adding Sections 102.102 and 102.103 to read as follows:

Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $3;

(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . $3;

(3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of $3;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $4 [~~$3~~];

(5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . $4;

(6) [~~a court cost on conviction in Comal County (Sec. 152.0522, Human Resources Code) . . . $1.50; and~~

[~~(7)~~] a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed $5;

(7) a fee on conviction of certain offenses involving

issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed $30; and

(8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed $7.

Sec. 102.102. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: BUSINESS & COMMERCE CODE. The clerk of a justice court shall collect from a defendant a court cost not to exceed $30 under Section 3.506, Business & Commerce Code, on conviction of certain offenses involving issuing or passing a subsequently dishonored check.

Sec. 102.103. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: HUMAN RESOURCES CODE. A clerk of a justice court shall collect from a defendant a court cost of $1.50 under Section 152.0522, Human Resources Code, on conviction in Comal County.

SECTION 7.114. Section 102.121, Government Code, is amended to read as follows:

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court shall collect fees and costs on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $3;

(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . $3;

(3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of $3;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $3;

(5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed $4; and

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed $5.

SECTION 7.115. Subchapter H, Chapter 102, Government Code, is amended by amending Section 102.141 and adding Section 102.142 to read as follows:

Sec. 102.141. ADDITIONAL COURT COSTS IN MUNICIPAL COURT OF RECORD: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court of record shall collect [~~the following fees and costs:~~

[~~(1)~~] from a defendant on conviction of a misdemeanor offense[~~,~~] a fee of not more than $4 under Article 102.0172, Code of Criminal Procedure, for the technology fund. [~~on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed $4,~~]

Sec. 102.142. ADDITIONAL COURT COSTS IN MUNICIPAL COURT OF RECORD: GOVERNMENT CODE. The clerk of a municipal court of record shall collect the following fees and costs:

(1) [~~(2)~~] from an appellant, a fee for preparation of the clerk's record (Sec. 30.00014, Government Code) . . . $25; and

(2) [~~(3)~~] from an appellant in the City of El Paso, an appellate court docket fee (Sec. 30.00147, Government Code) . . .

$25.

SECTION 7.116. Subchapter B, Chapter 103, Government Code, is amended by amending Section 103.021, reenacting and amending Section 103.022, as amended by Chapters 296 and 992, Acts of the 79th Legislature, Regular Session, 2005, and adding Sections 103.0211 through 103.0215 and 103.023 through 103.033 to read as follows:

Sec. 103.021. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: CODE OF CRIMINAL PROCEDURE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Code of Criminal Procedure if ordered by the court or otherwise required:

(1) a personal bond fee (Art. 17.42, Code of Criminal Procedure) . . . the greater of $20 or three percent of the amount of the bail fixed for the accused;

(2) cost of electronic monitoring as a condition of release on personal bond (Art. 17.43, Code of Criminal Procedure) . . . actual cost;

(3) a fee for verification of and monitoring of motor vehicle ignition interlock (Art. 17.441, Code of Criminal Procedure) . . . not to exceed $10;

(4) repayment of reward paid by a crime stoppers organization on conviction of a felony (Art. 37.073, Code of Criminal Procedure) . . . amount ordered;

(5) reimbursement to general revenue fund for payments made to victim of an offense as condition of community supervision (Art. 42.12, Code of Criminal Procedure) . . . not to exceed $50 for

a misdemeanor offense or $100 for a felony offense;

(6) payment to a crime stoppers organization as condition of community supervision (Art. 42.12, Code of Criminal Procedure) . . . not to exceed $50;

(7) children's advocacy center fee (Art. 42.12, Code of Criminal Procedure) . . . not to exceed $50;

(8) family violence shelter center fee (Art. 42.12, Code of Criminal Procedure) . . . not to exceed $100;

(9) community supervision fee (Art. 42.12, Code of Criminal Procedure) . . . not less than $25 or more than $60 per month;

(10) additional community supervision fee for certain offenses (Art. 42.12, Code of Criminal Procedure) . . . $5 per month;

(11) for certain financially able sex offenders as a condition of community supervision, the costs of treatment, specialized supervision, or rehabilitation (Art. 42.12, Code of Criminal Procedure) . . . all or part of the reasonable and necessary costs of the treatment, supervision, or rehabilitation as determined by the judge;

(12) fee for failure to appear for trial in a justice or municipal court if a jury trial is not waived (Art. 45.026, Code of Criminal Procedure) . . . costs incurred for impaneling the jury;

(13) costs of certain testing, assessments, or programs during a deferral period (Art. 45.051, Code of Criminal Procedure) . . . amount ordered;

(14) special expense on dismissal of certain misdemeanor complaints (Art. 45.051, Code of Criminal Procedure) . . . not to exceed amount of fine assessed;

(15) an additional fee:

(A) for a copy of the defendant's driving record to be requested from the Department of Public Safety by the judge (Art. 45.0511(c-1), Code of Criminal Procedure) . . . $10;

(B) as an administrative fee for requesting a driving safety course or a course under the motorcycle operator training and safety program for certain traffic offenses to cover the cost of administering the article (Art. 45.0511(f)(1), Code of Criminal Procedure) . . . not to exceed $10; or

(C) [~~(B)~~] for requesting a driving safety course or a course under the motorcycle operator training and safety program before the final disposition of the case (Art. 45.0511(f)(2), Code of Criminal Procedure) . . . not to exceed the maximum amount of the fine for the offense committed by the defendant;

(16) a request fee for teen court program (Art. 45.052, Code of Criminal Procedure) . . . not to exceed $10;

(17) a fee to cover costs of required duties of teen court (Art. 45.052, Code of Criminal Procedure) . . . $10;

(18) a mileage fee for officer performing certain services (Art. 102.001, Code of Criminal Procedure) . . . $0.15 per mile;

(19) certified mailing of notice of hearing date (Art. 102.006, Code of Criminal Procedure) . . . $1, plus postage;

(20) certified mailing of certified copies of an order of expunction (Art. 102.006, Code of Criminal Procedure) . . . $2, plus postage;

(20-a) a fee to defray the cost of notifying state agencies of orders of expungement (Art. 45.0216, Code of Criminal Procedure) . . . $30 per application;

(20-b) a fee to defray the cost of notifying state agencies of orders of expunction (Art. 45.055, Code of Criminal Procedure) . . . $30 per application;

[~~(20-c) a fee to defray the cost of notifying state agencies of orders of expungement (Sec. 106.12, Alcoholic Beverage Code) . . . $30 per application;~~

[~~(20-d) a fee to defray the cost of notifying state agencies of orders of expungement (Sec. 161.255, Health and Safety Code) . . . $30 per application;~~]

(21) sight orders:

(A) if the face amount of the check or sight order does not exceed $10 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed $10;

(B) if the face amount of the check or sight order is greater than $10 but does not exceed $100 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed $15;

(C) if the face amount of the check or sight order is greater than $100 but does not exceed $300 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed $30;

(D) if the face amount of the check or sight order is greater than $300 but does not exceed $500 (Art. 102.007, Code of

Criminal Procedure) . . . not to exceed $50; and

(E) if the face amount of the check or sight order is greater than $500 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed $75;

(22) fees for a pretrial intervention program (Art. 102.012, Code of Criminal Procedure) . . . not to exceed $60 a month plus expenses;

(23) parking fee violations for child safety fund in municipalities with populations:

(A) greater than 850,000 (Art. 102.014, Code of Criminal Procedure) . . . not less than $2 and not to exceed $5; and

(B) less than 850,000 (Art. 102.014, Code of Criminal Procedure) . . . not to exceed $5;

(24) an administrative fee for collection of fines, fees, restitution, or other costs (Art. 102.072, Code of Criminal Procedure) . . . not to exceed $2 for each transaction; and

(25) a collection fee, if authorized by the commissioners court of a county or the governing body of a municipality, for certain debts and accounts receivable, including unpaid fines, fees, court costs, forfeited bonds, and restitution ordered paid (Art. 103.0031, Code of Criminal Procedure) . . . 30 percent of an amount more than 60 days past due.

Sec. 103.0211. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: GOVERNMENT CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Government Code if ordered by the court or otherwise required:

(1) [~~(25)~~] a court reporter fee when testimony is taken:

(A) in a criminal court in Dallas County (Sec. 25.0593, Government Code) . . . $3;

(B) in a county criminal court of appeals in Dallas County (Sec. 25.0594, Government Code) . . . $3;

(C) in a county court at law in McLennan County (Sec. 25.1572, Government Code) . . . $3; and

(D) in a county criminal court in Tarrant County (Sec. 25.2223, Government Code) . . . $3;

(2) a court reporter service fee if the courts have official court reporters (Sec. 51.601, Government Code) . . . $15;

(3) [~~(26)~~] a speedy trial filing fee in El Paso County (Sec. 54.745, Government Code) . . . $100;

(4) [~~(27)~~] costs for use of magistrate in Brazos County (Sec. 54.1116, Government Code) . . . not to exceed $50;

(5) the costs of a criminal magistrate if the court determines that the nonprevailing party is able to defray the costs:

(A) in Bexar County (Sec. 54.913, Government Code) . . . magistrate's fees;

(B) in Dallas County (Sec. 54.313, Government Code) . . . magistrate's fees;

(C) in Lubbock County (Sec. 54.883, Government Code) . . . magistrate's fees;

(D) in Tarrant County (Sec. 54.663, Government Code) . . . magistrate's fees;

(E) in Travis County (Sec. 54.983, Government Code) . . . magistrate's fees; and

(F) in Williamson County (Sec. 54.958, Government Code) . . . expense of the magistrate;

(6) [~~(28)~~] an administrative fee for participation in certain community supervision programs (Sec. 76.015, Government Code) . . . not less than $25 and not more than $40 per month; and

(7) fee paid on filing a petition for an order of nondisclosure of criminal history record information in certain cases (Sec. 411.081, Government Code) . . . $28.

Sec. 103.0212. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: FAMILY CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Family Code if ordered by the court or otherwise required:

(1) [~~(29)~~] in family matters:

(A) issuing writ of withholding (Sec. 8.262, Family Code) . . . $15;

(B) filing copy of writ of withholding to subsequent employer (Sec. 8.267, Family Code) . . . $15;

(C) issuing and delivering modified writ of withholding or notice of termination (Sec. 8.302, Family Code) . . . $15;

(D) issuing and delivering notice of termination of withholding (Sec. 8.303, Family Code) . . . $15;

(E) issuance of change of name certificate (Sec. 45.106, Family Code) . . . $10;

(F) protective order fee (Sec. 81.003, Family

Code) . . . $16;

(G) filing suit requesting adoption of child (Sec. 108.006, Family Code) . . . $15;

(H) filing fees for suits affecting parent-child relationship (Sec. 110.002, Family Code):

(i) suit or motion for modification (Sec. 110.002, Family Code) . . . $15;

(ii) motion for enforcement (Sec. 110.002, Family Code) . . . $15;

(iii) notice of application for judicial writ of withholding (Sec. 110.002, Family Code) . . . $15;

(iv) motion to transfer (Sec. 110.002, Family Code) . . . $15;

(v) petition for license suspension (Sec. 110.002, Family Code) . . . $15;

(vi) motion to revoke a stay of license suspension (Sec. 110.002, Family Code) . . . $15; and

(vii) motion for contempt (Sec. 110.002, Family Code) . . . $15;

(I) order or writ of income withholding to be delivered to employer (Sec. 110.004, Family Code) . . . not to exceed $15;

(J) filing fee for transferred case (Sec. 110.005, Family Code) . . . $45;

(K) filing a writ of withholding (Sec. 158.319, Family Code) . . . $15;

(L) filing a request for modified writ of

withholding or notice of termination (Sec. 158.403, Family Code) . . . not to exceed $15;

(M) filing an administrative writ to employer (Sec. 158.503, Family Code) . . . not to exceed $15; and

(N) genetic testing fees in relation to a child born to a gestational mother (Sec. 160.762, Family Code) . . . as assessed by the court; and

(2) [~~(30)~~] in juvenile court:

(A) fee schedule for deferred prosecution services (Sec. 53.03, Family Code) . . . maximum fee of $15 a month;

(B) a teen court administration fee (Sec. 54.032, Family Code) . . . not to exceed $10;

(C) court costs for juvenile probation diversion fund (Sec. 54.0411, Family Code) . . . $20;

(D) a juvenile delinquency prevention fee (Sec. 54.0461, Family Code) . . . $5; and

(E) a court fee for child's probationary period (Sec. 54.061, Family Code) . . . not to exceed $15 a month. [~~;~~]

Sec. 103.0213. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: TRANSPORTATION CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Transportation Code if ordered by the court or otherwise required:

(1) [~~(31) a court reporter service fee if the courts have official court reporters (Sec. 51.601, Government Code) . . . $15;~~

[~~(32)~~] administrative fee on dismissal of charge of

driving with an expired motor vehicle registration (Sec. 502.407, Transportation Code) . . . not to exceed $10;

(2) [~~(33)~~] administrative fee on dismissal of charge of driving with an expired driver's license (Sec. 521.026, Transportation Code) . . . not to exceed $10;

(3) [~~(34)~~] administrative fee on remediation of charge of driving with an expired inspection certificate (Sec. 548.605, Transportation Code) . . . not to exceed $10;

(4) [~~(35)~~] administrative fee for failure to appear for a complaint or citation on certain offenses (Sec. 706.006, Transportation Code) . . . $30 for each violation; and

(5) [~~(36)~~] administrative fee for failure to pay or satisfy certain judgments (Sec. 706.006, Transportation Code) . . . $30. [~~;~~]

Sec. 103.0214. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: HEALTH AND SAFETY CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Health and Safety Code if ordered by the court or otherwise required:

(1) a fee to defray the cost of notifying state agencies of orders of expungement (Sec. 161.255, Health and Safety Code) . . . $30 per application; and

(2) [~~(37) fee paid on filing a petition for an order of nondisclosure of criminal history record information in certain cases (Sec. 411.081, Government Code) . . . $28;~~

[~~(38)~~] on a finding that an animal's owner has cruelly treated the animal, court costs including:

(A) investigation (Sec. 821.023, Health and Safety Code) . . . actual costs;

(B) expert witnesses (Sec. 821.023, Health and Safety Code) . . . actual costs;

(C) housing and caring for the animal during its impoundment (Sec. 821.023, Health and Safety Code) . . . actual costs;

(D) conducting any public sale ordered by the court (Sec. 821.023, Health and Safety Code) . . . actual costs; and

(E) humanely destroying the animal if destruction is ordered by the court (Sec. 821.023, Health and Safety Code) . . . actual costs[~~;~~

[~~(39) the costs of a criminal magistrate if the court determines that the nonprevailing party is able to defray the costs:~~

[~~(A) in Bexar County (Sec. 54.913, Government Code) . . . magistrate's fees;~~

[~~(B) in Dallas County (Sec. 54.313, Government Code) . . . magistrate's fees;~~

[~~(C) in Lubbock County (Sec. 54.883, Government Code) . . . magistrate's fees;~~

[~~(D) in Tarrant County (Sec. 54.663, Government Code) . . . magistrate's fees;~~

[~~(E) in Travis County (Sec. 54.983, Government Code) . . . magistrate's fees; and~~

[~~(F) in Williamson County (Sec. 54.958,~~

~~Government Code) . . . expense of the magistrate; and~~

[~~(40) a collection fee, if authorized by the commissioners court of a county or the governing body of a municipality, for certain debts and accounts receivable, including unpaid fines, fees, court costs, forfeited bonds, and restitution ordered paid (Art. 103.0031, Code of Criminal Procedure) . . . 30 percent of an amount more than 60 days past due~~].

Sec. 103.0215. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: ALCOHOLIC BEVERAGE CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay a fee under Section 106.12, Alcoholic Beverage Code, of $30 per application to defray the cost of notifying state agencies of orders of expungement.

Sec. 103.022. MISCELLANEOUS FEES AND COSTS: BUSINESS ORGANIZATIONS CODE. A reasonable appraiser's fee [~~The following fees and costs~~] shall be paid or collected as court costs under Section 10.365, Business Organizations Code, for determining the fair value of ownership interests of owners who have perfected their rights.

Sec. 103.023. MISCELLANEOUS FEES AND COSTS: CIVIL PRACTICE AND REMEDIES CODE. Fees and costs shall be paid or collected under the Civil Practice and Remedies Code as follows:

(1) fee for use of an interpreter in civil cases (Sec. 21.051, Civil Practice and Remedies Code) . . . $3;

(2) fee for custodian of a record compelled by a court to produce or certify the record (Sec. 22.004, Civil Practice and Remedies Code) . . . $1;

(3) cost for use of certified copy of the record of names of all trustees appointed by any state organization of a religious congregation in this state (Sec. 126.012, Civil Practice and Remedies Code) . . . $1.50; and

(4) a witness's fee for one day to be paid by the party who subpoenas the witness (Sec. 22.001, Civil Practice and Remedies Code) . . . $10.

Sec. 103.024. MISCELLANEOUS FEES AND COSTS: CODE OF CRIMINAL PROCEDURE. Fees and costs shall be paid or collected under the Code of Criminal Procedure as follows:

(1) [~~(4)~~] filing of a restitution lien (Art. 42.22, Code of Criminal Procedure) . . . $5;

(2) [~~(5)~~] issuance and service of a warrant of arrest for certain offenses if prescribed by the municipality (Art. 45.203, Code of Criminal Procedure) . . . not to exceed $25; and

(3) a fee for each agency or organization designated by a registered sex offender for receipt of a copy of an order making the registration nonpublic (Sec. 62.353, Code of Criminal Procedure) . . . $20.

Sec. 103.025. MISCELLANEOUS FEES AND COSTS: EDUCATION CODE. Each party in a case between a juvenile board and a school district that fail to agree on a memorandum of understanding related to the juvenile justice alternative education program shall pay under Section 37.011, Education Code, its pro rata share of the costs of arbitration.

Sec. 103.026. MISCELLANEOUS FEES AND COSTS: FAMILY CODE. Fees and costs shall be paid or collected under the Family Code as

follows:

(1) [~~(6) filing a certified copy of a judicial finding of fact and conclusion of law if charged by the secretary of state (Sec. 51.905, Government Code) . . . $15;~~

[~~(7)~~] costs of determining and sending information concerning the identity of the court with continuing, exclusive jurisdiction if charged by the bureau of vital statistics (Sec. 108.006, Family Code) . . . reasonable fee;

(2) [~~(8)~~] initial operations fee paid to domestic relations office on filing of a suit affecting the parent-child relationship, if authorized by the administering entity (Sec. 203.005, Family Code) . . . not to exceed $15;

(3) [~~(9)~~] initial child support service fee paid to domestic relations office in certain counties on filing of a suit affecting the parent-child relationship, if authorized by the administering entity (Sec. 203.005, Family Code) . . . not to exceed $36;

(4) [~~(10)~~] service fee for services of a domestic relations office, if authorized by the administering entity (Sec. 203.005, Family Code) . . . not to exceed $3 per month;

(5) fee to reimburse a domestic relations office for a fee paid for filing an administrative writ of withholding (Secs. 158.503 and 203.005, Family Code) . . . the amount of the fee paid;

(6) [~~(11)~~] fee from a Title IV-D agency for each item of process to each individual on whom service is required, including service by certified or registered mail (Sec. 231.202, Family Code) . . . the amount that a sheriff or constable may charge

for serving process under Section 118.131, Local Government Code; and

(7) a fee for mailing an order vacating or staying an order suspending a license to the appropriate licensing authority (Sec. 232.013, Family Code) . . . $5 for each order mailed.

Sec. 103.027. MISCELLANEOUS FEES AND COSTS: GOVERNMENT CODE. Fees and costs shall be paid or collected under the Government Code as follows:

(1) filing a certified copy of a judicial finding of fact and conclusion of law if charged by the secretary of state (Sec. 51.905, Government Code) . . . $15;

(2) cost paid by each surety posting the bail bond for an offense other than a misdemeanor punishable by fine only under Chapter 17, Code of Criminal Procedure, for the felony prosecutor supplement fund and the fair defense account (Sec. 41.258, Government Code) . . . $15, provided the cost does not exceed $30 for all bail bonds posted at that time for an individual and the cost is not required on the posting of a personal or cash bond;

(3) to participate in a court proceeding in this state, a nonresident attorney fee for civil legal services to the indigent (Sec. 82.0361, Government Code) . . . $250 except as waived or reduced under supreme court rules for representing an indigent person;

(4) on a party's appeal of a final decision in a contested case, the cost of preparing the original or a certified copy of the record of the agency proceeding, if required by the agency's rule, as a court cost (Sec. 2001.177, Government Code)

. . . as assessed by the court, all or part of the cost of preparation;

(5) compensation to a referee in juvenile court in Wichita County taxed as costs if the judge determines the parties are able to pay the costs (Sec. 54.403, Government Code) . . . as determined by the judge; and

(6) the expense of preserving the record as a court cost in Brazos County if imposed on a party by the referring court or magistrate (Sec. 54.1111, Government Code) . . . actual cost.

Sec. 103.028. MISCELLANEOUS FEES AND COSTS: HUMAN RESOURCES CODE. Fees and costs shall be paid or collected under the Human Resources Code as follows:

(1) [~~(12)~~] certain transactions with respect to a suit for spousal support or a suit affecting the parent-child relationship in Harris County, if authorized by the county commissioners court (Sec. 152.1074, Human Resources Code) . . . not to exceed $2 per transaction; and

(2) [~~(13)~~] child support service fee in Smith County if court allows assessment by child support office (Sec. 152.2183, Human Resources Code) . . . not to exceed $2.50 a month. [~~;~~]

Sec. 103.029. MISCELLANEOUS FEES AND COSTS: HEALTH AND SAFETY CODE. Fees and costs shall be paid or collected under the Health and Safety Code as follows:

(1) a program fee for a drug court program established under Section 469.002, Health and Safety Code (Sec. 469.004, Health and Safety Code) . . . not to exceed $1,000; and

(2) a urinalysis testing and counseling fee (Sec.

469.004, Health and Safety Code) . . . the amount necessary to cover the costs of testing and counseling.

Sec. 103.030. MISCELLANEOUS FEES AND COSTS: LOCAL GOVERNMENT CODE. Fees and costs shall be paid or collected under the Local Government Code as follows:

(1) [~~(14)~~] services by the offices of the sheriff and constables (Sec. 118.131, Local Government Code) . . . amount set by county commissioners court;

[~~(15) cost paid by each surety posting the bail bond for an offense other than a misdemeanor punishable by fine only under Chapter 17, Code of Criminal Procedure, for the felony prosecutor supplement fund and the fair defense account (Sec. 41.258, Government Code) . . . $15, provided the cost does not exceed $30 for all bail bonds posted at that time for an individual and the cost is not required on the posting of a personal or cash bond;~~

[~~(16) appraiser's fee as court costs for determining the fair value of ownership interests of owners who have perfected their rights (Sec. 10.365, Business Organizations Code) . . . a reasonable fee;~~

[~~(16-a) an appraiser's fee as court costs for determining the fair value of the shares of the shareholders entitled to payment for their shares in a real estate investment trust (Sec. 25.20, Art. 6138A, Vernon's Texas Civil Statutes) . . . a reasonable fee;~~

[~~(16-b) an appraiser's fee as court costs for determining the fair value of the shares of the shareholders~~

~~entitled to payment for their shares by the existing, surviving, or new corporation (Art. 5.12, Texas Business Corporation Act) . . . a reasonable fee;~~

[~~(17) to participate in a court proceeding in this state, a nonresident attorney fee for civil legal services to the indigent (Sec. 82.0361, Government Code) . . . $250 except as waived or reduced under supreme court rules for representing an indigent person;~~

[~~(18) costs of investigation, reasonable attorney's fees, and reasonable expert witness fees in a civil suit or a criminal prosecution for recovery of the value of any fish, shellfish, reptile, amphibian, bird, or animal (Sec. 12.308, Parks and Wildlife Code) . . . actual costs.~~

[~~(18) a witness's fee for one day to be paid by the party who subpoenas the witness (Sec. 22.001, Civil Practice and Remedies Code) . . . $10;~~

[~~(19) on a party's appeal of a final decision in a contested case, the cost of preparing the original or a certified copy of the record of the agency proceeding, if required by the agency's rule, as a court cost (Sec. 2001.177, Government Code) . . . as assessed by the court, all or part of the cost of preparation;~~

[~~(20) the costs of arbitration in cases between a juvenile board and a school district that fail to agree on a memorandum of understanding related to the juvenile justice alternative education program (Sec. 37.011, Education Code) . . . each party its pro rata share of the costs;~~

[~~(21) compensation to a referee in juvenile court in Wichita County taxed as costs if the judge determines the parties are able to pay the costs (Sec. 54.403, Government Code) . . . as determined by the judge;~~

[~~(22) the expense of preserving the record as a court cost in Brazos County if imposed on a party by the referring court or magistrate (Sec. 54.1111, Government Code) . . . actual cost;~~]

(2) [~~(23)~~] a filing fee or recording fee for each page of a legal paper presented for filing or recording that fails to meet certain requirements regarding paper size, weight, substance, headings, legibility, the presence of typed or printed names under each signature, and number and size of riders or attachments (Sec. 191.007, Local Government Code) . . . twice the regular filing fee or recording fee provided by statute for that page, rider, or attachment;

(3) [~~(24)~~] a processing fee as authorized by the commissioners court for the payment by credit card of a fee, court cost, or other charge processed by a county or precinct officer (Secs. 132.002 and 132.003, Local Government Code) . . . an amount reasonably related to the expense incurred by the county or precinct officer but not to exceed five percent of the amount of the fee, court cost, or other charge being paid;

(4) [~~(25)~~] a processing fee as authorized by the governing body of the municipality for the payment by credit card of a fee, court cost, or other charge processed by a municipal official (Secs. 132.002 and 132.003, Local Government Code) . . . an amount reasonably related to the expense incurred by the municipal

official but not to exceed five percent of the amount of the fee, court cost, or other charge being paid;

(5) [~~(26)~~] a handling fee, if authorized by the commissioners court under Section 132.002, Local Government Code, for electronically processing the payment of a fee, fine, court cost, or other charge (Secs. 132.002 and 132.003, Local Government Code):

(A) charged at a flat rate that does not exceed $5 for each payment transaction; or

(B) charged at a rate reasonably related to the expense incurred in processing a payment and that does not exceed five percent of the amount of the fee, court cost, or other charge being paid;

(6) [~~(27)~~] a fee, if authorized by the commissioners court, collected by a county or precinct officer on behalf of the county from a person making payment by credit card of a fee, court cost, or other charge (Sec. 132.003, Local Government Code) . . . an amount equal to the amount of any transaction fee charged to the county by a vendor providing services in connection with payments made by credit card. [~~;~~]

Sec. 103.031. MISCELLANEOUS FEES AND COSTS: PARKS AND WILDLIFE CODE. The actual costs of investigation, reasonable attorney's fees, and reasonable expert witness fees in a civil suit or a criminal prosecution for recovery of the value of any fish, shellfish, reptile, amphibian, bird, or animal may be collected under Section 12.308, Parks and Wildlife Code.

Sec. 103.032. MISCELLANEOUS FEES AND COSTS: TEXAS BUSINESS

CORPORATION ACT. A reasonable appraiser's fee may be collected under Article 5.12, Texas Business Corporation Act, as court costs for determining the fair value of the shares of the shareholders entitled to payment for their shares by the existing, surviving, or new corporation.

Sec. 103.033. MISCELLANEOUS FEES AND COSTS: VERNON'S TEXAS CIVIL STATUTES. Fees and costs shall be paid or collected under Vernon's Texas Civil Statutes as follows:

(1) an appraiser's fee as court costs for determining the fair value of the shares of the shareholders entitled to payment for their shares in a real estate investment trust (Sec. 25.20, Art. 6138A, Vernon's Texas Civil Statutes) . . . a reasonable fee; and

(2) [~~(28)~~] a fee for sale of securities under an offering that has not been registered, if the transaction or securities are not exempt (Art. 581-35-2, Vernon's Texas Civil Statutes) . . . as set by the securities commissioner or court, but not to exceed six times the amount that would have been paid if the issuer had filed an application to register the securities and paid the fee prescribed based on the amount of sales made in this state within the prior three years, plus interest on that amount from the date of the first sale made in this state until the date the fee is paid[~~; and~~

[~~(29) a fee for mailing an order vacating or staying an order suspending a license to the appropriate licensing authority (Sec. 232.013, Family Code) . . . $5 for each order mailed~~].

SECTION 7.117. Subchapter I, Chapter 102, Government Code, 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.

(d) The commission may not control or prohibit outdoor burning of waste consisting of trees, brush, grass, leaves, branch trimmings, or other plant growth if:

(1) the person burning the waste is doing so at a site:

(A) designated for consolidated burning of waste generated from specific residential properties;

(B) located in a county with a population of less than 50,000;

(C) located outside of a municipality; and

(D) supervised at the time of the burning by an employee of a fire department who is part of the fire protection personnel, as defined by Section 419.021, Government Code, of the department and is acting in the scope of the person's employment; and

(2) the waste was generated from a property for which the site is designated.

(e) A fire department employee who will supervise a burning under Subsection (d)(1)(D) shall notify the commission of each burning supervised by the employee, and the commission shall provide the employee with information on practical alternatives to burning.

SECTION 8.002. Section 382.133(d), Health and Safety Code, as added by Section 3.02, Chapter 281, Acts of the 79th Legislature, Regular Session, 2005, is repealed to conform to Section 1, Chapter 864, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 8.003. Section 614.0032(b), Health and Safety Code, as amended by Chapters 324 and 1269, Acts of the 79th Legislature,

Regular Session, 2005, is reenacted and amended to read as follows:

(b) The office shall:

(1) [,] with the special assistance of committee members appointed under Section 614.002(b)(1)[, shall]:

(A) [(1)] review examinations to determine the competency of defendants in criminal cases to stand trial and examinations to determine the fitness of children to proceed with respect to adjudications of delinquent conduct or conduct indicating a need for supervision; and

(B) [(2)] periodically report to the legislature and the court of criminal appeals findings made as a result of the review described by Paragraph (A); and

(2) [Subdivision (1)] approve and make generally available in electronic format a standard form for use by experts in reporting competency examination results under Chapter 46B, Code of Criminal Procedure.

ARTICLE 9. CHANGES RELATING TO INSURANCE CODE

SECTION 9.001. (a) Section 401.010(a), Insurance Code, is amended to conform to Section 2, Chapter 408, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) An accountant must audit the financial reports provided by an insurer or health maintenance organization for purposes of an audit under this subchapter. The accountant who audits the reports must conduct the audit in accordance with generally accepted auditing standards or with standards adopted by the Public Company Accounting Oversight Board, as applicable, and must consider the standards specified [other procedures described] in the Financial

Condition Examiner's Handbook adopted by the National Association of Insurance Commissioners or other analagous nationally recognized standards adopted by commissioner rule.

(b) Section 2, Chapter 408, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (b), Section 14, Article 1.15A, Insurance Code, is repealed.

SECTION 9.002. (a) Section 401.011(d), Insurance Code, is amended to conform to Section 1, Chapter 408, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(d) The commissioner may not accept an audited financial report prepared wholly or partly by an individual or firm who the commissioner finds:

(1) has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. Section 1961 et seq.), or a state or federal criminal offense involving dishonest conduct;

(2) has violated the insurance laws of this state with respect to a report filed under this subchapter; [~~or~~]

(3) has demonstrated a pattern or practice of failing to detect or disclose material information in reports filed under this subchapter; or

(4) has directly or indirectly entered into an agreement of indemnity or release of liability regarding an audit of an insurer.

(b) Section 1, Chapter 408, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (c), Section 12, Article 1.15A, Insurance Code, is repealed.

SECTION 9.003. Subchapters A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, and P, Chapter 442, Insurance Code, and Section 6.069, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 3A, Article 21.28, Insurance Code, are repealed to conform to the repeal of Article 21.28, Insurance Code, by Section 9, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 9.004. (a) The following changes are made to Title 1, Insurance Code, and Subtitle C, Title 4, Insurance Code, for organizational purposes:

(1) Chapter 21A, Insurance Code, is redesignated as Chapter 443, Subtitle C, Title 4, Insurance Code, and:

(A) Subchapter A in the redesignated chapter is redesignated as Subchapter A, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.001, 21A.002, 21A.003, 21A.004, 21A.005, 21A.006, 21A.007, 21A.008, 21A.009, 21A.010, 21A.011, 21A.012, 21A.013, 21A.0135, 21A.014, 21A.015, 21A.016, and 21A.017, are redesignated as Sections 443.001, 443.002, 443.003, 443.004, 443.005, 443.006, 443.007, 443.008, 443.009, 443.010, 443.011, 443.012, 443.013, 443.0135, 443.014, 443.015, 443.016, and 443.017, respectively;

(B) Subchapter B in the redesignated chapter is redesignated as Subchapter B, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.051 through 21A.059, are redesignated as Sections 443.051 through 443.059;

(C) Subchapter C in the redesignated chapter is redesignated as Subchapter C, Chapter 443, Insurance Code, and the

sections in the redesignated subchapter, Sections 21A.101 through 21A.105, are redesignated as Sections 443.101 through 443.105;

(D) Subchapter D in the redesignated chapter is redesignated as Subchapter D, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.151 through 21A.156, are redesignated as Sections 443.151 through 443.156;

(E) Subchapter E in the redesignated chapter is redesignated as Subchapter E, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.201 through 21A.213, are redesignated as Sections 443.201 through 443.213;

(F) Subchapter F in the redesignated chapter is redesignated as Subchapter F, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.251 through 21A.261, are redesignated as Sections 443.251 through 443.261;

(G) Subchapter G in the redesignated chapter is redesignated as Subchapter G, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.301 through 21A.304, are redesignated as Sections 443.301 through 443.304;

(H) Subchapter H in the redesignated chapter is redesignated as Subchapter H, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.351 through 21A.355, are redesignated as Sections 443.351 through 443.355; and

(I) Subchapter I in the redesignated chapter is redesignated as Subchapter I, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.401 and 21A.402, are redesignated as Sections 443.401 and 443.402, respectively; and

(2) Subchapter Q, Chapter 442, Insurance Code, is redesignated as Chapter 444, Insurance Code, the heading of Subchapter Q is amended to read as follows: "CHAPTER 444 [~~SUBCHAPTER Q~~]. AGENCY CONTRACTS WITH CERTAIN INSURERS", and Sections 442.801, 442.802, 442.803, and 442.804 in the redesignated subchapter are redesignated as Sections 444.001, 444.002, 444.003, and 444.004, respectively.

(b) Sections 21A.004(a)(4), (11), (14), (17), and (26), Insurance Code, redesignated as Sections 443.004(a)(4), (11), (14), (17), and (26), Insurance Code, respectively, by Subsection (a)(1)(A) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section and to the recodification and repeal of Articles 21.28-C and 21.28-D, Insurance Code, by Chapter 727, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(4) "Delinquency proceeding" means any proceeding instituted against an insurer for the purpose of liquidating, rehabilitating, or conserving the insurer, and any proceeding under Section 443.051 [~~21A.051~~].

(11) "Guaranty association" means any mechanism mandated by [~~Article 21.28-C or 21.28-D,~~] Chapter 462, 463, or 2602[~~,~~] or other laws of this state or a similar mechanism in another state that is created for the payment of claims or continuation of policy obligations of financially impaired or insolvent insurers.

(14) "Insurer" means any person that has done, purports to do, is doing, or is authorized to do the business of

insurance in this state, and is or has been subject to the authority of or to liquidation, rehabilitation, reorganization, supervision, or conservation by any insurance commissioner. For purposes of this chapter, any other persons included under Section 443.003 [~~21A.003~~] are insurers.

(17) "Party in interest" means the commissioner, a 10 percent or greater equity security holder in the insolvent insurer, any affected guaranty association, any nondomiciliary commissioner for a jurisdiction in which the insurer has outstanding claims liabilities, and any of the following parties that have filed a request for inclusion on the service list under Section 443.007 [~~21A.007~~]:

(A) an insurer that ceded to or assumed business from the insolvent insurer; and

(B) an equity shareholder, policyholder, third-party claimant, creditor, and any other person, including any indenture trustee, with a financial or regulatory interest in the receivership proceeding.

(26) "Secured claim" means any claim secured by an asset that is not a general asset. The term includes the right to set off as provided in Section 443.209 [~~21A.209~~]. The term does not include a claim arising from a constructive or resulting trust, a special deposit claim, or a claim based on mere possession.

(c) Sections 21A.005(e), (h), and (i), Insurance Code, redesignated as Sections 443.005(e), (h), and (i), Insurance Code, respectively, by Subsection (a)(1)(A) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of

this section to read as follows:

(e) If, on motion of any party, the receivership court finds that any action, as a matter of substantial justice, should be tried in a forum outside this state, the receivership court may enter an appropriate order to stay further proceedings on the action in this state. Except as to claims against the estate, nothing in this chapter deprives a party of any contractual right to pursue arbitration. A party in arbitration may bring a claim or counterclaim against the estate, but the claim or counterclaim is subject to Section 443.209 [~~21A.209~~].

(h) At any time after an order is entered pursuant to Section 443.051, 443.101, or 443.151 [~~21A.051, 21A.101, or 21A.151~~], the commissioner or receiver may transfer the case to the county of the principal office of the person proceeded against. In the event of transfer, the court in which the proceeding was commenced, upon application of the commissioner or receiver, shall direct its clerk to transmit the court's file to the clerk of the court to which the case is to be transferred. The proceeding, after transfer, shall be conducted in the same manner as if it had been commenced in the court to which the matter is transferred.

(i) A person may not intervene in any delinquency proceeding in this state for the purpose of seeking or obtaining payment of any judgment, lien, or other claim of any kind. The claims procedure set forth in this chapter constitutes the exclusive means for obtaining payment of claims from the receivership estate. This provision is not intended to affect the rights conferred on the guaranty associations by Section 443.008(l) [~~21A.008(l)~~].

(d) Section 21A.008(e), Insurance Code, redesignated as Section 443.008(e), Insurance Code, by Subsection (a)(1)(A) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(e) Notwithstanding Subsection (c), the commencement of a delinquency proceeding under this chapter does not operate as a stay of:

(1) regulatory actions not described by Subsection (c)(7) that are taken by the commissioners of nondomiciliary states, including the suspension of licenses;

(2) criminal proceedings;

(3) any act to perfect or to maintain or continue the perfection of an interest in property to the extent that the act is accomplished within any relation back period under applicable law;

(4) set off as permitted by Section 443.209 [~~21A.209~~];

(5) pursuit and enforcement of nonmonetary governmental claims, judgments, and proceedings;

(6) presentment of a negotiable instrument and the giving of notice and protesting dishonor of the instrument;

(7) enforcement of rights against single beneficiary trusts established pursuant to and in compliance with laws relating to credit for reinsurance;

(8) termination, liquidation, and netting of obligations under qualified financial contracts as provided for in Section 443.261 [~~21A.261~~];

(9) discharge by a guaranty association of statutory responsibilities under any law governing guaranty associations; or

(10) any of the following actions:

(A) an audit by a governmental unit to determine tax liability;

(B) the issuance to the insurer by a governmental unit of a notice of tax deficiency;

(C) a demand for tax returns; or

(D) the making of an assessment for any tax and issuance of a notice and demand for payment of the assessment.

(e) Section 21A.009(c), Insurance Code, redesignated as Section 443.009(c), Insurance Code, by Subsection (a)(1)(A) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(c) If applicable law, an order, or an agreement fixes a period for commencing or continuing a civil action in a court other than the receivership court on a claim against the insurer, and the period has not expired before the date of the initial filing of the petition in a delinquency proceeding, then the period does not expire until the later of:

(1) the end of the period, including any suspension of the period occurring on or after the filing of the initial petition in the delinquency proceeding; or

(2) 30 days after termination or expiration of the stay under Section 443.008 [~~21A.008~~] with respect to the claim.

(f) Section 21A.0135, Insurance Code, redesignated as Section 443.0135, Insurance Code, by Subsection (a)(1)(A) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

Sec. 443.0135 [~~21A.0135~~]. CONTRACTS FOR SPECIAL DEPUTIES. (a) The receiver shall use a competitive bidding process in the selection of any special deputies appointed under Section 443.102 or 443.154 [~~21A.102 or 21A.154~~]. The process must include procedures to promote the participation of historically underutilized businesses that have been certified by the Texas Building and Procurement Commission under Section 2161.061, Government Code.

(b) A proposal submitted in connection with a bid solicitation under Subsection (a) must describe the efforts that have been made to include historically underutilized businesses as subcontractors and the plan for using the historically underutilized businesses in the administration of the receivership estate. A special deputy appointed under Section 443.102 or 443.154 [~~21A.102 or 21A.154~~] shall make a good faith effort to implement the plan and shall report to the receiver the special deputy's efforts to identify and subcontract with historically underutilized businesses.

(g) Sections 21A.015(a), (c), and (i), Insurance Code, redesignated as Sections 443.015(a), (c), and (i), Insurance Code, respectively, by Subsection (a)(1)(A) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) The receiver may pay any expenses under contracts, leases, employment agreements, or other arrangements entered into by the insurer prior to receivership, as the receiver deems necessary for the purposes of this chapter. The receiver is not

required to pay any expenses that the receiver determines are not necessary, and may reject any contract pursuant to Section 443.013 [~~21A.013~~].

(c) The receiver shall submit to the receivership court an application pursuant to Section 443.007 [~~21A.007~~] to approve:

(1) the terms of compensation of each special deputy or contractor with respect to which the total amount of the compensation is reasonably expected by the receiver for the duration of the delinquency proceeding to exceed $250,000, or another amount established by the receivership court; and

(2) any other anticipated expense in excess of $25,000, or another amount established by the receivership court.

(i) All expenses of receivership shall be paid from the assets of the insurer, except as provided by this subsection. In the event that the property of the insurer does not contain sufficient cash or liquid assets to defray the expenses incurred, the commissioner may advance funds from the account established under Section 443.304(c) [~~21A.304(c)~~]. Any amounts advanced shall be repaid to the account out of the first available money of the insurer.

(h) Sections 21A.051(a), (b), and (i), Insurance Code, redesignated as Sections 443.051(a), (b), and (i), Insurance Code, respectively, by Subsection (a)(1)(B) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) The commissioner may file in a district court of Travis County a petition with respect to an insurer domiciled in this

state, an unauthorized insurer, or, pursuant to Section 443.401 [~~21A.401~~], a foreign insurer:

(1) alleging that grounds exist that would justify a court order for a formal delinquency proceeding against the insurer under this chapter;

(2) alleging that the interests of policyholders, creditors, or the public will be endangered by delay; and

(3) setting forth the contents of a seizure order deemed to be necessary by the commissioner.

(b) Upon a filing under Subsection (a), the receivership court may issue, ex parte and without notice or hearing, the requested seizure order directing the commissioner to take possession and control of all or a part of the property, books, accounts, documents, and other records of an insurer, and of the premises occupied by it for transaction of its business, and until further order of the receivership court, enjoining the insurer and its officers, managers, agents, and employees from disposition of its property and from the transaction of its business except with the written consent of the commissioner. Any person having possession or control of and refusing to deliver any of the books, records, or assets of a person against whom a seizure order has been issued commits an offense. An offense under this subsection is punishable in the manner described by Section 443.010(e) [~~21A.010(e)~~].

(i) In all proceedings and judicial reviews under this section, all records of the insurer, department files, court records and papers, and other documents, so far as they pertain to

or are a part of the record of the proceedings, are confidential, and all papers filed with the clerk of the court shall be held by the clerk in a confidential file as permitted by law, except to the extent necessary to obtain compliance with any order entered in connection with the proceedings, unless and until:

(1) the court, after hearing argument in chambers, orders otherwise;

(2) the insurer requests that the matter be made public; or

(3) the commissioner applies for an order under Section 443.057 [~~21A.057~~].

(i) Section 21A.052(b), Insurance Code, redesignated as Section 443.052(b), Insurance Code, by Subsection (a)(1)(B) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) The petition must state the grounds upon which the proceeding is based and the relief requested and may include a prayer for restraining orders and injunctive relief as described in Section 443.008 [~~21A.008~~]. On the filing of the petition or order, a copy shall be forwarded by first class mail or electronic communication as permitted by the receivership court to the insurance regulatory officials and guaranty associations in states in which the insurer did business.

(j) Section 21A.056(a), Insurance Code, redesignated as Section 443.056(a), Insurance Code, by Subsection (a)(1)(B) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) The commissioner, rehabilitator, or liquidator may share documents, materials, or other information in the possession, custody, or control of the department without regard to the confidentiality of those documents, materials, or information, pertaining to an insurer that is the subject of a proceeding under this chapter with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, with state, federal, and international law enforcement authorities, with an auditor appointed by the receivership court in accordance with Section 443.355 [~~21A.355~~], and, pursuant to Section 443.105 [~~21A.105~~], with representatives of guaranty associations that may have statutory obligations as a result of the insolvency of the insurer, provided that the recipient agrees to maintain the confidentiality, if any, of the documents, material, or other information. Nothing in this section limits the power of the commissioner to disclose information under other applicable law.

(k) Section 21A.057, Insurance Code, redesignated as Section 443.057, Insurance Code, by Subsection (a)(1)(B) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section and to the recodification and repeal of Articles 1.15, 1.15A, 1.16, 1.32, and 21.28-A, Insurance Code, by Chapter 727, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 443.057 [~~21A.057~~]. GROUNDS FOR CONSERVATION, REHABILITATION, OR LIQUIDATION. The commissioner may file with a court in this state a petition with respect to an insurer domiciled

in this state or an unauthorized insurer for an order of rehabilitation or liquidation on any one or more of the following grounds:

(1) the insurer is impaired;

(2) the insurer is insolvent;

(3) the insurer is about to become insolvent, with "about to become insolvent" being defined as reasonably anticipated that the insurer will not have liquid assets to meet its next 90 days' current obligations;

(4) the insurer has neglected or refused to comply with an order of the commissioner to make good within the time prescribed by law any deficiency, whenever its capital and minimum required surplus, if a stock company, or its surplus, if a company other than stock, has become impaired;

(5) the insurer, its parent company, its subsidiaries, or its affiliates have converted, wasted, or concealed property of the insurer or have otherwise improperly disposed of, dissipated, used, released, transferred, sold, assigned, hypothecated, or removed the property of the insurer;

(6) the insurer is in a condition such that it could not meet the requirements for organization and authorization as required by law, except as to the amount of the original surplus required of a stock company under Title 6, and except as to the amount of the surplus required of a company other than a stock company in excess of the minimum surplus required to be maintained;

(7) the insurer, its parent company, its subsidiaries, or its affiliates have concealed, removed, altered, destroyed, or

failed to establish and maintain books, records, documents, accounts, vouchers, and other pertinent material adequate for the determination of the financial condition of the insurer by examination under Chapter 401 [~~Article 1.15, 1.15A, or 1.16~~] or has failed to properly administer claims or maintain claims records that are adequate for the determination of its outstanding claims liability;

(8) at any time after the issuance of an order under Section 404.003 or Chapter 441 [~~Article 1.32 or 21.28-A~~], or at the time of instituting any proceeding under this chapter, it appears to the commissioner that, upon good cause shown, it would not be in the best interest of the policyholders, creditors, or the public to proceed with the conduct of the business of the insurer;

(9) the insurer is in a condition such that the further transaction of business would be hazardous financially, according to Subchapter A, Chapter 404, [~~Article 1.32~~] or otherwise, to its policyholders, creditors, or the public;

(10) there is reasonable cause to believe that there has been embezzlement from the insurer, wrongful sequestration or diversion of the insurer's property, forgery or fraud affecting the insurer, or other illegal conduct in, by, or with respect to the insurer that, if established, would endanger assets in an amount threatening the solvency of the insurer;

(11) control of the insurer is in a person who is:

(A) dishonest or untrustworthy; or

(B) so lacking in insurance company managerial experience or capability as to be hazardous to policyholders,

creditors, or the public;

(12) any person who in fact has executive authority in the insurer, whether an officer, manager, general agent, director, trustee, employee, shareholder, or other person, has refused to be examined under oath by the commissioner concerning the insurer's affairs, whether in this state or elsewhere or if examined under oath, refuses to divulge pertinent information reasonably known to the person; and after reasonable notice of the fact, the insurer has failed promptly and effectively to terminate the employment and status of the person and all the person's influence on management;

(13) after demand by the commissioner under Chapter 401 [~~Article 1.15, 1.15A, or 1.16~~] or under this chapter, the insurer has failed promptly to make available for examination any of its own property, books, accounts, documents, or other records, or those of any subsidiary or related company within the control of the insurer or of any person having executive authority in the insurer, so far as they pertain to the insurer;

(14) without first obtaining the written consent of the commissioner, the insurer has transferred, or attempted to transfer, in a manner contrary to Chapter 823 or any law relating to bulk reinsurance, substantially its entire property or business, or has entered into any transaction the effect of which is to merge, consolidate, or reinsure substantially its entire property or business in or with the property or business of any other person;

(15) the insurer or its property has been or is the subject of an application for the appointment of a receiver, trustee, custodian, conservator, sequestrator, or similar

fiduciary of the insurer or its property otherwise than as authorized under the insurance laws of this state;

(16) within the previous five years, the insurer has wilfully and continuously violated its charter, articles of incorporation or bylaws, any insurance law of this state, or any valid order of the commissioner;

(17) the insurer has failed to pay within 60 days after the due date any obligation to any state or political subdivision of a state or any judgment entered in any state, if the court in which the judgment was entered had jurisdiction over the subject matter, except that nonpayment is not a ground until 60 days after any good faith effort by the insurer to contest the obligation has been terminated, whether it is before the commissioner or in the courts;

(18) the insurer has systematically engaged in the practice of reaching settlements with and obtaining releases from claimants, and then unreasonably delayed payment, failed to pay the agreed-upon settlements, or systematically attempted to compromise with claimants or other creditors on the ground that it is financially unable to pay its claims or obligations in full;

(19) the insurer has failed to file its annual report or other financial report required by statute within the time allowed by law;

(20) the board of directors or the holders of a majority of the shares entitled to vote, or a majority of those individuals entitled to the control of those entities specified by Section 443.003 [~~21A.003~~], request or consent to rehabilitation or liquidation under this chapter;

(21) the insurer does not comply with its domiciliary state's requirements for issuance to it of a certificate of authority, or its certificate of authority has been revoked by its state of domicile; or

(22) when authorized by department rules.

(l) Section 21A.058, Insurance Code, redesignated as Section 443.058, Insurance Code, by Subsection (a)(1)(B) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

Sec. 443.058 [~~21A.058~~]. ENTRY OF ORDER. If the commissioner establishes any of the grounds provided in Section 443.057 [~~21A.057~~], the receivership court shall grant the petition and issue the order of rehabilitation or liquidation requested in the petition.

(m) Section 21A.101(b), Insurance Code, redesignated as Section 443.101(b), Insurance Code, by Subsection (a)(1)(C) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) Any order issued under this section must require accountings to the receivership court by the rehabilitator. Accountings must be at the intervals specified by the receivership court in its order, but not less frequently than semi-annually. Each accounting must include a report concerning the rehabilitator's opinion as to the likelihood that a plan under Section 443.103 [~~21A.103~~] will be prepared by the rehabilitator and the timetable for doing so.

(n) Section 21A.102(a), Insurance Code, redesignated as

Section 443.102(a), Insurance Code, by Subsection (a)(1)(C) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) The rehabilitator may appoint one or more special deputies. A special deputy serves at the pleasure of the rehabilitator and has all the powers and responsibilities of the rehabilitator granted under this section, unless specifically limited by the rehabilitator. The rehabilitator may employ or contract with legal counsel, actuaries, accountants, appraisers, consultants, clerks, assistants, and other personnel as may be deemed necessary. Any special deputy or any other person with whom the rehabilitator contracts under this subsection may act on behalf of the commissioner only in the commissioner's capacity as rehabilitator. Any person with whom the rehabilitator contracts under this subsection is not considered an agent of the state, and any contract entered into under this subsection does not constitute a contract with the state. The provisions of any law governing the procurement of goods and services by the state does not apply to any contract entered into by the commissioner as rehabilitator. The compensation of any special deputies, employees, and contractors and all expenses of taking possession of the insurer and of conducting the rehabilitation shall be fixed by the rehabilitator, with the approval of the receivership court in accordance with Section 443.015 [~~21A.015~~], and shall be paid out of the property of the insurer. The persons appointed under this subsection serve at the pleasure of the rehabilitator. If the rehabilitator deems it necessary to the proper performance of the rehabilitator's duties

under this chapter, the rehabilitator may appoint an advisory committee of policyholders, claimants, or other creditors, including guaranty associations. The advisory committee serves at the pleasure of the rehabilitator and without compensation or reimbursement for expenses. The rehabilitator or the receivership court in rehabilitation proceedings conducted under this chapter may not appoint another committee of any nature.

(o) Section 21A.104, Insurance Code, redesignated as Section 443.104, Insurance Code, by Subsection (a)(1)(C) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

Sec. 443.104 [~~21A.104~~]. TERMINATION OF REHABILITATION. (a) When the rehabilitator believes further attempts to rehabilitate an insurer would substantially increase the risk of loss to creditors, policyholders, or the public or would be futile, the rehabilitator may move for an order of liquidation. In accordance with Section 443.105 [~~21A.105~~], the rehabilitator or the rehabilitator's designated representative shall coordinate with the guaranty associations that may become liable as a result of the liquidation and any national association of guaranty associations to plan for transition to liquidation.

(b) Because the protection of the interests of insureds, claimants, and the public requires the timely performance of all insurance policy obligations, if the payment of policy obligations is suspended in substantial part for a period of six months at any time after the appointment of the rehabilitator and the rehabilitator has not filed an application for approval of a plan

under Section 443.103 [~~21A.103~~], the rehabilitator shall petition the receivership court for an order of liquidation.

(c) The rehabilitator or the directors of the insurer may at any time petition the receivership court for, or the receivership court on its own motion may enter, an order terminating rehabilitation of an insurer. Subject to the provisions of Section 443.351 [~~21A.351~~], if the receivership court finds that rehabilitation has been accomplished and that grounds for rehabilitation under Section 443.057 [~~21A.057~~] no longer exist, it shall order that the insurer be restored to title and possession of its property and the control of the business.

(p) Sections 21A.151(b) and (e), Insurance Code, redesignated as Sections 443.151(b) and (e), Insurance Code, respectively, by Subsection (a)(1)(D) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) Upon issuance of the order of liquidation, the rights and liabilities of the insurer and of its creditors, policyholders, shareholders, members, and all other persons interested in its estate become fixed as of the date of entry of the order of liquidation, except as provided by Sections 443.152 and 443.255 [~~21A.152 and 21A.255~~], unless otherwise fixed by the court.

(e) In the event an order of liquidation is set aside on appeal, the company may not be released from delinquency proceedings except in accordance with Section 443.351 [~~21A.351~~].

(q) Sections 21A.152(b), (c), and (d), Insurance Code, redesignated as Sections 443.152(b), (c), and (d), Insurance Code,

respectively, by Subsection (a)(1)(D) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) Notwithstanding any policy or contract language or any other statute, all policies, insurance contracts other than reinsurance by which the insurer has ceded insurance obligations to another person, and surety bonds or surety undertakings, other than life or health insurance or annuities, in effect at the time of issuance of an order of liquidation, unless further extended by the receiver with the approval of the receivership court, continue in force only until the earlier of:

(1) the 30th day after the date of entry of the liquidation order;

(2) the date of expiration of the policy coverage;

(3) the date the insured has replaced the insurance coverage with equivalent insurance with another insurer or otherwise terminated the policy;

(4) the date the liquidator has effected a transfer of the policy obligation pursuant to Section 443.154(h) [~~21A.154(h)~~]; or

(5) the date proposed by the liquidator and approved by the receivership court to cancel coverage.

(c) An order of liquidation under Section 443.151 [~~21A.151~~] must terminate coverages at the time specified by Subsections (a) and (b) for purposes of any other statute.

(d) Policies of life or health insurance or annuities covered by a guaranty association and any portion of policies of

life or health insurance or annuities covered by a guaranty association continue in force for the period and under the terms provided for by any applicable guaranty association law. Policies of life or health insurance or annuities not covered by a guaranty association and any portion of policies of life or health insurance or annuities not covered by a guaranty association terminate under Subsection (b), except to the extent the liquidator proposes and the receivership court approves the use of property of the estate, consistent with Section 443.301 [~~21A.301~~], for the purpose of continuing the contracts or coverage by transferring them to an assuming reinsurer.

(r) Sections 21A.154(a), (b), (h), (k), (l), (y), and (z), Insurance Code, redesignated as Sections 443.154(a), (b), (h), (k), (l), (y), and (z), Insurance Code, respectively, by Subsection (a)(1)(D) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) The liquidator may appoint a special deputy or deputies to act for the liquidator under this chapter and employ or contract with legal counsel, actuaries, accountants, appraisers, consultants, clerks, assistants, and other personnel the liquidator may deem necessary to assist in the liquidation. A special deputy has all powers of the liquidator granted by this section, unless specifically limited by the liquidator, and serves at the pleasure of the liquidator. A special deputy or any other person with whom the liquidator contracts under this subsection may act on behalf of the commissioner only in the commissioner's

capacity as liquidator. Any person with whom the liquidator contracts is not considered to be an agent of the state and any contract under this subsection is not a contract with the state. The provisions of any law governing the procurement of goods and services by the state do not apply to any contract entered into by the commissioner as liquidator. This subsection does not waive any immunity granted by Section 443.014 [~~21A.014~~] or create any cause of action against the state.

(b) The liquidator may determine the reasonable compensation for any special deputies, employees, or contractors retained by the liquidator as provided in Subsection (a) and pay compensation in accordance with Section 443.015 [~~21A.015~~].

(h) The liquidator may use property of the estate of an insurer under a liquidation order to transfer to a solvent assuming insurer policy obligations or the insurer's obligations under surety bonds and surety undertakings as well as collateral held by the insurer with respect to the reimbursement obligations of the principals under those surety bonds and surety undertakings, if the transfer can be arranged without prejudice to applicable priorities under Section 443.301 [~~21A.301~~]. If all insureds, principals, third-party claimants, and obligees under the policies, surety bonds, and surety undertakings consent or if the receivership court so orders, the estate has no further liability under the transferred policies, surety bonds, or surety undertakings after the transfer is made.

(k) The liquidator may enter into contracts as necessary to carry out the order to liquidate and, subject to the provisions of

Section 443.013 [~~21A.013~~], may assume or reject any executory contract or unexpired lease to which the insurer is a party.

(l) The liquidator may continue to prosecute and institute in the name of the insurer or in the liquidator's own name any and all suits and other legal proceedings, in this state or elsewhere, and abandon the prosecution of claims the liquidator deems unprofitable to pursue further. If the insurer is dissolved under Section 443.153 [~~21A.153~~], the liquidator has the power to apply to any court in this state or elsewhere for leave to substitute the liquidator for the insurer as a party.

(y) The liquidator may hypothecate, encumber, lease, sell, transfer, abandon, or otherwise dispose of or deal with any property of the insurer, settle or resolve any claim brought by the liquidator on behalf of the insurer, or commute or settle any claim of reinsurance under any contract of reinsurance, as follows:

(1) if the property or claim has a market or settlement value that does not exceed the lesser of $1 million or 10 percent of the general assets of the estate as shown on the receivership's financial statements, the liquidator may take action at the liquidator's discretion, provided that the receivership court may, upon petition of the liquidator, increase the threshold upon a showing that compliance with this requirement is burdensome to the liquidator in administering the estate and is unnecessary to protect the material interests of creditors;

(2) in all instances other than those described in Subdivision (1), the liquidator may take the action only after obtaining approval of the receivership court as provided by Section

443.007 [~~21A.007~~];

(3) the liquidator may, at the liquidator's discretion, request the receivership court to approve a proposed action as provided by Section 443.007 [~~21A.007~~] if the value of the property or claim appears to be less than the threshold provided by Subdivision (1) but cannot be ascertained with certainty, or for any other reason as determined by the liquidator; and

(4) after obtaining approval of the receivership court as provided in Section 443.007 [~~21A.007~~], the liquidator may, subject to Subsection (z), transfer rights to payment under ceding reinsurance agreements covering policies to a third-party transferee.

(z) The transferee of a right to payment under Subsection (y)(4) has the rights to collect and enforce collection of the reinsurance for the amount payable to the ceding insurer or to its receiver, without diminution because of the insolvency or because the receiver has failed to pay all or a portion of the claim, based on the amounts paid or allowed pursuant to Section 443.211 [~~21A.211~~]. The transfer of the rights does not give rise to any defense regarding the reinsurer's obligations under the reinsurance agreement regardless of whether an agreement or other applicable law prohibits the transfer of rights under the reinsurance agreement. Except as provided in this subsection, any transfer of rights pursuant to Subsection (y)(4) does not impair any rights or defenses of the reinsurer that existed prior to the transfer or that would have existed in the absence of the transfer. Except as otherwise provided in this subsection, any transfer of

rights pursuant to Subsection (y)(4) does not relieve the transferee or the liquidator from obligations owed to the reinsurer pursuant to the reinsurance or other agreement.

(s) Section 21A.155(b), Insurance Code, redesignated as Section 443.155(b), Insurance Code, by Subsection (a)(1)(D) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) The notice of the entry of an order of liquidation must contain or provide directions for obtaining the following information:

(1) a statement that the insurer has been placed in liquidation;

(2) a statement that certain acts are stayed under Section 443.008 [~~21A.008~~] and describe any additional injunctive relief ordered by the receivership court;

(3) a statement whether, and to what extent, the insurer's policies continue in effect;

(4) to the extent applicable, a statement that coverage by state guaranty associations may be available for all or part of policy benefits in accordance with applicable state guaranty laws;

(5) a statement of the deadline for filing claims, if established, and the requirements for filing a proof of claim pursuant to Section 443.251 [~~21A.251~~] on or before that date;

(6) a statement of the date, time, and location of any initial status hearing scheduled at the time the notice is sent;

(7) a description of the process for obtaining notice

of matters before the receivership court; and

(8) any other information the liquidator or the receivership court deems appropriate.

(t) Section 21A.156(a), Insurance Code, redesignated as Section 443.156(a), Insurance Code, by Subsection (a)(1)(D) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) Every person who represented the insurer as an agent and receives notice in the form prescribed in Section 443.155 [~~21A.155~~] that the insurer is the subject of a liquidation order, not later than the 30th day after the date of the notice, shall provide to the liquidator, in addition to the information the agent may be required to provide pursuant to Section 443.010 [~~21A.010~~], the information in the agent's records related to any policy issued by the insurer through the agent and any policy issued by the insurer through an agent under contract to the agent, including the name and address of any subagent. For purposes of this subsection, a policy is issued through an agent if the agent has a property interest in the expiration of the policy or if the agent has had in the agent's possession a copy of the declarations of the policy at any time during the life of the policy, except where the ownership of the expiration of the policy has been transferred to another.

(u) Sections 21A.207(a), (d), and (f), Insurance Code, redesignated as Sections 443.207(a), (d), and (f), Insurance Code, respectively, by Subsection (a)(1)(E) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) Except as otherwise provided in this section, to the extent that the receiver obtains an order under Section 443.201 [~~21A.201~~] or avoids a transfer under Section 443.202, 443.203, 443.204, 443.205, or 443.206 [~~Sections 21A.202, 21A.203, 21A.204, 21A.205, or 21A.206~~], the receiver may recover the property transferred, or the value of the property, from:

(1) the initial transferee of the transfer or the entity for whose benefit the transfer was made; or

(2) any immediate or mediate transferee of the initial transferee.

(d) In addition to the remedies specifically provided under Sections 443.201-443.206 [~~21A.201-21A.206~~] and Subsection (a), if the receiver is successful in establishing a claim to the property or any part of the property, the receiver is entitled to recover judgment for:

(1) rental for the use of the tangible property from the later of the entry of the receivership order or the date of the transfer;

(2) in the case of funds or intangible property, the greater of:

(A) the actual interest or income earned by the property; or

(B) interest at the statutory rate for judgments from the later of the date of the entry of the receivership order or the date of the transfer; and

(3) except as to recoveries from guaranty associations, all costs, including investigative costs and other

expenses necessary to the recovery of the property or funds, and reasonable attorney's fees.

(f) In any action under Sections 443.201-443.206 [~~21A.201-21A.206~~], the receiver has the burden of proving the avoidability of a transfer, and the person against whom recovery or avoidance is sought has the burden of proving the nature and extent of any affirmative defense.

(v) Section 21A.208(b), Insurance Code, redesignated as Section 443.208(b), Insurance Code, by Subsection (a)(1)(E) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) A claim allowable under Subsection (a) by reason of the avoidance, whether voluntary or involuntary, or a preference, lien, conveyance, transfer, assignment, or encumbrance, may be filed as an excused late filing under Section 443.251(b) [~~21A.251(b)~~] if filed not later than the 30th day after the date of the avoidance, or within the further time allowed by the receivership court under Subsection (a).

(w) Section 21A.210(j), Insurance Code, redesignated as Section 443.210(j), Insurance Code, by Subsection (a)(1)(E) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(j) Any claim filed by an assessee who fails to pay an assessment, after the conclusion of any legal action by the assessee objecting to the assessment, is deemed a late filed claim under Section 443.251 [~~21A.251~~].

(x) Sections 21A.211(b) and (f), Insurance Code,

redesignated as Sections 443.211(b) and (f), Insurance Code, respectively, by Subsection (a)(1)(E) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section and to the recodification and repeal of Articles 21.28-C and 21.28-D, Insurance Code, by Chapter 727, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) Except as provided by Subsection (a), any reinsurance shall be payable to the receiver under a policy reinsured by the assuming insurer on the basis of claims:

(1) allowed under Section 443.253 [~~21A.253~~]; and

(2) paid under:

(A) Chapter 462, 463, or [~~Article 21.28-C or 21.28-D;~~

[~~(B) Chapter~~] 2602; or

(B) [~~(C)~~] the guaranty associations of other states.

(f) Nothing in this chapter shall be construed as authorizing the receiver, or other entity, to compel payment from a non-life reinsurer on the basis of estimated incurred but not reported losses or outstanding reserves, except outstanding reserves with respect to claims made pursuant to Section 443.255 [~~21A.255~~] and approved workers compensation claims filed under Section 443.252(d) [~~21A.252(d)~~].

(y) Sections 21A.212(a), (b), and (c), Insurance Code, redesignated as Sections 443.212(a), (b), and (c), Insurance Code, respectively, by Subsection (a)(1)(E) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of

this section to read as follows:

(a) An insured shall pay, either directly to the receiver or to any agent that has paid or is obligated to pay the receiver on behalf of the insured, any unpaid earned premium or retrospectively rated premium due the insurer based on the termination of coverage under Section 443.152 [~~21A.152~~]. Premium on surety business is deemed earned at inception if a policy term cannot be determined. All other premium is deemed earned and is prorated equally over the determined policy term, regardless of any provision in the bond, guaranty, contract or other agreement.

(b) Any person, other than the insured, shall turn over to the receiver any unpaid premium due and owing as shown on the records of the insurer, including any amount representing commissions, for the full policy term due the insurer at the time of the entry of the receivership order, whether earned or unearned, based on the termination of coverage under Section 443.152 [~~21A.152~~]. The unpaid premium due the receiver from any person other than the insured excludes any premium not collected from the insured and not earned based on the termination of coverage under Section 443.152 [~~21A.152~~].

(c) Any person, other than the insured, responsible for the remittance of a premium, shall turn over to the receiver any unearned commission of the person based on the termination of coverage under Section 443.152 [~~21A.152~~]. Credits, setoffs, or both may not be allowed to an agent, broker, premium finance company, or any other person for any amounts advanced to the insurer by the person on behalf of, but in the absence of a payment by, the

insured, or for any other amount paid by the person to any other person after the entry of the order of receivership.

(z) Sections 21A.213(h) and (i), Insurance Code, redesignated as Sections 443.213(h) and (i), Insurance Code, respectively, by Subsection (a)(1)(E) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(h) To the extent a guaranty association is required by applicable law to pay any claims for which the insurer would have been entitled to reimbursement from the policyholder, the following provisions apply:

(1) The receiver shall promptly invoice the policyholder for the reimbursement due under the agreement, and the policyholder is obligated to pay the amount invoiced to the receiver for the benefit of the guaranty associations that paid the claims. Neither the insolvency of the insurer nor the insurer's inability to perform any obligations under the deductible agreement is a defense to the policyholder's reimbursement obligation under the deductible agreement. At the time the policyholder reimbursements are collected, the receiver shall promptly forward those amounts to the guaranty association, based on the claims paid by the guaranty association that were subject to the deductible.

(2) If the collateral is insufficient to reimburse the guaranty association for claims paid within the deductible, the receiver shall use any existing collateral to make a partial reimbursement to the guaranty association, subject to any allocation under Subsection (d), (e), or (f). If more than one

guaranty association has a claim against the same collateral, the receiver shall prorate payments to each guaranty association based on the amount of the claims each guaranty association has paid.

(3) The receiver is entitled to deduct from reimbursements owed to a guaranty association or collateral to be returned to a policyholder reasonable actual expenses incurred in fulfilling the receiver's responsibilities under this section. Expenses incurred to collect reimbursements for the benefit of a guaranty association are subject to the approval of the guaranty association. Any remaining expenses that are not deducted from the reimbursements are payable subject to Section 443.015 [~~21A.015~~].

(4) The receiver shall provide any affected guaranty associations with a complete accounting of the receiver's deductible billing and collection activities on a quarterly basis, or at other intervals as may be agreed to between the receiver and the guaranty associations. Accountings under this subdivision must include copies of the policyholder billings, the reimbursements collected, the available amounts and use of collateral for each account, and any prorating of payments.

(5) If the receiver fails to make a good faith effort to collect reimbursements due from a policyholder under a deductible agreement within 120 days of receipt of claims payment reports from a guaranty association, the guaranty association may, after notice to the receiver, collect the reimbursements that are due, and, in so doing, the guaranty association shall have the same rights and remedies as the receiver. A guaranty association shall report any amounts collected under this subdivision and expenses

incurred in collecting those amounts to the receiver.

(6) The receiver shall periodically adjust the collateral held as the claims subject to the deductible agreement are paid, provided that adequate collateral is maintained. The receiver is not required to adjust the collateral more than once a year. The receiver shall inform the guaranty associations of all collateral reviews, including the basis for the adjustment.

(7) Reimbursements received or collected by a guaranty association under this section may not be considered a distribution of the insurer's assets. A guaranty association shall provide the receiver with an accounting of any amounts it has received or collected under this section and any expenses incurred in connection with that receipt or collection. The amounts received, net of any expenses incurred in connection with collection of the amounts, must be set off against the guaranty association's claim filed under Section 443.251 [~~21A.251~~] for the payments that were reimbursed.

(8) To the extent that a guaranty association pays a claim within the deductible amount that is not reimbursed by either the receiver or by policyholder payments, the guaranty association has a claim for those amounts in the delinquency proceeding in accordance with Section 443.251 [~~21A.251~~].

(9) Nothing in this section limits any rights of a guaranty association under applicable law to obtain reimbursement for claims payments made by the guaranty association under policies of the insurer or for the association's related expenses.

(i) If a claim that is subject to a deductible agreement and

secured by collateral is not covered by any guaranty association, the following provisions apply:

(1) The receiver is entitled to retain as an asset of the estate any collateral or deductible reimbursements obtained by the receiver.

(2) If a policyholder fails to assume an obligation under a deductible agreement to pay a claim, the receiver shall use the collateral to adjust and pay the claim to the extent that the available collateral, after any allocation under Subsection (d), (e), or (f), is sufficient to pay all outstanding and anticipated claims within the deductible. If the collateral is exhausted and all reasonable means of collection against the insured have been exhausted, the remaining claims shall be subject to the provisions of Sections 443.251 and 443.301 [~~21A.251 and 21A.301~~].

(3) The receiver is entitled to deduct from collateral reasonable actual expenses incurred in fulfilling the receiver's responsibilities under this section. Any remaining expenses that are not deducted from the reimbursements are payable subject to Section 443.015 [~~21A.015~~].

(aa) Sections 21A.251(a) and (b), Insurance Code, redesignated as Sections 443.251(a) and (b), Insurance Code, respectively, by Subsection (a)(1)(F) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) Except as provided by this subsection, proof of all claims must be filed with the liquidator in the form required by Section 443.252 [~~21A.252~~] on or before the last day for filing

specified in the notice required under Section 443.155 [~~21A.155~~], which date may not be later than 18 months after entry of the order of liquidation, unless the receivership court, for good cause shown, extends the time, except that proofs of claims for cash surrender values or other investment values in life insurance and annuities and for any other policies insuring the lives of persons need not be filed unless the liquidator expressly so requires. The receivership court, only upon application of the liquidator, may allow alternative procedures and requirements for the filing of proofs of claim or for allowing or proving claims. Upon application, if the receivership court dispenses with the requirements of filing a proof of claim by a person or a class or group of persons, a proof of claim for the person, class, or group is deemed to have been filed for all purposes, except that the receivership court's waiver of proof of claim requirements does not impact guaranty association proof of claim filing requirements or coverage determinations to the extent the guaranty fund statute or filing requirements are inconsistent with the receivership court's waiver of proof.

(b) The liquidator shall permit a claimant that makes a late filing to share ratably in distributions, whether past or future, as if the claim were not filed late, to the extent that the payment will not prejudice the orderly administration of the liquidation, under the following circumstances:

(1) the eligibility to file a proof of claim was not known to the claimant, and the claimant filed a proof of claim not later than the 90th day after the date of first learning of the

eligibility;

(2) a transfer to a creditor was avoided under Section 443.202, 443.203, 443.204, or 443.206 [~~21A.202, 21A.203, 21A.204, or 21A.206~~], or was voluntarily surrendered under Section 443.208 [~~21A.208~~], and the filing satisfies the conditions of Section 443.208 [~~21A.208~~]; or

(3) the valuation under Section 443.260 [~~21A.260~~], of security held by a secured creditor shows a deficiency, and the claim for the deficiency is filed not later than the 30th day after the valuation.

(bb) Sections 21A.253(b), (d), (i), and (k), Insurance Code, redesignated as Sections 443.253(b), (d), (i), and (k), Insurance Code, respectively, by Subsection (a)(1)(F) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) Pursuant to the review, the liquidator shall provide written notice of the claim determination by any means authorized by Section 443.007 [~~21A.007~~] to the claimant or the claimant's attorney and may provide notice to any reinsurer that is or may be liable in respect of the claim. The notice must set forth the amount of the claim allowed by the liquidator, if any, and the priority class of the claim as established in Section 443.301 [~~21A.301~~].

(d) A claim that has not become mature as of the coverage termination date established under Section 443.201 [~~21A.201~~] because payment on the claim is not yet due may be allowed as if it were mature. A claim that is allowed under this subsection may be

discounted to present value based upon a reasonable estimated date of the payment, if the liquidator determines that the present value of the payment is materially less than the amount of the payment.

(i) A claim that does not contain all the applicable information required by Section 443.252 [~~21A.252~~] need not be further reviewed or adjudicated, and may be denied or disallowed by the liquidator subject to the notice and objection procedures in this section.

(k) The liquidator is not required to process claims for any class until it appears reasonably likely that property will be available for a distribution to that class. If there are insufficient assets to justify processing all claims for any class listed in Section 443.301 [~~21A.301~~], the liquidator shall report the facts to the receivership court and make such recommendations as may be appropriate for handling the remainder of the claims.

(cc) Section 21A.254, Insurance Code, redesignated as Section 443.254, Insurance Code, by Subsection (a)(1)(F) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

Sec. 443.254 [~~21A.254~~]. CLAIMS UNDER OCCURRENCE POLICIES, SURETY BONDS, AND SURETY UNDERTAKINGS. (a) Subject to the provisions of Section 443.253 [~~21A.253~~], any insured has the right to file a claim for the protection afforded under the insured's policy, regardless of whether a claim is known at the time of filing, if the policy is an occurrence policy.

(b) Subject to the provisions of Section 443.253 [~~21A.253~~], an obligee under a surety bond or surety undertaking has the right

to file a claim for the protection afforded under the surety bond or surety undertaking issued by the insurer under which the obligee is the beneficiary, regardless of whether a claim is known at the time of filing.

(c) After a claim is filed under Subsection (a) or (b), at the time that a specific claim is made by or against the insured or by the obligee, the insured or the obligee shall supplement the claim, and the receiver shall treat the claim as a contingent or unliquidated claim under Section 443.255 [~~21A.255~~].

(dd) Sections 21A.255(a) and (c), Insurance Code, redesignated as Sections 443.255(a) and (c), Insurance Code, respectively, by Subsection (a)(1)(F) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) A claim of an insured or third party may be allowed under Section 443.253 [~~21A.253~~], regardless of the fact that the claim was contingent or unliquidated, if any contingency is removed in accordance with Subsection (b) and the value of the claim is determined. For purposes of this section, a claim is contingent if:

(1) the accident, casualty, disaster, loss, event, or occurrence insured, reinsured, or bonded or reinsured against occurred on or before the date fixed under Section 443.151 [~~21A.151~~]; and

(2) the act or event triggering the insurer's obligation to pay has not occurred as of the date fixed under Section 443.151 [~~21A.151~~].

(c) The liquidator may petition the receivership court to

set a date before which all claims under this section are final. In addition to the notice requirements of Section 443.007 [~~21A.007~~], the liquidator shall give notice of the filing of the petition to all claimants with claims that remain contingent or unliquidated under this section.

(ee) Section 21A.256(c), Insurance Code, redesignated as Section 443.256(c), Insurance Code, by Subsection (a)(1)(F) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(c) The liquidator may make recommendations to the receivership court for the allowance of an insured's claim after consideration of the probable outcome of any pending action against the insured on which the claim is based, the probable damages recoverable in the action, and the probable costs and expenses of defense. After allowance by the receivership court, the liquidator shall withhold any distribution payable on the claim, pending the outcome of litigation and negotiation between the insured and the third party. The liquidator may reconsider the claim as provided in Section 443.253(j) [~~21A.253(j)~~]. As claims against the insured are settled or barred, the insured or third party, as appropriate, shall be paid from the amount withheld the same percentage distribution as was paid on other claims of like priority, based on the lesser of the amount actually due from the insured by action or paid by agreement plus the reasonable costs and expense of defense, or the amount allowed on the claims by the receivership court. After all claims are settled or barred, any sum remaining from the amount withheld shall revert to the undistributed property of the

insurer.

(ff) Section 21A.257(a), Insurance Code, redesignated as Section 443.257(a), Insurance Code, by Subsection (a)(1)(F) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) When objections to the liquidator's proposed treatment of a claim are filed and the liquidator does not alter the determination of the claim as a result of the objections, the liquidator shall ask the receivership court for a hearing pursuant to Section 443.007 [~~21A.007~~].

(gg) Section 21A.258, Insurance Code, redesignated as Section 443.258, Insurance Code, by Subsection (a)(1)(F) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

Sec. 443.258 [~~21A.258~~]. LIQUIDATOR'S RECOMMENDATIONS TO RECEIVERSHIP COURT. The liquidator shall present to the receivership court, for approval, reports of claims settled or determined by the liquidator under Section 443.253 [~~21A.253~~]. The reports must be presented from time to time as determined by the liquidator and must include information identifying the claim and the amount and priority class of the claim.

(hh) Sections 21A.260(e) and (g), Insurance Code, redesignated as Sections 443.260(e) and (g), Insurance Code, respectively, by Subsection (a)(1)(F) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(e) If collateral is insufficient to satisfy in full all

potential claims against it under Subsections (c) and (g), the claims against the collateral must be paid on a pro rata basis, and an obligee or completion contractor under Subsection (c) has a claim, subject to allowance under Section 443.253 [~~21A.253~~], for any deficiency.

(g) To the extent that a guaranty association has made a payment relating to a claim against a surety bond, the guaranty association shall first be reimbursed for that payment and related expenses out of the available collateral or proceeds related to the surety bond. To the extent that the collateral is sufficient, the guaranty association shall be reimbursed 100 percent of its payment. If the collateral is insufficient to satisfy in full all potential claims against the collateral under Subsection (c) and this subsection, a guaranty association that has paid claims on the surety bond is entitled to a pro rata share of the available collateral in accordance with Subsection (e), and the guaranty association has claims against the general assets of the estate in accordance with Section 443.253 [~~21A.253~~] for any deficiency. Any payment made to a guaranty association under this subsection from collateral may not be deemed early access or otherwise deemed a distribution out of the general assets or property of the estate, and the guaranty association receiving payment shall subtract any payment from the collateral from the association's final claims against the estate.

(ii) Sections 21A.261(a) and (e), Insurance Code, redesignated as Sections 443.261(a) and (e), Insurance Code, respectively, by Subsection (a)(1)(F) of this section, are amended

to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) Notwithstanding any other provision of this chapter, including any other provision of this chapter permitting the modification of contracts, or other law of this state, a person may not be stayed or prohibited from exercising:

(1) a contractual right to terminate, liquidate, or close out any netting agreement or qualified financial contract with an insurer because of:

(A) the insolvency, financial condition, or default of the insurer at any time, provided that the right is enforceable under applicable law other than this chapter; or

(B) the commencement of a formal delinquency proceeding under this chapter;

(2) any right under a pledge, security, collateral, or guarantee agreement, or any other similar security arrangement or credit support document, relating to a netting agreement or qualified financial contract; or

(3) subject to any provision of Section 443.209(b) [~~21A.209(b)~~], any right to set off or net out any termination value, payment amount, or other transfer obligation arising under or in connection with a netting agreement or qualified financial contract where the counterparty or its guarantor is organized under the laws of the United States or a state or foreign jurisdiction approved by the Securities Valuation Office of the National Association of Insurance Commissioners as eligible for netting.

(e) Notwithstanding any other provision of this chapter, a

receiver may not avoid a transfer of money or other property arising under or in connection with a netting agreement or qualified financial contract, or any pledge, security, or collateral or guarantee agreement or any other similar security arrangement or credit support document relating to a netting agreement or qualified financial contract, that is made before the commencement of a formal delinquency proceeding under this chapter. However, a transfer may be avoided under Section 443.205(a) [~~21A.205(a)~~] if the transfer was made with actual intent to hinder, delay, or defraud the insurer, a receiver appointed for the insurer, or existing or future creditors.

(jj) Section 21A.301, Insurance Code, redesignated as Section 443.301, Insurance Code, by Subsection (a)(1)(G) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section and to the recodification and repeal of Section 2(3), Article 21.28-C, and Section 12, Article 21.28-D, Insurance Code, by Chapter 727, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 443.301 [~~21A.301~~]. PRIORITY OF DISTRIBUTION. The priority of payment of distributions on unsecured claims must be in accordance with the order in which each class of claims is set forth in this section. Every claim in each class shall be paid in full, or adequate funds retained for their payment, before the members of the next class receive payment, and all claims within a class must be paid substantially the same percentage of the amount of the claim. Except as provided by Subsections (a)(2), (a)(3), (i), and (k), subclasses may not be established within a class. No claim by

a shareholder, policyholder, or other creditor shall be permitted to circumvent the priority classes through the use of equitable remedies. The order of distribution of claims shall be:

(a) Class 1. (1) The costs and expenses of administration expressly approved or ratified by the liquidator, including the following:

(A) the actual and necessary costs of preserving or recovering the property of the insurer;

(B) reasonable compensation for all services rendered on behalf of the administrative supervisor or receiver;

(C) any necessary filing fees;

(D) the fees and mileage payable to witnesses;

(E) unsecured loans obtained by the receiver; and

(F) expenses, if any, approved by the rehabilitator of the insurer and incurred in the course of the rehabilitation that are unpaid at the time of the entry of the order of liquidation.

(2) The reasonable expenses of a guaranty association, including overhead, salaries and other general administrative expenses allocable to the receivership to include administrative and claims handling expenses and expenses in connection with arrangements for ongoing coverage, other than expenses incurred in the performance of duties under Section 462.002(3), 463.108, 463.111, 463.113, 463.353, or 2602.113[~~, Section 2(3) of Article 21.28-C, and Section 12 of Article 21.28-D~~] or similar duties under the statute governing a similar organization in another state. In the case of the Texas Property and Casualty Insurance Guaranty

Association and other property and casualty guaranty associations, the expenses shall include loss adjustment expenses, including adjusting and other expenses and defense and cost containment expenses. In the event that there are insufficient assets to pay all of the costs and expenses of administration under Subsection (a)(1) and the expenses of a guaranty association, the costs and expenses under Subsection (a)(1) shall have priority over the expenses of a guaranty association. In this event, the expenses of a guaranty association shall be paid on a pro rata basis after the payment of costs and expenses under Subsection (a)(1) in full.

(3) For purposes of Subsection (a)(1)(E), any unsecured loan obtained by the receiver, unless by its terms it otherwise provides, has priority over all other costs of administration. Absent agreement to the contrary, all claims in this subclass share pro rata.

(4) Except as expressly approved by the receiver, any expenses arising from a duty to indemnify the directors, officers, or employees of the insurer are excluded from this class and, if allowed, are Class 5 claims.

(b) Class 2. All claims under policies of insurance, including third-party claims, claims under nonassessable policies for unearned premium, claims of obligees and, subject to the discretion of the receiver, completion contractors under surety bonds and surety undertakings other than bail bonds, mortgage or financial guaranties, or other forms of insurance offering protection against investment risk, claims by principals under surety bonds and surety undertakings for wrongful dissipation of

collateral by the insurer or its agents, and claims incurred during the extension of coverage provided for in Section 443.152 [~~21A.152~~]. All other claims incurred in fulfilling the statutory obligations of a guaranty association not included in Class 1, including indemnity payments on covered claims and, in the case of the Life, Accident, Health, and Hospital Service Insurance Guaranty Association or another life and health guaranty association, all claims as a creditor of the impaired or insolvent insurer for all payments of and liabilities incurred on behalf of covered claims or covered obligations of the insurer and for the funds needed to reinsure those obligations with a solvent insurer. Notwithstanding any provision of this chapter, the following claims are excluded from Class 2 priority:

(1) obligations of the insolvent insurer arising out of reinsurance contracts;

(2) obligations, excluding unearned premium claims on policies other than reinsurance agreements, incurred after:

(A) the expiration date of the insurance policy;

(B) the policy has been replaced by the insured or canceled at the insured's request; or

(C) the policy has been canceled as provided by this chapter;

(3) obligations to insurers, insurance pools, or underwriting associations and their claims for contribution, indemnity, or subrogation, equitable or otherwise;

(4) any claim that is in excess of any applicable limits provided in the insurance policy issued by the insurer;

(5) any amount accrued as punitive or exemplary damages unless expressly covered under the terms of the policy;

(6) tort claims of any kind against the insurer and claims against the insurer for bad faith or wrongful settlement practices; and

(7) claims of the guaranty associations for assessments not paid by the insurer, which must be paid as claims in Class 5.

(c) Class 3. Claims of the federal government not included in Class 3.

(d) Class 4. Debts due employees for services or benefits to the extent that the debts do not exceed $5,000 or two months salary, whichever is the lesser, and represent payment for services performed within one year before the entry of the initial order of receivership. This priority is in lieu of any other similar priority that may be authorized by law as to wages or compensation of employees.

(e) Class 5. Claims of other unsecured creditors not included in Classes 1 through 4, including claims under reinsurance contracts, claims of guaranty associations for assessments not paid by the insurer, and other claims excluded from Class 2.

(f) Class 6. Claims of any state or local governments, except those specifically classified elsewhere in this section. Claims of attorneys for fees and expenses owed them by an insurer for services rendered in opposing a formal delinquency proceeding. In order to prove the claim, the claimant must show that the insurer that is the subject of the delinquency proceeding incurred the fees

and expenses based on its best knowledge, information, and belief, formed after reasonable inquiry, indicating opposition was in the best interests of the insurer, was well grounded in fact, and was warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that opposition was not pursued for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of the litigation.

(g) Class 7. Claims of any state or local government for a penalty or forfeiture, but only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The balance of the claims must be treated as Class 9 claims under Subsection (i).

(h) Class 8. Except as provided in Sections 443.251(b) [~~21A.251(b)~~] and (d), late filed claims that would otherwise be classified in Classes 2 through 7.

(i) Class 9. Surplus notes, capital notes or contribution notes or similar obligations, premium refunds on assessable policies, and any other claims specifically assigned to this class. Claims in this class are subject to any subordination agreements related to other claims in this class that existed before the entry of the liquidation order.

(j) Class 10. Interest on allowed claims of Classes 1 through 9, according to the terms of a plan proposed by the liquidator and approved by the receivership court.

(k) Class 11. Claims of shareholders or other owners

arising out of their capacity as shareholders or other owners, or any other capacity, except as they may be qualified in Class 2, 5, or 10. Claims in this class are subject to any subordination agreements related to other claims in this class that existed before the entry of the liquidation order.

(kk) Section 21A.302(f), Insurance Code, redesignated as Section 443.302(f), Insurance Code, by Subsection (a)(1)(G) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(f) Any claim payments made under Subsection (d) and any related expenses must be treated as early access payments under Section 443.303 [~~21A.303~~] to the guaranty association responsible for the claims.

(ll) Sections 21A.303(a), (b), (c), (e), (f), and (g), Insurance Code, redesignated as Sections 443.303(a), (b), (c), (e), (f), and (g), Insurance Code, respectively, by Subsection (a)(1)(G) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) For purposes of this section, "distributable assets" means all general assets of the liquidation estate less:

(1) amounts reserved, to the extent necessary and appropriate, for the entire Section 443.301(a) [~~21A.301(a)~~] expenses of the liquidation through and after its closure; and

(2) to the extent necessary and appropriate, reserves for distributions on claims other than those of the guaranty associations falling within the priority classes of claims established in Section 443.301(c) [~~21A.301(c)~~].

(b) Early access payments to guaranty associations must be made as soon as possible after the entry of a liquidation order and as frequently as possible after the entry of the order, but at least annually if distributable assets are available to be distributed to the guaranty associations, and must be in amounts consistent with this section. Amounts advanced to an affected guaranty association pursuant to this section shall be accounted for as advances against distributions to be made under Section 443.302 [~~21A.302~~]. Where sufficient distributable assets are available, amounts advanced are not limited to the claims and expenses paid to date by the guaranty associations; however, the liquidator may not distribute distributable assets to the guaranty associations in excess of the anticipated entire claims of the guaranty associations falling within the priority classes of claims established in Sections 443.301(b) [~~21A.301(b)~~] and (c).

(c) Within 120 days after the entry of an order of liquidation by the receivership court, and at least annually after the entry of the order, the liquidator shall apply to the receivership court for approval to make early access payments out of the general assets of the insurer to any guaranty associations having obligations arising in connection with the liquidation or shall report that there are no distributable assets at that time based on financial reporting as required in Section 443.016 [~~21A.016~~]. The liquidator may apply to the receivership court for approval to make early access payments more frequently than annually based on additional information or the recovery of material assets.

(e) Notice of each application for early access payments, or of any report required pursuant to this section, must be given in accordance with Section 443.007 [~~21A.007~~] to the guaranty associations that may have obligations arising from the liquidation. Notwithstanding the provisions of Section 443.007 [~~21A.007~~], the liquidator shall provide these guaranty associations with at least 30 days' actual notice of the filing of the application and with a complete copy of the application prior to any action by the receivership court. Any guaranty association that may have obligations arising in connection with the liquidation has:

(1) the right to request additional information from the liquidator, who may not unreasonably deny such request; and

(2) the right to object as provided by Section 443.007 [~~21A.007~~] to any part of each application or to any report filed by the liquidator pursuant to this section.

(f) In each application regarding early access payments, the liquidator shall, based on the best information available to the liquidator at the time, provide, at a minimum, the following:

(1) to the extent necessary and appropriate, the amount reserved for the entire expenses of the liquidation through and after its closure and for distributions on claims falling within the priority classes of claims established in Sections 443.301(b) [~~21A.301(b)~~] and (c);

(2) the computation of distributable assets and the amount and method of equitable allocation of early access payments to each of the guaranty associations; and

(3) the most recent financial information filed with the National Association of Insurance Commissioners by the liquidator.

(g) Each guaranty association that receives any payments pursuant to this section agrees, upon depositing the payment in any account to its benefit, to return to the liquidator any amount of these payments that may be required to pay claims of secured creditors and claims falling within the priority classes of claims established in Section 443.301(a) [~~21A.301(a)~~], (b), or (c). No bond may be required of any guaranty association.

(mm) Sections 21A.304(a), (b), and (d), Insurance Code, redesignated as Sections 443.304(a), (b), and (d), Insurance Code, respectively, by Subsection (a)(1)(G) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) If any funds of the receivership estate remain unclaimed after the final distribution under Section 443.302 [~~21A.302~~], the funds must be placed in a segregated unclaimed funds account held by the commissioner. If the owner of any of the unclaimed funds presents proof of ownership satisfactory to the commissioner before the second anniversary of the date of the termination of the delinquency proceeding, the commissioner shall remit the funds to the owner. The interest earned on funds held in the unclaimed funds account may be used to pay any administrative costs related to the handling or return of unclaimed funds.

(b) If any amounts held in the unclaimed funds account remain unclaimed on or after the second anniversary of the date of

the termination of the delinquency proceeding, the commissioner may file a motion for an order directing the disposition of the funds in the court in which the delinquency proceeding was pending. Any costs incurred in connection with the motion may be paid from the unclaimed funds account. The motion shall identify the name of the insurer, the names and last known addresses of the persons entitled to the unclaimed funds, if known, and the amount of the funds. Notice of the motion shall be given as directed by the court. Upon a finding by the court that the funds have not been claimed before the second anniversary of the date of the termination of the delinquency proceeding, the court shall order that any claims for unclaimed funds and any interest earned on the unclaimed funds that has not been expended under Subsection (a) are abandoned and that the funds must be disbursed under one of the following methods:

(1) the amounts may be deposited in the general receivership expense account under Subsection (c);

(2) the amounts may be transferred to the comptroller, and deposited into the general revenue fund; or

(3) the amounts may be used to reopen the receivership in accordance with Section 443.353 [~~21A.353~~] and be distributed to the known claimants with approved claims.

(d) Any advance to a receivership under Subsection (c)(2) may be treated as a claim under Section 443.301 [~~21A.301~~] as agreed at the time the advance is made or, in the absence of an agreement, in the priority determined to be appropriate by the court.

(nn) Section 21A.352, Insurance Code, redesignated as Section 443.352, Insurance Code, by Subsection (a)(1)(H) of this

section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

Sec. 443.352 [~~21A.352~~]. TERMINATION OF LIQUIDATION PROCEEDINGS. When all property justifying the expense of collection and distribution has been collected and distributed under this chapter, the liquidator shall apply to the receivership court for an order discharging the liquidator and terminating the proceeding. The receivership court may grant the application and make any other orders, including orders to transfer any remaining funds that are uneconomic to distribute, or pursuant to Section 443.302(c) [~~21A.302(c)~~], assign any assets that remain unliquidated, including claims and causes of action, as may be deemed appropriate.

(oo) Section 21A.354(b), Insurance Code, redesignated as Section 443.354(b), Insurance Code, by Subsection (a)(1)(H) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) If the receiver determines that any records should be maintained after the closing of the delinquency proceeding, the receiver may reserve property from the receivership estate for the maintenance of the records, and any amounts so retained are administrative expenses of the estate under Section 443.301(a) [~~21A.301(a)~~]. Any records retained pursuant to this subsection must be transferred to the custody of the commissioner, and the commissioner may retain or dispose of the records as appropriate, at the commissioner's discretion. Any records of a delinquent insurer that are transferred to the commissioner may not be

considered records of the department for any purposes, and Chapter 552, Government Code, does not apply to those records.

(pp) Sections 21A.401(a) and (d), Insurance Code, redesignated as Sections 443.401(a) and (d), Insurance Code, respectively, by Subsection (a)(1)(I) of this section, are amended to conform to the changes made by Subsection (a)(1) of this section and to the recodification and repeal of Section 17, Article 21.28-C, and Section 18, Article 21.28-D, Insurance Code, by Chapter 727, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The commissioner may initiate an action against a foreign insurer pursuant to Section 443.051 [~~21A.051~~] on any of the grounds stated in that section or on the basis that:

(1) any of the foreign insurer's property has been sequestered, garnished, or seized by official action in its domiciliary state or in any other state;

(2) the foreign insurer's certificate of authority to do business in this state has been revoked or was never issued and there are residents of this state with unpaid claims or in-force policies; or

(3) initiation of the action is necessary to enforce a stay under Section 462.309, 463.404, or [~~17, Article 21.28-C, Section 18, Article 21.28-D, or Section~~] 2602.259.

(d) Notwithstanding Section 443.201(c) [~~21A.201(c)~~], the conservator shall hold and conserve the assets located in this state until the commissioner in the insurer's domiciliary state is appointed its receiver or until an order terminating conservation

is entered under Subsection (g). Once a domiciliary receiver is appointed, the conservator shall turn over to the domiciliary receiver all property subject to an order under this section.

(qq) Sections 21A.402(a) and (c), Insurance Code, redesignated as Sections 443.402(a) and (c), Insurance Code, respectively, by Subsection (a)(1)(I) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) A domiciliary receiver appointed in another state is vested by operation of law with title to, and may summarily take possession of, all property and records of the insurer in this state. Notwithstanding any other provision of law regarding special deposits, special deposits held in this state shall be, upon the entry of an order of liquidation with a finding of insolvency, distributed to the guaranty associations in this state as early access payments subject to Section 443.303 [~~21A.303~~], in relation to the lines of business for which the special deposits were made. The holder of any special deposit shall account to the domiciliary receiver for all distributions from the special deposit at the time of the distribution. The statutory provisions of another state and all orders entered by courts of competent jurisdiction in relation to the appointment of a domiciliary receiver of an insurer and any related proceedings in another state must be given full faith and credit in this state. For purposes of this section, "another state" means any state other than this state. This state shall treat any other state than this state as a reciprocal state.

(c) Except as provided in Subsection (a), the domiciliary receiver shall handle special deposits and special deposit claims in accordance with federal law and the statutes pursuant to which the special deposits are required. All amounts in excess of the estimated amount necessary to administer the special deposit and pay the unpaid special deposit claims are deemed general assets of the estate. If there is a deficiency in any special deposit so that the claims secured by the special deposit are not fully discharged from the deposit, the claimants may share in the general assets of the insurer to the extent of the deficiency at the same priority as other claimants in their class of priority under Section 443.301 [~~21A.301~~], but the sharing must be deferred until the other claimants of their class have been paid percentages of their claims equal to the percentage paid from the special deposit. The intent of this provision is to equalize to this extent the advantage gained by the security provided by the special deposits.

(rr) Section 442.801, Insurance Code, redesignated as Section 444.001, Insurance Code, by Subsection (a)(2) of this section, is amended to conform to the repeal of Article 21.28, Insurance Code, and the enactment of Chapter 21A, Insurance Code, by Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, and to the changes made by Subsection (a)(1) of this section to read as follows:

Sec. 444.001 [~~442.801~~]. REQUIRED CONTRACT PROVISION. An agency contract entered into on or after August 27, 1973, by an insurer writing fire and casualty insurance in this state must contain, or shall be construed to contain, the following provision:

Notwithstanding any other provision of this contract, the obligation of the agent to remit written premiums to the insurer shall be changed on the commencement of a delinquency proceeding as defined by Chapter 443 [~~442~~], Insurance Code, as amended. After the commencement of the delinquency proceeding, the obligation of the agent to remit premiums is limited to premiums earned before the cancellation date of insurance policies stated in the order of a court of competent jurisdiction under Chapter 443 [~~442~~], Insurance Code, canceling the policies. The agent does not owe and may not be required to remit to the insurer or to the receiver any premiums that are unearned as of the cancellation date stated in the order.

(ss) Section 442.803, Insurance Code, redesignated as Section 444.003, Insurance Code, by Subsection (a)(2) of this section, is amended to conform to the additional changes made by Subsection (a)(2) of this section to read as follows:

Sec. 444.003 [~~442.803~~]. EFFECT OF CHAPTER [~~SUBCHAPTER~~] ON ACTION BY RECEIVER AGAINST AGENT. This chapter [~~subchapter~~] does not prejudice a cause of action by the receiver against an agent to recover:

(1) unearned premiums that were not returned to policyholders; or

(2) earned premiums that were not promptly remitted to the receiver.

(tt) Section 442.804, Insurance Code, redesignated as Section 444.004, Insurance Code, by Subsection (a)(2) of this section, is amended to conform to the additional changes made by Subsection (a)(2) of this section to read as follows:

Sec. 444.004 [~~442.804~~]. AGENT NOT RECEIVER'S AGENT. This chapter [~~subchapter~~] does not render the agent an agent of the receiver for earned or unearned premiums.

SECTION 9.005. (a) Section 462.007(b), Insurance Code, is amended to conform to Section 2, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) Except as provided by Subchapter F, this chapter does not apply to:

(1) life, annuity, health, or disability insurance;

(2) mortgage guaranty, financial guaranty, or other kinds of insurance offering protection against investment risks;

(3) a fidelity or surety bond, or any other bonding obligation;

(4) credit insurance, vendors' single-interest insurance, collateral protection insurance, or similar insurance protecting a creditor's interest arising out of a creditor-debtor transaction;

(5) insurance of warranties or service contracts;

(6) title insurance;

(7) ocean marine insurance;

(8) a transaction or combination of transactions between a person, including an affiliate of the person, and an insurer, including an affiliate of the insurer, that involves the transfer of investment or credit risk unaccompanied by the transfer of insurance risk, including transactions, except for workers' compensation insurance, involving captive insurers, policies in which deductible or self-insured retention is substantially equal

in amount to the limit of the liability under the policy, and transactions in which the insured retains a substantial portion of the risk; or

(9) insurance provided by or guaranteed by government.

(b) Section 2, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (a), Section 3, Article 21.28-C, Insurance Code, is repealed.

SECTION 9.006. (a) Section 462.207, Insurance Code, is amended to conform to Section 3, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 462.207. CLAIMS NOT COVERED: AMOUNTS DUE CERTAIN ENTITIES. (a) Any amount directly or indirectly due any reinsurer, insurer, self-insurer, insurance pool, or underwriting association, as a subrogation recovery, reinsurance recovery, contribution, or indemnification, or otherwise, is not a covered claim.

(b) An impaired insurer's insured is not liable, and the reinsurer, insurer, self-insurer, insurance pool, or underwriting association is not entitled to sue or continue a suit against the insured, for a subrogation recovery, reinsurance recovery, contribution, [~~or~~] indemnification, or any other claim asserted directly or indirectly by a reinsurer, insurer, insurance pool, or underwriting association to the extent of the applicable liability limits of the insurance policy written and issued to the insured by the insolvent insurer.

(b) Section 3, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subdivision (8),

Section 5, Article 21.28-C, Insurance Code, is repealed.

SECTION 9.007. (a) Section 462.211, Insurance Code, is amended to conform to Section 4, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, and Section 6.070, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 462.211. CLAIMS NOT COVERED: LATE FILED CLAIMS. (a) Notwithstanding any other provision of this chapter or any other law to the contrary, and subject to [~~except as provided by~~] Subsection (b), a claim that is filed with the association on a date that is later than 18 months after the date of the order of liquidation or that is unknown and unreported as of the date is not a covered claim.

(b) This section does not apply to a claim for workers' compensation benefits governed by Title 5, Labor Code, and the applicable rules of the commissioner of workers' compensation [~~Texas Workers' Compensation Commission~~].

(b) Subchapter C, Chapter 462, Insurance Code, is amended to conform to Section 4, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 462.1121 to read as follows:

Sec. 462.1121. ACTION TO OBTAIN INFORMATION CONCERNING INSURER IN RECEIVERSHIP AUTHORIZED. (a) The association may bring an action against any third-party administrator, agent, attorney, or other representative of an insurer for which a receiver has been appointed to obtain custody and control of all information, including files, records, and electronic data, related to the

insurer that is appropriate or necessary for the association, or a similar association in other states, to carry out its duties under this chapter or a similar law of another state. The association has the absolute right to obtain information under this section through emergency equitable relief, regardless of where the information is physically located.

(b) In bringing an action under this section, the association is not subject to any defense, possessory lien or other type of lien, or other legal or equitable ground for refusal to surrender the information that may be asserted against the receiver of the insurer.

(c) The association is entitled to an award of reasonable attorney's fees and costs incurred by the association in any action to obtain information under this section.

(d) The rights granted to the association under this section do not affect the receiver's title to information, and information obtained under this section remains the property of the receiver while in the custody of the association.

(c) The following are repealed:

(1) Section 4, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 8, Article 21.28-C, Insurance Code, by amending Subsection (d) and adding Subsection (i); and

(2) Section 6.070, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (d), Section 8, Article 21.28-C, Insurance Code.

SECTION 9.008. (a) Section 462.017(b), Insurance Code, is

amended to conform to Section 5, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) Venue in a suit by or against the commissioner or association relating to an action or ruling of the commissioner or association under this chapter is in Travis County. The commissioner or association is not required to give an appeal bond in an appeal of a cause of action arising under this chapter.

(b) Section 5, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (g), Section 10, Article 21.28-C, Insurance Code, is repealed.

SECTION 9.009. (a) Sections 462.308(a) and (c), Insurance Code, are amended to conform to Section 6, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The association is entitled to recover:

(1) the amount of a covered claim and the cost of defense paid on behalf of [~~under this chapter from the person on whose behalf the payment was made if the person is:~~

[~~(1)~~] a person:

(A) who is an affiliate of the impaired insurer; and

(B) whose liability obligations to other persons are satisfied wholly or partly by payment made under this chapter; and [~~or~~]

(2) the amount of a covered claim for workers' compensation insurance benefits and the costs of administration and defense of the claim paid under this chapter from an insured employer[~~:~~

[~~(A)~~] whose net worth on December 31 of the year preceding the date the insurer becomes an impaired insurer exceeds $50 million[~~; and~~

[~~(B) whose obligations under a liability policy or contract of insurance written, issued, and placed in force after January 1, 1992, are satisfied wholly or partly by payment made under this chapter~~].

(c) For purposes of Subsection (a)(2), an insured's net worth is deemed to include [~~includes~~] the aggregate net worth of the insured and of the insured's parent, subsidiary, and affiliated companies[~~,~~] computed on a consolidated basis.

(b) Section 6, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (b), Section 11, Article 21.28-C, Insurance Code, is repealed.

SECTION 9.010. (a) Section 462.212, Insurance Code, is amended to conform to Section 7, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 462.212. NET WORTH EXCLUSION. (a) Except for a workers' compensation claim governed by Title 5, Labor Code, a covered claim does not include, and the association is not liable for, any claim arising from an insurance policy of any [~~The association is not liable to pay a first-party claim of an~~] insured whose net worth on December 31 of the year preceding the date the insurer becomes an impaired insurer exceeds $50 million.

(b) For purposes of this section, an insured's net worth includes the aggregate net worth of the insured and of the insured's parent, subsidiary, and affiliated companies[~~,~~] computed on a

consolidated basis.

(c) This section does not apply:

(1) to third-party claims against an insured that has:

(A) applied for or consented to the appointment of a receiver, trustee, or liquidator for all or a substantial part of the insurer's assets;

(B) filed a voluntary petition in bankruptcy; or

(C) filed a petition or an answer seeking a reorganization or arrangement with creditors or to take advantage of any insolvency law; or

(2) if an order, judgment, or decree is entered by a court of competent jurisdiction, on the application of a creditor, adjudicating the insured bankrupt or insolvent or approving a petition seeking reorganization of the insured or of all or a substantial part of its assets.

(d) In an instance described by Subsection (c), the association is entitled to assert a claim in the bankruptcy or receivership proceeding to recover the amount of any covered claim and costs of defense paid on behalf of the insured.

(e) The association may establish procedures for requesting financial information from an insured or claimant on a confidential basis for the purpose of applying sections concerning the net worth of first-party and third-party claimants, subject to any information requested under this subsection being shared with any other association similar to the association and with the liquidator for the impaired insurer on the same confidential basis. If the insured or claimant refuses to provide the requested

financial information, the association requests an auditor's certification of that information, and the auditor's certification is available but not provided, the association may deem the net worth of the insured or claimant to be in excess of $50 million at the relevant time.

(f) In any lawsuit contesting the applicability of Section 462.308 or this section when the insured or claimant has declined to provide financial information under the procedure provided in the plan of operation under Section 462.103, the insured or claimant bears the burden of proof concerning its net worth at the relevant time. If the insured or claimant fails to prove that its net worth at the relevant time was less than the applicable amount, the court shall award the association its full costs, expenses, and reasonable attorney's fees in contesting the claim [~~This section does not exclude the payment of a covered claim for workers' compensation benefits otherwise payable under this chapter~~].

(b) Section 7, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 11A, Article 21.28-C, Insurance Code, is repealed.

SECTION 9.011. (a) Sections 462.309(c) and (e), Insurance Code, are amended to conform to Section 8, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(c) A deadline imposed under the Texas Rules of Civil Procedure or the Texas Rules of Appellate Procedure is tolled during the stay. Statutes of limitation or repose are not tolled during the stay, and any action filed during the stay is stayed upon the filing of the action.

(e) The commissioner may bring an ancillary conservation [~~delinquency~~] proceeding under Section 443.401 [~~Sections 442.751, 442.752, and 442.754~~] for the [~~limited~~] purpose of determining the application, enforcement, and extension of the stay to an impaired insurer that is not domiciled in this state.

(b) Section 8, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (a), Section 17, Article 21.28-C, Insurance Code, is repealed.

SECTION 9.012. (a) The heading to Chapter 463, Insurance Code, is amended to conform to Section 9, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

CHAPTER 463. TEXAS LIFE, ACCIDENT, HEALTH, AND HOSPITAL SERVICE INSURANCE GUARANTY ASSOCIATION

(b) Section 463.001, Insurance Code, is amended to conform to Section 9, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 463.001. SHORT TITLE. This chapter may be cited as the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association Act.

SECTION 9.013. (a) Section 463.003, Insurance Code, is amended to conform to Sections 2 and 3, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, and to more closely conform to the source law from which the section was derived, to read as follows:

Sec. 463.003. GENERAL DEFINITIONS. In this chapter:

(1) "Association" means the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association.

(1-a) "Benefit plan" means a specific employee, union, or association of natural persons benefit plan.

(2) "Board" means the board of directors of the association.

(3) "Contractual obligation" means an obligation under a policy or contract or certificate under a group policy or contract, or part of a policy or contract or certificate, for which coverage is provided under Subchapter E.

(4) "Covered policy" means a policy or contract, or portion of a policy or contract, with respect to which this chapter provides coverage as determined under Subchapter E.

(5) "Impaired insurer" means a member insurer that is designated an "impaired insurer" by the commissioner and is:

(A) [~~is~~] placed by a court in this state or another state under an order of supervision, liquidation, rehabilitation, or conservation [~~under Chapter 441 or 442 and is designated by the commissioner as an impaired insurer~~]; [~~or~~]

(B) placed under an order of liquidation or rehabilitation under Chapter 443; or

(C) placed under an order of supervision or conservation by the commissioner under Chapter 441 [~~is determined in good faith by the commissioner to be unable or potentially unable to fulfill the insurer's contractual obligations~~].

(6) "Insolvent insurer" means a member insurer that[~~:~~

[~~(A)~~] has been placed under an order of liquidation with a finding of insolvency by a court in this state or another state [~~a minimum free surplus, if a mutual insurance~~

~~company, or required capital, if a stock insurance company, that is impaired to an extent prohibited by law; and~~

[~~(B) the commissioner designates as an insolvent insurer~~].

(7) "Member insurer" means an insurer that is required to participate in the association under Section 463.052.

(7-a) "Owner" means the owner of a policy or contract and "policy owner" and "contract owner" mean the person who is identified as the legal owner under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and is properly recorded as the owner on the books of the insurer. The terms "owner," "contract owner," and "policy owner" do not include persons with a mere beneficial interest in a policy or contract.

(8) "Person" means an individual, corporation, limited liability company, partnership, association, governmental body or entity, or voluntary organization.

(8-a) "Plan sponsor" means:

(A) the employer in the case of a benefit plan established or maintained by a single employer;

(B) the employee organization in the case of a benefit plan established or maintained by an employee organization; or

(C) in a case of a benefit plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association,

committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan.

(9) "Premium" means an amount received on a covered policy, less any premium, consideration, or deposit returned on the policy, and any dividend or experience credit on the policy. The term does not include:

(A) an amount received for a policy or contract or part of a policy or contract for which coverage is not provided under Section 463.202, except that assessable premiums may not be reduced because of:

(i) an interest limitation provided by Section 463.203(b)(3); or

(ii) a limitation provided by Section 463.204 with respect to a single individual, participant, annuitant, or contract owner [~~holder~~];

(B) premiums in excess of $5 million on an unallocated annuity contract not issued under a governmental benefit [~~retirement~~] plan established under Section 401, 403(b), or 457, Internal Revenue Code of 1986; [~~or~~]

(C) premiums received from the state treasury or the United States treasury for insurance for which this state or the United States contracts to:

(i) provide welfare benefits to designated welfare recipients; or

(ii) implement Title 2, Human Resources Code, or the Social Security Act (42 U.S.C. Section 301 et seq.); or

(D) premiums in excess of $5 million with respect to multiple nongroup policies of life insurance owned by one owner, regardless of whether the policy owner is an individual, firm, corporation, or other person and regardless of whether the persons insured are officers, managers, employees, or other persons, regardless of the number of policies or contracts held by the owner.

(10) "Resident" means a person who resides in this state on the earlier of the date a member insurer becomes an impaired insurer or the date of entry of a court order that determines a member insurer to be an impaired insurer or the date of entry of a court order that determines a member insurer to be an insolvent insurer and to whom the [~~at the time a~~] member insurer [~~that~~] owes a contractual obligation [~~to the person is determined to be impaired or insolvent~~]. For the purposes of this subdivision:

(A) a person is considered to be a resident of only one state; [~~and~~]

(B) a person other than an individual is considered to be a resident of the state in which the person's principal place of business is located; and

(C) a United States citizen who is either a resident of a foreign country or a resident of a United States possession, territory, or protectorate that does not have an association similar to the association created by this chapter is considered a resident of the state of domicile of the insurer that issued the policy or contract.

(10-a) "Structured settlement annuity" means an annuity purchased to fund periodic payments for a plaintiff or

other claimant in payment for or with respect to personal injury suffered by the plaintiff or other claimant.

(11) "Supplemental contract" means a written [~~an~~] agreement for the distribution of policy or contract proceeds.

(12) "Unallocated annuity contract" means an annuity contract or group annuity certificate that is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under the contract or certificate.

(b) Subchapter A, Chapter 463, Insurance Code, is amended to conform to Section 3, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 463.0031 to read as follows:

Sec. 463.0031. DEFINITION OF PRINCIPAL PLACE OF BUSINESS OF PLAN SPONSOR OR OTHER PERSON. (a) Except as otherwise provided by this section, in this chapter, the "principal place of business" of a plan sponsor or a person other than an individual means the single state in which the individuals who establish policy for the direction, control, and coordination of the operations of the plan sponsor or person as a whole primarily exercise that function, as determined by the association in its reasonable judgment by considering the following factors:

(1) the state in which the primary executive and administrative headquarters of the plan sponsor or person is located;

(2) the state in which the principal office of the chief executive officer of the plan sponsor or person is located;

(3) the state in which the board of directors, or similar governing person or persons, of the plan sponsor or person conduct the majority of their meetings;

(4) the state in which the executive or management committee of the board of directors, or similar governing person or persons, of the plan sponsor or person conduct the majority of their meetings;

(5) the state from which the management of the overall operations of the plan sponsor or person is directed; and

(6) in the case of a benefit plan sponsored by affiliated companies comprising a consolidated corporation, the state in which the holding company or controlling affiliate has its principal place of business as determined using the factors described by Subdivisions (1)-(5).

(b) In the case of a plan sponsor, if more than 50 percent of the participants in the benefit plan are employed in a single state, that state is the principal place of business of the plan sponsor.

(c) The principal place of business of a plan sponsor of a benefit plan described in Section 463.003(8-a)(C) is the principal place of business of the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan that, in lieu of a specific or clear designation of a principal place of business, shall be deemed to be the principal place of business of the employer or employee organization that has the largest investment in that benefit plan.

(c) Section 463.052(b), Insurance Code, is amended to

conform to Section 2, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) The following do not participate as member insurers:

(1) a health maintenance organization;

(2) a fraternal benefit society;

(3) a mandatory state pooling plan;

(4) a reciprocal or interinsurance exchange; [~~and~~]

(5) an organization which has a certificate of authority or license limited to the issuance of charitable gift annuities, as defined by this code or rules adopted by the commissioner; and

(6) an entity similar to an entity described by Subdivision (1), (2), (3), [~~or~~] (4), or (5).

(d) Section 463.204, Insurance Code, is amended to conform to Section 2, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 463.204. OBLIGATIONS EXCLUDED. A contractual obligation does not include:

(1) death benefits in an amount in excess of $300,000 or a net cash surrender or net cash withdrawal value in an amount in excess of $100,000 [~~in the aggregate~~] under one or more policies on a single life;

(2) an amount in excess of:

(A) $100,000 in the present value [~~aggregate~~] under one or more annuity contracts issued with respect to a single life under [~~to the same holder of~~] individual annuity policies or [~~to the same annuitant or participant under~~] group annuity

policies; or

(B) $5 million in unallocated annuity contract benefits with respect to a single contract owner [~~holder~~] regardless of the number of those contracts;

(3) an amount in excess of the following amounts, including any net cash surrender or cash withdrawal values, [~~$200,000 in the aggregate~~] under one or more accident, health, [~~or~~] accident and health, or long-term care insurance policies on a single life:

(A) $500,000 for basic hospital, medical-surgical, or major medical insurance, as those terms are defined by this code or rules adopted by the commissioner;

(B) $300,000 for disability and long-term care insurance, as those terms are defined by this code or rules adopted by the commissioner; or

(C) $200,000 for coverages that are not defined as basic hospital, medical-surgical, major medical, disability, or long-term care insurance;

(4) an amount in excess of $100,000 in present value annuity benefits, in the aggregate, including any net cash surrender and net cash withdrawal values, with respect to each individual participating in a governmental retirement benefit plan established under Section 401, 403(b), or 457, Internal Revenue Code of 1986 (26 U.S.C. Sections 401, 403(b), and 457), covered by an unallocated annuity contract or the beneficiary or beneficiaries of the individual if the individual is deceased;

(5) an amount in excess of $100,000 in present value

annuity benefits, in the aggregate, including any net cash surrender and net cash withdrawal values, with respect to each payee of a structured settlement annuity or the beneficiary or beneficiaries of the payee if the payee is deceased;

(6) aggregate benefits in an amount in excess of $300,000 with respect to a single life, except with respect to:

(A) benefits paid under basic hospital, medical-surgical, or major medical insurance policies, described by Subdivision (3)(A), in which case the aggregate benefits are $500,000; and

(B) benefits paid to one owner of multiple nongroup policies of life insurance, whether the policy owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, in which case the maximum benefits are $5 million regardless of the number of policies and contracts held by the owner;

(7) an amount in excess of $5 million in benefits, with respect to either one plan sponsor whose plans own directly or in trust one or more unallocated annuity contracts not included in Subdivision (4) irrespective of the number of contracts with respect to the contract owner or plan sponsor or one contract owner provided coverage under Section 463.201(a)(3)(B), except that, if one or more unallocated annuity contracts are covered contracts under this chapter and are owned by a trust or other entity for the benefit of two or more plan sponsors, coverage shall be afforded by the association if the largest interest in the trust or entity

owning the contract or contracts is held by a plan sponsor whose principal place of business is in this state, and in no event shall the association be obligated to cover more than $5 million in benefits with respect to all these unallocated contracts;

(8) any contractual obligations of the insolvent or impaired insurer under a covered policy or contract that do not materially affect the economic value of economic benefits of the covered policy or contract; or

(9) [~~(4)~~] punitive, exemplary, extracontractual, or bad faith damages, regardless of whether the damages are:

(A) agreed to or assumed by an insurer or insured; or

(B) imposed by a court.

(e) The following are repealed:

(1) Section 2, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 5, Article 21.28-D, Insurance Code, by amending Subdivisions (2), (3), (4), (5), (6), (7), (9), (10), (11), and (12) and adding Subdivisions (2-a), (8-a), (9-a), and (11-a); and

(2) Section 3, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which added Section 5A to former Article 21.28-D, Insurance Code.

SECTION 9.014. (a) Section 463.051(a), Insurance Code, is amended to conform to Section 4, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association is a nonprofit legal entity existing

to pay benefits and continue coverage as provided by this chapter.

(b) Section 4, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (a), Section 6, Article 21.28-D, Insurance Code, is repealed.

SECTION 9.015. (a) Section 463.101(a), Insurance Code, is amended to conform to Section 5, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The association may:

(1) enter into contracts as necessary or proper to carry out this chapter and the purposes of this chapter;

(2) sue or be sued, including taking:

(A) necessary or proper legal action to:

(i) recover an unpaid assessment under Subchapter D; or

(ii) settle a claim or potential claim against the association; or

(B) necessary legal action to avoid payment of an improper claim;

(3) borrow money to effect the purposes of this chapter;

(4) exercise, for the purposes of this chapter and to the extent approved by the commissioner, the powers of a domestic life, accident, or health insurance company or a group hospital service corporation, except that the association may not issue an insurance policy or annuity contract other than to perform the association's obligations under this chapter; [~~and~~]

(5) to further the association's purposes, exercise

the association's powers, and perform the association's duties, join an organization of one or more state associations that have similar purposes;

(6) request information from a person seeking coverage from the association in determining its obligations under this chapter with respect to the person, and the person shall promptly comply with the request; and

(7) take any other necessary or appropriate action to discharge the association's duties and obligations under this chapter or to exercise the association's powers under this chapter.

(b) Subchapter E, Chapter 463, Insurance Code, is amended to conform to Section 5, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 463.206 to read as follows:

Sec. 463.206. ASSOCIATION DISCRETION IN MANNER OF PROVIDING BENEFITS. (a) The board shall have discretion and may exercise reasonable business judgment to determine the means by which the association is to provide the benefits of this chapter in an economical and efficient manner.

(b) If the association arranges or offers to provide the benefits of this chapter to a covered person under a plan or arrangement that fulfills the association's obligations under this chapter, the person is not entitled to benefits from the association in addition to or other than those provided under the plan or arrangement.

(c) Section 463.259, Insurance Code, is amended to conform to Section 5, Chapter 753, Acts of the 79th Legislature, Regular

Session, 2005, to read as follows:

Sec. 463.259. PREMIUM DUE DURING RECEIVERSHIP. After a court enters an order of receivership with respect to an impaired or insolvent insurer, a premium due for coverage issued by the insurer is owned by and is payable at the direction of the association. The association is liable for an unearned premium owed to a policy or contract owner that arises after the court enters the order.

(d) Section 463.261, Insurance Code, is amended to conform to Section 5, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by adding Subsections (d) and (e) to read as follows:

(d) The rights of the association under Subsection (c) include, in the case of a structured settlement annuity, any rights of the owner, beneficiary, or payee of the annuity, to the extent of benefits received under this chapter, against any person originally or by succession responsible for the losses arising from the personal injury relating to the annuity or payment for the annuity, other than a person responsible solely by reason of serving as an assignee in respect of a qualified assignment under Section 130, Internal Revenue Code of 1986 (26 U.S.C. Section 130).

(e) If a provision of this section is invalid or ineffective with respect to any person or claim for any reason, the amount payable by the association with respect to the related covered obligations is reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies, or portion of the policies, covered by the association. If the association has provided benefits with respect to a covered obligation and a person recovers amounts as to which the

association has rights described in this section, the person shall pay to the association the portion of the recovery attributable to the policies, or portion of the policies, covered by the association.

(e) Subchapter F, Chapter 463, Insurance Code, is amended to conform to Section 5, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 463.263 to read as follows:

Sec. 463.263. DEPOSIT TO BE PAID TO ASSOCIATION. (a) A deposit in this state, held under law or required by the commissioner for the benefit of creditors, including policy owners, that is not turned over to the domiciliary receiver on the entry of a final order of liquidation or order approving a rehabilitation plan of an insurer domiciled in this state or a reciprocal state in accordance with Section 443.402 shall be promptly paid to the association.

(b) The association is entitled to retain a portion of any amount paid to the association under this section equal to the percentage determined by dividing the aggregate amount of policy owners' claims related to that insolvency for which the association has provided statutory benefits by the aggregate amount of all policy owners' claims in this state related to that insolvency and shall remit to the domiciliary receiver the amount paid to the association and retained under this section.

(c) The amount paid to the association under this section, less the amount retained by the association under this section, is treated as a distribution of estate assets under Section 443.303 or

the similar law of the state of domicile of the impaired or insolvent insurer.

(f) Section 5, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 8, Article 21.28-D, Insurance Code, by amending Subsections (e), (n), and (v) and adding Subsections (u-1), (u-2), (u-3), (x), and (y), is repealed.

SECTION 9.016. (a) Section 463.151, Insurance Code, is amended to conform to Section 6, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The association shall assess member insurers, separately for each account under Section 463.105, in the amounts and at the times the board determines necessary to provide money for the association to exercise the association's powers, perform the association's duties, and carry out the purposes of this chapter. The association may not authorize and call [~~make~~] an assessment to meet the requirements of the association with respect to an impaired or insolvent insurer until the assessment is necessary to carry out the purposes of this chapter. The board shall classify assessments under Section 463.152 and determine the amount of assessments with reasonable accuracy, recognizing that exact determinations may not always be possible.

(a-1) The association shall notify each member insurer of its anticipated pro rata share of an authorized assessment not yet called not later than the 180th day after the date the assessment is authorized.

(b) Section 463.152, Insurance Code, is amended to conform to Section 6, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) Class A assessments are authorized and called [~~made~~] to pay:

(1) the association's administrative costs;

(2) administrative expenses that:

(A) are properly incurred under this chapter; and

(B) relate to an unauthorized insurer or to an entity that is not a member insurer; and

(3) other general expenses not related to a particular impaired or insolvent insurer.

(c) Class B assessments are authorized and called [~~made~~] to the extent necessary for the association to carry out the association's powers and duties under Sections 463.101, 463.103, 463.109, and 463.111(c) and Subchapter F with regard to an impaired or insolvent insurer.

(d) For purposes of this section, an assessment is authorized at the time a resolution by the board is passed under which an assessment will be called immediately or in the future from member insurers for a specified amount and an assessment is called at the time a notice has been issued by the association to member insurers requiring that an authorized assessment be paid within a period stated in the notice. An authorized assessment becomes a called assessment at the time notice is mailed by the association to member insurers.

(c) Sections 463.153(b) and (c), Insurance Code, are amended to conform to Section 6, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) Class B assessments against a member insurer for each account under Section 463.105 shall be authorized and called [~~made~~] in the proportion that the premiums received on [~~all~~] business in this state by the insurer on policies or contracts covered by each account for the three most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent bear to [~~the~~] premiums received on [~~all~~] business in this state for those calendar years by all assessed member insurers. The amount of a Class B assessment shall be allocated [~~divided~~] among the separate accounts in accordance with an allocation formula that may be based on:

(1) the premiums or reserves of the impaired or insolvent insurer; or

(2) any other standard deemed by the board in the board's sole discretion as being fair and reasonable under the circumstances [~~the proportion that the premiums on the policies covered by each account were received by the impaired or insolvent insurer from all covered policies during the year preceding the date of the impairment, as shown in the annual statements for the year preceding the date of the assessment~~].

(c) The total amount of assessments on a member insurer for each account under Section 463.105 may not exceed two [~~one~~] percent of the insurer's premiums on the policies covered by the account during the three [~~in a single~~] calendar years preceding the year in

which the insurer became an impaired or insolvent insurer. If two or more assessments are authorized in a calendar year with respect to insurers that become impaired or insolvent in different calendar years, the average annual premiums for purposes of the aggregate assessment percentage limitation described by this subsection shall be equal to the higher of the three-year average annual premiums for the applicable subaccount or account as computed in accordance with this section [~~year~~]. If the maximum assessment and the other assets of the association do not provide in a year an amount sufficient to carry out the association's responsibilities, the association shall make necessary additional assessments as soon as this chapter permits.

(d) Section 6, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 9, Article 21.28-D, Insurance Code, by amending Subsections (b), (d), (f), (g), and (h) and adding Subsection (b-1), is repealed.

SECTION 9.017. (a) Section 463.161(a), Insurance Code, is amended to conform to Section 7, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) A member insurer is entitled to show as an admitted asset a certificate of contribution in the form the commissioner approves under Section 463.156. Unless the commissioner requires a longer period, the certificate may be shown at:

(1) for the calendar year of issuance, an amount equal to the certificate's original face value approved by the commissioner; and

(2) beginning with the year following the calendar

year of issuance, an amount equal to the certificate's original face value, reduced by 20 [~~10~~] percent a year for each year after the year of issuance, for a period of five [~~10~~] years.

(b) Section 7, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (a), Section (13), Article 21.28-D, Insurance Code, is repealed.

SECTION 9.018. (a) Section 463.201, Insurance Code, is amended to conform to Section 1, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, and to conform more closely to the source law from which the section was derived to read as follows:

Sec. 463.201. INSUREDS COVERED. (a) Subject to Subsections (b) and (c), this [~~This~~] chapter provides coverage for a policy or contract described by Section 463.202 to a person who is:

(1) a person, other than a certificate holder under a group policy or contract who is not a resident, who is a beneficiary, assignee, or payee of a person described by Subdivision (2);

(2) a person who is [~~subject to Subsection (b),~~] an owner of or certificate holder under a policy or contract specified by Section 463.202, other than [~~or a contract holder under~~] an unallocated annuity contract or structured settlement annuity, and who is:

(A) a resident; or

(B) not a resident, but only under all of the following conditions:

(i) the insurers that issued the policies

or contracts are domiciled in this state;

(ii) the state in which the person resides has an association similar to the association; and

(iii) the person is not eligible for coverage by an association in any other state because the insurer was not licensed in the state at the time specified in that state's guaranty association law;

(3) a person who is the owner of an unallocated annuity contract issued to or in connection with:

(A) a benefit plan whose plan sponsor has the sponsor's principal place of business in this state; or

(B) a government lottery, if the owner is a resident; or

(4) a person who is the payee under a structured settlement annuity, or beneficiary of the payee if the payee is deceased, if:

(A) the payee is a resident, regardless of where the contract owner resides;

(B) the payee is not a resident, the contract owner of the structured settlement annuity is a resident, and the payee is not eligible for coverage by the association in the state in which the payee resides; or

(C) the payee and the contract owner are not residents, the insurer that issued the structured settlement annuity is domiciled in this state, the state in which the contract owner resides has an association similar to the association, and neither the payee or, if applicable, the payee's beneficiary, nor

the contract owner is eligible for coverage by the association in the state in which the payee or contract owner resides [~~(2) a beneficiary, assignee, or payee, other than a certificate holder under a group policy or contract who is not a resident, of a person described by Subdivision (1)~~].

(b) This chapter does not provide coverage to:

(1) a person who is a payee or the beneficiary of a payee with respect to a contract the owner of which is a resident of this state, if the payee or the payee's beneficiary is afforded any coverage by the association of another state; or

(2) a person otherwise described by Subsection (a)(3), if any coverage is provided by the association of another state to that person.

(c) This chapter is intended to provide coverage to persons who are residents of this state, and in those limited circumstances as described in this chapter, to nonresidents. In order to avoid duplicate coverage, if a person who would otherwise receive coverage under this chapter is provided coverage under the laws of any other state, the person may not be provided coverage under this chapter. In determining the application of the provisions of this subsection in situations in which a person could be covered by the association of more than one state, whether as an owner, payee, beneficiary, or assignee, this chapter shall be construed in conjunction with other state laws to result in coverage by only one association. [~~Coverage under Subsection (a)(1) applies to a person who is not a resident, only if:~~

[~~(1) the insurer that issued the policy or contract is~~

~~domiciled in this state;~~

[~~(2) the insurer never held a certificate of authority in the state in which the person resides;~~

[~~(3) the state in which the person resides has an association similar to the association; and~~

[~~(4) the person is not eligible for coverage by the association in the state in which the person resides.~~]

(b) Sections 463.202(a) and (c), Insurance Code, are amended to conform to Section 1, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) Except as limited by this chapter, the coverage provided by this chapter to a person specified by Section 463.201, subject to Sections 463.201(b) and (c), applies with respect to the following policies and contracts issued by a member insurer:

(1) a direct, nongroup life, health, accident, annuity, or supplemental policy or contract;

(2) a certificate under a direct group policy or contract;

(3) a group hospital service contract; and

(4) an unallocated annuity contract.

(c) For the purposes of this section, an annuity contract or a certificate under a group annuity contract includes:

(1) a guaranteed investment contract;

(2) a deposit administration contract;

(3) an allocated or unallocated funding agreement;

(4) a structured settlement annuity [~~agreement~~];

(5) an annuity issued to or in connection with a

government lottery [~~a lottery contract~~]; and

(6) an immediate or deferred annuity contract.

(c) Section 463.203, Insurance Code, is amended to conform to Section 1, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) This chapter does not provide coverage for:

(1) any part of a policy or contract not guaranteed by the insurer or under which the risk is borne by the policy or contract owner [~~holder~~];

(2) a policy or contract of reinsurance, unless an assumption certificate has been issued;

(3) any part of a policy or contract to the extent that the rate of interest on which that part is based:

(A) as averaged over the period of four years before the date the member insurer becomes impaired or insolvent under this chapter, whichever is earlier [~~association became obligated with respect to the policy or contract~~], exceeds a rate of interest determined by subtracting two percentage points from Moody's Corporate Bond Yield Average averaged for the same four-year period or for a lesser period if the policy or contract was issued less than four years before the date the member insurer becomes impaired or insolvent under this chapter, whichever is earlier [~~association became obligated~~]; and

(B) on and after the date the member insurer becomes impaired or insolvent under this chapter, whichever is earlier [~~association became obligated with respect to the policy or~~

~~contract~~], exceeds the rate of interest determined by subtracting three percentage points from Moody's Corporate Bond Yield Average as most recently available;

(4) a portion of a policy or contract issued to a plan or program of an employer, association, [~~or~~] similar entity, or other person to provide life, health, or annuity benefits to the entity's employees, [~~or~~] members, or others, to the extent that the plan or program is self-funded or uninsured, including benefits payable by an employer, association, or similar entity under:

(A) a multiple employer welfare arrangement as defined by Section 3, Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1002);

(B) a minimum premium group insurance plan;

(C) a stop-loss group insurance plan; or

(D) an administrative services-only contract;

(5) any part of a policy or contract to the extent that the part provides dividends, [~~or~~] experience rating credits, or voting rights, or provides that fees or allowances be paid to any person, including the policy or contract owner [~~holder~~], in connection with the service to or administration of the policy or contract;

(6) a policy or contract issued in this state by a member insurer at a time the insurer was not authorized to issue the policy or contract in this state;

(7) an unallocated annuity contract issued to or in connection with a [~~an employee~~] benefit plan protected under the federal Pension Benefit Guaranty Corporation, regardless of

whether the Pension Benefit Guaranty Corporation has not yet become liable to make any payments with respect to the benefit plan;

(8) any part of an unallocated annuity contract that is not issued to or in connection with a specific employee, a benefit plan for a union or association of individuals, or a governmental lottery; [~~or~~]

(9) any part of a financial guarantee, funding agreement, or guaranteed investment contract that:

(A) does not contain a mortality guarantee; and

(B) is not issued to or in connection with a specific employee, a benefit plan, or a governmental lottery;

(10) a part of a policy or contract to the extent that the assessments required by Subchapter D with respect to the policy or contract are preempted by federal or state law;

(11) a contractual agreement that established the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or the plan's trustee in a case in which neither the benefit plan sponsor nor its trustee is an affiliate of the member insurer; or

(12) a part of a policy or contract to the extent the policy or contract provides for interest or other changes in value that are to be determined by the use of an index or external reference stated in the policy or contract, but that have not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under

this chapter, whichever date is earlier, subject to Subsection (c).

(c) For purposes of determining the values that have been credited and are not subject to forfeiture as described by Subsection (b)(12), if a policy's or contract's interest or changes in value are credited less frequently than annually, the interest or change in value determined by using the procedures defined in the policy or contract is credited as if the contractual date of crediting interest or changing values is the earlier of the date of impairment or the date of insolvency, and is not subject to forfeiture.

(d) Section 463.260(a), Insurance Code, is amended to conform to Section 1, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The association is not liable for benefits that exceed the contractual obligations for which the insurer is liable or would have been liable if not impaired or insolvent. The association has no obligation to provide benefits outside the express written terms of the policy or contract, including:

(1) claims based on marketing materials;

(2) claims based on side letters, riders, or other documents that were issued without meeting applicable policy form filing or approval requirements;

(3) claims based on misrepresentation of or regarding policy benefits;

(4) extracontractual claims; or

(5) claims for penalties or consequential or incidental damages.

(e) Subchapter F, Chapter 463, Insurance Code, is amended to conform to Section 1, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 463.262 to read as follows:

Sec. 463.262. EFFECT OF SUBROGATION AND ASSIGNMENT OF RIGHTS AND AVAILABLE ASSETS ON ASSOCIATION OBLIGATION. (a) The limitations set forth in this chapter are limitations on the benefits for which the association is obligated before taking into account either the association's subrogation and assignment rights or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies.

(b) The costs of the association's obligations under this chapter may be met by the use of assets attributable to covered policies or reimbursed to the association pursuant to the association's subrogation and assignment rights.

(f) Section 1, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 3, Article 21.28-D, Insurance Code, is repealed.

SECTION 9.019. (a) Section 463.302(d), Insurance Code, is amended to conform to Section 8, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(d) The maximum amount recoverable under Subsections (b) and (c) is the amount needed in excess of all other available assets of the impaired or insolvent insurer to pay the insurer's contractual obligations.

(b) Section 463.304, Insurance Code, is amended to conform

to Section 8, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 463.304. DISTRIBUTION OF OWNERSHIP RIGHTS OF IMPAIRED OR INSOLVENT INSURER. In making an equitable distribution of the ownership rights of an impaired or insolvent insurer before the termination of a receivership, the court:

(1) shall consider the welfare of the policyholders of the continuing or successor insurer; and

(2) may consider the contributions of the respective parties, including the association, the shareholders and policyholders of the impaired or insolvent insurer, and any other party with a bona fide interest.

(c) Section 8, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsections (d) and (i), Section 14, Article 21.28-D, Insurance Code, is repealed.

SECTION 9.020. (a) Article 21.79H, Insurance Code, is transferred to Chapter 542, Insurance Code, redesignated as Subchapter G of that chapter, and amended to read as follows:

SUBCHAPTER G. INSURER'S RECOVERY FROM UNINSURED THIRD PARTY

Sec. 542.301. APPLICABILITY OF SUBCHAPTER [~~Art. 21.79H. RECOVERY OF CERTAIN COSTS FROM THIRD PARTY~~]. [~~(a)~~] This subchapter [~~article~~] applies to any insurer that delivers, issues for delivery, or renews a private passenger automobile insurance policy in this state, including a county mutual, a reciprocal or interinsurance exchange, or a Lloyd's plan.

Sec. 542.302. RECOVERY IN SUIT OR OTHER ACTION. [~~(b)~~] An insurer that brings suit or takes other action described by Section

542.202 [~~of this code~~] against a responsible third party relating to a loss that is covered under a private passenger automobile insurance policy issued by the insurer and for which the responsible third party is uninsured is entitled to recover, in addition to payments made by the insurer or insured, the costs of bringing the suit or taking the action, including reasonable attorney's fees and court costs.

(b) For organizational purposes, the heading to Subchapter E, Chapter 542, Insurance Code, is amended to read as follows:

SUBCHAPTER E. RECOVERY OF DEDUCTIBLE [~~COLLECTION~~] FROM THIRD PARTIES UNDER CERTAIN AUTOMOBILE INSURANCE POLICIES

SECTION 9.021. (a) Section 544.303, Insurance Code, is amended to conform to Section 1, Chapter 149, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 544.303. PROHIBITION OF CERTAIN UNDERWRITING DECISIONS BASED ON PREVIOUS MOLD CLAIM OR DAMAGE. An insurer may not make an underwriting decision regarding a residential property insurance policy based on previous mold damage or a claim for mold damage if:

(1) the applicant for insurance coverage has property eligible for coverage under a residential property policy;

(2) the property has had mold damage;

(3) mold remediation has been performed on the property; and

(4) the property was:

(A) remediated, as evidenced by a certificate of mold remediation issued to the property owner under Section

1958.154, Occupations Code, that establishes with reasonable certainty that the underlying cause of the mold at the property has been remediated; or

(B) inspected by an independent assessor or adjustor who determined, based on the inspection, that the property does not contain evidence of mold damage.

(b) Section 1, Chapter 149, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 3, Article 21.21-11, Insurance Code, is repealed.

SECTION 9.022. (a) Section 544.352, Insurance Code, is amended to conform to Section 1, Chapter 528, Acts of the 79th Legislature, Regular Session, 2005, and further amended to read as follows:

Sec. 544.352. DEFINITIONS. In this subchapter:

(1) "Appliance" means a household device operated by gas or electric current, including hoses directly attached to the device. The term includes air conditioning units, heating units, refrigerators, dishwashers, icemakers, clothes washers, water heaters, and disposals.

(2) "Insurer" means an insurance company, reciprocal or interinsurance exchange, mutual insurance company, capital stock company, county mutual insurance company, farm mutual insurance company, association, Lloyd's plan, or other entity writing residential property insurance in this state. The term includes an affiliate, as described by Section 823.003(a), if that affiliate is authorized to write and is writing residential property insurance in this state. The term does not include:

(A) the Texas Windstorm Insurance Association created and operated under Chapter 2210 [~~Article 21.49~~]; or

(B) the FAIR Plan created and operated under Chapter 2211 [~~Article 21.49A~~].

(3) [~~(2)~~] "Residential property insurance" means insurance against loss to residential real property at a fixed location or tangible personal property provided in a homeowners policy, which includes a tenant policy, a condominium owners policy, or a residential fire and allied lines policy.

(4) [~~(3)~~] "Underwriting guideline" means a rule, standard, guideline, or practice, whether written, oral, or electronic, that is used by an insurer or an agent of an insurer to:

(A) decide whether to accept or reject an application for a residential property insurance policy; or

(B) determine how to classify the risks that are accepted for the purpose of determining a rate.

(b) Section 1, Chapter 528, Acts of the 79th Legislature, Regular Session, 2005, which added Subdivision (4) to former Section 2, Article 5.35-4, Insurance Code, is repealed.

SECTION 9.023. (a) Chapter 544, Insurance Code, is amended to codify Article 21.53X, Insurance Code, as added by Section 8, Chapter 97, Acts of the 79th Legislature, Regular Session, 2005, by adding Subchapter J and is further amended to read as follows:

SUBCHAPTER J. PROHIBITED PRACTICES RELATING TO EXPOSURE TO ASBESTOS OR SILICA

Sec. 544.451. DEFINITION. In this subchapter, "health benefit plan" means a plan that provides benefits for medical,

surgical, or other treatment expenses incurred as a result of a health condition, a mental health condition, an accident, sickness, or substance abuse, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document. The term includes:

(1) a small employer health benefit plan or a health benefit plan written to provide coverage with a cooperative under Chapter 1501;

(2) a standard health benefit plan offered under Subchapter A or Subchapter B, Chapter 1507; and

(3) a health benefit plan offered under Chapter 1551, 1575, 1579, or 1601.

Sec. 544.452. APPLICABILITY OF SUBCHAPTER. This subchapter applies to any entity that offers a health benefit plan or an annuity or life insurance policy or contract in this state, including:

(1) a stock or mutual life, health, or accident insurance company;

(2) a group hospital service corporation operating under Chapter 842;

(3) a fraternal benefit society operating under Chapter 885;

(4) a stipulated premium insurance company operating under Chapter 884;

(5) a Lloyd's plan operating under Chapter 941;

(6) an exchange operating under Chapter 942;

(7) a health maintenance organization operating under Chapter 843;

(8) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846;

(9) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844;

(10) a statewide mutual assessment company operating under Chapter 881;

(11) a local mutual aid association operating under Chapter 886; and

(12) a local mutual burial association operating under Chapter 888.

Sec. 544.453. PROHIBITION. An entity that offers a health benefit plan or an annuity or life insurance policy or contract may not use the fact that a person has been exposed to asbestos fibers or silica or has filed a claim governed by Chapter 90, Civil Practice and Remedies Code, to reject, deny, limit, cancel, refuse to renew, increase the premiums for, or otherwise adversely affect the person's eligibility for or coverage under the policy or contract.

(b) Article 21.53X, Insurance Code, as added by Section 8, Chapter 97, Acts of the 79th Legislature, Regular Session, 2005, is repealed.

SECTION 9.024. Section 551.004, Insurance Code, is amended to correct references to read as follows:

Sec. 551.004. TRANSFER NOT CONSIDERED A REFUSAL TO RENEW. For purposes of this chapter and Subchapters C and D, Chapter 1952

[~~Articles 5.06-1 and 5.06-3 of this code~~], the transfer of a policyholder between admitted companies within the same insurance group is not considered a refusal to renew.

SECTION 9.0245. (a) Subchapter A, Chapter 551, Insurance Code, is amended to conform to the enactment of Article 21.49-2V, Insurance Code, by Section 8.02, Chapter 206, Acts of the 78th Legislature, Regular Session, 2003, by adding Section 551.005 to read as follows:

Sec. 551.005. MEMBERSHIP DUES. (a) In this section, "insurer" includes a county mutual insurance company, a Lloyd's plan, and a reciprocal or interinsurance exchange.

(b) Except as otherwise provided by law, an insurer may require that membership dues in its sponsoring organization be paid as a condition for issuance or renewal of a policy.

(b) Article 21.49-2V, Insurance Code, as added by Section 8.02, Chapter 206, Acts of the 78th Legislature, Regular Session, 2003, is repealed.

SECTION 9.025. Section 843.318(a), Insurance Code, is amended to conform more closely to the source law from which the section was derived to read as follows:

(a) This chapter and this code do not prohibit a physician or provider who is participating in a health maintenance organization delivery network, whether by contracting with a health maintenance organization under Section 843.101 or by subcontracting with a physician or provider in the health maintenance organization delivery network, from entering into a contractual arrangement [~~authorized by this section~~] within a

health maintenance organization delivery network described by Subsections (b)-(e).

SECTION 9.026. Section 941.003(b), Insurance Code, as amended by Chapters 631 and 1295, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and is amended to correct references to read as follows:

(b) A Lloyd's plan is subject to:

(1) Subchapter [~~Section 5, Article 1.10,~~

[~~(2) Article 1.15A,~~

[~~(3) Subchapters~~] A, [~~Q, T, and U,~~] Chapter 5, Chapter 254, Subchapters A and B, Chapter 1806, and Subtitle C, Title 10;

(2) [~~(4)~~] Articles [~~5.20,~~] 5.35, [~~5.38,~~] 5.39, and 5.40;

(3) [~~(5) Article 21.49-8,~~

[~~(6) Sections 822.203, 822.205, 822.210, and 822.212,~~

[~~(7)~~] Article 5.13-2, as provided by that article, Subchapters A-D, Chapter 2251, as provided by that chapter, and Chapter 2301, as provided by that chapter;

(4) [~~(8)~~] Chapters 251, 252, 402, [~~and~~] 541, and 2253;

(5) Subchapter A, Chapter 401;

(6) Subchapter B, Chapter 404;

(7) Subchapter C, Chapter 1806; and

(8) Sections [~~(9) Section~~] 38.001, 501.159, 822.203, 822.205, 822.210, 822.212, 2002.005, 2002.051, and 2002.052.

SECTION 9.027. Section 942.003(b), Insurance Code, as amended by Chapters 631 and 1295, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and is amended to correct

references to read as follows:

(b) An exchange is subject to:

(1) Subchapter [~~Section 5, Article 1.10,~~

[~~(2) Articles 1.15, 1.15A, and 1.16,~~

[~~(3) Subchapters~~] A, [~~Q, T, and U,~~] Chapter 5, Chapter 254, Subchapters A and B, Chapter 1806, and Subtitle C, Title 10;

(2) [~~(4)~~] Articles [~~5.20,~~] 5.35, [~~5.37, 5.38,~~] 5.39, and 5.40;

(3) [~~(5) Article 21.49-8,~~

[~~(6) Sections 822.203, 822.205, 822.210, 822.212, 861.254(a)-(f), 861.255, 862.001(b), and 862.003,~~

[~~(7)~~] Article 5.13-2, as provided by that article, Subchapters A-D, Chapter 2251, as provided by that chapter, and Chapter 2301, as provided by that chapter;

(4) Chapters 402, [~~(8) Chapter~~] 541, and 2253;

(5) Subchapter A, Chapter 401, and Sections 401.051, 401.052, 401.054, 401.055, 401.056, 401.057, 401.058, 401.059, 401.060, 401.061, 401.062, 401.151, 401.152, 401.155, and 401.156;

(6) Subchapter B, Chapter 404;

(7) Subchapter C, Chapter 1806; and

(8) Sections [~~(9) Section~~] 38.001, 501.159, 822.203, 822.205, 822.210, 822.212, 861.254(a)-(f), 861.255, 862.001(b), 862.003, 2002.002, 2002.005, 2002.051, and 2002.052.

SECTION 9.0271. (a) Section 1301.004, Insurance Code, to conform more closely to the source law from which it was derived, is transferred to Section 1301.061, Insurance Code, redesignated as Subsection (c) of that section, and amended to read as follows:

(c) [~~Sec. 1301.004. COMPLIANCE WITH CHAPTER REQUIRED.~~] Each preferred provider benefit plan offered in this state must comply with this chapter.

(b) Subchapter A, Chapter 1301, Insurance Code, is amended to conform more closely to the source law from which Chapter 1301 was derived by adding Section 1301.0041 to read as follows:

Sec. 1301.0041. APPLICABILITY. This chapter applies to any preferred provider benefit plan in which an insurer provides, through the insurer's health insurance policy, for the payment of a level of coverage that is different from the basic level of coverage provided by the health insurance policy if the insured uses a preferred provider.

SECTION 9.028. Section 1365.004, Insurance Code, is amended to conform more closely to the source law from which the section was derived to read as follows:

Sec. 1365.004. RIGHT TO REJECT COVERAGE OR SELECT ALTERNATIVE BENEFITS [~~COVERAGE~~]. An offer of coverage required under Section 1365.003 is subject to the right of the group contract holder to reject the coverage or to select an alternative level of benefits [~~coverage~~] that is offered by or negotiated with the group health benefit plan issuer.

SECTION 9.0281. Section 1367.053(c), Insurance Code, is amended to conform more closely to the source law from which the section was derived to read as follows:

(c) In addition to the immunizations required under Subsection (a), a health maintenance organization that issues a health benefit plan shall provide under the plan coverage for

immunization against rotovirus and any other immunization required for a child by law.

SECTION 9.029. (a) Section 1507.003(b), Insurance Code, is amended to conform to Section 2, Chapter 577, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) For purposes of this subchapter, "state-mandated health benefits" does not include benefits that are mandated by federal law or standard provisions or rights required under this code or other laws of this state to be provided in an individual, blanket, or group policy for accident and health insurance that are unrelated to a specific health illness, injury, or condition of an insured, including provisions related to:

(1) continuation of coverage under:

(A) Subchapters F and G, Chapter 1251;

(B) Section 1201.059; and

(C) Subchapter B, Chapter 1253;

(2) termination of coverage under Sections 1202.051 and 1501.108;

(3) preexisting conditions under Subchapter D, Chapter 1201, and Sections 1501.102-1501.105;

(4) coverage of children, including newborn or adopted children, under:

(A) Subchapter D, Chapter 1251;

(B) Sections 1201.053, 1201.061, 1201.063-1201.065, and Subchapter A, Chapter 1367;

(C) Chapter 1504;

(D) Chapter 1503;

(E) Section 1501.157;

(F) Section 1501.158; and

(G) Sections 1501.607-1501.609;

(5) services of practitioners under:

(A) Subchapters A, B, and C, Chapter 1451; or

(B) Section 1301.052;

(6) supplies and services associated with the treatment of diabetes under Subchapter B, Chapter 1358;

(7) coverage for serious mental illness under Subchapter A, Chapter 1355[~~, if the standard health benefit plan is issued to a large employer as defined by Section 1501.002~~];

(8) coverage for childhood immunizations and hearing screening as required by Subchapters B and C, Chapter 1367, other than Section 1367.053(c) and Chapter 1353;

(9) coverage for reconstructive surgery for certain craniofacial abnormalities of children as required by Subchapter D, Chapter 1367;

(10) coverage for the dietary treatment of phenylketonuria as required by Chapter 1359;

(11) coverage for referral to a non-network physician or provider when medically necessary covered services are not available through network physicians or providers, as required by Section 1271.055; and

(12) coverage for cancer screenings under:

(A) Chapter 1356;

(B) Chapter 1362; [~~and~~]

(C) Chapter 1363; and

(D) Chapter 1370.

(b) Section 2, Chapter 577, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (b), Section 3, Article 3.80, Insurance Code, is repealed.

SECTION 9.030. (a) Section 1507.053(b), Insurance Code, is amended to conform to Section 3, Chapter 577, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) For purposes of this subchapter, "state-mandated health benefits" does not include coverage that is mandated by federal law or standard provisions or rights required under this code or other laws of this state to be provided in an evidence of coverage that are unrelated to a specific health illness, injury, or condition of an enrollee, including provisions related to:

(1) continuation of coverage under Subchapter G, Chapter 1251;

(2) termination of coverage under Sections 1202.051 and 1501.108;

(3) preexisting conditions under Subchapter D, Chapter 1201, and Sections 1501.102-1501.105;

(4) coverage of children, including newborn or adopted children, under:

(A) Chapter 1504;

(B) Chapter 1503;

(C) Section 1501.157;

(D) Section 1501.158; and

(E) Sections 1501.607-1501.609;

(5) services of providers under Section 843.304;

(6) coverage for serious mental health illness under Subchapter A, Chapter 1355[~~, if the standard health benefit plan is issued to a large employer as defined by Section 1501.002~~]; and

(7) coverage for cancer screenings under:

(A) Chapter 1356;

(B) Chapter 1362; [~~and~~]

(C) Chapter 1363; and

(D) Chapter 1370.

(b) Section 3, Chapter 577, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (d), Article 20A.09N, Insurance Code, is repealed.

SECTION 9.031. Section 1801.002, Insurance Code, is repealed to conform to Section 5.01(4), Chapter 1227, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 9.032. (a) Section 1806.101, Insurance Code, is amended to conform to Section 2, Chapter 631, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 1806.101. DEFINITIONS. In this subchapter:

(1) "Insurance" includes a suretyship.

(2) "Insurer" means an insurance company or other legal entity described by Sections 1806.102(a) and (b).

(3) "Policy" includes a bond.

(b) Sections 1806.104(a) and (b), Insurance Code, are amended to conform to Section 2, Chapter 631, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) Except as otherwise provided by this subchapter, an insurer, an insurer's employee, or a broker or agent may not

knowingly:

(1) issue an insurance policy that is not in accordance with an applicable filing [~~that is filed and in effect under Chapter 2251 or 2301 or Article 5.13-2~~]; or

(2) charge, demand, or receive a premium on an insurance policy that is not in accordance with an applicable filing [~~that is filed and in effect under Chapter 2251 or 2301 or Article 5.13-2~~].

(b) Except as provided in an applicable filing [~~that is filed and in effect under Chapter 2251 or 2301 or Article 5.13-2~~], an insurer, an insurer's employee, or a broker or agent may not directly or indirectly pay, allow, or give, or offer to pay, allow, or give, as an inducement to insurance, or after insurance has been written, a rebate, discount, abatement, credit or reduction of the premium stated in an insurance policy, or a special favor or advantage in the dividends or other benefits to accrue on the policy, or any valuable consideration or inducement, not specified in the policy.

(c) Section 2, Chapter 631, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsections (a) and (d), Article 5.20, Insurance Code, is repealed.

SECTION 9.033. Section 1806.102, Insurance Code, is amended to conform to Section 1, Chapter 631, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 1806.102. APPLICABILITY OF SUBCHAPTER. (a) <u>This</u> [~~Except as provided by Subsections (b) and (c), this~~] subchapter applies to an insurer, including a corporation, reciprocal or

interinsurance exchange, mutual insurance company, association, Lloyd's plan, or other organization, writing casualty insurance or writing fidelity, surety, or guaranty bonds, on risks or operations in this state.

(b) This subchapter applies [~~does not apply~~] to:

(1) a farm mutual insurance company with respect to each line of insurance that a farm mutual insurance company is authorized to write under Section 911.151 [~~or association regulated under Chapter 911~~]; and [~~or~~]

(2) a county mutual insurance company with respect to each line of insurance that a county mutual insurance company is authorized to write under Section 912.151 [~~regulated under Chapter 912~~].

(c) Except as otherwise provided by this subchapter, this [~~This~~] subchapter does not apply to the writing of:

(1) automobile insurance;

(2) life, health, or accident insurance;

(3) professional liability insurance;

(4) reinsurance;

(5) aircraft insurance;

(6) fraternal benefit insurance;

(7) fire insurance;

(8) workers' compensation insurance;

(9) marine insurance, including noncommercial inland marine insurance and ocean marine insurance;

(10) title insurance;

(11) explosion insurance, except insurance against

loss from personal injury or property damage resulting accidentally from:

(A) a steam boiler;

(B) a heater or pressure vessel;

(C) an electrical device;

(D) an engine; or

(E) all machinery and appliances used in connection with or in the operation of a boiler, heater, vessel, electrical device, or engine described by Paragraphs (A)-(D); or

(12) insurance coverage for any of the following conditions or risks:

(A) weather or climatic conditions, including lightning, tornado, windstorm, hail, cyclone, rain, or frost and freeze;

(B) earthquake or volcanic eruption;

(C) smoke or smudge;

(D) excess or deficiency of moisture;

(E) flood;

(F) the rising water of an ocean or an ocean's tributary;

(G) bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, or any order of a civil authority made to prevent the spread of a conflagration, epidemic or catastrophe;

(H) vandalism or malicious mischief;

(I) strike or lockout;

(J) water or other fluid or substance resulting

from:

(i) the breakage or leakage of a sprinkler, pump, or other apparatus erected for extinguishing fire, or a water pipe or other conduit or container; or

(ii) casual water entering a building through a leak or opening in the building or by seepage through building walls; or

(K) accidental damage to a sprinkler, pump, fire apparatus, pipe, or other conduit or container described by Paragraph (J)(i).

SECTION 9.034. (a) Section 1901.054(b), Insurance Code, is amended to conform to Section 1, Chapter 1135, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) A rate is not excessive unless[~~:~~

[~~(1)~~] the rate is unreasonably high for the insurance coverage provided[~~; and~~

[~~(2) a reasonable degree of competition does not exist in the area with respect to the classification to which the rate applies~~].

(b) Section 1901.057, Insurance Code, is amended to conform to Section 1, Chapter 1135, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 1901.057. CONSIDERATIONS IN APPROVING RATES. In approving rates under this chapter, the department [~~commissioner~~] shall consider the impact of risk management courses taken by physicians and health care providers in this state.

(c) Section 1, Chapter 1135, Acts of the 79th Legislature,

Regular Session, 2005, which amended former Section 3, Article 5.15-1, Insurance Code, is repealed.

SECTION 9.035. (a) Subchapter B, Chapter 1901, Insurance Code, is amended by adding Section 1901.0541 to conform to Section 2, Chapter 1135, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 1901.0541. USE IN UNDERWRITING OF CERTAIN INFORMATION RELATED TO LAWSUITS; REFUND. (a) Notwithstanding any other provision of this code, an insurer may not consider for the purpose of setting premiums or reducing a claims-free discount for a particular insured physician's professional liability insurance a lawsuit filed against the physician if:

(1) before trial, the lawsuit was dismissed by the claimant or nonsuited; and

(2) no payment was made to the claimant under a settlement agreement.

(b) An insurer that, in setting premiums or reducing a claims-free discount for a physician's professional liability insurance, considers a lawsuit filed against the physician shall refund to the physician any increase in premiums paid by the physician that is attributable to that lawsuit or reinstate the claims-free discount if the lawsuit is dismissed by the claimant or nonsuited without payment to the claimant under a settlement agreement. The insurer shall issue the refund or reinstate the discount on or before the 30th day after the date the insurer receives written evidence that the lawsuit was dismissed or nonsuited without payment to the claimant under a settlement

agreement.

(c) This section does not prohibit an insurer from considering and using aggregate historical loss and expense experience applicable generally to a classification of physicians' professional liability insurance to set rates for that classification to the extent authorized by Chapter 2251 and Article 5.13-2. Notwithstanding Section 2251.052(c), an insurer may not assign a physician to a particular classification based on a factor described by Subsection (a).

(b) Subchapter F, Chapter 1901, Insurance Code, is amended by adding Section 1901.254 to conform to Section 2, Chapter 1135, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 1901.254. PROHIBITION OF USE OF CERTAIN INFORMATION FOR PHYSICIAN OR HEALTH CARE PROVIDER. (a) For the purpose of writing professional liability insurance for physicians and health care providers, an insurer may not consider whether, or the extent to which, a physician or health care provider provides services in this state to individuals who are recipients of Medicaid or covered by the state child health plan program established by Chapter 62, Health and Safety Code, including any consideration resulting in:

(1) denial of coverage;

(2) refusal to renew coverage;

(3) cancellation of coverage;

(4) limitation of the amount, extent, or kind of coverage available; or

(5) a determination of the rate or premium to be paid.

(b) The commissioner may adopt rules as necessary to implement this section.

(c) Section 2, Chapter 1135, Acts of the 79th Legislature, Regular Session, 2005, which added Sections 12 and 13 to former Article 5.15-1, Insurance Code, is repealed.

SECTION 9.036. (a) Subchapter F, Chapter 1901, Insurance Code, is amended by adding Section 1901.255 to conform to Section 1, Chapter 184, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 1901.255. COVERAGE FOR VOLUNTEER HEALTH CARE PROVIDERS. (a) In this section:

(1) "Charitable organization" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(2) "Volunteer health care provider" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(b) An insurer may make available professional liability insurance covering a volunteer health care provider for an act or omission resulting in death, damage, or injury to a patient while the person is acting in the course and scope of the person's duties as a volunteer health care provider as described by Chapter 84, Civil Practice and Remedies Code.

(c) This section does not affect the liability of a volunteer health care provider who is serving as a direct service volunteer of a charitable organization. Section 84.004(c), Civil Practice and Remedies Code, applies to the volunteer health care provider without regard to whether the volunteer health care provider obtains liability insurance under this section.

(d) An insurer may make professional liability insurance available under this section to a volunteer health care provider without regard to whether the volunteer health care provider is a "health care provider" as defined by Section 1901.001.

(b) Section 1, Chapter 184, Acts of the 79th Legislature, Regular Session, 2005, which added Section 12 to former Article 5.15-1, Insurance Code, is repealed.

SECTION 9.037. (a) Section 1952.101(c), Insurance Code, is amended to conform to Section 3, Chapter 1159, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(c) The coverage required by this subchapter does not apply if any insured named in the insurance policy rejects the coverage in writing. Unless the named insured requests in writing the coverage required by this subchapter, the insurer is not required to provide that coverage in or supplemental to a reinstated insurance policy or renewal insurance policy if the named insured rejected the coverage in connection with that insurance policy or an insurance policy previously issued to the insured by the same insurer or by an affiliated insurer.

(b) Section 3, Chapter 1159, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section (1), Article 5.06-1, Insurance Code, is repealed.

SECTION 9.038. (a) Section 1952.152(b), Insurance Code, is amended to conform to Section 4, Chapter 1159, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) The coverage required by this subchapter does not apply if any insured named in the insurance policy rejects the coverage in

writing. Unless the named insured requests in writing the coverage required by this subchapter, the insurer is not required to provide that coverage in or supplemental to a reinstated insurance policy or renewal insurance policy if the named insured rejected the coverage in connection with that insurance policy or an insurance policy previously issued to the insured by the same insurer or by an affiliated insurer.

(b) Section 4, Chapter 1159, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (a), Article 5.06-3, Insurance Code, is repealed.

SECTION 9.039. (a) Section 1952.155, Insurance Code, is amended by amending Subsection (b) and adding Subsection (c) to conform to Section 2, Chapter 1074, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) Except as provided by Subsection (c), an [~~An~~] insurer paying benefits under coverage required by this subchapter does not have a right of subrogation or claim against any other person or insurer to recover any benefits by reason of the alleged fault of the other person in causing or contributing to the accident.

(c) An insurer paying benefits pursuant to this subchapter, including a county mutual insurance company, shall have a right of subrogation and a claim against a person causing or contributing to the accident if, on the date of loss, financial responsibility as required by Chapter 601, Transportation Code, has not been established for a motor vehicle involved in the accident and operated by that person.

(b) Section 2, Chapter 1074, Acts of the 79th Legislature,

Regular Session, 2005, which amended former Article 5.06-3, Insurance Code, by amending Subsection (c) and adding Subsection (i), is repealed.

SECTION 9.040. (a) Section 2006.052, Insurance Code, is amended to conform to Sections 4 and 6, Chapter 291, Acts of the 79th Legislature, Regular Session, 2005, by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) This section applies to an insurer that uses a tier classification or discount program that has a premium consequence based in whole or in part on claims experience, regardless of whether any of the policies that continuously covered the policyholder was a different kind of residential property insurance policy from the policy eligible for the premium discount.

(c) A residential property insurance claim under this section does not include a claim:

(1) resulting from a loss caused by natural causes;

(2) that is filed but is not paid or payable under the policy; or

(3) that an insurer is prohibited from using under Section 544.353.

(b) Subchapter B, Chapter 2006, Insurance Code, is amended to conform to Section 4, Chapter 291, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2006.0521 to read as follows:

Sec. 2006.0521. COMPLIANCE WITH OTHER LAW REQUIRED. Any change in the amount of a premium discount provided under this subchapter must comply with the requirements of Section 551.107.

(c) Sections 4 and 6, Chapter 291, Acts of the 79th Legislature, Regular Session, 2005, which amended former Article 5.43, Insurance Code, by amending Subsection (d) and adding Subsections (a-1) and (f), are repealed.

SECTION 9.041. (a) Section 2051.151(a), Insurance Code, is amended to conform to Section 6.062, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) Except as otherwise provided by Subsection (b), an insurance company that writes workers' compensation insurance in this state shall notify a policyholder of a claim that is filed against the policyholder's policy and, after the initial notice, the company shall notify the policyholder of:

(1) any proposal to settle the claim; or

(2) on receipt of a written request from the policyholder, any administrative or judicial proceeding relating to the resolution of the claim[~~, including a benefit review conference conducted by the Texas Workers' Compensation Commission~~].

(b) Section 6.062, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section (a), Article 5.65A, Insurance Code, is repealed.

SECTION 9.042. (a) Section 2053.001, Insurance Code, is amended to conform to Section 5.01, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, by amending Subdivision (2) and adding Subdivision (2-a) to read as follows:

(2) "Insurance company" means a person authorized to engage in the business of workers' compensation insurance in this

state. The term includes:

(A) the Texas Mutual Insurance Company;

(B) a Lloyd's plan under Chapter 941; and

(C) a reciprocal and interinsurance exchange under Chapter 942.

(2-a) "Premium" means the amount charged for a workers' compensation insurance policy, including any endorsements, after the application of individual risk variations based on loss or expense considerations.

(b) Section 5.01, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 1, Article 5.55, Insurance Code, by amending Subdivision (2) and adding Subdivision (2-a), is repealed.

SECTION 9.043. (a) Sections 2053.002(a) and (b), Insurance Code, are amended to conform to Section 5.02, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) In setting rates, an insurance company shall consider:

(1) past and prospective loss cost experience;

(2) operation expenses;

(3) investment income;

(4) a reasonable margin for profit and contingencies; [~~and~~]

(5) the effect on premiums of individual risk variations based on loss or expense considerations; and

(6) any other relevant factor.

(b) A rate or premium established under this subchapter may not be excessive, inadequate, or unfairly discriminatory.

(b) Section 5.02, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsections (b) and (d), Section 2, Article 5.55, Insurance Code, is repealed.

SECTION 9.044. Section 2053.007(c), Insurance Code, is repealed to conform to Section 5.04, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 9.045. (a) Section 2053.010, Insurance Code, is amended to conform to Section 5.05, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2053.010. PENALTIES [~~ADMINISTRATIVE PENALTY~~]. If a workers' compensation insurance policy is issued and the commissioner subsequently disapproves the rate or filing on which the premium is based, the commissioner, after notice and the opportunity for a hearing, may:

(1) impose sanctions under Chapter 82;

(2) issue a cease and desist order under Chapter 83;

(3) impose administrative penalties under Chapter 84; or

(4) take any combination of these actions. [~~(a) The commissioner may assess an administrative penalty against an insurance company if the commissioner determines, based on a pattern of charges for premiums, that the company is consistently overcharging or undercharging the company's policyholders for workers' compensation insurance.~~

[~~(b) An administrative penalty under this section must be:~~

[~~(1) assessed in accordance with Section 415.021, Labor Code; and~~

[~~(2) set by the commissioner in an amount reasonable and necessary to deter overcharging or undercharging of policyholders.~~]

(b) Section 5.05, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 7, Article 5.55, Insurance Code, is repealed.

SECTION 9.046. (a) Subchapter A, Chapter 2053, Insurance Code, is amended to conform to Section 5.055, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2053.011 to read as follows:

Sec. 2053.011. EXCLUSIVE JURISDICTION. The department has exclusive jurisdiction over all rates and premiums subject to this subchapter.

(b) Section 5.055, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which added Section 8 to former Article 5.55, Insurance Code, is repealed.

SECTION 9.047. (a) Subchapter A, Chapter 2053, Insurance Code, is amended to conform to Section 5.03, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, by adding Sections 2053.012 and 2053.013 to read as follows:

Sec. 2053.012. REPORT ON LEGISLATIVE REFORMS REQUIRED. (a) Not later than December 1 of each even-numbered year, the commissioner shall report to the governor, lieutenant governor, and speaker of the house of representatives regarding the impact that legislation enacted during the regular session of the 79th Legislature reforming the workers' compensation system of this state has had on the affordability and availability of workers'

compensation insurance for the employers of this state. The report must include an analysis of:

(1) the projected workers' compensation premium savings realized by employers as a result of the reforms;

(2) the impact of the reforms on:

(A) the percentage of employers who provide workers' compensation insurance coverage for their employees; and

(B) to the extent possible, economic development and job creation;

(3) the effects of the reforms on market competition and carrier financial solvency, including an analysis of how carrier loss ratios, combined ratios, and use of individual risk variations have changed since implementation of the reforms; and

(4) the extent of participation in workers' compensation health care networks by small and medium-sized employers.

(b) If the commissioner determines that workers' compensation rate filings or premium levels analyzed by the department do not appropriately reflect the savings associated with the reforms described by Subsection (a), the commissioner shall include in the report required under Subsection (a) any recommendations, including any recommended legislative changes, necessary to identify the tools needed by the department to more effectively regulate workers' compensation rates.

(c) At the request of the department, each insurance company shall submit to the department all data and other information considered necessary by the commissioner to generate the report

required under Subsection (a). Failure by an insurance company to submit the data and information in a timely fashion, as determined by commissioner rule, constitutes grounds for sanctions under Chapter 82.

Sec. 2053.013. REVIEW OF RATES; CONSIDERATION OF OTHER LAW. In reviewing rates under this subchapter, the commissioner shall consider any state or federal legislation that has been enacted and that may impact rates and premiums for workers' compensation insurance coverage in this state.

(b) Section 5.03, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which added Subsections (e) through (h) to former Section 3, Article 5.55, Insurance Code, is repealed.

SECTION 9.048. (a) Chapter 2053, Insurance Code, is amended to conform to Section 5.06, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. UNDERWRITING GUIDELINES

Sec. 2053.031. DEFINITIONS. In this subchapter:

(1) "Insurance company" has the meaning assigned by Section 2053.001.

(2) "Underwriting guideline" means a rule, standard, guideline, or practice, whether written, oral, or electronic, that is used by an insurance company or its agent to decide whether to accept or reject an application for coverage under a workers' compensation insurance policy or to determine how to classify those risks that are accepted for the purpose of determining a rate.

Sec. 2053.032. UNDERWRITING GUIDELINES. Each underwriting

guideline used by an insurance company in writing workers' compensation insurance must be sound, actuarially justified, or otherwise substantially commensurate with the contemplated risk. An underwriting guideline may not be unfairly discriminatory.

Sec. 2053.033. ENFORCEMENT. This subchapter may be enforced in the manner provided by Section 38.003(g).

Sec. 2053.034. FILING REQUIREMENTS. Each insurance company shall file with the department a copy of the insurance company's underwriting guidelines. The insurance company shall update its filing each time the underwriting guidelines are changed. If a group of insurance companies files one set of underwriting guidelines for the group, the group shall identify which underwriting guidelines apply to each insurance company in the group.

Sec. 2053.035. APPLICABILITY OF SECTION 38.003. Section 38.003 applies to this subchapter to the extent consistent with this subchapter.

(b) Section 5.06, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which added Article 5.55A to former Subchapter D, Chapter 5, Insurance Code, is repealed.

SECTION 9.049. (a) Subchapter B, Chapter 2053, Insurance Code, is amended to conform to Section 5.08, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2053.056 to read as follows:

Sec. 2053.056. RATE HEARINGS. (a) The commissioner shall conduct a public hearing each biennium, beginning not later than December 1, 2008, to review rates to be charged for workers'

compensation insurance written in this state. A public hearing under this section is not a contested case as defined by Section 2001.003, Government Code.

(b) Not later than the 30th day before the date of the public hearing required under Subsection (a), each insurance company subject to this subtitle and Article 5.66 shall file the insurance company's rates, supporting information, and supplementary rating information with the commissioner.

(c) The commissioner shall review the information submitted under Subsection (b) to determine the positive or negative impact of the enactment of workers' compensation reform legislation enacted by the 79th Legislature, Regular Session, 2005, on workers' compensation rates and premiums. The commissioner may consider other factors, including relativities under Section 2053.051, in determining whether a change in rates has impacted the premium charged to policyholders.

(d) The commissioner shall implement rules as necessary to mandate rate reductions or to modify the use of individual risk variations if the commissioner determines that the rates or premiums charged by insurance companies do not meet the rating standards as defined in this code.

(e) The commissioner shall adopt rules as necessary to mandate rate or premium reductions by insurance companies for the use of cost-containment strategies that result in savings to the workers' compensation system, including use of a workers' compensation health care network health care delivery system, as described by Chapter 1305.

(b) Section 5.08, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Article 5.60A, Insurance Code, is repealed.

SECTION 9.050. (a) Section 2053.151(b), Insurance Code, is amended to conform to Section 5.07, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) For purposes of Subsection (a), the commissioner shall establish standards and procedures for categorizing insurance and medical benefits required to be reported on each workers' compensation claim. In establishing the standards, the commissioner shall consult with the commissioner of workers' compensation [~~Texas Workers' Compensation Commission~~] to ensure that the data collection methodology will yield data necessary for research and medical cost containment efforts.

(b) Section 5.07, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (b), Article 5.58, Insurance Code, is repealed.

SECTION 9.051. (a) Section 2054.008(d), Insurance Code, is amended to conform to Section 6.065, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(d) Except as provided by Subsection (e), a company investigation file:

(1) is confidential and not subject to required disclosure under Chapter 552, Government Code; and

(2) may be disclosed only:

(A) in a criminal proceeding;

(B) in a hearing conducted by the division of

workers' compensation of the department [~~commission~~];

(C) on a judicial determination of good cause; or

(D) to a governmental agency, political subdivision, or regulatory body if the disclosure is necessary or proper for the enforcement of a law of this state, another state, or the United States.

(b) Section 6.065, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (a), Section 10, Article 5.76-3, Insurance Code, is repealed.

SECTION 9.052. (a) Section 2054.204(a), Insurance Code, is amended to conform to Section 6.066, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The company shall file annual statements with the department [~~and commission~~] in the same manner as is required of other workers' compensation insurance companies.

(b) Section 6.066, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (e), Section 12, Article 5.76-3, Insurance Code, is repealed.

SECTION 9.053. (a) Section 2054.206, Insurance Code, is amended to conform to Section 6.067, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.206. ADDITIONAL REPORTS. The company shall file with the department [~~and the commission~~] all reports required of other workers' compensation insurance companies.

(b) Section 6.067, Chapter 265, Acts of the 79th

Legislature, Regular Session, 2005, which amended former Subsection (b), Section 16, Article 5.76-3, Insurance Code, is repealed.

SECTION 9.0531. Section 2054.253(b), Insurance Code, is amended to conform more closely to the source law from which the section was derived to read as follows:

(b) The systems may provide for a higher or lower premium payment by an insured based on[~~:~~

[~~1~~] the company's evaluation of the underwriting characteristics of the individual risk[~~;~~] and

[~~2~~] the appropriate premium to be charged for the policy coverages.

SECTION 9.054. (a) Section 2054.451(b), Insurance Code, is amended to conform to Section 6.064, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) The company shall cooperate with the division of workers' compensation of the department [~~commission~~] to compile and maintain information necessary to detect practices or patterns of conduct that violate this code relating to workers' compensation insurance or that violate Subtitle A, Title 5, Labor Code.

(b) Section 2054.452, Insurance Code, is amended to conform to Section 6.064, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.452. INVESTIGATIONS; COORDINATION [~~WITH COMMISSION~~]. (a) The company may investigate cases of suspected fraud and violations of this code relating to workers' compensation insurance.

(b) The company may:

(1) coordinate the company's investigations with those conducted by the division of workers' compensation of the department [~~commission~~] to avoid duplication of efforts; and

(2) refer to the division of workers' compensation of the department [~~commission~~] a case that is not otherwise resolved by the company so that the division [~~commission~~] may:

(A) perform any further investigation necessary under the circumstances;

(B) conduct administrative violation proceedings; and

(C) assess and collect penalties and restitution.

(c) Section 2054.454, Insurance Code, is amended to conform to Section 6.064, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.454. DEPOSIT AND USE OF PENALTIES COLLECTED BY DIVISION [~~COMMISSION~~]. A penalty collected under Section 2054.452(b):

(1) must be deposited in the Texas Department of Insurance operating account [~~general revenue fund to the credit of the commission~~]; and

(2) may be appropriated only to the division of workers' compensation of the department [~~commission~~] to offset the costs of the program under Section 2054.451.

(d) Section 6.064, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former

Subsections (a), (b), and (e), Section 9, Article 5.76-3, Insurance Code, is repealed.

SECTION 9.055. (a) Section 2054.501, Insurance Code, is amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.501. DEFINITION. In this subchapter, "division" means the [~~commission's~~] division of workers' compensation of the department [~~health and safety~~].

(b) Section 2054.502, Insurance Code, is amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.502. REQUIREMENTS FOR PREVENTION OF INJURIES. The company may make and enforce requirements for the prevention of injuries to an employee of a policyholder or applicant for insurance under this chapter. On reasonable notice, a policyholder or applicant shall grant representatives of the company[~~, the commission,~~] or the department free access to the premises of the policyholder or applicant during regular working hours for purposes of this section.

(c) Section 2054.506, Insurance Code, is amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.506. SAFETY CONSULTANT REPORT. A safety consultant acting under this subchapter shall file a written report with the division [~~commission~~] and the policyholder specifying any hazardous condition or practice identified in the safety consultation.

(d) Section 2054.509, Insurance Code, is amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.509. FOLLOW-UP INSPECTION. (a) Not earlier than the 90th day after or later than the sixth month after the date an accident prevention plan is developed under Section 2054.507, the division shall conduct a follow-up inspection of the policyholder's premises in accordance with rules adopted by the commissioner of workers' compensation [~~commission~~].

(b) The division [~~commission~~] may require the participation of the safety consultant who performed the initial consultation and developed the accident prevention plan.

(c) If the commissioner of workers' compensation [~~division~~] determines that a policyholder has complied with the terms of the accident prevention plan or has implemented other accepted corrective measures, the commissioner of workers' compensation [~~division~~] shall certify that determination.

(d) If the commissioner of workers' compensation [~~division~~] determines that a policyholder has failed or refuses to implement the accident prevention plan or other suitable hazard abatement measures, the policyholder may elect to cancel coverage not later than the 30th day after the date of the determination.

(e) Sections 2054.510(a), (c), and (d), Insurance Code, are amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) If a policyholder described by Section 2054.509(d) does not elect to cancel coverage as provided by that section:

(1) the company may cancel the coverage; or

(2) the commissioner of workers' compensation [~~commission~~] may impose an administrative penalty on the policyholder.

(c) In imposing an administrative penalty, the commissioner of workers' compensation [~~commission~~] may consider any matter that justice may require and shall consider:

(1) the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the prohibited act;

(2) the history and extent of previous administrative violations;

(3) the demonstrated good faith of the violator, including actions taken to rectify the consequences of the prohibited act;

(4) any economic benefit resulting from the prohibited act; and

(5) the penalty necessary to deter future violations.

(d) A penalty collected under this section [~~must be~~]:

(1) must be deposited in the general revenue fund [~~to the credit of the commission~~]; and [~~or~~]

(2) may be appropriated [~~reappropriated~~] to the division [~~commission~~] to offset the costs of implementing and administering this subchapter.

(f) Section 2054.512, Insurance Code, is amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.512. FEES FOR SERVICES. The division [~~commission~~] shall:

(1) charge a policyholder for the reasonable cost of services provided to the policyholder under Sections 2054.505, 2054.506, 2054.507, 2054.509, and 2054.510(a); and

(2) set the fees for the services at a cost-reimbursement level, including a reasonable allocation of the division's [~~commission's~~] administrative costs.

(g) Section 2054.513, Insurance Code, is amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.513. ENFORCEMENT OF SUBCHAPTER. The [~~compliance and practices~~] division [~~of the commission~~] shall enforce compliance with this subchapter through the administrative violation proceedings under Chapter 415, Labor Code.

(h) Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsections (a), (e), (g), (h), (i), (k), and (l), Section 8, Article 5.76-3, Insurance Code, is repealed.

SECTION 9.056. Section 2054.001(2), Insurance Code, is repealed to conform to Section 7.01, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 9.057. Section 6.068, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsections (a) and (c), Section 10, Article 5.76-5, Insurance Code, is repealed.

SECTION 9.058. Section 2151.154, Insurance Code, is amended

to conform more closely to the source law from which the section was derived to read as follows:

Sec. 2151.154. ASSIGNMENT DISTRIBUTION PLAN. (a) The plan of operation must include a voluntary, competitive limited assignment distribution plan that allows an authorized insurer to contract directly with a servicing carrier [~~insurer~~] to accept assignments to the servicing carrier [~~insurer~~] by the association.

(b) A servicing carrier [~~insurer~~] must be authorized to write automobile insurance in this state and must:

(1) have written automobile liability insurance in this state for at least five years; or

(2) be currently engaged as a servicing carrier [~~insurer~~] for assigned risk automobile business in at least one other state.

(c) After notice and hearing, the commissioner may prohibit an insurer from acting as a servicing carrier [~~insurer~~].

(d) An authorized insurer and a servicing carrier [~~insurer~~] shall determine through negotiation the terms of a contract described by this section, including the buy-out fee.

(e) The governing committee may:

(1) adopt reasonable rules for the conduct of business under a contract described by this section; and

(2) establish reasonable standards of eligibility for servicing carriers [~~insurers~~].

SECTION 9.059. (a) Section 2154.005(a), Insurance Code, is amended to conform to Section 1, Chapter 217, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The fund is an account in a depository selected by the board of regents of The Texas A&M University System in the manner provided by Section 51.003, Education Code, for funds subject to the control of institutions of higher education under Section 51.002, Education Code [~~the general revenue fund~~].

(b) Section 1, Chapter 217, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsections (a) and (c), Section 5, Article 21.61, Insurance Code, is repealed.

SECTION 9.0591. (a) The following changes are made to Subtitle A, Title 5, Labor Code, and Subtitle E, Title 10, Insurance Code, for organizational purposes:

(1) Chapter 406A, Labor Code, is redesignated as Chapter 2055, Subtitle E, Title 10, Insurance Code; and

(2) Sections 406A.001, 406A.002, 406A.003, 406A.004, 406A.005, 406A.006, 406A.007, and 406A.008 in the redesignated chapter are redesignated as Sections 2055.001, 2055.002, 2055.003, 2055.004, 2055.005, 2055.006, 2055.007, and 2055.008, Insurance Code, respectively.

(b) Section 406A.001, Labor Code, redesignated as Section 2055.001, Insurance Code, by Subsection (a)(2) of this section, is amended to conform to that redesignation to read as follows:

Sec. 2055.001 [~~406A.001~~]. DEFINITION [~~DEFINITIONS~~]. In this chapter, "business[~~:~~

[~~(1) "Business~~] entity" means a business enterprise owned by a single person or a corporation, organization, business trust, trust, partnership, joint venture, association, or other business entity.

[~~(2) "Commissioner" means the commissioner of insurance.~~

[~~(3) "Department" means the Texas Department of Insurance.~~]

(c) Section 406A.008, Labor Code, redesignated as Section 2055.008, Insurance Code, by Subsection (a)(2) of this section, is amended to conform to that redesignation to read as follows:

Sec. 2055.008 [~~406A.008~~]. APPLICABILITY OF OTHER LAW. (a) A group established under this chapter is entitled to any deviation applicable under Section 2052.004, 2053.051, or 2053.052(a) or (b)[~~, Insurance Code~~].

(b) A member of a group is not subject to the discounts and surcharges established under Subchapter F, Chapter 2053[~~, Insurance Code~~].

(d) Section 36.002, Insurance Code, is amended to conform to the redesignation of Chapter 406A, Labor Code, as Chapter 2055, Insurance Code, by Subsection (a)(1) of this section to read as follows:

Sec. 36.002. ADDITIONAL RULEMAKING AUTHORITY. The commissioner may adopt reasonable rules that are:

(1) necessary to effect the purposes of a provision of:

(A) Subchapter B, Chapter 5;

(B) Subchapter C, Chapter 1806;

(C) Subchapter A, Chapter 2301;

(D) Chapter 251, as that chapter relates to casualty insurance and fidelity, guaranty, and surety bond

insurance;

(E) Chapter 253;

(F) Chapter 2251 or 2252; or

(G) Subtitle B, Title 10; or

(2) appropriate to accomplish the purposes of a provision of:

(A) Section 37.051(a), 403.002, 492.051(b) or (c), 501.159, 941.003(b)(3) or (c), or 942.003(b)(3) or (c);

(B) Subchapter H, Chapter 544;

(C) Chapter 251, as that chapter relates to:

(i) automobile insurance;

(ii) casualty insurance and fidelity, guaranty, and surety bond insurance;

(iii) fire insurance and allied lines;

(iv) workers' compensation insurance; or

(v) aircraft insurance;

(D) Chapter 5, 252, 253, 254, 255, 256, 426, 493, 494, 1804, 1805, 1806, or 2171;

(E) Subtitle B, C, D, E, F, H, or I, Title 10;

(F) Section 417.008, Government Code; or

(G) [~~Chapter 406A, Labor Code; or~~

[~~(H)~~] Chapter 2154, Occupations Code.

(e) Section 1805.001, Insurance Code, is amended to conform to the redesignation of Chapter 406A, Labor Code, as Chapter 2055, Insurance Code, by Subsection (a)(1) of this section to read as follows:

Sec. 1805.001. APPLICABILITY OF CHAPTER. This chapter

applies to the kinds of insurance and insurers subject to:

(1) Section 403.002;

(2) Section 941.003 with respect to the application of a law described by Section 941.003(b)(3) or (c);

(3) Section 942.003 with respect to the application of a law described by Section 942.003(b)(3) or (c);

(4) Subchapter A, B, C, or D, Chapter 5;

(5) Subchapter H, Chapter 544;

(6) Subchapter A, Chapter 2301;

(7) Chapter 252, 253, 254, 255, 426, 1806, 1807, 2001, 2002, 2003, 2004, 2005, 2006, 2051, 2052, 2053, 2055, 2171, 2251, or 2252;

(8) Subtitle B or C, Title 10; or

(9) [~~Chapter 406A, Labor Code; or~~

[~~(10)~~] Chapter 2154, Occupations Code.

(f) Section 2051.002, Insurance Code, is amended to conform to the redesignation of Chapter 406A, Labor Code, as Chapter 2055, Insurance Code, by Subsection (a)(1) of this section to read as follows:

Sec. 2051.002. CONSTRUCTION OF CERTAIN LAWS. The following shall be construed and applied independently of any other law that relates to insurance rates and forms or prescribes the duties of the commissioner or the department:

(1) this chapter;

(2) Subchapter D, Chapter 5;

(3) Chapter 251, as that chapter relates to workers' compensation insurance; and

(4) Chapters 255, 426, 2052, [~~and~~] 2053, and 2055[~~; and~~

[~~(5) Chapter 406A, Labor Code~~].

SECTION 9.060. (a) Subchapter C, Chapter 2203, Insurance Code, is amended to conform to Section 1, Chapter 246, Acts of the 79th Legislature, Regular Session, 2005, and Section 2, Chapter 1136, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2203.1021 to read as follows:

Sec. 2203.1021. VOLUNTEER HEALTH CARE PROVIDERS. (a) In this section:

(1) "Charitable organization" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(2) "Volunteer health care provider" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(b) The association shall make available medical liability insurance or appropriate health care liability insurance covering a volunteer health care provider for the legal liability of the person against any loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence in rendering or the failure to render professional service while acting in the course and scope of the person's duties as a volunteer health care provider as described by Chapter 84, Civil Practice and Remedies Code.

(c) A volunteer health care provider who is serving as a direct service volunteer of a charitable organization is eligible to obtain from the association the liability insurance made available under this section. A volunteer health care provider who

obtains coverage under this section is subject to Section 2203.302 and the other provisions of this chapter in the same manner as physicians who are eligible to obtain medical liability insurance from the association.

(d) This section does not affect the liability of a volunteer health care provider who is serving as a direct service volunteer of a charitable organization. Section 84.004(c), Civil Practice and Remedies Code, applies to the volunteer health care provider without regard to whether the volunteer health care provider obtains liability insurance under this section.

(b) Section 1, Chapter 246, Acts of the 79th Legislature, Regular Session, 2005, and Section 2, Chapter 1136, Acts of the 79th Legislature, Regular Session, 2005, which added Section 3C to former Article 21.49-3, Insurance Code, are repealed.

SECTION 9.061. (a) Sections 2210.004(a) and (g), Insurance Code, are amended to conform to Section 1, Chapter 1153, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) For purposes of this chapter and subject to this section, "insurable property" means immovable property at a fixed location in a catastrophe area or corporeal movable property located in that immovable property, as designated in the plan of operation, that is determined by the association according to the criteria specified in the plan of operation to be in an insurable condition against windstorm and hail or fire and explosion, as appropriate, as determined by normal underwriting standards. The term includes property described by Section 2210.209.

(g) For purposes of this chapter, a residential structure is

insurable property if:

(1) the residential structure is not:

(A) a condominium, apartment, duplex, or other multifamily residence; or

(B) a hotel or resort facility;

(2) the residential structure is located within an area designated as a unit under the Coastal Barrier Resources Act (Pub. L. No. 97-348); and

(3) a building permit or plat for the residential structure was filed with the municipality, the county, or the United States Army Corps of Engineers before June 11, 2003 [~~January 1, 2004~~].

(b) Section 1, Chapter 1153, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (f), Section 3, Article 21.49, Insurance Code, is repealed.

SECTION 9.062. (a) Subchapter E, Chapter 2210, Insurance Code, is amended to conform to Section 2, Chapter 1153, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2210.209 to read as follows:

Sec. 2210.209. WINDSTORM AND HAIL INSURANCE: COVERAGE FOR CERTAIN PROPERTY LOCATED OVER WATER. (a) A windstorm and hail insurance policy issued by the association may include coverage for:

(1) a building or other structure located in the seacoast territory that is built wholly or partially over water; and

(2) the corporeal movable property contained in a

building or structure described by Subdivision (1).

(b) The association may impose appropriate limits of coverage and deductibles for coverage described by Subsection (a).

(c) The board of directors of the association shall submit any proposed changes to the plan of operation necessary to implement Subsections (a) and (b) to the commissioner in the manner provided by Section 2210.153.

(d) The commissioner shall adopt rules as necessary to implement this section, including any rules necessary to implement changes in the plan of operation proposed under Subsection (c).

(b) Section 2, Chapter 1153, Acts of the 79th Legislature, Regular Session, 2005, which added Section 3A to former Article 21.49, Insurance Code, is repealed.

SECTION 9.063. (a) Section 2210.006(b), Insurance Code, is amended to conform to Section 1, Chapter 1251, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) This chapter does not apply to:

(1) a farm mutual insurance company operating under Chapter 911;

(2) a nonaffiliated county mutual fire insurance company described by Section 912.310 that is writing exclusively industrial fire insurance policies as described by Section 912.310(a)(2); or

(3) a mutual insurance company or a statewide mutual assessment company engaged in business under Chapter 12 or 13, Title 78, Revised Statutes, respectively, before those chapters' repeal by Section 18, Chapter 40, Acts of the 41st Legislature, 1st

Called Session, 1929, as amended by Section 1, Chapter 60, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, that retains the rights and privileges under the repealed law to the extent provided by those sections.

(b) Section 1, Chapter 1251, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (k), Section 3, Article 21.49, Insurance Code, is repealed.

SECTION 9.0631. Section 2210.359(a), Insurance Code, is amended to conform more closely to the source law from which it was derived to read as follows:

(a) Except as otherwise provided by this subsection, a [~~A~~] rate approved by the commissioner under this subchapter may not reflect an average rate change that is more than 10 percent higher or lower than the rate for commercial windstorm and hail insurance or 10 percent higher or lower than the rate for noncommercial windstorm and hail insurance in effect on the date the filing is made. The rate may not reflect a rate change for an individual rating class that is 15 percent higher or lower than the rate for that individual rating class in effect on the date the filing is made. This subsection does not apply to a rate filed under Sections 2210.351(a)-(d).

SECTION 9.064. Subchapter I, Chapter 2210, Insurance Code, is repealed to conform to Section 1, Chapter 222, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 9.065. (a) Section 2211.051, Insurance Code, is amended to conform to Section 1, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2211.051. ESTABLISHMENT OF FAIR PLAN. The commissioner may establish a Fair Access to Insurance Requirements Plan to deliver residential property insurance to residents of this state in underserved areas if the commissioner determines, after a public hearing, that:

(1) in all or any part of the state, residential property insurance is not reasonably available in the voluntary market to a substantial number of insurable risks; or [~~and~~]

(2) at least 25 percent of the applicants to the residential property market assistance program who are qualified under that program's plan of operation have not been placed with an insurer in the preceding six months.

(b) Section 2211.052, Insurance Code, is amended to conform to Section 2, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, by amending Subsections (b) and (d) and adding Subsection (e) to read as follows:

(b) The governing committee is composed of 11 members appointed by the commissioner as follows:

(1) five members who represent the interests of insurers;

(2) four public members who reside in this state; and

(3) two members who are general property and casualty agents.

(d) Each member of the governing committee who represents the interests of insurers must be a full-time employee of an insurer that is a member of the association.

(e) The commissioner may remove a member of the governing

committee without cause and may replace the member in accordance with Subsection (b).

(c) Subchapter B, Chapter 2211, Insurance Code, is amended to conform to Section 2, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2211.0521 to read as follows:

Sec. 2211.0521. MEETINGS OF GOVERNING BODY. (a) Notwithstanding Chapter 551, Government Code, or any other law, members of the governing committee may meet by telephone conference call, video conference, or other similar telecommunication method. The governing committee may use telephone conference call, video conference, or other similar telecommunication method for purposes of establishing a quorum or voting or for any other meeting purpose in accordance with this subsection and Subsection (b). This subsection applies without regard to the subject matter discussed or considered by the members of the governing committee at the meeting.

(b) A meeting held by telephone conference call, video conference, or other similar telecommunication method:

(1) is subject to the notice requirements applicable to other meetings of the governing committee;

(2) may not be held unless notice of the meeting specifies the location of the meeting at which at least one member of the governing committee is physically present;

(3) must be audible to the public at the location specified in the notice under Subdivision (2); and

(4) must provide two-way audio communication between

all members of the governing committee attending the meeting during the entire meeting, and if the two-way audio communication link with members attending the meeting is disrupted so that a quorum of the governing committee is no longer participating in the meeting, the meeting may not continue until the two-way audio communication link is reestablished.

(d) Sections 2211.101(b) and (c), Insurance Code, are amended to conform to Sections 1, 2, and 3, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) Except as provided by this subsection, each [~~Each~~] insurer, as a condition of the insurer's authority to engage in the business of residential property insurance in this state, shall participate in the association in accordance with this chapter, including participating in the association's assessments [~~writings, expenses, and losses~~] in the proportion that the insurer's net direct premiums written in this state during the preceding calendar year bear to the aggregate net direct premiums written in this state by all participating insurers. The Texas Windstorm Insurance Association established by Chapter 2210 may not participate in the association for any purpose.

(c) An insurer's participation under Subsection (b) in the association's assessments [~~writings, expenses, and losses~~] must be determined in accordance with the residential property statistical plan adopted by the commissioner.

(e) The following are repealed:

(1) Section 1, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, which amended former

Subsections (a) and (b), Section 1, Article 21.49A, Insurance Code;

(2) Section 2, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 3, Article 21.49A, Insurance Code, by amending Subsections (b), (d), and (e) and adding Subsections (f) and (g); and

(3) Section 3, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (d), Section 5, Article 21.49A, Insurance Code.

SECTION 9.066. (a) Section 2211.104, Insurance Code, is amended to conform to Section 4, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, by amending Subsections (b), (c), and (d) and adding Subsection (e) to read as follows:

(b) As reimbursement for assessments paid under this section or service fees paid under Section 2211.209, each [~~If the association assesses participating insurers under this section, each~~] insurer may charge a premium surcharge on every property insurance policy insuring property in this state that the insurer issues, the effective date of which is within the three-year period beginning on the 90th day after the date of the assessment or the 90th day after the date the service fee under Section 2211.209 is paid, as applicable.

(c) The insurer shall compute the amount of the surcharge under Subsection (b) as a uniform percentage of the premium on each policy described by Subsection (b). The percentage must be equal to one-third of the ratio of the amount of the participating insurer's assessment or service fee payment to the amount of the insurer's direct earned premiums, as reported to the department in the

insurer's financial statement for the calendar year preceding the year in which the assessment or service fee payment is made so that, over the three-year period, the aggregate of all surcharges by the insurer under this section is at least equal to [~~equals~~] the amount of the assessment or service fee payment.

(d) The amount of any assessment paid and surcharged under this section may be carried by the insurer as an admitted asset of the insurer for all purposes, including exhibition in annual statements under Section 862.001, until collected [~~The minimum surcharge on a policy may be $1. A surcharge may be rounded to the nearest dollar~~].

(e) The commissioner shall adopt rules and procedures as necessary to implement this section.

(b) Section 4, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 11, Article 21.49A, Insurance Code, is repealed.

SECTION 9.067. (a) Subchapter B, Chapter 2211, Insurance Code, is amended to conform to Section 5, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2211.059 to read as follows:

Sec. 2211.059. ASSETS OF ASSOCIATION. On dissolution of the association, all assets of the association shall be deposited in the general revenue fund.

(b) Section 5, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, which added Section 16 to former Article 21.49A, Insurance Code, is repealed.

SECTION 9.068. (a) Subchapter D, Chapter 2211, Insurance

Code, is amended to conform to Section 3, Chapter 1153, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2211.157 to read as follows:

Sec. 2211.157. COVERAGE FOR CERTAIN WINDSTORM AND HAIL DAMAGE; COVERAGE FOR CERTAIN PROPERTY LOCATED OVER WATER. (a) A policy issued by the association may include coverage against loss or damage by windstorm or hail for:

(1) a building or other structure that is built wholly or partially over water; and

(2) the corporeal movable property contained in a building or structure described by Subdivision (1).

(b) The association may impose appropriate limits of coverage and deductibles for coverage described by Subsection (a).

(c) The governing committee of the association shall submit any proposed changes to the plan of operation necessary to implement Subsections (a) and (b) to the commissioner for the approval of the commissioner in the manner provided by Section 2211.053.

(d) The commissioner shall adopt rules as necessary to implement this section, including any rules necessary to implement changes in the plan of operation proposed under Subsections (a) and (b).

(b) Section 3, Chapter 1153, Acts of the 79th Legislature, Regular Session, 2005, which added Section 5A to former Article 21.49A, Insurance Code, is repealed.

SECTION 9.069. (a) Section 2212.001, Insurance Code, is amended to conform to Section 2, Chapter 184, Acts of the 79th

Legislature, Regular Session, 2005; Section 2, Chapter 246, Acts of the 79th Legislature, Regular Session, 2005; and Section 3, Chapter 1136, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2212.001. DEFINITIONS. In this chapter:

(1) "Charitable organization" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(2) "Dentist" means a person licensed to practice dentistry in this state.

(3) [~~(2)~~] "Health care liability claim" means a cause of action against a physician or dentist for treatment, lack of treatment, or other claimed departure from accepted standards of health care or safety that proximately results in injury to or death of the patient, whether the patient's claim or cause of action sounds in tort or contract.

(4) [~~(3)~~] "Physician" means a person licensed to practice medicine in this state.

(5) [~~(4)~~] "Trust" means a self-insurance trust organized and operated under this chapter.

(6) "Volunteer health care provider" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(b) Section 2, Chapter 184, Acts of the 79th Legislature, Regular Session, 2005; Section 2, Chapter 246, Acts of the 79th Legislature, Regular Session, 2005; and Section 3, Chapter 1136, Acts of the 79th Legislature, Regular Session, 2005, all of which added Subdivisions (4) and (5) to former Subsection (a), Article 21.49-4, Insurance Code, are repealed.

SECTION 9.070. (a) Subchapter C, Chapter 2212, Insurance Code, is amended to conform to Section 3, Chapter 184, Acts of the 79th Legislature, Regular Session, 2005; Section 3, Chapter 246, Acts of the 79th Legislature, Regular Session, 2005; and Section 4, Chapter 1136, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2212.102 to read as follows:

Sec. 2212.102. COVERAGE FOR VOLUNTEER HEALTH CARE PROVIDERS. (a) The trust, in accordance with Section 2212.054, may make available professional liability insurance covering a volunteer health care provider for an act or omission resulting in death, damage, or injury to a patient while the person is acting in the course and scope of the person's duties as a volunteer health care provider as described by Chapter 84, Civil Practice and Remedies Code.

(b) This section does not affect the liability of a volunteer health care provider who is serving as a direct service volunteer of a charitable organization. Section 84.004(c), Civil Practice and Remedies Code, applies to the volunteer health care provider without regard to whether the volunteer health care provider obtains liability insurance under this section.

(c) The trust may make professional liability insurance available under this section to a volunteer health care provider without regard to whether the volunteer health care provider is a physician or dentist.

(b) Section 3, Chapter 184, Acts of the 79th Legislature, Regular Session, 2005; Section 3, Chapter 246, Acts of the 79th Legislature, Regular Session, 2005; and Section 4, Chapter 1136,

Acts of the 79th Legislature, Regular Session, 2005, all of which added Subsection (c-1) to former Article 21.49-4, Insurance Code, are repealed.

SECTION 9.071. (a) Section 2251.003(b), Insurance Code, is amended to conform to Section 1, Chapter 70, Acts of the 79th Legislature, Regular Session, 2005; Section 1, Chapter 71, Acts of the 79th Legislature, Regular Session, 2005; and Section 4, Chapter 102, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) This subchapter and Subchapters B, C, D, and E apply to all lines of the following kinds of insurance written under an insurance policy or contract issued by an insurer authorized to engage in the business of insurance in this state:

(1) general liability insurance;

(2) residential and commercial property insurance, including farm and ranch insurance and farm and ranch owners insurance;

(3) personal and commercial casualty insurance, except as provided by Section 2251.004;

(4) medical professional liability insurance;

(5) fidelity, guaranty, and surety bonds other than criminal court appearance bonds;

(6) personal umbrella insurance;

(7) personal liability insurance;

(8) guaranteed auto protection (GAP) insurance;

(9) involuntary unemployment insurance;

(10) financial guaranty insurance;

(11) inland marine insurance;

(12) rain insurance;

(13) hail insurance on farm crops; [~~and~~]

(14) personal and commercial automobile insurance;

(15) multi-peril insurance; and

(16) identity theft insurance issued under Chapter 706.

(b) Section 2301.003(b), Insurance Code, is amended to conform to Section 1, Chapter 70, Acts of the 79th Legislature, Regular Session, 2005; Section 1, Chapter 71, Acts of the 79th Legislature, Regular Session, 2005; and Section 4, Chapter 102, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) This subchapter applies to all lines of the following kinds of insurance written under an insurance policy or contract issued by an insurer authorized to engage in the business of insurance in this state:

(1) general liability insurance;

(2) residential and commercial property insurance, including farm and ranch insurance and farm and ranch owners insurance;

(3) personal and commercial casualty insurance, except as provided by Section 2301.005;

(4) medical professional liability insurance;

(5) fidelity, guaranty, and surety bonds other than criminal court appearance bonds;

(6) personal umbrella insurance;

(7) personal liability insurance;

(8) guaranteed auto protection (GAP) insurance;

(9) involuntary unemployment insurance;

(10) financial guaranty insurance;

(11) inland marine insurance;

(12) rain insurance;

(13) hail insurance on farm crops; [~~and~~]

(14) personal and commercial automobile insurance;

(15) multi-peril insurance; and

(16) identity theft insurance issued under Chapter 706.

(c) Section 1, Chapter 70, Acts of the 79th Legislature, Regular Session, 2005; Section 1, Chapter 71, Acts of the 79th Legislature, Regular Session, 2005; and Section 4, Chapter 102, Acts of the 79th Legislature, Regular Session, 2005, all of which amended former Subsection (a), Section 2, Article 5.13-2, Insurance Code, are repealed.

SECTION 9.072. (a) Subchapter E, Chapter 2251, Insurance Code, is amended by adding Section 2251.205 to conform to Section 1, Chapter 1118, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2251.205. APPLICATION OF FILING REQUIREMENTS TO OTHER INSURERS. An insurer is subject to the filing requirements determined by the commissioner by rule under Section 2251.204 if:

(1) the insurer, along with the insurer's affiliated companies or group, issues personal automobile liability insurance policies only below 101 percent of the minimum limits required by

Chapter 601, Transportation Code; and

(2) the insurer, along with the insurer's affiliated companies or group, has a market share of less than 3.5 percent of the personal automobile insurance market in this state.

(b) Section 1, Chapter 1118, Acts of the 79th Legislature, Regular Session, 2005, which added Subsection (h) to former Section 13, Article 5.13-2, Insurance Code, is repealed.

SECTION 9.073. (a) Section 2253.001, Insurance Code, is amended to conform to Section 2, Chapter 291, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2253.001. RATING TERRITORIES. (a) Notwithstanding any other provision of this code, an insurer, in writing residential property or personal automobile insurance, may use rating territories that subdivide a county only if:

(1) the county is subdivided; and

(2) the rate for any subdivision in the county is not greater than 15 percent higher than the rate used in any other subdivision in the county by that insurer.

(b) The [~~For residential property insurance or personal automobile insurance, the~~] commissioner by rule may allow a greater rate difference than the rate difference specified by Subsection (a).

(b) Section 2, Chapter 291, Acts of the 79th Legislature, Regular Session, 2005, which amended former Article 5.171, Insurance Code, is repealed.

SECTION 9.074. Section 4151.206(a), Insurance Code, is amended to conform more closely to the source law from which the

section was derived to read as follows:

(a) The commissioner shall collect and an applicant or administrator shall pay to the commissioner fees in an amount to be determined by the commissioner as follows:

(1) a filing fee not to exceed $1,000 for processing an original application for a certificate of authority for an administrator;

(2) a fee not to exceed $500 for an examination under Section 4151.201 [~~4201.201~~]; and

(3) a filing fee not to exceed $200 for an annual report.

SECTION 9.075. (a) Sections 4201.054(a) and (d), Insurance Code, are amended to conform to Section 6.072, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) Except as provided by this section, this chapter applies to utilization review of a health care service provided to a person eligible for workers' compensation medical benefits under Title 5, Labor Code. The commissioner of workers' compensation shall regulate as provided by this chapter a person who performs utilization review of a medical benefit provided under Title 5 [~~Chapter 408~~], Labor Code.

(d) The commissioner of workers' compensation [~~and the Texas Workers' Compensation Commission~~] may adopt rules [~~and enter into memoranda of understanding~~] as necessary to implement this section.

(b) Section 4201.054(b), Insurance Code, is repealed to conform to Section 6.072, Chapter 265, Acts of the 79th

Legislature, Regular Session, 2005.

(c) Section 6.072, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (c), Section 14, Article 21.58A, Insurance Code, is repealed.

SECTION 9.076. (a) Section 4201.207(b), Insurance Code, is amended to conform to Section 6.071, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) A health care provider's charges for providing medical information to a utilization review agent may not:

(1) exceed the cost of copying records regarding a workers' compensation claim as set by rules adopted by the commissioner of workers' compensation [~~Texas Workers' Compensation Commission~~]; or

(2) include any costs otherwise recouped as part of the charges for health care.

(b) Section 6.071, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (l), Section 4, Article 21.58A, Insurance Code, is repealed.

ARTICLE 10. CHANGES RELATING TO LABOR CODE

SECTION 10.001. Section 204.022(a), Labor Code, as amended by Chapters 39, 493, and 728, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(a) Benefits computed on benefit wage credits of an employee or former employee may not be charged to the account of an employer if the employee's last separation from the employer's employment

before the employee's benefit year:

(1) was required by a federal statute;

(2) was required by a statute of this state or an ordinance of a municipality of this state;

(3) would have disqualified the employee under Section 207.044, 207.045, 207.051, or 207.053 if the employment had been the employee's last work;

(4) imposes a disqualification under Section 207.044, 207.045, 207.051, or 207.053;

(5) was caused by a medically verifiable illness of the employee or the employee's minor child;

(6) was based on a natural disaster that results in a disaster declaration by the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.), if the employee would have been entitled to unemployment assistance benefits under Section 410 of that act (42 U.S.C. Section 5177) had the employee not received state unemployment compensation benefits;

(7) was caused by a natural disaster, fire, flood, or explosion that causes employees to be separated from one employer's employment;

(8) was based on a disaster that results in a disaster declaration by the governor under Section 418.014, Government Code;

(9) resulted from the employee's resigning from partial employment to accept other employment that the employee reasonably believed would increase the employee's weekly wage;

(10) was caused by the employer being called to active

military service in any branch of the United States armed forces on or after January 1, 2003;

(11) resulted from the employee leaving the employee's workplace to protect the employee from family violence or stalking as evidenced by:

(A) an active or recently issued protective order documenting family violence against, or the stalking of, the employee or the potential for family violence against, or the stalking of, the employee;

(B) a police record documenting family violence against, or the stalking of, the employee; and

(C) a physician's statement or other medical documentation of family violence against the employee; [~~or~~]

(12) resulted from a move from the area of the employee's employment that:

(A) was made with the employee's spouse who is a member of the armed forces of the United States; and

(B) resulted from the spouse's permanent change of station of longer than 120 days or a tour of duty of longer than one year; or

(13) [~~(12)~~] was caused by the employee being unable to perform the work as a result of a disability for which the employee is receiving disability insurance benefits under 42 U.S.C. Section 423.

SECTION 10.002. Section 204.022(c), Labor Code, is amended to correct a reference to read as follows:

(c) Except as provided by law, evidence regarding an

employee described by Subsection (a)(11) [~~(a)(9)~~] may not be disclosed to any person without the consent of the employee.

SECTION 10.003. Section 402.081(d), Labor Code, as amended by Chapters 265, 329, and 716, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(d) The division [~~commission~~] may charge a reasonable fee for making available for inspection any of its information that contains confidential information that must be redacted before the information is made available. However, when a request for information is for the inspection of 10 or fewer pages, and a copy of the information is not requested, the division [~~commission~~] may charge only the cost of making a copy of the page from which confidential information must be redacted. The fee for access to information under Chapter 552, Government Code, shall be in accord with the rules of the attorney general [~~Texas Building and Procurement Commission~~] that prescribe the method for computing the charge for copies under that chapter.

ARTICLE 11. CHANGES RELATING TO LOCAL GOVERNMENT CODE

SECTION 11.001. Section 143.027(a), Local Government Code, as amended by Chapters 869 and 909, Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

(a) A person appointed to a beginning position in the fire or police department must serve a probationary period of one year beginning on that person's date of employment as a fire fighter, police officer, or academy trainee. In a municipality with a population of less than 1.9 million, the commission by rule may extend the probationary period by not more than six months for a

person who:

(1) is not employed by a department in which a collective bargaining agreement or a meet-and-confer agreement currently exists or previously existed; and

(2) is required to attend a basic training academy for initial certification by the Texas Commission on Fire Protection or the Commission on Law Enforcement Officer Standards and Education.

ARTICLE 12. CHANGES RELATING TO OCCUPATIONS CODE

SECTION 12.001. Section 1701.354, Occupations Code, as amended by Chapters 735 and 954, Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

Sec. 1701.354. CONTINUING EDUCATION FOR DEPUTY CONSTABLES. (a) If the commission requires a state, county, special district, or municipal agency that employs a deputy constable to provide the deputy constable with a training program under Section 1701.352, the commission shall require the deputy constable to attend at least 20 hours of instruction in civil process.

(b) The commission shall adopt rules and procedures concerning a civil process course, including rules providing for:

(1) approval of course content and standards; and

(2) issuance of course credit.

(c) The commission may waive the instruction requirements for a deputy constable under this section:

(1) if a constable requests a waiver for the deputy constable based on a representation that the deputy constable's duty assignment does not involve civil process responsibilities; or

(2) if the deputy constable requests a waiver because

of hardship and the commission determines that a hardship exists.

SECTION 12.002. Section 1702.324(b), Occupations Code, as amended by Chapters 518, 728, 1102, and 1155, Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

(b) This chapter does not apply to:

(1) a manufacturer or a manufacturer's authorized distributor who sells equipment intended for resale and does not perform any other service that requires a license under this chapter;

(2) a person engaged exclusively in the business of obtaining and providing information to:

(A) determine creditworthiness;

(B) collect debts; or

(C) ascertain the reliability of information provided by an applicant for property, life, or disability insurance or an indemnity or surety bond;

(3) a person engaged exclusively in the business of repossessing property that is secured by a mortgage or other security interest;

(4) a person who:

(A) is engaged in the business of psychological testing or other testing and interviewing services, including services to determine attitudes, honesty, intelligence, personality, and skills, for preemployment purposes; and

(B) does not perform any other service that requires a license under this chapter;

(5) a person who:

(A) is engaged in obtaining information that is a public record under Chapter 552, Government Code, regardless of whether the person receives compensation;

(B) is not a full-time employee, as defined by Section 61.001, Labor Code, of a person licensed under this chapter; and

(C) does not perform any other act that requires a license under this chapter;

(6) a licensed engineer practicing engineering or directly supervising engineering practice under Chapter 1001, including forensic analysis, burglar alarm system engineering, and necessary data collection;

(7) an employee of a cattle association who inspects livestock brands under the authority granted to the cattle association by the Grain Inspection, Packers and Stockyards Administration of the United States Department of Agriculture;

(8) a landman performing activities in the course and scope of the landman's business;

(9) an attorney while engaged in the practice of law;

(10) a person who obtains a document for use in litigation under an authorization or subpoena issued for a written or oral deposition;

(11) an admitted insurer, insurance adjuster, agent, or insurance broker licensed by the state, performing duties in connection with insurance transacted by that person;

(12) a person who on the person's own property or on

property owned or managed by the person's employer:

(A) installs, changes, or repairs a mechanical security device;

(B) repairs an electronic security device; or

(C) cuts or makes a key for a security device;

(13) security personnel, including security contract personnel, working at a commercial nuclear power plant licensed by the United States Nuclear Regulatory Commission;

(14) a person or firm licensed as an accountant or accounting firm under Chapter 901, an owner of an accounting firm, or an employee of an accountant or accounting firm; or

(15) a retailer, wholesaler, or other person who sells mechanical security devices, including locks and deadbolts, but who does not:

(A) service mechanical security devices for the public outside of the person's premises; or

(B) claim to act as a locksmith.

SECTION 12.003. Section 2002.054(c), Occupations Code, as amended by Chapters 929 and 1006, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(c) Except as provided by Section 2002.0541, the organization may not permit a person who is not [~~a member of the organization or who is not~~] authorized by the organization to sell or offer to sell raffle tickets.

SECTION 12.004. Section 2303.158, Occupations Code, as added by Chapters 737 and 953, Acts of the 79th Legislature, Regular Session, 2005, is repealed to conform to Chapter 1197, Acts of the

79th Legislature, Regular Session, 2005.

ARTICLE 13. CHANGES RELATING TO SPECIAL DISTRICT LOCAL LAWS CODE

SECTION 13.001. Section 1006.151(a), Special District Local Laws Code, as added by Section 1.01, Chapter 729, Acts of the 79th Legislature, Regular Session, 2005, is amended to correct a reference to read as follows:

(a) The district administrator shall prepare an annual budget for approval by the board. The budget must be for the fiscal year prescribed by Section 1006.152 [~~1007.152~~].

SECTION 13.002. Section 1006.202(a), Special District Local Laws Code, as added by Section 1.01, Chapter 729, Acts of the 79th Legislature, Regular Session, 2005, is amended to correct a reference to read as follows:

(a) At the time general obligation bonds are issued under Section 1006.201 [~~1007.201~~], the board shall impose an ad valorem tax at a rate sufficient to:

(1) create an interest and sinking fund; and

(2) pay the principal of and interest on the bonds as the bonds mature.

SECTION 13.003. Section 1008.253(b), Special District Local Laws Code, is amended to conform more closely to the source law from which the section was derived to read as follows:

(b) The board must specify in the order calling the election:

(1) the date of the election;

(2) [~~the hours during which the polls must be open;~~

[~~(3)~~] the location of the polling places;

(3) [~~(4)~~] the presiding and alternate election judges for each polling place;

(4) [~~(5)~~] the amount of the bonds to be authorized; and

(5) [~~(6)~~] the maximum maturity of the bonds.

SECTION 13.004. Section 7202.005, Special District Local Laws Code, as added by Chapter 895, Acts of the 79th Legislature, Regular Session, 2005, is repealed as duplicative of Section 7202.006, Special District Local Laws Code, as added by Chapter 770, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 13.005. (a) Section 8101.003(a), Special District Local Laws Code, is amended to conform to Section 1, Chapter 993, Acts of the 78th Legislature, Regular Session, 2003, to read as follows:

(a) The legislature finds that[~~:~~

[~~(1) all of the lands and other property included in the boundaries of the authority will benefit from the improvements and facilities to be constructed, acquired, or otherwise provided under this chapter; and~~

[~~(2)~~] the authority is created to serve a public use and benefit.

(b) Section 8101.051, Special District Local Laws Code, is amended to conform to Section 1, Chapter 993, Acts of the 78th Legislature, Regular Session, 2003, to read as follows:

Sec. 8101.051. BOUNDARIES. [~~(a)~~] The authority is in Henderson County and, unless modified as provided by Section 8101.052, [~~or~~] by Subchapter J, Chapter 49, Water Code, or by

Subchapter O, Chapter 51, Water Code, the boundaries of the authority are coextensive with the corporate limits of the city of Athens, Henderson County, Texas, as those corporate limits existed on September 1, 2003 [~~May 2, 1957~~].

[~~(b) Territory annexed by the City of Athens after May 2, 1957, does not become a part of the authority solely because of its annexation to the city.~~

[~~(c) A defect or irregularity in the boundaries of the city of Athens as they existed on May 2, 1957, or in a proceeding related to the territory of or an annexation by the city before that date does not affect the validity of the authority or any of its rights, powers, privileges, or functions.~~]

(c) Section 8101.052(a), Special District Local Laws Code, is amended to conform to Section 1, Chapter 993, Acts of the 78th Legislature, Regular Session, 2003, to read as follows:

(a) The board, as provided by this section, may annex territory the City of Athens annexes [~~after May 2, 1957~~]. The authority may not annex territory under this section if bonds supported by ad valorem taxes previously voted on remain unissued and unsold.

(d) Section 1, Chapter 993, Acts of the 78th Legislature, 2003, which amended former Subsections (a) and (b), Section 2, Chapter 142, Acts of the 55th Legislature, Regular Session, 1957, is repealed.

SECTION 13.006. (a) Chapter 221, Water Code, is renumbered as Chapter 8502, Special District Local Laws Code, and Sections 221.001, 221.002, 221.003, 221.004, 221.005, 221.006, 221.007,

221.008, 221.009, 221.010, 221.011, 221.012, 221.013, 221.014, 221.015, 221.016, 221.017, 221.018, and 221.019, Water Code, are renumbered as Sections 8502.001, 8502.002, 8502.003, 8502.004, 8502.005, 8502.006, 8502.007, 8502.008, 8502.009, 8502.010, 8502.011, 8502.012, 8502.013, 8502.014, 8502.015, 8502.016, 8502.017, 8502.018, and 8502.019, Special District Local Laws Code, respectively.

(b) Chapter 222, Water Code, is renumbered as Chapter 8503, Special District Local Laws Code, and Sections 222.001, 222.002, 222.003, 222.004, 222.005, 222.006, 222.007, 222.008, 222.009, 222.010, 222.011, 222.012, 222.013, 222.014, 222.015, 222.016, 222.017, 222.018, 222.019, 222.020, 222.021, 222.022, 222.023, 222.024, 222.025, 222.026, 222.027, 222.028, 222.029, 222.030, and 222.031, Water Code, are renumbered as Sections 8503.001, 8503.002, 8503.003, 8503.004, 8503.005, 8503.006, 8503.007, 8503.008, 8503.009, 8503.010, 8503.011, 8503.012, 8503.013, 8503.014, 8503.015, 8503.016, 8503.017, 8503.018, 8503.019, 8503.020, 8503.021, 8503.022, 8503.023, 8503.024, 8503.025, 8503.026, 8503.027, 8503.028, 8503.029, 8503.030, and 8503.031, Special District Local Laws Code, respectively.

(c) Subsection (m), Section 8502.004, Special District Local Laws Code, as renumbered from Section 221.004, Water Code, by this section, is amended to read as follows:

(m) This chapter does not confer on the authority any power under Chapter 36<u>, Water Code,</u> to regulate the groundwater of other landowners.

(d) Section 8502.010, Special District Local Laws Code, as

renumbered from Section 221.010, Water Code, by this section, is amended to read as follows:

Sec. 8502.010 [~~221.010~~]. CREATION OF MASTER DISTRICT; WATER CONTROL AND IMPROVEMENT DISTRICT. A master district is created having all the powers, duties, and functions, and subject to applicable and practicable procedures for those districts, to accomplish the purposes of this chapter, as provided by Chapter 49, Water Code, and the provisions of the Water Code [~~this code~~] applicable to water control and improvement districts.

(e) Subsection (a), Section 8502.012, Special District Local Laws Code, as renumbered from Section 221.012, Water Code, by this section, is amended to read as follows:

(a) The authority is a district and a river authority as defined by Chapter 30, Water Code. All the provisions of Chapter 30, Water Code, are applicable to the authority.

(f) Section 8503.002, Special District Local Laws Code, as renumbered from Section 222.002, Water Code, by this section, is amended by adding Subdivision (2-a) to read as follows:

(2-a) "Commission" means the Texas Commission on Environmental Quality.

(g) Subsections (p) and (q), Section 8503.004, Special District Local Laws Code, as renumbered from Section 222.004, Water Code, by this section, are amended to read as follows:

(p) The authority may borrow money for its corporate purposes on notes or other written evidence of indebtedness for a period not to exceed five years as may be authorized from time to time by an affirmative vote of 12 members of the board and repay the

loans or indebtedness from the proceeds of bonds of the authority at the next bond offering. The authority may borrow money and accept grants from the United States, this state, or any corporation or agency created or designated by the United States or this state and, in connection with the loan or grant, may enter into an agreement that the United States, this state, or the corporation or agency requires. The authority may make and issue negotiable bonds for money borrowed in the manner provided by Sections 8503.013 [~~222.013~~] and 8503.014 [~~222.014~~] or other general law. This chapter does not authorize the issuance of any bonds, notes, or other evidences of indebtedness of the authority except as specifically provided by this chapter or other general law.

(q) The authority may provide for the study, correcting, and control of both artificial and natural pollution, including organic, inorganic, and thermal, of all groundwater or surface water of the Colorado River and its tributaries within the boundaries of the authority. The authority may adopt by ordinance rules with regard to the pollution, both artificial and natural, and possesses police power to enforce its rules. The authority may provide a reasonable penalty for the violation of any rule. The penalty is cumulative of any penalties fixed by the general law of this state. A penalty under this subsection may not exceed the limit for penalties provided by Section 49.004, Water Code. An ordinance enacted under this section may not be adopted in any county or counties outside the existing boundaries of the authority.

(h) Subsections (a), (b), (j), and (k), Section 8503.006,

Special District Local Laws Code, as renumbered from Section 222.006, Water Code, by this section, are amended to read as follows:

(a) The powers, rights, privileges, and functions of the authority shall be exercised by the board. The board shall consist of 15 directors and shall include at least one director from each of the counties named in Section 8503.003 [~~222.003~~] except Travis County, which shall have two directors. Three directors shall be appointed at large from the counties served with electric power, other than the counties included in Section 8503.003 [~~222.003~~].

(b) A director appointed at large may not serve for a period of more than six consecutive years. A county other than a county included in Section 8503.003 [~~222.003~~] may not be represented on the board for more than six consecutive years. A county other than Travis County may not have two directors for a period greater than six consecutive years.

(j) Each director is entitled to receive fees of office of not more than $150 per day and reimbursement of actual expenses incurred in accordance with Chapter 49, Water Code. However, no director may be paid per diem in excess of 150 days in any one calendar year.

(k) Eight directors constitute a quorum at any meeting and, except as otherwise provided by this chapter or in the bylaws, all action may be taken by the affirmative vote of a majority of the directors present at any meeting, except that bonds, notes, or other evidence of indebtedness are subject to the requirements of Sections 8503.004(p) [~~222.004(p)~~] and 8503.013(f) [~~222.013(f)~~],

and no amendment of the bylaws shall be valid unless authorized or ratified by the affirmative vote of at least eight directors, unless otherwise specifically provided by this chapter.

(i) Subsections (c) and (h), Section 8503.013, Special District Local Laws Code, as renumbered from Section 222.013, Water Code, by this section, are amended to read as follows:

(c) The proceeds of the bonds and any net operating revenues derived from the sale of electric power or water that may be available after paying the interest on outstanding bonds and the principal amount of the bonds and after setting aside sufficient funds for working capital, including a reasonable amount for contingencies, and setting aside funds for reserves to secure payment of principal of and interest on outstanding bonds, shall be used:

(1) to build and construct dams or other structures within the authority, on the Colorado River and its tributaries, for the impounding and storage of floodwater and surface water;

(2) to purchase and install in the dams on the Colorado River hydroelectric generators and other related facilities for the generation of hydroelectric power;

(3) for the construction of additional lines and the purchase and installation of additional equipment the board considers necessary or expedient to enable the authority to continue to meet the demand for electric power in the areas within the authority directly served by its transmission lines and distribution systems on January 1, 1975, and other areas within the service area served by the authority on January 1, 1975, that cannot

receive comparable service from any other power source and to provide electric power to this state as provided by Section 8503.004 [~~222.004~~]; provided, however, that no steam generating capacity shall be installed by the authority, except that the authority may acquire, install, construct, enlarge and make additions to, and operate one or more steam generating plants, the sum of whose aggregate capacity may not be more than 5,000 megawatts, to be located within the boundaries of either one or more of Colorado, Fayette, Bastrop, Travis, Blanco, Burnet, Llano, or San Saba counties and to be utilized for the purpose of serving the area directly served by the authority's transmission lines and distribution systems on January 1, 1975, and to provide electric power to this state as provided by Section 8503.004 [~~222.004~~];

(4) to own or acquire an interest in one or more steam generating plants at any location within or outside the authority, if the plant or plants are owned in conjunction with one or more other utilities, public, private, or municipal, provided that an interest owned or acquired by the authority shall be utilized for the sole purpose of providing electric power and energy only in the areas within the authority directly served by its transmission lines and distribution systems as they existed on January 1, 1975;

(5) for the purpose of building dams, levees, or other flood control structures between the city of Austin and the mouth of the Colorado River that are considered necessary and desirable by the board and for acquiring or installing facilities necessary to supply water for irrigation and other useful purposes within the counties composing the authority; and

(6) in aid of any soil conservation or soil reclamation projects within the authority that the board determines to be in the public interest.

(h) A resolution authorizing bonds may contain provisions that are part of the contract between the authority and the holder of the bonds from time to time:

(1) reserving the right to redeem the bonds at the time or times, in the amounts, and at the prices, not exceeding 105 percent of the principal amount of the bonds, plus accrued interest, as may be provided;

(2) providing for the setting aside of interest and sinking funds or reserve funds and the regulation and disposition of those funds;

(3) pledging, to secure the payment of the principal of and interest on the bonds and of the sinking fund or reserve fund payments agreed to be made with respect to the bonds, all or any part of the gross or net revenues received by the authority with respect to the property, real, personal, or mixed, acquired or constructed or to be acquired or constructed with the bonds or the proceeds of the bonds, or all or any part of the gross or net revenues previously or thereafter received by the authority from any source;

(4) prescribing the purposes to which the bonds or any bonds issued later are to be applied;

(5) agreeing to set and collect rates and charges sufficient to produce revenues adequate to pay the items specified in Section 8503.011(a) [~~222.011(a)~~] and prescribing the use and

disposition of all revenues;

(6) prescribing limitations on the issuance of additional bonds and on the agreements that may be made with the purchasers and successive holders of the bonds;

(7) relating to the construction, extension, improvement, reconstruction, operation, maintenance, and repair of the properties of the authority and the carrying of insurance on all or any part of the properties covering loss or damage or loss of use and occupancy resulting from specified risks;

(8) setting the procedure, if any, by which, if the authority so desires, the terms of a contract with the bondholders may be amended or abrogated, the amount of bonds whose holders must consent to that amendment or abrogation, and the manner in which the consent may be given;

(9) providing for the execution and delivery by the authority, to a bank or trust company authorized by law to accept trusts, of indentures and agreements for the benefit of the bondholders setting forth all of the agreements authorized by this chapter to be made with or for the benefit of the bondholders and other provisions that are customary in those kinds of indentures or agreements; and

(10) making other provisions, not inconsistent with this chapter or other general law, that the board approves, provided that an agreement, contract, or commitment may not be made that, under any contingency, could or would result in the United States government or any of its agencies or bureaus claiming the right or privilege of controlling or managing the properties and

facilities of the authority or the control or disposition of the water of the Colorado River or its tributaries; provided, however, that nothing in this chapter shall be construed as limiting or restricting the rights or powers as set out in Section 8503.014 [~~222.014~~] in the event of a default on the part of the authority; and provided further that nothing in this chapter is intended to prohibit compliance with existing federal regulations, if compliance with those regulations is done on the advice and approval of the attorney general.

(j) Subsections (b) and (c), Section 8503.014, Special District Local Laws Code, as renumbered from Section 222.014, Water Code, by this section, are amended to read as follows:

(b) If a default described by Subsection (a) has occurred and has continued for a period, if any, prescribed by the resolution authorizing the issuance of the bonds, the trustee under an indenture entered into with respect to the bonds authorized by the resolution, or, if there is no indenture, a trustee appointed in the manner provided in the resolution by the holders of 25 percent in aggregate principal amount of the bonds authorized by the resolution and then outstanding, shall, in the trustee's own name but for the equal and proportionate benefit of all of the bondholders, and with or without having possession of the bonds:

(1) by mandamus or other suit, action, or proceeding at law or in equity, enforce all rights of the bondholders, including the requirements of Section 8503.011 [~~222.011~~];

(2) bring suit on the bonds or the appurtenant coupons;

(3) by action or suit in equity, require the authority to act as if it were the trustee of an express trust for the bondholders;

(4) by action or suit in equity, enjoin any acts or things that may be unlawful or in violation of the rights of the bondholders; or

(5) after such notice to the authority as the resolution may provide, declare the principal of all of the bonds due and payable, and if all defaults have been made good, then with the written consent of the holders of 25 percent in aggregate principal amount of the bonds then outstanding, annul the declaration and its consequences; provided, however, that the holders of more than a majority in principal amount of the bonds authorized by the resolution and then outstanding shall, by written instrument delivered to the trustee, have the right to direct and control any and all action taken or to be taken by the trustee under this section.

(c) A resolution, indenture, or agreement relating to bonds may provide that in a suit, action, or proceeding under this section, the trustee, whether or not all of the bonds have been declared due and payable and with or without possession of any of the bonds, is entitled as of right to the appointment of a receiver who may enter and take possession of all or any part of the properties of the authority, operate and maintain the properties, and set, collect, and receive rates and charges sufficient to provide revenues adequate to pay the items set forth in Section 8503.011(a) [~~222.011(a)~~] and the costs and disbursements of the

suit, action, or proceeding and apply the revenues in conformity with this chapter and the resolution authorizing the bonds.

(k) Section 8503.015, Special District Local Laws Code, as renumbered from Section 222.015, Water Code, by this section, is amended to read as follows:

Sec. 8503.015 [~~222.015~~]. AUDIT. The authority is subject to the audit provisions of Subchapter G, Chapter 49, Water Code.

(l) Subsections (b) and (c), Section 8503.020, Special District Local Laws Code, as renumbered from Section 222.020, Water Code, by this section, are amended to read as follows:

(b) Nothing in this chapter shall be construed as authorizing the sale of any property or interest by the authority or by any receiver of any of its properties or through any court proceeding or otherwise, unless, by the affirmative vote of three-fourths of its statutory membership, the board has determined that the property or interest is not necessary or convenient or of beneficial use to the business of the authority and has approved the terms of the sale. Except by sale as expressly authorized in this section, authority property or interest may not come into the ownership or control, directly or indirectly, of any person, firm, or corporation other than a public authority created under the laws of this state or a nonprofit corporation created by the authority under Chapter 152, Water Code.

(c) The limitations on the sale of property of the authority in this section do not and are not intended to preclude the authority from selling any interest owned or held by the authority in any jointly owned electric power and generating facilities

constructed, or to be constructed, under Section 8503.004(t) [~~222.004(t)~~], provided that the sale of an ownership interest in a joint project is provided for and in conformance with any contract with other owners regarding the electric power and energy generating facilities.

(m) Section 8503.022, Special District Local Laws Code, as renumbered from Section 222.022, Water Code, by this section, is amended to read as follows:

Sec. 8503.022 [~~222.022~~]. PROPERTY USEFUL IN THE PRODUCTION OR UTILIZATION OF ELECTRIC ENERGY. This chapter does not prohibit or restrict the sale, lease, or other disposition, to an electric cooperative, municipality, nonprofit corporation created by the authority under Chapter 152, Water Code, or other governmental agency or body politic and corporate of this state, of any property acquired or constructed by the authority and incidental to or used or useful in the generation, production, transmission, distribution, or sale of electric energy. The authority may pledge the proceeds of a sale under this section to the same extent and in the same manner in which it is authorized to pledge its revenues.

(n) Subsection (a), Section 8503.023, Special District Local Laws Code, as renumbered from Section 222.023, Water Code, by this section, is amended to read as follows:

(a) The authority may not prevent the public use of its lands for recreational purposes and fishing except at such points where, in the opinion of the board, the use would interfere with the proper conduct of the business of the authority or would interfere with the lawful use of the property. A lease of authority lands,

except one expressly permitted by Section 8503.022 [~~222.022~~], is not lawful unless it provides for free public use of the lands for recreational purposes and fishing.

(o) Subsection (b), Section 8503.025, Special District Local Laws Code, as renumbered from Section 222.025, Water Code, by this section, is amended to read as follows:

(b) Nothing in this chapter shall prevent the authority from issuing bonds under any applicable general law of this state, provided, however, that no bonds are issued that would be in conflict with Section 8503.024 [~~222.024~~].

(p) Subsection (b), Section 8503.027, Special District Local Laws Code, as renumbered from Section 222.027, Water Code, by this section, is amended to read as follows:

(b) Nothing in this chapter affects the meaning of Section 8503.011 [~~222.011~~], formerly Section 222.011, Water Code, and Section 9, Chapter 74, Acts of the 64th Legislature, Regular Session, 1975, as it existed prior to the adoption of the former Chapter 222, Water Code [~~this chapter~~], except where specifically amended.

(q) Section 8503.028, Special District Local Laws Code, as renumbered from Section 222.028, Water Code, by this section, is amended to read as follows:

Sec. 8503.028 [~~222.028~~]. AUTHORITY POWERS IN LAMPASAS COUNTY. Notwithstanding any other provision of this chapter, the authority may exercise all powers within Lampasas County that it may otherwise exercise within the 10 counties specified in Section 8503.003 [~~222.003~~], except that the authority may not provide water

or wastewater services in the portion of Lampasas County outside the Colorado River watershed without the consent of the Brazos River Authority.

(r) Subsection (b), Section 8503.030, Special District Local Laws Code, as renumbered from Section 222.030, Water Code, by this section, is amended to read as follows:

(b) In this section and Section 8503.031 [~~222.031~~]:

(1) "Municipality" includes a municipally owned utility.

(2) "Water service area" means the area in which the authority is authorized to use, distribute, and sell water on January 1, 2001.

(s) Section 8503.031, Special District Local Laws Code, as renumbered from Section 222.031, Water Code, by this section, is amended to read as follows:

Sec. 8503.031 [~~222.031~~]. AUTHORITY OF MUNICIPALITY TO CONTRACT FOR WATER. Section 8503.030 [~~222.030~~] constitutes full authority for a municipality or municipally owned utility to enter into a contract with the authority under that section. The payments made under a contract authorized by that section are operation and maintenance expenses of the municipality's utility system. A municipality or municipally owned utility that enters into a contract under that section may use proceeds from the sale of its revenue bonds to make any such payments.

(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 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(a) To be designated as a reinvestment zone, an area must:

(1) substantially arrest or impair the sound growth of the municipality or county creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate sidewalk or street layout;

(C) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the fair value of the land;

(G) defective or unusual conditions of title;

(H) conditions that endanger life or property by fire or other cause; or

(I) structures, other than single-family residential structures, less than 10 percent of the square footage of which has been used for commercial, industrial, or residential purposes during the preceding 12 years, if the municipality has a population of 100,000 or more;

(2) be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or

other factors, substantially impair or arrest the sound growth of the municipality or county;

(3) be in a federally assisted new community located in the municipality or county or in an area immediately adjacent to a federally assisted new community; or

(4) [~~(5)~~] be an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the municipality or county by the owners of property constituting at least 50 percent of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located.

SECTION 14.004. Section 311.006(e), Tax Code, is amended to correct a reference to read as follows:

(e) Subsection (a)(1) does not apply to a reinvestment zone designated under Section 311.005(a)(4) [~~311.005(a)(5)~~].

SECTION 14.005. Section 311.0087(a), Tax Code, is amended to correct a reference to read as follows:

(a) This section applies only to a proposed reinvestment zone:

(1) the designation of which is requested in a petition submitted under Section 311.005(a)(4) [~~311.005(a)(5)~~] before July 31, 2004, to the governing body of a home-rule municipality that:

(A) has a population of more than 1.1 million;

(B) is located primarily in a county with a population of 1.5 million or less; and

(C) has created at least 20 reinvestment zones under this chapter; and

(2) that is the subject of a resolution of intent that was adopted before October 31, 2004, by the governing body of the municipality.

SECTION 14.006. Section 311.009(b), Tax Code, is amended to correct a reference to read as follows:

(b) If the zone was designated under Section 311.005(a)(4) [~~311.005(a)(5)~~], the board of directors of the zone consists of nine members. Each school district, county, or municipality, other than the municipality or county that created the zone, that levies taxes on real property in the zone may appoint one member of the board if the school district, county, or municipality has approved the payment of all or part of the tax increment produced by the unit. The member of the state senate in whose district the zone is located is a member of the board, and the member of the state house of representatives in whose district the zone is located is a member of the board, except that either may designate another individual to serve in the member's place at the pleasure of the member. If the zone is located in more than one senate or house district, this subsection applies only to the senator or representative in whose district a larger portion of the zone is located than any other senate or house district, as applicable. The remaining members of the board are appointed by the governing body of the municipality or county that created the zone.

SECTION 14.007. Section 311.0091(c), Tax Code, is amended to correct a reference to read as follows:

(c) If the zone was designated under Section 311.005(a)(4) [~~311.005(a)(5)~~], the board of directors of the zone consists of nine members, unless a greater number of members is necessary to comply with this subsection. Each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint a number of members to the board in proportion to the taxing unit's pro rata share of the total anticipated tax increment to be deposited into the tax increment fund during the term of the zone. In determining the number of members a taxing unit may appoint to the board, the taxing unit's percentage of anticipated pro rata contributions to the tax increment fund is multiplied by nine, and a number containing a fraction that is one-half or greater shall be rounded up to the next whole number. Notwithstanding any other provision of this subsection, each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint at least one member of the board, and the municipality that designated the zone is entitled to appoint at least as many members of the board as any other participating taxing unit. A taxing unit may waive its right to appoint a director. The member of the state senate in whose district the zone is located is a member of the board, and the member of the state house of representatives in whose district the zone is located is a member of the board, except that either may designate another individual to serve in the member's place at the pleasure of the member. If the zone is located in more than one senate or house district, this subsection applies only to the senator or representative in whose district a larger portion of

the zone is located than any other senate or house district, as applicable.

SECTION 14.008. Section 311.010(c), Tax Code, is amended to correct a reference to read as follows:

(c) Subject to the approval of the governing body of the municipality that created the zone, the board of a zone designated by the governing body of a municipality under Section 311.005(a)(4) [~~311.005(a)(5)~~] may exercise the power granted by Chapter 211, Local Government Code, to the governing body of the municipality that created the zone to restrict the use or uses of property in the zone. The board may provide that a restriction adopted by the board continues in effect after the termination of the zone. In that event, after termination of the zone the restriction is treated as if it had been adopted by the governing body of the municipality.

SECTION 14.009. Section 311.0101(a), Tax Code, is amended to correct a reference to read as follows:

(a) It is the goal of the legislature, subject to the constitutional requirements spelled out by the United States Supreme Court in J. A. Croson Company v. City of Richmond (822 F.2d 1355) and as hereafter further elaborated by federal and state courts, that all disadvantaged businesses in the zone designated under Section 311.005(a)(4) [~~311.005(a)(5)~~] be given full and complete access to the procurement process whereby supplies, materials, services, and equipment are acquired by the board. It is also the intent of the legislature that to the extent constitutionally permissible, a preference be given to disadvantaged businesses. The board and general contractor shall

give preference, among bids or other proposals that are otherwise comparable, to a bid or other proposal by a disadvantaged business having its home office located in this state.

SECTION 14.010. Section 311.011(f), Tax Code, is amended to correct a reference to read as follows:

(f) In a zone designated under Section 311.005(a)(4) [~~311.005(a)(5)~~] that is located in a county with a population of 3.3 million or more, the project plan must provide that at least one-third of the tax increment of the zone be used to provide affordable housing during the term of the zone.

ARTICLE 15. CHANGES RELATING TO TRANSPORTATION CODE

SECTION 15.001. Section 22.0815, Transportation Code, is amended to add a heading to read as follows:

Sec. 22.0815. OFFENSE: UNAUTHORIZED GROUND TRANSPORTATION. (a) In this section, "ground transportation business" means the transportation by motor vehicle of persons or baggage for compensation.

(b) A person commits an offense if, within the boundaries of an airport operated or controlled by a joint board for which the constituent agencies are populous home-rule municipalities, the person:

(1) solicits ground transportation business without the permission of the joint board, if required; or

(2) engages in ground transportation business without the permission of the joint board, if required.

(c) An offense under this section is a Class B misdemeanor.

SECTION 15.002. Sections 222.104(f) and (g),

Transportation Code, as added by Chapter 994, Acts of the 79th Legislature, Regular Session, 2005, are repealed as duplicative of Sections 222.104(i) and (j), Transportation Code.

ARTICLE 16. CHANGES RELATING TO WATER CODE

SECTION 16.001. Section 5.131, Water Code, as added by Chapter 965, Acts of the 77th Legislature, Regular Session, 2001, is repealed as duplicative of Section 5.127, Water Code.

SECTION 16.002. The heading to Chapter 29, Water Code, is amended to conform to Section 21, Chapter 603, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

CHAPTER 29. OIL AND GAS WASTE [~~SALT WATER~~] HAULERS

ARTICLE 17. RENUMBERING

SECTION 17.001. The following provisions of enacted codes are renumbered or relettered and appropriate cross-references are changed to eliminate duplicate citations or to relocate misplaced provisions:

(1) Section 12.039, Agriculture Code, as added by Chapter 214, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 12.040, Agriculture Code.

(2) Subsection (i), Section 11.61, Alcoholic Beverage Code, as added by Chapter 452, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (j), Section 11.61, Alcoholic Beverage Code.

(3) Chapter 54, Alcoholic Beverage Code, as added by Chapter 1289, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Chapter 50, Alcoholic Beverage Code, and Sections 54.001, 54.002, and 54.003, Alcoholic Beverage Code, as added by

that Act, are renumbered as Sections 50.001, 50.002, and 50.003, Alcoholic Beverage Code, respectively.

(4) Subsection (j), Section 61.71, Alcoholic Beverage Code, as added by Chapter 452, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (l), Section 61.71, Alcoholic Beverage Code.

(5) Section 105.08, Alcoholic Beverage Code, as added by Chapter 239, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 105.09, Alcoholic Beverage Code.

(6) Section 35.58, Business & Commerce Code, as added by Chapter 649, Acts of the 78th Legislature, Regular Session, 2003, is renumbered as Section 35.60, Business & Commerce Code.

(7) Section 35.60, Business & Commerce Code, as added by Chapter 195, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 35.63, Business & Commerce Code.

(8) Article 13.30, Code of Criminal Procedure, as added by Chapter 1008, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Article 13.31, Code of Criminal Procedure.

(9) Article 13.30, Code of Criminal Procedure, as added by Chapter 1275, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Article 13.32, Code of Criminal Procedure.

(10) Subsection (p), Article 42.037, Code of Criminal Procedure, as added by Chapter 543, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (q), Article 42.037, Code of Criminal Procedure.

(11) Section 11.168, Education Code, as added by Chapter 1109, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 11.169, Education Code.

(12) Section 25.0341, Education Code, as added by Chapter 920, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 25.0342, Education Code.

(13) Subchapter D, Chapter 32, Education Code, as added by Chapter 1216, Acts of the 78th Legislature, Regular Session, 2003, is relettered as Subchapter F, Chapter 32, Education Code, and Sections 32.151, 32.152, 32.153, 32.154, 32.155, 32.156, 32.157, 32.158, 32.159, 32.160, 32.161, 32.162, and 32.163, Education Code, as added by that Act, are renumbered as Sections 32.251, 32.252, 32.253, 32.254, 32.255, 32.256, 32.257, 32.258, 32.259, 32.260, 32.261, 32.262, and 32.263, Education Code, respectively.

(13-a) Section 51.355, Education Code, as added by Chapter 303, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 51.357, Education Code.

(14) Section 51.4032, Education Code, as added by Chapter 1230, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 51.4033, Education Code.

(15) Subsection (f), Section 54.007, Education Code, as added by Chapter 888, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (g), Section 54.007, Education Code.

(16) Subsection (f), Section 54.007, Education Code, as added by Chapter 536, Acts of the 79th Legislature, Regular

Session, 2005, is relettered as Subsection (h), Section 54.007, Education Code.

(17) Section 54.073, Education Code, as added by Chapter 888, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 54.066, Education Code.

(18) Subsection (h), Section 54.203, Education Code, as added by Chapter 888, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (j), Section 54.203, Education Code.

(19) Subchapter I, Chapter 88, Education Code, as added by Chapter 388, Acts of the 76th Legislature, Regular Session, 1999, is relettered as Subchapter I-1, Chapter 88, Education Code.

(20) Subsection (d), Section 31.092, Election Code, as added by Chapter 1091, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (e), Section 31.092, Election Code.

(21) Subchapter J, Chapter 153, Family Code, as added by Chapter 482, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subchapter K, Chapter 153, Family Code.

(22) Section 231.122, Family Code, as added by Chapter 925, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 231.123, Family Code.

(23) Subsection (i), Section 156.208, Finance Code, as added by Chapter 1018, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (j), Section 156.208, Finance Code.

(24) Subchapter BB, Chapter 54, Government Code, as added by Chapter 663, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subchapter A, Chapter 54, Government Code, and Sections 54.1351, 54.1352, 54.1353, 54.1354, 54.1355, and 54.1356, Government Code, as added by that Act, are renumbered as Sections 54.001, 54.002, 54.003, 54.004, 54.005, and 54.006, Government Code, respectively.

(25) Subchapter BB, Chapter 54, Government Code, as added by Chapter 109, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subchapter B, Chapter 54, Government Code, and Sections 54.1701, 54.1702, 54.1703, 54.1704, and 54.1705, Government Code, as added by that Act, are renumbered as Sections 54.101, 54.102, 54.103, 54.104, and 54.105, Government Code, respectively.

(26) Section 62.0142, Government Code, as added by Chapter 1360, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 62.0143, Government Code.

(27) Section 405.021, Government Code, as added by Chapter 407, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 405.022, Government Code.

(28) Section 442.019, Government Code, as added by Chapter 850, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 442.020, Government Code.

(29) Section 487.060, Government Code, as added by Chapter 634, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 487.061, Government Code.

(30) Chapter 490, Government Code, as added by Chapter

593, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Chapter 490A, Government Code, and Sections 490.001, 490.002, 490.003, 490.004, 490.005, 490.006, 490.007, 490.008, and 490.009, Government Code, as added by that Act, are renumbered as Sections 490A.001, 490A.002, 490A.003, 490A.004, 490A.005, 490A.006, 490A.007, 490A.008, and 490A.009, Government Code, respectively.

(31) Chapter 490, Government Code, as added by Chapter 1215, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Chapter 490B, Government Code, and Sections 490.001, 490.002, 490.003, 490.004, and 490.005, Government Code, as added by that Act, are renumbered as Sections 490B.001, 490B.002, 490B.003, 490B.004, and 490B.005, Government Code, respectively.

(32) Section 531.078, Government Code, as added by Chapter 268, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 531.088, Government Code.

(33) Section 531.078, Government Code, as added by Chapter 1008, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 531.089, Government Code.

(34) Section 531.080, Government Code, as added by Chapter 899, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 531.090, Government Code.

(35) Section 531.080, Government Code, as added by Chapter 666, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 531.091, Government Code.

(36) Section 531.082, Government Code, as added by Chapter 985, Acts of the 79th Legislature, Regular Session, 2005,

is renumbered as Section 531.092, Government Code.

(37) Section 531.1532, Government Code, as added by Chapter 1131, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 531.1533, Government Code.

(38) Subsection (f), Section 533.009, Government Code, as added by Chapter 349, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (c), Section 533.009, Government Code.

(39) Section 552.141, Government Code, as added by Chapter 401, Acts of the 78th Legislature, Regular Session, 2003, is renumbered as Section 552.145, Government Code.

(40) Section 662.051, Government Code, as added by Chapter 697, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 662.052, Government Code.

(41) Section 775.004, Government Code, as added by Chapter 351, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 775.005, Government Code.

(42) Section 2155.149, Government Code, as added by Chapter 514, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 2155.150, Government Code.

(43) Subchapter C, Chapter 44, Health and Safety Code, as added by Chapter 775, Acts of the 75th Legislature, Regular Session, 1997, is transferred to the Government Code and redesignated as Subchapter C, Chapter 420, Government Code, and Section 44.051, Health and Safety Code, as added by that Act, is renumbered as Section 420.051, Government Code.

(44) Subchapter D, Chapter 44, Health and Safety Code,

as added by Chapter 775, Acts of the 75th Legislature, Regular Session, 1997, is transferred to the Government Code and redesignated as Subchapter D, Chapter 420, Government Code, and Sections 44.071, 44.072, 44.073, 44.074, and 44.075, Health and Safety Code, as added by that Act, are renumbered as Sections 420.071, 420.072, 420.073, 420.074, and 420.075, Government Code, respectively.

(45) Chapter 96, Health and Safety Code, as added by Chapter 326, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Chapter 97, Health and Safety Code, and Sections 96.001, 96.002, 96.003, 96.004, 96.005, 96.006, and 96.007, Health and Safety Code, as added by that Act, are renumbered as Sections 97.001, 97.002, 97.003, 97.004, 97.005, 97.006, and 97.007, Health and Safety Code, respectively.

(46) Chapter 113, Health and Safety Code, as added by Chapter 1016, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Chapter 109, Health and Safety Code, and Sections 113.001, 113.002, 113.003, 113.004, 113.005, 113.006, 113.007, 113.008, 113.009, 113.010, 113.011, 113.012, 113.013, and 113.014, Health and Safety Code, as added by that Act, are renumbered as Sections 109.001, 109.002, 109.003, 109.004, 109.005, 109.006, 109.007, 109.008, 109.009, 109.010, 109.011, 109.012, 109.013, and 109.014, Health and Safety Code, respectively.

(47) Chapter 322, Health and Safety Code, as added by Chapter 934, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Chapter 323, Health and Safety Code, and Sections 322.001, 322.002, 322.003, 322.004, 322.005, and 322.006, Health

and Safety Code, as added by that Act, are renumbered as Sections 323.001, 323.002, 323.003, 323.004, 323.005, and 323.006, Health and Safety Code, respectively.

(48) Section 361.123, Health and Safety Code, as added by Chapter 582, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 361.124, Health and Safety Code.

(49) Section 756.106, Health and Safety Code, as added by Chapter 1337, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 756.126, Health and Safety Code.

(50) Subsection (bb), Section 32.024, Human Resources Code, as added by Chapter 1314, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (cc), Section 32.024, Human Resources Code.

(51) Subchapter G, Chapter 544, Insurance Code, as added by Chapter 748, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subchapter J, Chapter 544, Insurance Code, and Sections 544.301, 544.302, and 544.303, Insurance Code, as added by that Act, are renumbered as Sections 544.451, 544.452, and 544.453, Insurance Code, respectively.

(52) Section 1551.219, Insurance Code, as added by Chapter 213, Acts of the 78th Legislature, Regular Session, 2003, is renumbered as Section 1551.224, Insurance Code.

(53) Section 212.1335, Local Government Code, as added by Chapter 1044, Acts of the 78th Legislature, Regular Session, 2003, is renumbered as Section 212.1535, Local Government Code.

(54) Section 212.138, Local Government Code, as added by Chapter 1044, Acts of the 78th Legislature, Regular Session,

2003, is renumbered as Section 212.158, Local Government Code.

(55) Section 214.904, Local Government Code, as added by Chapter 1103, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 214.905, Local Government Code.

(56) Section 230.007, Local Government Code, as added by Chapter 1399, Acts of the 77th Legislature, Regular Session, 2001, is renumbered as Section 212.157, Local Government Code.

(57) Section 301.353, Occupations Code, as added by Chapter 966, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 301.354, Occupations Code.

(58) Section 562.111, Occupations Code, as added by Section 22, Chapter 1345, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 562.112, Occupations Code.

(58-a) Subdivision (1-a), Section 1702.002, Occupations Code, as added by Chapter 10, Acts of the 78th Legislature, 3rd Called Session, 2003, is renumbered as Subdivision (1-b), Section 1702.002, Occupations Code.

(59) Section 1702.331, Occupations Code, as added by Chapter 207, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 1702.332, Occupations Code.

(60) Section 62.002, Parks and Wildlife Code, as added by Chapter 1002, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 62.0061, Parks and Wildlife Code.

(61) Subsections (g) and (h), Section 30.05, Penal Code, as added by Chapter 1093, Acts of the 79th Legislature, Regular Session, 2005, are relettered as Subsections (i) and (j), Section 30.05, Penal Code, respectively.

(62) Subsection (i), Section 46.15, Penal Code, as added by Chapter 976, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (j), Section 46.15, Penal Code.

(63) Section 5.014, Property Code, as added by Chapter 825, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 5.015, Property Code.

(64) Section 92.016, Property Code, as added by Chapter 1344, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 92.018, Property Code.

(65) Chapter 9004, Special District Local Laws Code, as added by Chapter 729, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Chapter 9010, Special District Local Laws Code, and Sections 9004.001, 9004.002, 9004.003, 9004.004, 9004.051, 9004.052, 9004.053, 9004.054, and 9004.055, Special District Local Laws Code, as added by that Act, are renumbered as Sections 9010.001, 9010.002, 9010.003, 9010.004, 9010.051, 9010.052, 9010.053, 9010.054, and 9010.055, Special District Local Laws Code, respectively.

(66) Subsection (g), Section 32.065, Tax Code, as added by Chapter 1126, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (h), Section 32.065, Tax Code.

(67) Section 201.617, Transportation Code, as added by Chapter 474, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 201.619, Transportation Code.

(68) Subsection (a), Section 225.059, Transportation

Code, as added by Chapter 286, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (a-1), Section 225.059, Transportation Code.

(69) Section 225.059, Transportation Code, as added by Chapter 851, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 225.060, Transportation Code.

(70) Section 225.059, Transportation Code, as added by Chapter 1263, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 225.062, Transportation Code.

(71) Section 225.059, Transportation Code, as added by Chapter 1283, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 225.063, Transportation Code.

(72) Section 225.059, Transportation Code, as added by Chapter 651, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 225.064, Transportation Code.

(73) Section 225.059, Transportation Code, as added by Chapter 546, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 225.065, Transportation Code.

(74) Section 284.011, Transportation Code, as added by Chapter 877, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 284.013, Transportation Code.

(75) Subsection (c), Section 472.032, Transportation Code, as added by Chapter 565, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (d), Section 472.032, Transportation Code.

SECTION 17.002. The following reference changes are made to conform the provisions amended to the renumbering changes made by

Section 17.001 of this Act:

(1) Subsection (g), Article 18.18, Code of Criminal Procedure, is amended to read as follows:

(g) For purposes of this article:

(1) "criminal instrument" has the meaning defined in the Penal Code;

(2) "gambling device or equipment, altered gambling equipment or gambling paraphernalia" has the meaning defined in the Penal Code;

(3) "prohibited weapon" has the meaning defined in the Penal Code;

(4) "dog-fighting equipment" means:

(A) equipment used for training or handling a fighting dog, including a harness, treadmill, cage, decoy, pen, house for keeping a fighting dog, feeding apparatus, or training pen;

(B) equipment used for transporting a fighting dog, including any automobile, or other vehicle, and its appurtenances which are intended to be used as a vehicle for transporting a fighting dog;

(C) equipment used to promote or advertise an exhibition of dog fighting, including a printing press or similar equipment, paper, ink, or photography equipment; or

(D) a dog trained, being trained, or intended to be used to fight with another dog;

(5) "obscene device" and "obscene" have the meanings assigned by Section 43.21, Penal Code;

(6) "re-encoder" has the meaning assigned by Section 35.60 [~~35.58~~], Business & Commerce Code;

(7) "scanning device" has the meaning assigned by Section 35.60 [~~35.58~~], Business & Commerce Code; and

(8) "obscene material" and "child pornography" include digital images and the media and equipment on which those images are stored.

(2) Subsection (a), Section 32.261, Education Code, as renumbered from Section 32.161, Education Code, by this article, is amended to read as follows:

(a) The agency may not use general revenue funds to pay the costs of developing, administering, and maintaining the portal. The agency may use amounts available to the agency from:

(1) gifts, grants, or donations;

(2) vendor payments described by Section 32.260(b) [~~32.160(b)~~]; or

(3) arrangements with nonprofit or private entities approved by the agency.

(3) Subsections (a) and (b), Section 420.072, Government Code, as renumbered from Section 44.072, Health and Safety Code, by this article, are amended to read as follows:

(a) A communication or record that is confidential under this subchapter may be disclosed in court or in an administrative proceeding if:

(1) the proceeding is brought by the survivor against an advocate or a sexual assault program or is a criminal proceeding or a certification revocation proceeding in which disclosure is

relevant to the claims or defense of the advocate or sexual assault program; or

(2) the survivor or a person authorized to act on behalf of the survivor consents in writing to the release of the confidential information as provided by Section 420.073 [~~44.073~~].

(b) A communication or record that is confidential under this subchapter may be disclosed only to:

(1) medical or law enforcement personnel if the advocate determines that there is a probability of imminent physical danger to any person for whom the communication or record is relevant or if there is a probability of immediate mental or emotional injury to the survivor;

(2) a governmental agency if the disclosure is required or authorized by law;

(3) a qualified person to the extent necessary for a management audit, financial audit, program evaluation, or research, except that a report of the research, audit, or evaluation may not directly or indirectly identify a survivor;

(4) a person who has the written consent of the survivor or of a person authorized to act on the survivor's behalf as provided by Section 420.073 [~~44.073~~]; or

(5) an advocate or a person under the supervision of a counseling supervisor who is participating in the evaluation or counseling of or advocacy for the survivor.

(4) Subsection (b), Section 490A.004, Government Code, as renumbered from Section 490.004, Government Code, by this article, is amended to read as follows:

(b) The advisory board consists of one representative from each of the founding members of the network under Section 490A.003(a) [~~490.003(a)~~] and at least one member from the private sector. An organization other than a founding member of the network under Section 490A.003(a) [~~490.003(a)~~] may have a representative on the advisory board only if the creation of an additional seat on the board is authorized by a two-thirds majority vote of the existing board.

(5) Subsection (a), Section 490A.005, Government Code, as renumbered from Section 490.005, Government Code, by this article, is amended to read as follows:

(a) The network shall train and refocus existing state and local resources to build a more prosperous, dynamic, and sustainable economy throughout this state by:

(1) providing coordinated training and services that enhance the value of the state's existing infrastructure investments and make the investments available to entrepreneur participants;

(2) developing a statewide network of entrepreneurship developers and entrepreneurship centers as provided by Section 490A.006 [~~490.006~~];

(3) developing a comprehensive network of knowledge, leadership, and financial capital resources accessible through the network's entrepreneurship developers and entrepreneurship centers;

(4) educating entrepreneur participants and generating awareness of the network and its programs;

(5) identifying the most promising ventures through activities, including business-plan competitions, and assisting the ventures' potential for job and wealth creation;

(6) developing evaluation methods to measure the effectiveness of the network and the impact of entrepreneurship on local and regional economies;

(7) developing best practices for successful entrepreneurship and applied research regarding critical success factors for entrepreneurial businesses to provide a strategic competitive advantage for businesses in this state; and

(8) collaborating with existing local, state, and federal agencies and economic development professionals to use the strengths and assets of the agencies and professionals.

(6) Subsection (c), Section 490A.008, Government Code, as renumbered from Section 490.008, Government Code, by this article, is amended to read as follows:

(c) The fund may be used only for network purposes, subject to Section 490A.009 [~~490.009~~].

(7) Subsection (g), Section 531.164, Government Code, is amended to read as follows:

(g) If a child's parent or guardian does not respond to a notice under Subsection (e) or (f), the ICF-MR or nursing facility, as applicable, must attempt to locate the parent or guardian by contacting another person whose information was provided by the parent or guardian under Section 531.1533(1)(B) [~~531.1532(1)(B)~~].

(8) Subsection (c), Section 2306.585, Government Code, is amended to read as follows:

(c) The advisory committee shall advise the colonia initiatives coordinator as provided by Section 775.005 [~~775.004~~].

(9) Subsection (e), Section 109.010, Health and Safety Code, as renumbered from Section 113.010, Health and Safety Code, by this article, is amended to read as follows:

(e) The report submitted under Subsection (d) must include recommendations from the partnership and any other advisory body formed under Section 109.003 [~~113.003~~].

(10) Subsection (a), Section 323.002, Health and Safety Code, as renumbered from Section 322.002, Health and Safety Code, by this article, is amended to read as follows:

(a) At the request of the department, a health care facility shall submit to the department for approval a plan for providing the services required by Section 323.004 [~~322.004~~] to sexual assault survivors who arrive for treatment at the emergency department of the health care facility.

(11) Subsection (a), Section 323.003, Health and Safety Code, as renumbered from Section 322.003, Health and Safety Code, by this article, is amended to read as follows:

(a) If a plan required under Section 323.002 [~~322.002~~] is not approved, the department shall:

(1) return the plan to the health care facility; and

(2) identify the specific provisions under Section 323.004 [~~322.004~~] with which the plan conflicts or does not comply.

(12) Subsection (b), Section 323.004, Health and Safety Code, as renumbered from Section 322.004, Health and Safety Code, by this article, is amended to read as follows:

(b) A health care facility providing care to a sexual assault survivor shall provide the survivor with:

(1) a forensic medical examination in accordance with Subchapter B, Chapter 420, Government Code, if the examination has been approved by a law enforcement agency;

(2) a private area, if available, to wait or speak with the appropriate medical, legal, or sexual assault crisis center staff or volunteer until a physician, nurse, or physician assistant is able to treat the survivor;

(3) access to a sexual assault program advocate, if available, as provided by Article 56.045, Code of Criminal Procedure;

(4) the information form required by Section 323.005 [~~322.005~~];

(5) a private treatment room, if available;

(6) if indicated by the history of contact, access to appropriate prophylaxis for exposure to sexually transmitted infections; and

(7) the name and telephone number of the nearest sexual assault crisis center.

(13) Subsection (j), Section 30.05, Penal Code, as relettered from Subsection (h), Section 30.05, Penal Code, by this article, is amended to read as follows:

(h) For purposes of Subsection (i) [~~(g)~~], "recognized state" means another state with which the attorney general of this state, with the approval of the governor of this state, negotiated an agreement after determining that the other state:

(1) has firearm proficiency requirements for peace officers; and

(2) fully recognizes the right of peace officers commissioned in this state to carry weapons in the other state.

SECTION 17.003. If the number, letter, or designation assigned by Section 17.001 of this Act conflicts with a number, letter, or designation assigned by another Act of the 80th Legislature:

(1) the other Act controls, and the change made by Section 17.001 of this Act has no effect; and

(2) any cross-reference change made by Section 17.002 of this Act to conform to that change made by Section 17.001 of this Act has no effect.

ARTICLE 18. EFFECTIVE DATE

SECTION 18.001. This Act takes effect September 1, 2007.

HOUSE COMMITTEE REPORT

07 MAR 30 AM 12: 27
HOUSE OF REPRESENTATIVES

1st Printing

H.B. 3167 on Committee Report

Rule 12, Section 1 (a) (1) (A) was suspended for the committee report on HB 3167. Therefore, there is no printed bill text included in the committee report printing on the bill. Attached for your information are:

(1) the committee amendment(s);
(2) the committee report form;
(3) the bill analysis;
(4) the summary of committee action;
(5) the witness list;
(6) the fiscal note(s).

COMMITTEE AMENDMENT NO. 1

Amend H.B. No. 3167, in Article 13 of the bill (page 319, between lines 5 and 6), by inserting the following:

SECTION 13.0035. (a) Section 5001.001, Special District Local Laws Code, is amended to conform to Section 1, Chapter 81, Acts of the 62nd Legislature, Regular Session, 1971, to read as follows:

Sec. 5001.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

(1) "Commission" means the navigation and canal commission of the district.

(2) "Commissioner" means a member of the commission.

(3) "District"[~~, "district"~~] means the Aransas County Navigation District No. 1.

(b) Chapter 5001, Special District Local Laws Code, is amended to conform to Chapter 81, Acts of the 62nd Legislature, Regular Session, 1971, by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. COMMISSION

Sec. 5001.021. GOVERNING BODY; TERMS. (a) The district is governed by a commission consisting of five commissioners, each elected to a navigation and canal commissioner's office by number.

(b) Commissioners serve two-year terms.

Sec. 5001.022. QUALIFICATIONS. To be eligible for election to any of the following offices, a person must have the following qualifications:

(1) for the office of Navigation and Canal Commissioner No. 1, a person must reside in and be a freehold property taxpaying voter of Aransas County Commissioners' Precinct

No. 1;

(2) for the office of Navigation and Canal Commissioner No. 2, a person must reside in and be a freehold property taxpaying voter of Aransas County Commissioners' Precinct No. 2;

(3) for the office of Navigation and Canal Commissioner No. 3, a person must reside in and be a freehold property taxpaying voter of Aransas County Commissioners' Precinct No. 3;

(4) for the office of Navigation and Canal Commissioner No. 4, a person must reside in and be a freehold property taxpaying voter of Aransas County Commissioners' Precinct No. 4; and

(5) for the office of Navigation and Canal Commissioner No. 5, a person must reside in and be a freehold property taxpaying voter of Aransas County.

Sec. 5001.023. ELECTION OF COMMISSIONERS. On a uniform election date in each odd-numbered year, five commissioners shall be elected.

Sec. 5001.024. NOTICE OF ELECTION. The secretary of the commission shall give notice of an election by posting or publishing the notice for at least 20 days before the date of the election.

Sec. 5001.025. VACANCIES. (a) A vacancy in the office of a commissioner that occurs for any reason shall be filled by the remaining members of the commission except as provided by this section.

(b) If three or more vacancies in commissioners' offices occur at the same time, a special election may be called as provided by Section 62.066, Water Code.

Sec. 5001.026. REMOVAL FROM OFFICE. (a) A commissioner may be removed from office for malfeasance or nonfeasance in office by unanimous vote of the commissioners court of Aransas County after a hearing.

(b) Appeal from a judgment of removal may be taken to a district court in Aransas County. The court shall try the case de novo.

(c) Section 5001.051, Special District Local Laws Code, is amended to read as follows:

Sec. 5001.051. DEFINITION [~~DEFINITIONS~~]. In this subchapter, "fund" [~~:~~

[~~(1) "Commission" means the navigation and canal commission of the district.~~

[~~(2) "Fund"~~] means a promotion and development fund created by the district.

COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

3/26/07
(date)

Sir:

We, your **COMMITTEE ON STATE AFFAIRS**

to whom was referred HB 3167 have had the same under consideration and beg to report back with the recommendation that it

( ) do pass, without amendment.
(X) do pass, with amendment(s).
( ) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

(X) yes ( ) no A fiscal note was requested.

( ) yes (X) no A criminal justice policy impact statement was requested.

( ) yes (X) no An equalized educational funding impact statement was requested.

( ) yes (X) no An actuarial analysis was requested.

( ) yes (X) no A water development policy impact statement was requested.

( ) yes (X) no A tax equity note was requested.

( ) The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor _____

Joint Sponsors: _____ / _____ / _____ / _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Swinford, Chair	X			
Paxton, Vice-chair	X			
Van Arsdale, CBO	X			
Christian	X			
Cook, B.	X			
Farrar	X			
Flynn				X
Parker				X
Veasey				X

Total
6 aye
0 nay
0 present, not voting
3 absent

CHAIR

BILL ANALYSIS

H.B. 3167
By: Swinford
State Affairs
Committee Report (Amended)

BACKGROUND AND PURPOSE

The Texas Legislative Council is required by law (Section 323.007, Government Code) to carry out a complete nonsubstantive revision of the Texas statutes. The process involves reclassifying and rearranging the statutes in a more logical order, employing a numbering system and format that will accommodate future expansion of the law, eliminating repealed, invalid, duplicative, and other ineffective provisions, and improving the draftsmanship of the law if practicable--all toward promoting the stated purpose of making the statutes "more accessible, understandable, and usable" without altering the sense, meaning, or effect of the law.

The 79th Legislature adopted additions to the Insurance Code and the Special District Local Laws Code. The same legislature passed substantive bills that amended the codified statutes. Under Section 311.031(c), Government Code, those substantive amendments are given effect as part of the codified law. As part of its duties under the continuing revision program, the council prepares amendments to the new codes to clarify the law and conform the code to the substance of the law.

Also as part of the duties relating to continuing statutory revision, the council:
(1) monitors the acts of each session and proposes nonsubstantive codifications of laws that should be included in previously enacted codes;
(2) identifies duplicate official citations in enacted codes and proposes appropriate renumbering;
(3) identifies organizational, reference, and terminology problems in enacted codes and nonsubstantively corrects those problems; and
(4) makes necessary corrections to enacted codes to conform the codes to the source law from which they were derived.

Section 43, Article III, Texas Constitution, specifically recognized this type of bill as a "revision" for purposes of the legislature's obligation under that section to provide for the revising of laws. As such a revision, the bill is not subject to the constitutional rule prohibiting more than one subject in a single bill or the rule prohibiting amendments by reference.

This bill has the purposes of:
(1) conforming additions to the Insurance Code and the Special District Local Laws Code, enacted by the 79th Legislature, to other acts of that legislature amending laws codified and conforming references appropriately;
(2) codifying without substantive change various statutes that were omitted from enacted codes;
(3) renumbering sections and articles of codes that duplicate section and article numbers;
(4) correcting without substantive change organizational, reference, and terminology problems; and
(5) making necessary corrections to enacted codes to conform the codes to the source law from which they were derived.

RULEMAKING AUTHORITY

This bill does not expressly delegate any additional rulemaking authority to a state officer, department, agency, or institution but does codify that authority already delegated by previous law.

ANALYSIS

This bill conforms additions to the Insurance Code and the Special District Local Laws Code, which were enacted by the 79th Legislature, to other acts of the 79th Legislature, makes corrections to the codes, conforms other laws to the codes, and codifies other existing laws as new provisions in the codes. The bill makes various nonsubstantive amendments to enacted codes, including amendments to conform the codes to acts of previous legislatures, correct references and terminology, properly organize and number the law, and codify other law that properly belongs in those codes. The bill renumbers and reletters provisions of enacted codes and changes references to eliminate duplicated citations, relocate misplaced provisions, and correct corresponding references. The bill provides that it is a nonsubstantive revision that does not affect other acts of the 80th Legislature.

EFFECTIVE DATE

The bill takes effect September 1, 2007.

EXPLANATION OF AMENDMENTS

Committee Amendment No. 1 codifies provisions relating to the governing body of Aransas County Navigation District No. 1. Those provisions were inadvertently omitted when the law relating to that district was codified in 2003. The amendment makes no substantive change to existing law.

SUMMARY OF COMMITTEE ACTION

HB 3167

March 26, 2007 2:00 PM or upon final adjourn./recess

Considered in public hearing

Testimony taken in committee (See attached witness list.)

Amendment(s) considered in committee

Reported favorably as amended

3

WITNESS LIST

HB 3167
HOUSE COMMITTEE REPORT
State Affairs Committee

March 26, 2007 - 2:00 PM or upon final adjourn./recess

On: Skarke, David (Texas Legislative Council)
Thorne, Jeffrey (Texas Legislative Council, Legal Division)

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 27, 2007

TO: Honorable David Swinford, Chair, House Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3167** by Swinford (Relating to nonsubstantive additions to and corrections in enacted codes, to the nonsubstantive codification or disposition of various laws omitted from enacted codes, and to conforming codifications enacted by the 79th Legislature to other Acts of that legislature.), **Committee Report 1st House, As Amended**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:
LBB Staff: JOB, KJG, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 20, 2007

TO: Honorable David Swinford, Chair, House Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3167** by Swinford (Relating to nonsubstantive additions to and corrections in enacted codes, to the nonsubstantive codification or disposition of various laws omitted from enacted codes, and to conforming codifications enacted by the 79th Legislature to other Acts of that legislature.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:
LBB Staff: JOB, KJG, SD

LIST OF HOUSE AMENDMENTS CONSIDERED TODAY

HB3167-Second Reading

AMENDMENT#	AUTHOR	DESCRIPTION	ACTION
1	Paxton	Committee Amendment	Adopted

ADOPTED

APR 11 2007

Robert Haney
Chief Clerk
House of Representatives

ENGROSSED RIDER NO. 1

COMMITTEE AMENDMENT NO. 1 BY: Paxton

Amend H.B. No. 3167, in Article 13 of the bill (page 319, between lines 5 and 6), by inserting the following:

SECTION 13.0035. (a) Section 5001.001, Special District Local Laws Code, is amended to conform to Section 1, Chapter 81, Acts of the 62nd Legislature, Regular Session, 1971, to read as follows:

Sec. 5001.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

(1) "Commission" means the navigation and canal commission of the district.

(2) "Commissioner" means a member of the commission.

(3) "District"[~~, "district"~~] means the Aransas County Navigation District No. 1.

(b) Chapter 5001, Special District Local Laws Code, is amended to conform to Chapter 81, Acts of the 62nd Legislature, Regular Session, 1971, by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. COMMISSION

Sec. 5001.021. GOVERNING BODY; TERMS. (a) The district is governed by a commission consisting of five commissioners, each elected to a navigation and canal commissioner's office by number.

(b) Commissioners serve two-year terms.

Sec. 5001.022. QUALIFICATIONS. To be eligible for election to any of the following offices, a person must have the following qualifications:

(1) for the office of Navigation and Canal Commissioner No. 1, a person must reside in and be a freehold property taxpaying voter of Aransas County Commissioners' Precinct No. 1;

(2) for the office of Navigation and Canal Commissioner No. 2, a person must reside in and be a freehold

property taxpaying voter of Aransas County Commissioners' Precinct No. 2;

(3) for the office of Navigation and Canal Commissioner No. 3, a person must reside in and be a freehold property taxpaying voter of Aransas County Commissioners' Precinct No. 3;

(4) for the office of Navigation and Canal Commissioner No. 4, a person must reside in and be a freehold property taxpaying voter of Aransas County Commissioners' Precinct No. 4; and

(5) for the office of Navigation and Canal Commissioner No. 5, a person must reside in and be a freehold property taxpaying voter of Aransas County.

Sec. 5001.023. ELECTION OF COMMISSIONERS. On a uniform election date in each odd-numbered year, five commissioners shall be elected.

Sec. 5001.024. NOTICE OF ELECTION. The secretary of the commission shall give notice of an election by posting or publishing the notice for at least 20 days before the date of the election.

Sec. 5001.025. VACANCIES. (a) A vacancy in the office of a commissioner that occurs for any reason shall be filled by the remaining members of the commission except as provided by this section.

(b) If three or more vacancies in commissioners' offices occur at the same time, a special election may be called as provided by Section 62.066, Water Code.

Sec. 5001.026. REMOVAL FROM OFFICE. (a) A commissioner may be removed from office for malfeasance or nonfeasance in office by unanimous vote of the commissioners court of Aransas County after a hearing.

(b) Appeal from a judgment of removal may be taken to a district court in Aransas County. The court shall try the case de novo.

(c) Section 5001.051, Special District Local Laws Code, is amended to read as follows:

Sec. 5001.051. DEFINITION [~~DEFINITIONS~~]. In this subchapter, "fund" [~~:~~

[~~(1) "Commission" means the navigation and canal commission of the district.~~

[~~(2) "Fund"~~] means a promotion and development fund created by the district.

LIST OF HOUSE AMENDMENTS CONSIDERED TODAY

HB3167-Third Reading

AMENDMENT#	AUTHOR	DESCRIPTION	ACTION
1	Phillips	Amendment	Adopted

ADOPTED

APR 12 2007

Robert Haney
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 1 BY: _____

Amend H.B. No. 3167 on third reading by adding the following appropriately numbered ARTICLE to the bill to read as follows:

Insert 2

ARTICLE 12A. CHANGES RELATING TO PENAL CODE

SECTION 12A.001. Section 46.01(6), Penal Code, is amended to read as follows:

(6) "Illegal knife" means a:

(A) knife with a blade over five and one-half inches;

(B) hand instrument designed to cut or stab another by being thrown;

(C) dagger, including but not limited to a dirk, stiletto [~~stilletto~~], and poniard;

(D) bowie knife;

(E) sword; or

(F) spear.

HOUSE ENGROSSMENT

By: Swinford H.B. No. 3167

A BILL TO BE ENTITLED

AN ACT

relating to nonsubstantive additions to and corrections in enacted codes, to the nonsubstantive codification or disposition of various laws omitted from enacted codes, and to conforming codifications enacted by the 79th Legislature to other Acts of that legislature.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.001. This Act is enacted as part of the state's continuing statutory revision program under Chapter 323, Government Code. This Act is a revision for purposes of Section 43, Article III, Texas Constitution, and has the purposes of:

(1) codifying without substantive change or providing for other appropriate disposition of various statutes that were omitted from enacted codes;

(2) conforming codifications enacted by the 79th Legislature to other Acts of that legislature that amended the laws codified or added new law to subject matter codified;

(3) making necessary corrections to enacted codifications; and

(4) renumbering titles, chapters, and sections of codes that duplicate title, chapter, or section numbers.

SECTION 1.002. (a) The repeal of a statute by this Act does not affect an amendment, revision, or reenactment of the statute by the 80th Legislature, Regular Session, 2007. The amendment,

revision, or reenactment is preserved and given effect as part of the code provision that revised the statute so amended, revised, or reenacted.

(b) If any provision of this Act conflicts with a statute enacted by the 80th Legislature, Regular Session, 2007, the statute controls.

SECTION 1.003. (a) A transition or saving provision of a law codified by this Act applies to the codified law to the same extent as it applied to the original law.

(b) The repeal of a transition or saving provision by this Act does not affect the application of the provision to the codified law.

(c) In this section, "transition provision" includes any temporary provision providing for a special situation in the transition period between the existing law and the establishment or implementation of the new law.

ARTICLE 2. CHANGES RELATING TO AGRICULTURE CODE

SECTION 2.001. Sections 301.104, 301.108, and 301.258, Agriculture Code, as added by Chapter 1276, Acts of the 78th Legislature, Regular Session, 2003, are repealed to conform to the repeal of the law from which those sections were derived by Section 21.013, Chapter 816, Acts of the 78th Legislature, Regular Session, 2003.

ARTICLE 2A. CHANGES RELATING TO BUSINESS & COMMERCE CODE

SECTION 2A.001. Section 17.08(a)(5), Business & Commerce Code, is amended to correct a reference to read as follows:

(5) "State seal" means the state seal, the reverse of

the state seal, and the state arms as defined by Sections 3101.001 and 3101.002, Government Code [~~Article 6139f, Revised Statutes~~].

ARTICLE 3. CHANGES RELATING TO CODE OF CRIMINAL PROCEDURE

SECTION 3.001. Article 45.051(f), Code of Criminal Procedure, as amended by Chapters 281 and 357, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to correct a reference to read as follows:

(f) This article does not apply to:

(1) an offense to which Section 542.404 [~~or 729.004(b)~~], Transportation Code, applies; or

(2) a violation of a state law or local ordinance relating to motor vehicle control, other than a parking violation, committed by a person who:

(A) holds a commercial driver's license; or

(B) held a commercial driver's license when the offense was committed.

SECTION 3.002. (a) Article 62.001(5), Code of Criminal Procedure, as renumbered from former Article 62.01(5), Code of Criminal Procedure, and amended by Chapter 1008, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to conform to an amendment to former Article 62.01(5) by Chapter 1273, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(5) "Reportable conviction or adjudication" means a conviction or adjudication, including an adjudication of delinquent conduct or a deferred adjudication, that, regardless of the pendency of an appeal, is a conviction for or an adjudication

for or based on:

(A) a violation of Section 21.11 (Indecency with a child), 22.011 (Sexual assault), 22.021 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct), Penal Code;

(B) a violation of Section 43.05 (Compelling prostitution), 43.25 (Sexual performance by a child), or 43.26 (Possession or promotion of child pornography), Penal Code;

(C) a violation of Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the actor committed the offense or engaged in the conduct with intent to violate or abuse the victim sexually;

(D) a violation of Section 30.02 (Burglary), Penal Code, if the offense or conduct is punishable under Subsection (d) of that section and the actor committed the offense or engaged in the conduct with intent to commit a felony listed in Paragraph (A) or (C);

(E) a violation of Section 20.02 (Unlawful restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping), Penal Code, if, as applicable:

(i) the judgment in the case contains an affirmative finding under Article 42.015; or

(ii) the order in the hearing or the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age;

(F) the second violation of Section 21.08 (Indecent exposure), Penal Code, but not if the second violation results in a deferred adjudication;

(G) an attempt, conspiracy, or solicitation, as defined by Chapter 15, Penal Code, to commit an offense or engage in conduct listed in Paragraph (A), (B), (C), (D), or (E);

(H) a violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (C), (D), (E), [~~or~~] (G)<u>, or (J)</u>, but not if the violation results in a deferred adjudication; [~~or~~]

(I) the second violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of the offense of indecent exposure, but not if the second violation results in a deferred adjudication<u>; or</u>

<u>(J) a violation of Section 33.021 (Online solicitation of a minor), Penal Code</u>.

(b) Section 2, Chapter 1273, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subdivision (5), Article 62.01, Code of Criminal Procedure, is repealed.

ARTICLE 4. CHANGES RELATING TO EDUCATION CODE

SECTION 4.001. Section 7.005, Education Code, is amended to correct a cross-reference to read as follows:

Sec. 7.005. COOPERATION BETWEEN STATE AGENCIES OF EDUCATION. The State Board of Education and the Texas Higher Education Coordinating Board, in conjunction with other

appropriate agencies, shall ensure that long-range plans and educational programs established by each board provide a comprehensive education for the students of this state under the jurisdiction of that board, extending from early childhood education through postgraduate study. In assuring that programs are coordinated, the boards shall use the P-16 Council established under Section 61.076 [~~61.077~~].

SECTION 4.002. The heading to Section 21.035, Education Code, is amended to conform to Section 1.04(a), Chapter 1227, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 21.035. ADMINISTRATION BY AGENCY [~~APPLICATION OF SUNSET ACT~~].

SECTION 4.003. Section 25.086(a), Education Code, as amended by Chapters 377, 887, and 1339, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(a) A child is exempt from the requirements of compulsory school attendance if the child:

(1) attends a private or parochial school that includes in its course a study of good citizenship;

(2) is eligible to participate in a school district's special education program under Section 29.003 and cannot be appropriately served by the resident district;

(3) has a physical or mental condition of a temporary and remediable nature that makes the child's attendance infeasible and holds a certificate from a qualified physician specifying the temporary condition, indicating the treatment prescribed to remedy

the temporary condition, and covering the anticipated period of the child's absence from school for the purpose of receiving and recuperating from that remedial treatment;

(4) is expelled in accordance with the requirements of law in a school district that does not participate in a mandatory juvenile justice alternative education program under Section 37.011;

(5) is at least 17 years of age and:

(A) is attending a course of instruction to prepare for the high school equivalency examination, and:

(i) has the permission of the child's parent or guardian to attend the course;

(ii) is required by court order to attend the course;

(iii) has established a residence separate and apart from the child's parent, guardian, or other person having lawful control of the child; or

(iv) is homeless as defined by 42 U.S.C. Section 11302; or

(B) has received a high school diploma or high school equivalency certificate;

(6) is at least 16 years of age and is attending a course of instruction to prepare for the high school equivalency examination, if:

(A) the child is recommended to take the course of instruction by a public agency that has supervision or custody of the child under a court order; or

(B) the child is enrolled in a Job Corps training program under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.);

[~~(B) the child is enrolled in a Job Corps training program under 29 U.S.C. Section 2881 et seq.;~~]

(7) is at least 16 years of age and is enrolled in a high school diploma program under Chapter 18;

(8) [~~(7)~~] is enrolled in the Texas Academy of Mathematics and Science under Subchapter G, Chapter 105;

(9) [~~(8)~~] is enrolled in the Texas Academy of Leadership in the Humanities;

(10) [~~(9)~~] is enrolled in the Texas Academy of Mathematics and Science at The University of Texas at Brownsville;

(11) [~~(9)~~] is enrolled in the Texas Academy of International Studies; or

(12) [~~(10)~~] is specifically exempted under another law.

SECTION 4.004. Section 28.024, Education Code, as amended by Chapters 887 and 1339, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

Sec. 28.024. CREDIT FOR ENROLLMENT IN CERTAIN ACADEMIES. A school district shall grant to a student credit toward the academic course requirements for high school graduation, up to a maximum of two years of credit, for courses the student successfully completes at:

(1) the Texas Academy of Leadership in the Humanities under Section 96.707;

(2) the Texas Academy of Mathematics and Science under Subchapter G, Chapter 105; [~~or~~]

(3) the Texas Academy of Mathematics and Science under Section 78.10; or

(4) [~~(3)~~] the Texas Academy of International Studies under Section 87.505.

SECTION 4.005. Section 29.161(a), Education Code, is amended to correct a cross-reference to read as follows:

(a) The State Center for Early Childhood Development, in conjunction with the P-16 Council established under Section 61.076 [~~61.077~~], shall develop and adopt a school readiness certification system for use in certifying the effectiveness of prekindergarten programs, Head Start and Early Head Start programs, government-subsidized child-care programs provided by nonprofit or for-profit entities, government-subsidized faith-based child-care programs, and other government-subsidized child-care programs in preparing children for kindergarten. The system shall be made available on a voluntary basis to program providers seeking to obtain certification as evidence of the quality of the program provided.

SECTION 4.006. Section 29.908(b-2), Education Code, is amended to correct a cross-reference to read as follows:

(b-2) The P-16 Council established under Section 61.076 [~~61.077~~] shall provide guidance in case of any conflict that arises between parties to an articulation agreement under Subsection (b)(3).

SECTION 4.007. Section 32.153(d), Education Code, as added

by Chapter 1216, Acts of the 78th Legislature, Regular Session, 2003, is amended to correct references to read as follows:

(d) The P-16 Council [~~joint advisory committee~~] established under Section 61.076 [~~61.077, or any successor to that committee with advisory responsibility for coordination between secondary and postsecondary education,~~] shall serve in an advisory capacity to the agency and the Department of Information Resources in connection with functions relating to the portal.

SECTION 4.008. Section 38.016(e), Education Code, is amended to correct a reference to read as follows:

(e) An act in violation of Subsection (b) does not override the immunity from personal liability granted in Section 22.0511 [~~22.051~~] or other law or the district's sovereign and governmental immunity.

SECTION 4.009. The heading to Section 39.132, Education Code, is amended to more accurately reflect the substance of that section to read as follows:

Sec. 39.132. SANCTIONS FOR ACADEMICALLY UNACCEPTABLE [~~AND CERTAIN OTHER~~] CAMPUSES.

SECTION 4.010. Section 61.076, Education Code, is amended by adding Subsection (h) to read as follows:

(h) The council, in conjunction with the State Center for Early Childhood Development, shall develop and adopt a school readiness certification system as required by Section 29.161.

SECTION 4.011. Section 61.077, Education Code, is repealed.

ARTICLE 5. CHANGES RELATING TO ELECTION CODE

SECTION 5.001. Section 42.006(d), Election Code, as amended

by Chapter 742, Acts of the 79th Legislature, Regular Session, 2005, is repealed to conform to Chapter 1107, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 5.002. (a) Section 501.032(a), Election Code, as added by Section 1, Chapter 975, Acts of the 79th Legislature, Regular Session, 2005, is amended to conform to Section 1, Chapter 890, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The commissioners court, at its next regular session on or after the 30th day after the date the petition is filed, shall order a local option election to be held on the issue set out in the petition if the petition is filed with the voter registrar not later than the 60th day after the date the petition is issued and bears the actual signatures of a number of qualified voters of the political subdivision equal to at least:

(1) 35 percent of the registered voters in the subdivision <u>who voted in the most recent gubernatorial election</u> for a ballot issue that permits voting for or against:

(A) "The legal sale of all alcoholic beverages for off-premise consumption only.";

(B) "The legal sale of all alcoholic beverages except mixed beverages.";

(C) "The legal sale of all alcoholic beverages including mixed beverages."; or

(D) "The legal sale of mixed beverages.";

(2) 25 percent of the registered voters in the political subdivision who voted in the most recent general election

for a ballot issue that permits voting for or against "The legal sale of wine on the premises of a holder of a winery permit."; or

(3) 35 percent of the registered voters in the political subdivision who voted in the most recent gubernatorial election for an election on any other ballot issue.

(b) Section 1, Chapter 890, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (a), Section 251.11, Alcoholic Beverage Code, is repealed.

SECTION 5.003. (a) Section 501.035, Election Code, as added by Section 1, Chapter 975, Acts of the 79th Legislature, Regular Session, 2005, is amended to conform to Section 2, Chapter 890, Acts of the 79th Legislature, Regular Session, 2005, by adding Subsection (h) to read as follows:

<u>(h) Subject to Section 251.81, Alcoholic Beverage Code, a wine only package store permit may be issued for premises in an area in which the sale of wine has been legalized by a local option election under Subsection (b)(3) or (4).</u>

(b) Section 2, Chapter 890, Acts of the 79th Legislature, Regular Session, 2005, which added Subsection (d) to former Section 251.14, Alcoholic Beverage Code, is repealed.

ARTICLE 6. CHANGES RELATING TO FINANCE CODE

SECTION 6.001. Section 232.002, Family Code, is amended to read as follows:

Sec. 232.002. LICENSING AUTHORITIES SUBJECT TO CHAPTER. The following are licensing authorities subject to this chapter:

(1) Department of Agriculture;

(2) Texas Alcoholic Beverage Commission;

(3) Texas Appraiser Licensing and Certification Board;

(4) Texas Board of Architectural Examiners;

(5) Texas Board of Chiropractic Examiners;

(6) Comptroller of Public Accounts;

(7) Court Reporters Certification Board;

(8) State Board of Dental Examiners;

(9) Texas State Board of Examiners of Dietitians;

(10) Texas Funeral Service Commission;

(11) Department of State Health Services;

(12) Department of Aging and Disability Services;

(13) Texas Board of Professional Land Surveying;

(14) Texas Department of Licensing and Regulation;

(15) Texas State Board of Examiners of Marriage and Family Therapists;

(16) Texas State Board of Medical Examiners;

(17) Midwifery Board;

(18) Texas Commission on Environmental Quality;

(19) Board of Nurse Examiners;

(20) Texas Board of Occupational Therapy Examiners;

(21) Texas Optometry Board;

(22) Parks and Wildlife Department;

(23) Texas State Board of Examiners of Perfusionists;

(24) Texas State Board of Pharmacy;

(25) Texas Board of Physical Therapy Examiners;

(26) Texas State Board of Plumbing Examiners;

(27) Texas State Board of Podiatric Medical Examiners;

(28) Polygraph Examiners Board;

(29) Texas Private Security Board;

(30) Texas State Board of Examiners of Professional Counselors;

(31) Texas Board of Professional Engineers;

(32) Department of Family and Protective Services;

(33) Texas State Board of Examiners of Psychologists;

(34) Texas State Board of Public Accountancy;

(35) Department of Public Safety of the State of Texas;

(36) Public Utility Commission of Texas;

(37) Railroad Commission of Texas;

(38) Texas Real Estate Commission;

(39) State Bar of Texas;

(40) Texas State Board of Social Worker Examiners;

(41) State Board of Examiners for Speech-Language Pathology and Audiology;

(42) Texas Structural Pest Control Board;

(43) Board of Tax Professional Examiners;

(44) Secretary of State;

(45) Supreme Court of Texas;

(46) Texas Transportation Commission;

(47) State Board of Veterinary Medical Examiners;

(48) Texas Ethics Commission;

(49) Advisory Board of Athletic Trainers;

(50) State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments;

(51) Texas Board of Licensure for Professional Medical Physicists;

(52) Texas Department of Insurance;

(53) Texas Board of Orthotics and Prosthetics;

(54) savings and mortgage lending [~~loan~~] commissioner;

(55) Texas Juvenile Probation Commission; and

(56) Texas Lottery Commission under Chapter 466, Government Code.

SECTION 6.002. Section 11.001(b), Finance Code, is amended to read as follows:

(b) In this chapter, "finance agency" means:

(1) the Texas Department of Banking;

(2) the Department of Savings and Mortgage Lending [~~Loan Department~~]; or

(3) the Office of Consumer Credit Commissioner.

SECTION 6.003. Section 11.002(a), Finance Code, is amended to read as follows:

(a) The finance commission is responsible for overseeing and coordinating the Texas Department of Banking, the Department of Savings and Mortgage Lending [~~Loan Department~~], and the Office of Consumer Credit Commissioner and serves as the primary point of accountability for ensuring that state depository and lending institutions function as a system, considering the broad scope of the financial services industry. The finance commission is the policy-making body for those finance agencies and is not a separate state agency. The finance commission shall carry out its functions

in a manner that protects consumer interests, maintains a safe and sound banking system, and increases the economic prosperity of the state.

SECTION 6.004. Section 11.102(f), Finance Code, is amended to read as follows:

(f) Experience as banking commissioner, deputy banking commissioner, examiner, or supervisor of examiners for a state or federal banking regulatory agency is considered executive experience in a bank for the purposes of Subsection (e)(1)(A). Experience as savings and mortgage lending [~~loan~~] commissioner, deputy savings and mortgage lending [~~loan~~] commissioner, examiner, or supervisor of examiners for a state or federal savings and loan regulatory agency is considered executive experience in a savings association or savings bank for the purposes of Subsection (e)(2)(A).

SECTION 6.005. Section 11.103(b), Finance Code, is amended to read as follows:

(b) If the banking commissioner, savings and mortgage lending [~~loan~~] commissioner, or consumer credit commissioner has knowledge that a potential ground for removal exists, the banking commissioner, savings and mortgage lending [~~loan~~] commissioner, or consumer credit commissioner shall notify the presiding officer of the finance commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the banking commissioner, savings and mortgage lending [~~loan~~] commissioner, or

consumer credit commissioner shall notify the next highest ranking officer of the finance commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 6.006. Section 11.107(c), Finance Code, is amended to read as follows:

(c) The presiding officer may:

(1) adopt rules and procedures as the presiding officer considers necessary for the orderly operation of the finance commission and for communication among the finance commission, the department, the Department of Savings and Mortgage Lending [~~Loan Department~~], and the Office of Consumer Credit Commissioner;

(2) adopt internal procedures governing the time and place of meetings, the type of notice for special public meetings, the manner in which public meetings are to be conducted, and other similar matters; and

(3) appoint committees composed of finance commission members as the presiding officer considers necessary to carry out the commission's business.

SECTION 6.007. Section 11.111, Finance Code, is amended to read as follows:

Sec. 11.111. SEPARATION OF FUNCTIONS. The finance commission shall develop and implement policies that clearly separate the policymaking responsibilities of the finance commission and the management responsibilities of the banking commissioner, savings and mortgage lending [~~loan~~] commissioner,

and consumer credit commissioner and staff of the finance agencies.

SECTION 6.008. Section 11.303, Finance Code, is amended to read as follows:

Sec. 11.303. DISCLOSURE OF CERTAIN INFORMATION TO FINANCE COMMISSION PROHIBITED. Information regarding the financial condition of a state savings association or savings bank obtained through examination or otherwise may not be disclosed to a member of the finance commission, except that the savings and mortgage lending [~~loan~~] commissioner may disclose to the finance commission a file or record pertinent to a hearing or matter pending before the commission.

SECTION 6.009. Section 11.305(d), Finance Code, is amended to read as follows:

(d) The Texas Department of Banking and the Department of Savings and Mortgage Lending [~~Loan Department~~] shall jointly conduct a continuing review of the condition of the state banking system. The review must include a review of all available national and state economic forecasts and an analysis of changing banking practices and new banking legislation. Periodically the departments shall submit a report to the finance commission on the results of the review, including information relating to the condition of the state banking system at the time of the report and the predicted condition of that system in the future.

SECTION 6.010. Section 11.3055, Finance Code, is amended to read as follows:

Sec. 11.3055. FINANCIAL SERVICES STUDY. (a) The finance commission may assign the banking commissioner, savings and

mortgage lending [~~loan~~] commissioner, or consumer credit commissioner to conduct research on:

(1) the availability, quality, and prices of financial services, including lending and depository services, offered in this state to agricultural businesses, small businesses, and individual consumers in this state; and

(2) the practices of business entities in this state that provide financial services to agricultural businesses, small businesses, and individual consumers in this state.

(b) The banking commissioner, savings and mortgage lending [~~loan~~] commissioner, or consumer credit commissioner may:

(1) apply for and receive public and private grants and gifts to conduct the research authorized by this section; and

(2) contract with public and private entities to carry out studies and analyses under this section.

SECTION 6.011. Section 11.307(a), Finance Code, is amended to read as follows:

(a) The finance commission shall adopt rules applicable to each entity regulated by the Texas Department of Banking or the Department of Savings and Mortgage Lending [~~Loan Department~~] specifying the manner in which the entity provides consumers with information on how to file complaints with the appropriate agency.

SECTION 6.012. The heading of Chapter 13, Finance Code, is amended to read as follows:

CHAPTER 13. DEPARTMENT OF SAVINGS AND MORTGAGE LENDING [~~LOAN DEPARTMENT~~]

SECTION 6.013. Section 13.002, Finance Code, is amended to

read as follows:

Sec. 13.002. SAVINGS AND MORTGAGE LENDING [~~LOAN~~] COMMISSIONER. (a) The savings and mortgage lending [~~loan~~] commissioner is the chief executive officer of the Department of Savings and Mortgage Lending [~~Loan Department~~]. The finance commission, by at least five affirmative votes, shall appoint the savings and mortgage lending [~~loan~~] commissioner. The savings and mortgage lending [~~loan~~] commissioner serves at the will of the finance commission and is subject to the finance commission's orders and direction.

(b) The savings and mortgage lending [~~loan~~] commissioner must have not less than seven years' experience in the executive management of a savings association or savings bank or in savings association or savings bank supervision.

(c) The finance commission shall set the compensation of the savings and mortgage lending [~~loan~~] commissioner. The compensation shall be paid from money of the Department of Savings and Mortgage Lending [~~Loan Department~~].

SECTION 6.014. Section 13.003, Finance Code, is amended to read as follows:

Sec. 13.003. DEPUTY COMMISSIONERS. (a) The savings and mortgage lending [~~loan~~] commissioner shall appoint one or more deputy savings and mortgage lending [~~loan~~] commissioners.

(b) One deputy savings and mortgage lending [~~loan~~] commissioner must have the qualifications required of the savings and mortgage lending [~~loan~~] commissioner. During the savings and mortgage lending [~~loan~~] commissioner's absence or inability to

serve, that deputy savings and mortgage lending [~~loan~~] commissioner has the powers and shall perform the duties of the savings and mortgage lending [~~loan~~] commissioner.

SECTION 6.015. Section 13.004, Finance Code, is amended to read as follows:

Sec. 13.004. EXAMINERS. The savings and mortgage lending [~~loan~~] commissioner shall appoint savings association and savings bank examiners.

SECTION 6.016. Section 13.005, Finance Code, is amended to read as follows:

Sec. 13.005. COMPENSATION OF OFFICERS AND EMPLOYEES. (a) Subject to Subsection (b), each officer and employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] is entitled to compensation set by the finance commission. The compensation shall be paid from the money of the Department of Savings and Mortgage Lending [~~Loan Department~~].

(b) Chapter 654, Government Code, applies to a position of the Department of Savings and Mortgage Lending [~~Loan Department~~] only if it is classified in salary groups 1-10 under the General Appropriations Act. The legislature in the General Appropriations Act may determine the total amount appropriated to the Department of Savings and Mortgage Lending [~~Loan Department~~] but may not determine the number or salaries of employees other than the positions specifically subject to Chapter 654, Government Code, as provided by this section. The finance commission, subject to the limits provided by this section, shall otherwise determine the number of employees of the Department of Savings and Mortgage

Lending [~~Loan Department~~] and the salaries of those employees. The Department of Savings and Mortgage Lending [~~Loan Department~~] may use money appropriated to it for any purpose to pay the salaries determined by the finance commission.

SECTION 6.017. Section 13.006, Finance Code, is amended to read as follows:

Sec. 13.006. OATH OF OFFICE. Before assuming the duties of office, each deputy savings and mortgage lending [~~loan~~] commissioner, examiner, assistant examiner, conservator, supervisor, and special agent and each other officer or employee specified by the savings and mortgage lending [~~loan~~] commissioner must take an oath of office to discharge faithfully the duties assigned and uphold the constitution and laws of this state and the United States.

SECTION 6.018. Section 13.007, Finance Code, is amended to read as follows:

Sec. 13.007. GENERAL POWERS AND DUTIES OF COMMISSIONER. The savings and mortgage lending [~~loan~~] commissioner shall:

(1) supervise and regulate the organization, operation, and liquidation of state savings associations, as provided by Subtitle B, Title 3, and state savings banks, as provided by Subtitle C, Title 3; and

(2) enforce those subtitles personally or through a deputy savings and mortgage lending [~~loan~~] commissioner, examiner, supervisor, conservator, or other agent.

SECTION 6.019. Sections 13.008(b) and (c), Finance Code, are amended to read as follows:

(b) The savings and mortgage lending [~~loan~~] commissioner shall:

(1) collect all fees, penalties, charges, and revenue required to be paid by state savings associations and savings banks; and

(2) periodically submit to the finance commission, as directed by the finance commission, a complete report of the receipts and expenditures of the Department of Savings and Mortgage Lending [~~Loan Department~~].

(c) The cost of an audit of the financial transactions of the Department of Savings and Mortgage Lending [~~Loan Department~~] under Chapter 321, Government Code, shall be paid to the state auditor from the money of the Department of Savings and Mortgage Lending [~~Loan Department~~].

SECTION 6.020. Sections 13.010(b), (c), and (d), Finance Code, are amended to read as follows:

(b) A person may not be a Department of Savings and Mortgage Lending [~~Loan Department~~] employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in a field regulated by the Department of Savings and Mortgage Lending [~~Loan Department~~]; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in a field regulated by the

Department of Savings and Mortgage Lending [~~Loan Department~~].

(c) A person may not act as the general counsel to the Department of Savings and Mortgage Lending [~~Loan Department~~] if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the Department of Savings and Mortgage Lending. [~~Loan Department~~]

(d) Before the 11th day after the date on which an employee begins employment with the Department of Savings and Mortgage Lending [~~Loan Department~~], the employee shall read the conflict-of-interest statutes applicable to employees of the Department of Savings and Mortgage Lending [~~Loan Department~~] and sign a notarized affidavit stating that the employee has read those statutes.

SECTION 6.021. Sections 13.011(a), (c), (d), and (e), Finance Code, are amended to read as follows:

(a) The savings and mortgage lending [~~loan~~] commissioner shall prepare information of consumer interest describing:

(1) the regulatory functions of the Department of Savings and Mortgage Lending [~~Loan Department~~]; and

(2) the procedures by which consumer complaints are filed with and resolved by the Department of Savings and Mortgage Lending [~~Loan Department~~].

(c) The Department of Savings and Mortgage Lending [~~Loan Department~~] shall maintain a file on each written complaint filed with the Department of Savings and Mortgage Lending [~~Loan Department~~]. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the Department of Savings and Mortgage Lending [~~Loan Department~~];

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the agency closed the file without taking action other than to investigate the complaint.

(d) The Department of Savings and Mortgage Lending [~~Loan Department~~] shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the Department of Savings and Mortgage Lending's [~~Loan Department's~~] policies and procedures relating to complaint investigation and resolution.

(e) The Department of Savings and Mortgage Lending [~~Loan Department~~], at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

SECTION 6.022. Section 13.012, Finance Code, is amended to read as follows:

Sec. 13.012. SUNSET PROVISION. The office of savings and mortgage lending [~~loan~~] commissioner and the Department of Savings

and Mortgage Lending [~~Loan Department~~] are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office and department are abolished September 1, 2013.

SECTION 6.023. Section 13.013, Finance Code, is amended to read as follows:

Sec. 13.013. STANDARDS OF CONDUCT. The savings and mortgage lending [~~loan~~] commissioner or the savings and mortgage lending [~~loan~~] commissioner's designee shall provide to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

SECTION 6.024. Sections 13.014(a) and (b), Finance Code, are amended to read as follows:

(a) The savings and mortgage lending [~~loan~~] commissioner or the savings and mortgage lending [~~loan~~] commissioner's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the Department of Savings and Mortgage Lending [~~Loan Department~~] to avoid the unlawful employment

practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the Department of Savings and Mortgage Lending [~~Loan Department's~~] personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

SECTION 6.025. Section 13.015, Finance Code, is amended to read as follows:

Sec. 13.015. EMPLOYEE INCENTIVE PROGRAM. The savings and mortgage lending [~~loan~~] commissioner or the savings and mortgage lending [~~loan~~] commissioner's designee shall provide to agency employees information and training on the benefits and methods of participation in the state employee incentive program.

SECTION 6.026. Section 61.002(5), Finance Code, is amended to read as follows:

(5) "Commissioner" means the savings and mortgage lending [~~loan~~] commissioner.

SECTION 6.027. Section 62.303(b), Finance Code, is amended to read as follows:

(b) For purposes of Subsection (a), an association is in good standing if the association has paid all fees, assessments, and money due and payable to the Department of Savings and Mortgage Lending [~~Loan Department~~].

SECTION 6.028. Section 62.559(a), Finance Code, is amended to read as follows:

(a) Except as provided by this section, information obtained by the commissioner under this subchapter is confidential

and may not be disclosed by the commissioner or an officer or employee of the Department of Savings and Mortgage Lending [~~Loan Department~~].

SECTION 6.029. Section 66.001, Finance Code, is amended to read as follows:

Sec. 66.001. GENERAL DUTIES. The Department of Savings and Mortgage Lending [~~Loan Department~~] and the commissioner shall regulate associations and subsidiaries of associations operating under this subtitle.

SECTION 6.030. Section 66.002, Finance Code, is amended to read as follows:

Sec. 66.002. ADOPTION OF RULES. The finance commission may adopt rules relating to:

(1) the minimum amounts of capital stock and paid-in surplus required for incorporation as a capital stock association;

(2) the minimum amounts of savings liability and expense funds required for incorporation as a mutual association;

(3) the fees and procedures for processing, hearing, and deciding applications filed with the commissioner or the Department of Savings and Mortgage Lending [~~Loan Department~~] under this subtitle;

(4) the books and records that an association is required to keep and the location at which the books and records are required to be maintained;

(5) the accounting principles and practices that an association is required to observe;

(6) the conditions under which records may be copied

or reproduced for permanent storage before the original records are destroyed;

(7) the form, contents, and time of publication of statements of condition;

(8) the form and contents of annual reports and other reports that an association is required to prepare and publish or file;

(9) the manner in which assets, liabilities, and transactions in general are to be described when entered in the books of an association, so that the entry accurately describes the subject matter of the entry; and

(10) the conditions under which the commissioner may require an asset to be charged off or reserves established by transfer from surplus or paid-in capital because of the depreciation of or overstated value of the asset.

SECTION 6.031. Section 66.107(b), Finance Code, is amended to read as follows:

(b) The commissioner shall set the matter for hearing to be held not earlier than the 11th day or later than the 30th day after the date of the request. The hearing must be held at the offices of the Department of Savings and Mortgage Lending [~~Loan Department~~] in Austin.

SECTION 6.032. Section 66.306, Finance Code, is amended to read as follows:

Sec. 66.306. PRIORITY OF CLAIMS. On liquidation of an association, claims for payment have the following priority:

(1) obligations incurred by the commissioner or the

liquidating agent, fees and assessments due the Department of Savings and Mortgage Lending [~~Loan Department~~], and expenses of liquidation, all of which may be covered by the proper reserve of money;

(2) approved claims of creditors, to the extent that the claims are secured by, or constitute a lien on, the assets or property of the association;

(3) approved claims of depositors against the general liquidating account of the association;

(4) approved claims of general creditors and the unsecured portion of a creditor obligation described by Subdivision (2);

(5) otherwise approved claims that were not filed within the time prescribed by Section 66.305;

(6) approved claims of subordinated creditors; and

(7) claims of shareholders of the association.

SECTION 6.033. Sections 66.401(c) and (d), Finance Code, are amended to read as follows:

(c) The commissioner may employ legal counsel to bring and prosecute a derivative suit. The commissioner may:

(1) pay the counsel from funds appropriated for the operation of the Department of Savings and Mortgage Lending [~~Loan Department~~]; or

(2) require the association for which the suit is brought to pay the counsel directly or to reimburse the Department of Savings and Mortgage Lending [~~Loan Department~~] for the payment.

(d) The association shall be paid an amount equal to the

amount of the proceeds of a judgment on a suit brought under this section less unreimbursed costs and expenses, including attorney's fees, incurred by the Department of Savings and Mortgage Lending [~~Loan Department~~] in prosecuting the suit.

SECTION 6.034. Section 89.006(a), Finance Code, is amended to read as follows:

(a) The commissioner, a member of the finance commission, a deputy commissioner, an examiner, or any other officer or employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] is not personally liable for damages arising from the person's official act or omission unless the act or omission is corrupt or malicious.

SECTION 6.035. Section 89.052(a), Finance Code, is amended to read as follows:

(a) The commissioner and an examiner, supervisor, conservator, liquidator, inspector, deputy, assistant, clerk, or other employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] who is appointed or acting under this subtitle shall be removed from the person's position with the department if the person:

(1) does not keep secret a fact or information about an association obtained during an examination or because of the person's official position, except when the public duty of the person requires otherwise; or

(2) wilfully makes a false official report about the condition of an association.

SECTION 6.036. Section 89.102(a), Finance Code, is amended

to read as follows:

(a) The commissioner may require an association that knowingly violates this subtitle or a rule adopted under this subtitle to pay to the Department of Savings and Mortgage Lending [~~Loan Department~~] an administrative penalty not to exceed $1,000 for each day that the violation occurs after notice of the violation is given by the commissioner.

SECTION 6.037. Sections 91.002(1) and (5), Finance Code, are amended to read as follows:

(1) "Appropriate banking agency":

(A) means:

(i) with respect to a savings bank chartered by this state, the Department of Savings and Mortgage Lending [~~Loan Department~~];

(ii) with respect to a federal savings bank, the Office of Thrift Supervision;

(iii) with respect to a savings and loan association chartered by this state, the Department of Savings and Mortgage Lending [~~Loan Department~~];

(iv) with respect to a federal savings and loan association, the Office of Thrift Supervision;

(v) with respect to a bank chartered by this state, the Texas Department of Banking; and

(vi) with respect to a national bank, the Office of the Comptroller of the Currency; and

(B) includes:

(i) in each case in which a state bank is a

member of the Federal Reserve System, the board of governors of the Federal Reserve System;

(ii) in each case where required by the Federal Deposit Insurance Act (12 U.S.C. Section 1811 et seq.), the Federal Deposit Insurance Corporation; and

(iii) any successor of a state or federal agency specified by this subdivision.

(5) "Commissioner" means the savings and mortgage lending [~~loan~~] commissioner.

SECTION 6.038. Section 92.555(a), Finance Code, is amended to read as follows:

(a) Except as provided by this section, information the commissioner obtains under this subchapter that is not published is confidential and may not be disclosed by the commissioner or an officer or employee of the Department of Savings and Mortgage Lending [~~Loan Department~~].

SECTION 6.039. Section 96.001, Finance Code, is amended to read as follows:

Sec. 96.001. GENERAL DUTIES. The Department of Savings and Mortgage Lending [~~Loan Department~~] and the commissioner shall regulate savings banks and subsidiaries of savings banks operating under this subtitle.

SECTION 6.040. Section 96.002(a), Finance Code, is amended to read as follows:

(a) The finance commission may adopt rules necessary to supervise and regulate savings banks and to protect public investment in savings banks, including rules relating to:

(1) the minimum amounts of capital required to incorporate and operate as a savings bank, which may not be less than the amounts required of corresponding national banks;

(2) the fees and procedures for processing, hearing, and deciding applications filed with the commissioner or the Department of Savings and Mortgage Lending [~~Loan Department~~] under this subtitle;

(3) the books and records that a savings bank is required to keep and the location at which the books and records are required to be maintained;

(4) the accounting principles and practices that a savings bank is required to observe;

(5) the conditions under which records may be copied or reproduced for permanent storage before the originals are destroyed;

(6) the form, content, and time of publication of statements of condition;

(7) the form and content of annual reports and other reports that a savings bank is required to prepare and publish or file;

(8) the manner in which assets, liabilities, and transactions in general are to be described when entered in the books of a savings bank, so that the entry accurately describes the subject matter of the entry;

(9) the conditions under which the commissioner may require an asset to be charged off or reserves established by transfer from surplus or paid-in capital because of depreciation of

or overstated value of the asset;

(10) the change of control of a savings bank;

(11) the conduct, management, and operation of a savings bank;

(12) the withdrawable accounts, bonuses, plans, and contracts for savings programs;

(13) the merger, consolidation, reorganization, conversion, and liquidation of a savings bank;

(14) the establishment of an additional office or the change of office location or name of a savings bank;

(15) the requirements for a savings bank's holding companies, including those relating to:

(A) registration and periodic reporting of a holding company with the commissioner; and

(B) transactions between a holding company, an affiliate of a holding company, or a savings bank; and

(16) the powers of a savings bank to make loans and investments that contain provisions reasonably necessary to ensure that a loan made by a savings bank is consistent with sound lending practices and that the savings bank's investment will promote the purposes of this subtitle, including provisions governing:

(A) the type of loans and the conditions under which a savings bank may originate, make, or sell loans;

(B) the conditions under which a savings bank may purchase or participate in a loan made by another lender;

(C) the conditions for the servicing of a loan for another lender;

(D) the conditions under which a savings bank may lend money on the security of a loan made by another person;

(E) the conditions under which a savings bank may pledge loans held by it as collateral for borrowing by the savings bank;

(F) the conditions under which a savings bank may invest in securities and debt instruments;

(G) the documentation that a savings bank must have in its files at the time of funding or purchase of a loan, an investment, or a participation in a loan;

(H) the form and content of statements of expenses and fees and other charges that are paid by a borrower or that a borrower is obligated to pay;

(I) the title information that must be maintained;

(J) the borrower's insurance coverage of property securing a loan;

(K) an appraisal report;

(L) the financial statement of a borrower;

(M) the fees or other compensation that may be paid to a person in connection with obtaining a loan for a savings bank, including an officer, director, employee, affiliated person, consultant, or third party;

(N) the conditions under which the savings bank may advance money to pay a tax, assessment, insurance premium, or other similar charge for the protection of the savings bank's interest in property securing the savings bank's loans;

(O) the terms under which a savings bank may acquire and deal in real property;

(P) the valuation on a savings bank's books of real property held by the savings bank;

(Q) the terms governing the investment by a savings bank in a subsidiary, the powers that may be exercised by a subsidiary, and the activities that may be engaged in by a subsidiary; and

(R) any other matter considered necessary to administer each type of transaction.

SECTION 6.041. Section 96.107(b), Finance Code, is amended to read as follows:

(b) The commissioner shall set the hearing to be held not earlier than the 10th day or later than the 30th day after the date of the request. The hearing must be held at the offices of the Department of Savings and Mortgage Lending [~~Loan Department~~].

SECTION 6.042. Section 96.159(b), Finance Code, is amended to read as follows:

(b) The commissioner shall set the hearing to be held not earlier than the 10th day or later than the 30th day after the date of the request. The hearing must be held at the offices of the Department of Savings and Mortgage Lending [~~Loan Department~~].

SECTION 6.043. Section 96.351, Finance Code, is amended to read as follows:

Sec. 96.351. DISCLOSURE BY DEPARTMENT PROHIBITED. Except as otherwise provided by this subtitle or a rule adopted under this subtitle, the following are confidential and may not be disclosed

by the commissioner or an examiner, supervisor, conservator, liquidator, inspector, deputy, or assistant clerk or other employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] who is appointed or acting under this subtitle:

(1) information, regardless of the circumstances under which the information is obtained, regarding a financial institution or a shareholder, participant, officer, director, manager, affiliate, or service provider of a financial institution, other than information in a public statement or the public portion of a call report or profit and loss statement; and

(2) all related files and records of the department.

SECTION 6.044. Section 96.353(a), Finance Code, is amended to read as follows:

(a) Confidential information that is provided to a financial institution or an affiliate or service provider of a financial institution, whether in the form of a report of examination or otherwise, is the confidential property of the Department of Savings and Mortgage Lending [~~Loan Department~~].

SECTION 6.045. Section 96.355(a), Finance Code, is amended to read as follows:

(a) Notwithstanding any other law, the commissioner may refuse to release information or records in the custody of the Department of Savings and Mortgage Lending [~~Loan Department~~] if the commissioner believes release of the information or records might jeopardize an investigation of possibly unlawful activities.

SECTION 6.046. Section 96.357, Finance Code, is amended to read as follows:

Sec. 96.357. REMOVAL FOR VIOLATION. A person who violates this subchapter or who wilfully makes a false official report on the condition of a financial institution shall be removed from office or further employment with the Department of Savings and Mortgage Lending [~~Loan Department~~].

SECTION 6.047. Sections 96.401(c) and (d), Finance Code, are amended to read as follows:

(c) The commissioner may employ legal counsel to bring and prosecute a derivative suit. The commissioner may:

(1) pay counsel from funds appropriated for the operation of the Department of Savings and Mortgage Lending [~~Loan Department~~]; or

(2) require the savings bank for which the suit is brought to pay the counsel directly or to reimburse the Department of Savings and Mortgage Lending [~~Loan Department~~] for the payment.

(d) The savings bank shall be paid an amount equal to the amount of the proceeds of a judgment on a suit brought under this section less unreimbursed costs and expenses, including attorney's fees incurred by the Department of Savings and Mortgage Lending [~~Loan Department~~] in prosecuting the suit.

SECTION 6.048. Section 96.404, Finance Code, is amended to read as follows:

Sec. 96.404. INTEREST IN SAVINGS BANK PROHIBITED FOR DEPARTMENT. (a) A savings bank or a director, officer, employee, or representative of a savings bank may not give a loan or gratuity, directly or indirectly, to the commissioner, an employee of the Department of Savings and Mortgage Lending [~~Loan Department~~], or a

spouse of the commissioner or employee.

(b) The commissioner or an employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] may not:

(1) hold an office or position in a domestic savings bank or exercise a right to vote on a domestic savings bank matter because the person is a member of or shareholder in the savings bank;

(2) hold an interest, directly or indirectly, in a domestic savings bank; or

(3) undertake an indebtedness as a borrower, directly or indirectly, or endorser, surety, or guarantor or sell or otherwise dispose of a loan or investment to a domestic savings bank.

(c) If the commissioner or an employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] has a prohibited, direct or indirect right or interest in a domestic savings bank at the time of appointment or employment, the commissioner or employee shall dispose of the right or interest not later than the 60th day after the date of appointment or employment.

(d) If the commissioner or an employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] is indebted as a borrower, directly or indirectly, or is an endorser, surety, or guarantor on a note to a domestic savings bank at the time of appointment or employment, the commissioner or employee may continue in that capacity until that debt is paid.

SECTION 6.049. Section 96.405, Finance Code, is amended to read as follows:

Sec. 96.405. PERMITTED TRANSACTIONS FOR DEPARTMENT RELATING TO SAVINGS BANK. (a) The commissioner or an employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] may hold a deposit account at a savings bank and receive earnings on the account.

(b) If a loan or other note of the commissioner or an employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] is acquired by a savings bank, the commissioner or employee may continue as a borrower, endorser, surety, or guarantor of the loan or note until the loan or note is paid.

SECTION 6.050. Section 119.008(a), Finance Code, is amended to read as follows:

(a) The commissioner, a member of the finance commission, a deputy commissioner, an examiner, or any other officer or employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] is not personally liable for damages arising from the person's official act or omission unless the act or omission is corrupt or malicious.

SECTION 6.051. Section 119.201(a), Finance Code, is amended to read as follows:

(a) The commissioner may require a savings bank that knowingly violates this subtitle or a rule adopted under this subtitle to pay to the Department of Savings and Mortgage Lending [~~department~~] an administrative penalty not to exceed $10,000 for each day that the violation occurs after notice of the violation is given by the commissioner.

SECTION 6.052. Section 156.002(1), Finance Code, is amended

to read as follows:

(1) "Commissioner" means the savings and mortgage lending [~~loan~~] commissioner.

SECTION 6.053. Section 157.002(1), Finance Code, is amended to read as follows:

(1) "Commissioner" means the savings and mortgage lending [~~loan~~] commissioner.

SECTION 6.054. Section 157.007, Finance Code, is amended to read as follows:

Sec. 157.007. DISCLOSURE STATEMENT. A mortgage banker shall include the following notice to a mortgage loan applicant with an application for a mortgage loan:

"COMPLAINTS REGARDING MORTGAGE BANKERS SHOULD BE SENT TO THE DEPARTMENT OF SAVINGS AND MORTGAGE LENDING [~~LOAN DEPARTMENT~~], _____ (street address of the Department of Savings and Mortgage Lending [~~Loan Department~~]). A TOLL-FREE CONSUMER HOTLINE IS AVAILABLE AT _____ (telephone number of the Department of Savings and Mortgage Lending's [~~Loan Department's~~] toll-free consumer hotline)."

SECTION 6.055. Section 157.008(a), Finance Code, is amended to read as follows:

(a) If the Department of Savings and Mortgage Lending [~~Loan Department~~] receives a signed written complaint from a person concerning a mortgage banker, the commissioner shall notify the representative designated by the mortgage banker under Section 157.003(b) in writing of the complaint and provide a copy of the complaint to the representative.

SECTION 6.056. Section 187.202(e), Finance Code, is amended to read as follows:

(e) A credit union, savings association, or savings bank that does not maintain a branch in this state and desires to establish or acquire and maintain a representative trust office shall comply with this section, except that the notice required by Subsection (a) must be filed with, and the duties and responsibilities of the banking commissioner under Subsections (b)-(d) shall be performed by:

(1) the Texas credit union commissioner, with respect to a credit union; or

(2) the Texas savings and mortgage lending [~~loan~~] commissioner, with respect to a savings association or savings bank.

SECTION 6.057. Section 187.303(b), Finance Code, is amended to read as follows:

(b) With respect to the trust business of a credit union, savings association, or savings bank, the duties and responsibilities of the banking commissioner under Subsection (a) shall be performed by:

(1) the Texas credit union commissioner, with respect to a credit union; or

(2) the Texas savings and mortgage lending [~~loan~~] commissioner, with respect to a savings association or savings bank.

SECTION 6.058. Section 201.002(9), Finance Code, is amended to read as follows:

(9) "Commissioner" has the meaning assigned to the term "banking commissioner" by Section 31.002(a), except that for purposes of Chapter 203 and the laws of this state as they relate to Chapter 203, with respect to a state savings bank, the term means the savings and mortgage lending [~~loan~~] commissioner of Texas.

SECTION 6.059. Section 273.003(2), Finance Code, is amended to read as follows:

(2) "Commissioner" means the savings and mortgage lending [~~loan~~] commissioner.

SECTION 6.060. Section 341.103, Finance Code, is amended to read as follows:

Sec. 341.103. REGULATION OF SAVINGS ASSOCIATIONS. (a) The savings and mortgage lending [~~loan~~] commissioner shall enforce this subtitle relating to the regulation of state savings associations operating under this subtitle.

(b) The official exercising authority over the operation of federal savings associations equivalent to the authority exercised by the savings and mortgage lending [~~loan~~] commissioner over state savings associations may enforce this subtitle relating to the regulation of a federal savings association operating under this subtitle.

SECTION 6.061. Section 411.081(i), Government Code, is amended to read as follows:

(i) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure to the following noncriminal justice agencies or entities only:

(1) the State Board for Educator Certification;

(2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;

(3) the Texas State Board of Medical Examiners;

(4) the Texas School for the Blind and Visually Impaired;

(5) the Board of Law Examiners;

(6) the State Bar of Texas;

(7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;

(8) the Texas School for the Deaf;

(9) the Department of Family and Protective Services;

(10) the Texas Youth Commission;

(11) the Department of Assistive and Rehabilitative Services;

(12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a community center providing services to persons with mental illness or retardation;

(13) the Texas Private Security Board;

(14) a municipal or volunteer fire department;

(15) the Board of Nurse Examiners;

(16) a safe house providing shelter to children in harmful situations;

(17) a public or nonprofit hospital or hospital district;

(18) the Texas Juvenile Probation Commission;

(19) the securities commissioner, the banking commissioner, the savings and mortgage lending [~~loan~~] commissioner, or the credit union commissioner;

(20) the Texas State Board of Public Accountancy;

(21) the Texas Department of Licensing and Regulation;

(22) the Health and Human Services Commission; and

(23) the Department of Aging and Disability Services.

SECTION 6.062. Section 411.1385, Government Code, is amended to read as follows:

Sec. 411.1385. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: SAVINGS AND MORTGAGE LENDING [~~LOAN~~] COMMISSIONER. (a) The savings and mortgage lending [~~loan~~] commissioner is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant for or holder of a mortgage broker or loan officer license issued under Chapter 156, Finance Code.

(b) Criminal history record information obtained by the savings and mortgage lending [~~loan~~] commissioner under Subsection (a) may be released or disclosed only as provided by Section 156.206, Finance Code.

SECTION 6.063. Sections 2306.260(a) and (g), Government Code, are amended to read as follows:

(a) The department shall conduct a study to examine mortgage foreclosure rates in Bexar, Cameron, Dallas, El Paso, Harris, and Travis Counties and shall establish an advisory committee to direct the focus of the study. The advisory committee shall be composed of:

(1) the director or the director's representative;

(2) the savings and mortgage lending [~~loan~~] commissioner or the commissioner's representative;

(3) four members appointed by the director who represent community and consumer interests;

(4) four members appointed by the savings and mortgage lending [~~loan~~] commissioner who represent the mortgage lending industry; and

(5) a representative of the Texas Housing Research Consortium at The University of Texas at Austin.

(g) All information used to conduct the study must be accessible to the department, the Department of Savings and Mortgage Lending [~~Loan Department~~], and the legislature. The department shall prepare a consolidated analysis and recapitulation of the information used to conduct the study and shall make the analysis and recapitulation available to the public. The department shall ensure that the analysis and recapitulation of the information used to conduct the study contain only aggregate data and do not contain data specific to any mortgage.

SECTION 6.064. Section 12.018, Property Code, is amended to read as follows:

Sec. 12.018. TRANSFER BY RECEIVER OR CONSERVATOR OF FAILED DEPOSITORY INSTITUTION. If a bank, savings and loan association, savings bank, or other depository institution is placed in receivership or conservatorship by a state or federal agency, instrumentality, or institution, including the Banking Department of Texas, Department of Savings and Mortgage Lending [~~Loan~~

~~Department~~] of Texas, Office of the Comptroller of the Currency, Resolution Trust Corporation, Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or their successors, a person at any time may record an affidavit or memorandum of a sale, transfer, purchase, or acquisition agreement between the receiver or conservator of the failed depository institution and another depository institution. If the sale, transfer, purchase, or acquisition agreement transfers or sells an interest in land or in a mortgage or other lien vested according to the real property records in the failed depository institution, a recorded affidavit or memorandum under this section is constructive notice of the transfer or sale. The failure of the affidavit or memorandum to be executed by the record owner or of the affidavit, memorandum, or agreement to contain language of conveyance does not create a defect in title to the land or the lien.

SECTION 6.065. Section 74.704, Property Code, is amended to read as follows:

Sec. 74.704. ASSISTANCE IN ENFORCEMENT. If the comptroller or the attorney general requests, the State Auditor, Banking Commissioner of Texas, securities commissioner, commissioner of insurance, savings and mortgage lending [~~loan~~] commissioner, Credit Union Commission, Department of Public Safety of the State of Texas, or any district or county attorney shall assist the comptroller or attorney general in enforcing this title.

SECTION 6.066. Section 721.003(a), Transportation Code, is amended to read as follows:

(a) The governing bodies of the following state agencies or

divisions by rule may exempt from the requirements of Section 721.002 a motor vehicle that is under the control and custody of the agency or division:

(1) Texas Commission on Fire Protection;

(2) Texas State Board of Pharmacy;

(3) Texas Department of Mental Health and Mental Retardation;

(4) Department of Public Safety of the State of Texas;

(5) the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice;

(6) Board of Pardons and Paroles;

(7) Parks and Wildlife Department;

(8) Railroad Commission of Texas;

(9) Texas Alcoholic Beverage Commission;

(10) Texas Department of Banking;

(11) Department of Savings and Mortgage Lending [~~Loan Department~~];

(12) Texas Juvenile Probation Commission;

(13) Texas Natural Resource Conservation Commission;

(14) Texas Youth Commission;

(15) Texas Lottery Commission;

(16) the office of the attorney general;

(17) Texas Department of Insurance; and

(18) an agency that receives an appropriation under an article of the General Appropriations Act that appropriates money to the legislature.

SECTION 6.067. Section 171.260(b), Tax Code, is amended to

read as follows:

(b) The savings and mortgage lending [~~loan~~] commissioner shall appoint a conservator under Subtitle B or C, Title 3, Finance Code, to pay the franchise tax of a savings and loan association that is organized under the laws of this state and that the commissioner certifies as being delinquent in the payment of the association's franchise tax.

SECTION 6.068. Section 26.342(3), Water Code, is amended to read as follows:

(3) "Corporate fiduciary" means an entity chartered by the Banking Department of Texas, the Department of Savings and Mortgage Lending [~~Loan Department of Texas~~], the United States comptroller of the currency, or the director of the United States Office of Thrift Supervision that acts as a receiver, conservator, guardian, executor, administrator, trustee, or fiduciary of real or personal property.

ARTICLE 7. CHANGES RELATING TO GOVERNMENT CODE

PART A. GENERAL CHANGES

SECTION 7.001. Section 51.201(a), Government Code, is amended to conform to Section 5a, Article V, Texas Constitution, as added by H.J.R. No. 75, Acts of the 77th Legislature, Regular Session, 2001, and approved by the voters at the election held November 6, 2001, to read as follows:

(a) An [~~A clerk of a court of appeals serves for a term of two years and the~~] order appointing a [~~the~~] clerk of a court of appeals must be recorded in the minutes of the court.

SECTION 7.002. Section 57.002(c), Government Code, as

amended by Chapters 584 and 614, Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

(c) Subject to Subsection (e), in a county with a population of less than 50,000, a court may appoint a spoken language interpreter who is not a licensed court interpreter.

SECTION 7.003. Section 305.0062(d), Government Code, is amended to correct a reference to read as follows:

(d) If a registrant cannot reasonably determine the amount of an expenditure under Section 305.006(b) that is directly attributable to a member of the legislative or executive branch as required by Subsection (a), the registrant shall apportion the expenditure made by that registrant or by others on the registrant's behalf and with the registrant's consent or ratification according to the total number of persons in attendance. However, if an expenditure is for an event to which all legislators are invited, the registrant shall report the expenditure under Subsection (a)(8) [~~(a)(7)~~] and not under any other subdivision of that subsection or any other provision of this chapter.

SECTION 7.004. Section 411.110(a), Government Code, as amended by Chapters 282 and 1300, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(a) The Department of State Health Services is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1) a person who is:

(A) an applicant for a license or certificate

under the Emergency Medical Services Act (Chapter 773, Health and Safety Code);

(B) an owner or manager of an applicant for an emergency medical services provider license under that Act; or

(C) the holder of a license or certificate under that Act; [~~or~~]

(2) an applicant for a license or a license holder under Subchapter N, Chapter 431, Health and Safety Code; or

(3) [~~(2)~~] an applicant for a license, the owner or manager of an applicant for a massage establishment license, or a license holder under Chapter 455, Occupations Code.

SECTION 7.0041. Section 2054.2595, Government Code, is repealed to conform to Section 8, Chapter 1260, Acts of the 79th Legislature, Regular Session, 2005, and Section 6, Chapter 1292, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 7.0042. Section 2054.260, Government Code, as amended by Chapters 1260 and 1292, Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

Sec. 2054.260. REPORTING REQUIREMENTS. (a) Not later than September 1 of each even-numbered year, the department shall report on the status, progress, benefits, and efficiency gains of the project. The department shall provide the report to:

(1) the presiding officer of each house of the legislature;

(2) the chair of each committee in the legislature that has primary jurisdiction over the department;

(3) the governor; and

(4) each state agency or local government participating in the project.

(b) Not later than September 1 of each even-numbered year, the department shall report on financial matters, including project costs and revenues, and on any significant issues regarding contract performance on the project.

(c) The department shall provide the report to:

(1) the presiding officer of each house of the legislature; and

(2) the chair of each committee in the legislature with primary jurisdiction over the department.

SECTION 7.0043. Sections 2054.272(a) and (c), Government Code, as added by Chapter 672, Acts of the 79th Legislature, Regular Session, 2005, are amended to conform to Section 26, Chapter 1260, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) A state agency that has jurisdiction over matters related to occupational licenses, including a licensing entity of this state, shall develop in cooperation with the <u>department</u> [~~authority~~] a link through the TexasOnline portal.

(c) The <u>department</u> [~~authority~~] may not charge a fee to implement this section.

SECTION 7.005. Section 2054.272, Government Code, as added by Chapter 1292, Acts of the 79th Legislature, Regular Session, 2005, and Section 2054.273, Government Code, as added by Chapter 1260, Acts of the 79th Legislature, Regular Session, 2005, are consolidated and renumbered as Section 2054.2721, Government Code,

and reenacted to read as follows:

Sec. 2054.2721. INDEPENDENT ANNUAL AUDIT. (a) Not later than August 1 of each year, any private vendor chosen to implement or manage the project shall have an audit of the vendor's finances associated with the management and operation of the project performed by an independent certified public accountant selected by the state. The vendor shall pay for the audit and shall have a copy of the audit provided to the department.

(b) Not later than August 15 of each year, the department shall provide a copy of the audit report to:

(1) the presiding officer of each house of the legislature; and

(2) the chair of each committee in the legislature with primary jurisdiction over the department.

(c) The department shall keep a copy of the audit report and make the audit report available for inspection by any interested person during regular business hours.

SECTION 7.0051. Section 2054.273(a), Government Code, as added by Chapter 1292, Acts of the 79th Legislature, Regular Session, 2005, is amended to conform to Section 26, Chapter 1260, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) A state agency or a vendor, as determined by the <u>department</u> [~~authority~~], shall collect all fees charged to use the project. If a state agency collects the fees charged to use the project, the state agency shall forward the fees to the vendor, if the state has contracted with a vendor under Section 2054.252(d).

If the state has not contracted with a vendor, the state agency shall forward to the state an amount equal to the state's share of the fees. If a vendor collects or receives the fees charged for use of the project, it shall forward to the state an amount equal to the state's share of the fees as provided by the vendor's contract with the department.

SECTION 7.0052. Section 2205.043(b), Government Code, is amended to correct a reference to read as follows:

(b) The board shall adopt rules, consistent with federal regulations and Section 3101.001 [~~Article 6139f, Revised Statutes~~], governing the color, size, and location of marks of identification required by this section.

SECTION 7.006. Section 2262.051(a), Government Code, as amended by Chapters 309 and 785, Acts of the 78th Legislature, Regular Session, 2003, is reenacted to read as follows:

(a) In consultation with the attorney general, the Department of Information Resources, the comptroller, and the state auditor, the commission shall develop or periodically update a contract management guide for use by state agencies. Participation by the state auditor under this subsection is subject to approval by the legislative audit committee for inclusion in the audit plan under Section 321.013(c).

PART B. UPDATE OF COURT FEES

SECTION 7.101. The heading to Section 101.021, Government Code, is amended to read as follows:

Sec. 101.021. SUPREME COURT FEES AND COSTS: GOVERNMENT CODE.

SECTION 7.102. The heading to Section 101.041, Government Code, is amended to read as follows:

Sec. 101.041. COURT OF APPEALS FEES AND COSTS: GOVERNMENT CODE.

SECTION 7.103. (a) Subchapter D, Chapter 101, Government Code, is amended by amending Section 101.061 and adding Sections 101.0611 through 101.0617 to read as follows:

Sec. 101.061. DISTRICT COURT FEES AND COSTS: CIVIL PRACTICE AND REMEDIES CODE. The clerk of a district court shall collect fees and costs under the Civil Practice and Remedies Code as follows:

(1) filing fee in action with respect to a fraudulent court record or fraudulent lien or claim filed against property (Sec. 12.005, Civil Practice and Remedies Code) . . . $15;

(2) fee for service of notice of action with respect to a fraudulent court record or fraudulent lien or claim filed against property (Sec. 12.005, Civil Practice and Remedies Code) . . . not to exceed $20, if notice delivered in person, or the cost of postage, if service is by registered or certified mail;

(3) court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court (Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed $15 [~~$10~~];

(4) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(5) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid; and

(6) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding.

Sec. 101.0611. DISTRICT COURT FEES AND COSTS: GOVERNMENT CODE. The clerk of a district court shall collect fees and costs under the Government Code as follows:

(1) appellate judicial system filing fees for:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than $5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than $5;

(C) Third Court of Appeals District (Sec. 22.2041, Government Code) . . . $5;

(D) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than $5;

(E) [~~(D)~~] Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than $5;

(F) Eleventh Court of Appeals District (Sec. 22.2121, Government Code) . . . $5; and

(G) [~~(E)~~] Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than $5;

(2) when administering a case for the Rockwall County Court at Law (Sec. 25.2012, Government Code) . . . civil fees and court costs as if the case had been filed in district court;

(3) [~~(5)~~] additional filing fees:

(A) for each suit filed for insurance contingency fund, if authorized by the county commissioners court (Sec. 51.302, Government Code) . . . not to exceed $5; and

(B) [~~for each civil suit filed, for court-related purposes for the support of the judiciary and for civil legal services to an indigent:~~

[~~(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.151, Local~~

~~Government Code) . . . $45; or~~

[~~(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.151, Local Government Code) . . . $50;~~

[~~(C)~~] to fund the improvement of Dallas County civil court facilities, if authorized by the county commissioners court (Sec. 51.705, Government Code) . . . not more than $15; [~~and~~

[~~(D) on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent:~~

[~~(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.152, Local Government Code) . . . $5; or~~

[~~(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.152, Local Government Code) . . . $10;~~]

(4) [~~(6)~~] for filing a suit, including an appeal from an inferior court:

(A) for a suit with 10 or fewer plaintiffs (Sec. 51.317, Government Code) . . . $50;

(B) for a suit with at least 11 but not more than 25 plaintiffs (Sec. 51.317, Government Code) . . . $75;

(C) for a suit with at least 26 but not more than 100 plaintiffs (Sec. 51.317, Government Code) . . . $100;

(D) for a suit with at least 101 but not more than

500 plaintiffs (Sec. 51.317, Government Code) . . . $125;

(E) for a suit with at least 501 but not more than 1,000 plaintiffs (Sec. 51.317, Government Code) . . . $150; or

(F) for a suit with more than 1,000 plaintiffs (Sec. 51.317, Government Code) . . . $200;

(5) [~~(7)~~] for filing a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition (Sec. 51.317, Government Code) . . . $15;

(6) [~~(8)~~] for issuing a citation or other writ or process not otherwise provided for, including one copy, when requested at the time a suit or action is filed (Sec. 51.317, Government Code) . . . $8;

(7) [~~(9)~~] for records management and preservation (Sec. 51.317, Government Code) . . . $10;

(8) [~~(10)~~] for issuing a subpoena, including one copy (Sec. 51.318, Government Code) . . . $8;

(9) [~~(11)~~] for issuing a citation, commission for deposition, writ of execution, order of sale, writ of execution and order of sale, writ of injunction, writ of garnishment, writ of attachment, or writ of sequestration not provided for in Section 51.317, or any other writ or process not otherwise provided for, including one copy if required by law (Sec. 51.318, Government Code) . . . $8;

(10) [~~(12)~~] for searching files or records to locate a cause when the docket number is not provided (Sec. 51.318, Government Code) . . . $5;

(11) [~~(13)~~] for searching files or records to

ascertain the existence of an instrument or record in the district clerk's office (Sec. 51.318, Government Code) . . . $5;

(12) [~~(14)~~] for abstracting a judgment (Sec. 51.318, Government Code) . . . $8;

(13) [~~(15)~~] for approving a bond (Sec. 51.318, Government Code) . . . $4;

(14) [~~(16)~~] for a certified copy of a record, judgment, order, pleading, or paper on file or of record in the district clerk's office, including certificate and seal, for each page or part of a page (Sec. 51.318, Government Code) . . . $1;

(15) [~~(17)~~] for a noncertified copy, for each page or part of a page (Sec. 51.318, Government Code) . . . not to exceed $1;

(16) fee for performing a service:

(A) related to the matter of the estate of a deceased person (Sec. 51.319, Government Code) . . . the same fee allowed the county clerk for those services;

(B) related to the matter of a minor (Sec. 51.319, Government Code) . . . the same fee allowed the county clerk for the service;

(C) of serving process by certified or registered mail (Sec. 51.319, Government Code) . . . the same fee a sheriff or constable is authorized to charge for the service under Section 118.131, Local Government Code; and

(D) prescribed or authorized by law but for which no fee is set (Sec. 51.319, Government Code) . . . a reasonable fee;

(17) [~~(18)~~] jury fee (Sec. 51.604, Government Code)

. . . $30;

(18) additional filing fee for family protection on filing a suit for dissolution of a marriage under Chapter 6, Family Code, if authorized by the county commissioners court (Sec. 51.961, Government Code) . . . not to exceed $30;

(19) at a hearing held by an associate judge in Dallas County, a court cost to preserve the record, in the absence of a court reporter, by other means (Sec. 54.509, Government Code) . . . as assessed by the referring court or associate judge; and

(20) at a hearing held by an associate judge in Duval County, a court cost to preserve the record (Sec. 54.1151, Government Code) . . . as imposed by the referring court or associate judge.

Sec. 101.0612. DISTRICT COURT FEES AND COSTS: HEALTH AND SAFETY CODE. The clerk of a district court shall collect for filing a report of divorce or annulment a fee of $1 under Section [~~(Sec.~~]194.002, Health and Safety Code.[~~) . . . $1;~~]

Sec. 101.0613. DISTRICT COURT FEES AND COSTS: HUMAN RESOURCES CODE. The clerk of a district court shall collect fees and costs under the Human Resources Code as follows:

(1) [~~(20)~~] for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . $4;

(2) [~~(21) additional filing fee for family protection on filing a suit for dissolution of a marriage under Chapter 6, Family Code, if authorized by the county commissioners court (Sec. 51.961, Government Code) . . . not to exceed $30;~~

[~~(22)~~] fee on filing a suit for dissolution of a

marriage for services of child support department in Harris County, if authorized by the county commissioners court (Sec. 152.1074, Human Resources Code) . . . not to exceed $12;

(3) [~~(22-a)~~] a child support service fee in Nueces County if ordered by the commissioners court and assessed by the court (Sec. 152.1844, Human Resources Code) . . . not to exceed $5 a month payable annually in advance;

(4) [~~(22-b)~~] a service fee to be paid by a person ordered by a district court to pay child or spousal support:

(A) in Collin County if authorized by the juvenile board (Sec. 152.0492, Human Resources Code) . . . not to exceed $2.50 added to first support payment each month;

(B) in Johnson County if authorized by the juvenile board (Sec. 152.1322, Human Resources Code) . . . $1.00 added to first support payment each month; and

(C) in Montague County (Sec. 152.1752, Human Resources Code) . . . $1 if fee is ordered to be paid monthly, 50 cents if fee is ordered to be paid semimonthly or weekly;

(5) [~~(22-c)~~] attorney's fees as an additional cost in Montague County on a finding of contempt of court for failure to pay child or spousal support if the contempt action is initiated by the probation department (Sec. 152.1752, Human Resources Code) . . . $15;

(6) [~~(23)~~] fee on filing a suit requesting an adoption in Montague County (Sec. 152.1752, Human Resources Code) . . . $25;

(7) [~~(24)~~] court cost on citation for contempt of court for failure to comply with child support order in Nueces

County, if authorized by the commissioners court (Sec. 152.1844, Human Resources Code) . . . not to exceed $10;

(8) [~~(25)~~] fee on filing a suit for divorce in Orange County (Sec. 152.1873, Human Resources Code) . . . not less than $5;

(9) [~~(26)~~] court costs on citation for contempt of court in Orange County for failure to comply with a child support order or order providing for possession of or access to a child (Sec. 152.1873, Human Resources Code) . . . amount determined by district clerk;

(10) [~~(27)~~] fee on filing a suit requesting an adoption in Orange County (Sec. 152.1874, Human Resources Code) . . . not less than $25; and

(11) [~~(28)~~] fee on filing a suit requesting an adoption in Wichita County (Sec. 152.2496, Human Resources Code) . . . $100.

Sec. 101.0614. DISTRICT COURT FEES AND COSTS: INSURANCE CODE. The clerk of a district court shall collect court costs and reasonable and necessary expert witness fees under Section 544.054, Insurance Code, which may include expert witness fees in Travis County in an action in which the plaintiff prevails against an insurer for economic damages sustained by the plaintiff as a result of unfair discrimination.

Sec. 101.0615. DISTRICT COURT FEES AND COSTS: LOCAL GOVERNMENT CODE. The clerk of a district court shall collect fees and costs under the Local Government Code as follows:

(1) additional filing fees:

(A) for each civil suit filed, for court-related purposes for the support of the judiciary and for civil legal services to an indigent:

(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.151, Local Government Code) . . . $45; or

(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.151, Local Government Code) . . . $50;

(B) on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent:

(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.152, Local Government Code) . . . $5; or

(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.152, Local Government Code) . . . $10;

(2) [~~(29)~~] additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . not to exceed $5;

(3) [~~(30)~~] additional filing fee for filing documents not subject to certain filing fees to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . $1;

(4) [~~(31)~~] additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed $20;

(5) [~~(32)~~] court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed $35; and

(6) on the filing of a civil suit, an additional filing fee to be used for court-related purposes for the support of the judiciary (Sec. 133.154, Local Government Code) . . . $37.

Sec. 101.0616. DISTRICT COURT FEES AND COSTS: TEXAS PROBATE CODE. The clerk of a district court shall collect fees and costs under the Texas Probate Code as follows:

(1) [~~(33) when administering a case for the Rockwall County Court at Law (Sec. 25.2012, Government Code) . . . civil fees and court costs as if the case had been filed in district court;~~

[~~(34) at a hearing held by an associate judge in Dallas County, a court cost to preserve the record, in the absence of a court reporter, by other means (Sec. 54.509, Government Code) . . . as assessed by the referring court or associate judge;~~

[~~(35) at a hearing held by an associate judge in Duval County, a court cost to preserve the record (Sec. 54.1151, Government Code, as added by Chapter 1150, Acts of the 78th Legislature, Regular Session, 2003) . . . as imposed by the referring court or associate judge;~~

[~~(36) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

[~~(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs;~~

[~~(37) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

[~~(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs that remain unpaid;~~

[~~(38) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):~~

[~~(A) expenses of service of process;~~

[~~(B) postage; and~~

[~~(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the~~

~~court for any proceeding;~~

[~~(39) fee for performing a service:~~

[~~(A) related to the matter of the estate of a deceased person (Sec. 51.319, Government Code) . . . the same fee allowed the county clerk for those services;~~

[~~(B) related to the matter of a minor (Sec. 51.319, Government Code) . . . the same fee allowed the county clerk for the service;~~

[~~(C) of serving process by certified or registered mail (Sec. 51.319, Government Code) . . . the same fee a sheriff or constable is authorized to charge for the service under Section 118.131, Local Government Code; and~~

[~~(D) prescribed or authorized by law but for which no fee is set (Sec. 51.319, Government Code) . . . a reasonable fee;~~

[~~(40) court costs, which may include expert witness fees in Travis County in an action in which the plaintiff prevails against an insurer for economic damages sustained by the plaintiff as a result of unfair discrimination (Sec. 544.054, Insurance Code) . . . court costs and reasonable and necessary expert witness fees;~~

[~~(41)~~] security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding; <u>and</u>

<u>(2)</u> [~~(42)~~] security deposit on filing, by any person

other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code) . . . probable cost of the guardianship proceeding. [~~, and~~]

Sec. 101.0617. DISTRICT COURT FEES AND COSTS: TAX CODE. The clerk of a district court shall collect a [~~(43)~~] fee of $5 under Section 42.221, Tax Code, for filing an additional petition for review of an appraisal review board order relating to certain regulated property running through or operating in more than one county after the first petition for review relating to the same property is filed for a tax year [~~(Sec. 42.221, Tax Code) . . . $5~~].

(b) Section 101.062, Government Code, is repealed.

SECTION 7.104. (a) Subchapter E, Chapter 101, Government Code, is amended by amending Section 101.081 and adding Sections 101.0811 through 101.0817 to read as follows:

Sec. 101.081. STATUTORY COUNTY COURT FEES AND COSTS: CIVIL PRACTICE AND REMEDIES CODE. The clerk of a statutory county court shall collect fees and costs under the Civil Practice and Remedies Code as follows:

(1) court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court (Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed $15 [~~$10~~];

(2) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(3) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid; and

(4) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding.

Sec. 101.0811. STATUTORY COUNTY COURT FEES AND COSTS: GOVERNMENT CODE. The clerk of a statutory county court shall collect fees and costs under the Government Code as follows:

(1) [~~(2)~~] appellate judicial system filing fees:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than $5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than $5;

(C) Third Court of Appeals District (Sec. 22.2041, Government Code) . . . $5;

(D) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than $5;

(E) [~~(D)~~] Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than $5;

(F) Eleventh Court of Appeals District (Sec. 22.2121, Government Code) . . . $5; and

(G) [~~(E)~~] Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than $5;

(2) [~~(3)~~] an official court reporter fee, County Court at Law No. 2 of Bexar County (Sec. 25.0172, Government Code) . . . $3;

(3) in Brazoria County, in matters of concurrent jurisdiction with the district court, fees (Sec. 25.0222, Government Code) . . . as prescribed by law for district judges according to the nature of the matter;

(4) a court reporter fee when testimony is taken in a county court at law in McLennan County (Sec. 25.1572, Government Code) . . . $3;

(5) a stenographer fee, if a record or part of a record is made:

(A) in a county court at law in Hidalgo County (Sec. 25.1102, Government Code) . . . $20; and

(B) in a county court at law in Nolan County (Sec. 25.1792, Government Code) . . . $25;

(6) jury fee (Sec. 51.604, Government Code) . . . $22;

(7) an additional filing fee:

(A) for each civil case filed to be used for court-related purposes for the support of the judiciary, if authorized by the county commissioners court (Sec. 51.702, Government Code) . . . $40; and

(B) to fund the improvement of Dallas County civil court facilities, if authorized by the county commissioners court (Sec. 51.705, Government Code) . . . not more than $15[~~; and~~

[~~(C) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $5~~];

(8) the official court reporter's fee taxed as costs in civil actions in a statutory county court:

(A) in Bexar County Courts at Law:

(i) Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 (Sec. 25.0172, Government Code) . . . taxed in the same manner as the fee is taxed in district court; and

(ii) No. 2 (Sec. 25.0172, Government Code) . . . $3;

(B) in Galveston County (Sec. 25.0862, Government Code) . . . taxed in the same manner as the fee is taxed in civil cases in the district courts; and

(C) in Parker County (Sec. 25.1862, Government Code) . . . taxed in the same manner as the fee is taxed in civil cases in the district courts;

(9) a stenographer's fee as costs in each civil, criminal, and probate case in which a record is made by the official court reporter in a statutory county court in Nolan County (Sec. 25.1792, Government Code) . . . $25;

(10) in Nueces County, in matters of concurrent jurisdiction with the district court, with certain exceptions, fees (Sec. 25.1802, Government Code) . . . equal to those in district court cases; and

(11) a fee not otherwise listed in this subchapter that is required to be collected under Section 25.0008, Government Code, in a county other than Brazos, Cameron, Ellis, Guadalupe, Harris, Henderson, Liberty, Moore, Nolan, Panola, Parker, Starr, Victoria, and Williamson . . . as prescribed by law relating to county judges' fees.

Sec. 101.0812. STATUTORY COUNTY COURT FEES AND COSTS: HEALTH AND SAFETY CODE. The clerk of a statutory county court shall collect fees and costs under the Health and Safety Code as follows:

(1) [~~(8)~~] for filing an application for registration of death (Sec. 193.007, Health and Safety Code) . . . $1;

(2) [~~(9)~~] fee for judge's services on an application

for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed $50;

(3) [~~(10)~~] fee for prosecutor's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed $50;

(4) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Secs. 571.017 and 571.018, Health and Safety Code) . . . reasonable compensation to the following persons appointed under the Texas Mental Health Code:

(A) attorneys;

(B) physicians;

(C) language interpreters;

(D) sign interpreters; and

(E) masters;

(5) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Sec. 571.018, Health and Safety Code):

(A) attorney's fees;

(B) physician examination fees;

(C) expense of transportation to a mental health facility or to a federal agency not to exceed $50 if transporting within the same county and not to exceed the reasonable cost of transportation if transporting between counties;

(D) costs and salary supplements authorized under Section 574.031, Health and Safety Code; and

(E) prosecutors' fees authorized under Section

574.031, Health and Safety Code;

(6) expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated (Sec. 574.008, Health and Safety Code) . . . actual expenses unless certain arrangements are made to hold the hearing in the county in which the patient is receiving services;

(7) expenses for expert witness testimony for an indigent patient (Sec. 574.010, Health and Safety Code) . . . if authorized by the court as reimbursement to the attorney ad litem, court-approved expenses;

(8) fee for judge's services for holding a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50;

(9) expenses to reimburse judge for holding a hearing in a hospital or location other than the county courthouse (Sec. 574.031, Health and Safety Code) . . . reasonable and necessary expenses as certified; and

(10) fee for services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50.

Sec. 101.0813. STATUTORY COUNTY COURT FEES AND COSTS: HUMAN RESOURCES CODE. The clerk of a statutory county court shall collect [~~(11)~~] for filing a suit in Comal County a fee of $4 under Section [~~(Sec.~~] 152.0522, Human Resources Code.[~~) . . . $4,~~]

Sec. 101.0814. STATUTORY COUNTY COURT FEES AND COSTS: LOCAL GOVERNMENT CODE. The clerk of a statutory county court shall collect fees and costs under the Local Government Code as follows:

(1) [~~(12)~~] additional filing fee to fund contingency fund for liability insurance, if authorized by the county commissioners court (Sec. 82.003, Local Government Code) . . . not to exceed $5;

(2) [~~(13)~~] civil court actions (Sec. 118.052, Local Government Code):

(A) filing of original action (Secs. 118.052 and 118.053, Local Government Code):

(i) garnishment after judgment (Sec. 118.052, Local Government Code) . . . $15; and

(ii) all others (Sec. 118.052, Local Government Code) . . . $40;

(B) filing of action other than original (Secs. 118.052 and 118.054, Local Government Code) . . . $30; and

(C) services rendered after judgment in original action (Secs. 118.052 and 118.0545, Local Government Code):

(i) abstract of judgment (Sec. 118.052, Local Government Code) . . . $5; and

(ii) execution, order of sale, writ, or other process (Sec. 118.052, Local Government Code) . . . $5;

(3) [~~(14)~~] probate court actions (Sec. 118.052, Local Government Code):

(A) probate original action (Secs. 118.052 and 118.055, Local Government Code):

(i) probate of a will with independent executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title (Sec. 118.052, Local Government Code) . . . $40;

(ii) community survivors (Sec. 118.052, Local Government Code) . . . $40;

(iii) small estates (Sec. 118.052, Local Government Code) . . . $40;

(iv) declarations of heirship (Sec. 118.052, Local Government Code) . . . $40;

(v) mental health or chemical dependency services (Sec. 118.052, Local Government Code) . . . $40; and

(vi) additional, special fee (Secs. 118.052 and 118.064, Local Government Code) . . . $5;

(B) services in pending probate action (Secs. 118.052 and 118.056, Local Government Code):

(i) filing an inventory and appraisement after the 120th day after the date of the initial filing of the action (Sec. 118.052, Local Government Code) . . . $25;

(ii) approving and recording bond (Sec. 118.052, Local Government Code) . . . $3;

(iii) administering oath (Sec. 118.052, Local Government Code) . . . $2;

(iv) filing annual or final account of estate (Sec. 118.052, Local Government Code) . . . $25;

(v) filing application for sale of real or personal property (Sec. 118.052, Local Government Code) . . . $25;

(vi) filing annual or final report of guardian of a person (Sec. 118.052, Local Government Code) . . . $10; and

(vii) filing a document not listed under this paragraph after the filing of an order approving the inventory and appraisement or after the 120th day after the date of the initial filing of the action, whichever occurs first (Secs. 118.052 and 191.007, Local Government Code), if more than 25 pages . . . $25;

(C) adverse probate action (Secs. 118.052 and 118.057, Local Government Code) . . . $40; and

(D) claim against estate (Secs. 118.052 and 118.058, Local Government Code) . . . $2;

(4) [~~(15)~~] other fees (Sec. 118.052, Local Government Code):

(A) issuing document (Secs. 118.052 and 118.059, Local Government Code):

(i) original document and one copy (Sec. 118.052, Local Government Code) . . . $4; and

(ii) each additional set of an original and one copy (Sec. 118.052, Local Government Code) . . . $4;

(B) certified papers (Secs. 118.052 and 118.060, Local Government Code):

(i) for the clerk's certificate (Sec. 118.052, Local Government Code) . . . $5; and

(ii) a fee per page or part of a page (Sec. 118.052, Local Government Code) . . . $1;

(C) noncertified papers, for each page or part of a page (Secs. 118.052 and 118.0605, Local Government Code) . . . $1;

(D) letters testamentary, letter of guardianship, letter of administration, or abstract of judgment (Secs. 118.052 and 118.061, Local Government Code) . . . $2;

(E) safekeeping of wills (Secs. 118.052 and 118.062, Local Government Code) . . . $5;

(F) mail service of process (Secs. 118.052 and 118.063, Local Government Code) . . . same as sheriff; and

(G) records management and preservation fee (Secs. 118.052, 118.0546, and 118.0645, Local Government Code) . . . $5;

(5) additional filing fee for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $5;

(6) on the filing of a civil suit, an additional filing fee to be used for court-related purposes for the support of the judiciary (Sec. 133.154, Local Government Code) . . . $37;

(7) [~~(16)~~] additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . not to exceed $5;

(8) [~~(17)~~] additional filing fee for filing documents not subject to certain filing fees to fund the courthouse security

fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . $1;

(9) [~~(18)~~] additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed $20; and

(10) [~~(19)~~] court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed $35. [~~;~~]

Sec. 101.0815. STATUTORY COUNTY COURT FEES AND COSTS: TEXAS PROBATE CODE. The clerk of a statutory county court shall collect fees and costs under the Texas Probate Code as follows:

(1) [~~(20)~~] fee for deposit of a will with the county clerk during testator's lifetime (Sec. 71, Texas Probate Code) . . . $3;

(2) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding; and

(3) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code) . . . probable cost of the guardianship proceeding.

Sec. 101.0816. STATUTORY COUNTY COURT FEES AND COSTS:

PROPERTY CODE. The clerk of a statutory county court shall collect a [~~(21)~~] court cost in the amount of $10 or more, as taxed by the court under Section 21.047, Property Code, for each special commissioner in an eminent domain proceeding. [~~(Sec. 21.047, Property Code) . . . as taxed by the court, $10 or more;~~]

Sec. 101.0817. STATUTORY COUNTY COURT FEES AND COSTS UNDER OTHER LAWS. The clerk of a statutory county court shall collect a [~~(22)~~] fee of $10 under Article 6327, Vernon's Texas Civil Statutes, for a county attorney in a suit regarding a railroad company's failure to keep roadbed and right-of-way in proper condition [~~(Art. 6327, Vernon's Texas Civil Statutes) . . . $10;~~

[~~(23) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

[~~(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs;~~

[~~(24) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

[~~(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of~~

~~Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs that remain unpaid;~~

[~~(25) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):~~

[~~(A) expenses of service of process;~~

[~~(B) postage; and~~

[~~(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding;~~

[~~(26) the official court reporter's fee taxed as costs in civil actions in a statutory county court:~~

[~~(A) in Bexar County Courts at Law:~~

[~~(i) Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 (Sec. 25.0172, Government Code) . . . taxed in the same manner as the fee is taxed in district court; and~~

[~~(ii) No. 2 (Sec. 25.0172, Government Code) . . . $3;~~

[~~(B) in Galveston County (Sec. 25.0862, Government Code) . . . taxed in the same manner as the fee is taxed in civil cases in the district courts; and~~

[~~(C) in Parker County (Sec. 25.1862, Government Code) . . . taxed in the same manner as the fee is taxed in civil cases in the district courts;~~

[~~(27) a stenographer's fee as costs in each civil,~~

~~criminal, and probate case in which a record is made by the official court reporter in a statutory county court in Nolan County (Sec. 25.1792, Government Code) . . . . $25;~~

[~~(28) in Brazoria County, in matters of concurrent jurisdiction with the district court, fees (Sec. 25.0222, Government Code) . . . . as prescribed by law for district judges according to the nature of the matter;~~

[~~(29) in Nueces County, in matters of concurrent jurisdiction with the district court, with certain exceptions, fees (Sec. 25.1802, Government Code) . . . . equal to those in district court cases;~~

[~~(30) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . . probable cost of the proceeding;~~

[~~(31) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code) . . . . probable cost of the guardianship proceeding;~~

[~~(32) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Secs. 571.017 and 571.018, Health and Safety Code) . . . . reasonable compensation to the following persons appointed under the Texas Mental Health Code:~~

[~~(A) attorneys;~~

[~~(B) physicians;~~

[~~(C) language interpreters;~~

[~~(D) sign interpreters; and~~

[~~(E) masters;~~

[~~(33) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Sec. 571.018, Health and Safety Code):~~

[~~(A) attorney's fees;~~

[~~(B) physician examination fees;~~

[~~(C) expense of transportation to a mental health facility or to a federal agency not to exceed $50 if transporting within the same county and not to exceed the reasonable cost of transportation if transporting between counties;~~

[~~(D) costs and salary supplements authorized under Section 574.031, Health and Safety Code; and~~

[~~(E) prosecutors' fees authorized under Section 574.031, Health and Safety Code;~~

[~~(34) expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated (Sec. 574.008, Health and Safety Code) . . . actual expenses unless certain arrangements are made to hold the hearing in the county in which the patient is receiving services;~~

[~~(35) expenses for expert witness testimony for an indigent patient (Sec. 574.010, Health and Safety Code) . . . if authorized by the court as reimbursement to the attorney ad litem, court-approved expenses;~~

[~~(36) fee for judge's services for holding a hearing on~~

~~an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50;~~

[~~(37) expenses to reimburse judge for holding a hearing in a hospital or location other than the county courthouse (Sec. 574.031, Health and Safety Code) . . . reasonable and necessary expenses as certified;~~

[~~(38) fee for services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50; and~~

[~~(39) a fee not otherwise listed in this section that is required to be collected under Section 25.0008, Government Code (Sec. 25.0008, Government Code), in a county other than Brazos, Cameron, Ellis, Guadalupe, Harris, Henderson, Liberty, Moore, Nolan, Panola, Parker, Starr, Victoria, and Williamson . . . as prescribed by law relating to county judges' fees~~].

(b) Section 101.083, Government Code, is repealed.

SECTION 7.105. Subchapter F, Chapter 101, Government Code, is amended by amending Section 101.101 and adding Sections 101.1011 through 101.1015 to read as follows:

Sec. 101.101. STATUTORY PROBATE COURT FEES AND COSTS: CIVIL PRACTICE AND REMEDIES CODE. The clerk of a statutory probate court shall collect a [~~fees and costs as follows:~~

[~~(1)~~] court cost in an amount not to exceed $15 under Section 152.004, Civil Practice and Remedies Code, in certain civil

cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court. [~~(Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed $10;~~]

Sec. 101.1011. STATUTORY PROBATE COURT FEES AND COSTS: GOVERNMENT CODE. The clerk of a statutory probate court shall collect fees and costs under the Government Code as follows:

(1) [~~(2)~~] appellate judicial system filing fees:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than $5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than $5;

(C) Third Court of Appeals District (Sec. 22.2041, Government Code) . . . $5;

(D) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than $5;

(E) [~~(D)~~] Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than $5;

(F) Eleventh Court of Appeals District (Sec. 22.2121, Government Code) . . . $5; and

(G) [~~(E)~~] Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than $5;

(2) [~~(3)~~] additional filing fees as follows:

(A) for certain cases to be used for court-related purposes for support of the judiciary, if authorized by the county commissioners court (Sec. 51.704, Government Code) . . . $40; and

(B) to fund the improvement of Dallas County civil court facilities, if authorized by the county commissioners court (Sec. 51.705, Government Code) . . . not more than $15[~~, and~~

[~~(C) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $5~~];

(3) jury fee for civil case (Sec. 51.604, Government Code) . . . $22;

(4) the expense of preserving the record as a court cost, if imposed on a party by the referring court or associate judge (Sec. 54.612, Government Code) . . . actual cost; and

(5) a fee not otherwise listed in this subchapter that is required to be collected under Section 25.0029, Government Code (Sec. 25.0029, Government Code) . . . as prescribed by law relating to county judges' fees.

Sec. 101.1012. STATUTORY PROBATE COURT FEES AND COSTS: HEALTH AND SAFETY CODE. The clerk of a statutory probate court shall collect fees and costs under the Health and Safety Code as follows:

(1) [~~(4)~~] for filing an application for registration of death (Sec. 193.007, Health and Safety Code) . . . $1;

(2) [~~(5)~~] fee for judge's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed $50;

(3) [~~(6)~~] fee for prosecutor's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed $50;

(4) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Secs. 571.017 and 571.018, Health and Safety Code) . . . reasonable compensation to the following persons appointed under the Texas Mental Health Code:

(A) attorneys;

(B) physicians;

(C) language interpreters;

(D) sign interpreters; and

(E) masters;

(5) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Sec. 571.018, Health and Safety Code):

(A) attorney's fees;

(B) physician examination fees;

(C) expense of transportation to a mental health facility or to a federal agency not to exceed $50 if transporting within the same county and not to exceed the reasonable cost of transportation if transporting between counties;

(D) costs and salary supplements authorized under Section 574.031, Health and Safety Code; and

(E) prosecutors' fees authorized under Section 574.031, Health and Safety Code;

(6) expenses of transporting certain patients from the

county of treatment to a hearing in the county in which the proceedings originated (Sec. 574.008, Health and Safety Code) . . . actual expenses unless certain arrangements are made to hold the hearing in the county in which the patient is receiving services;

(7) expenses for expert witness testimony for an indigent patient (Sec. 574.010, Health and Safety Code) . . . if authorized by the court as reimbursement to the attorney ad litem, court-approved expenses;

(8) fee for judge's services for holding a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50;

(9) expenses to reimburse judge for holding a hearing in a hospital or location other than the county courthouse (Sec. 574.031, Health and Safety Code) . . . reasonable and necessary expenses as certified; and

(10) fee for services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50.

Sec. 101.1013. STATUTORY PROBATE COURT FEES AND COSTS: LOCAL GOVERNMENT CODE. The clerk of a statutory probate court shall collect fees and costs under the Local Government Code as follows:

(1) additional filing fee for filing any civil action

or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee to fund civil legal services for the indigent (Sec. 133.153, Local Government Code). . . $5;

(2) [~~(7)~~] additional filing fee to fund contingency fund for liability insurance, if authorized by the county commissioners court (Sec. 82.003, Local Government Code) . . . not to exceed $5;

(3) [~~(8)~~] probate court actions (Sec. 118.052, Local Government Code):

(A) probate original action (Secs. 118.052 and 118.055, Local Government Code):

(i) probate of a will with independent executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title (Sec. 118.052, Local Government Code) . . . $40;

(ii) community survivors (Sec. 118.052, Local Government Code) . . . $40;

(iii) small estates (Sec. 118.052, Local Government Code) . . . $40;

(iv) declarations of heirship (Sec. 118.052, Local Government Code) . . . $40;

(v) mental health or chemical dependency services (Sec. 118.052, Local Government Code) . . . $40; and

(vi) additional, special fee (Secs. 118.052 and 118.064, Local Government Code) . . . $5;

(B) services in pending probate action (Secs. 118.052 and 118.056, Local Government Code):

(i) filing an inventory and appraisement after the 120th day after the date of the initial filing of the action (Sec. 118.052, Local Government Code) . . . $25;

(ii) approving and recording bond (Sec. 118.052, Local Government Code) . . . $3;

(iii) administering oath (Sec. 118.052, Local Government Code) . . . $2;

(iv) filing annual or final account of estate (Sec. 118.052, Local Government Code). . . $25;

(v) filing application for sale of real or personal property (Sec. 118.052, Local Government Code) . . . $25;

(vi) filing annual or final report of guardian of a person (Sec. 118.052, Local Government Code) . . . $10; and

(vii) filing a document not listed under this paragraph after the filing of an order approving the inventory and appraisement or after the 120th day after the date of the initial filing of the action, whichever occurs first (Secs. 118.052 and 191.007, Local Government Code), if more than 25 pages . . . $25;

(C) adverse probate action (Secs. 118.052 and 118.057, Local Government Code) . . . $40; and

(D) claim against estate (Secs. 118.052 and 118.058, Local Government Code) . . . $2;

(4) [~~(9)~~] other fees (Sec. 118.052, Local Government

Code):

(A) issuing document (Secs. 118.052 and 118.059, Local Government Code):

(i) original document and one copy (Sec. 118.052, Local Government Code) . . . $4; and

(ii) each additional set of an original and one copy (Sec. 118.052, Local Government Code) . . . $4;

(B) certified papers (Secs. 118.052 and 118.060, Local Government Code):

(i) for the clerk's certificate (Sec. 118.052, Local Government Code) . . . $5; and

(ii) a fee per page or part of a page (Sec. 118.052, Local Government Code) . . . $1;

(C) noncertified papers, for each page or part of a page (Secs. 118.052 and 118.0605, Local Government Code) . . . $1;

(D) letters testamentary, letter of guardianship, letter of administration, or abstract of judgment (Secs. 118.052 and 118.061, Local Government Code) . . . $2;

(E) safekeeping of wills (Secs. 118.052 and 118.062, Local Government Code) . . . $5;

(F) mail service of process (Secs. 118.052 and 118.063, Local Government Code) . . . same as sheriff; and

(G) records management and preservation fee (Secs. 118.052 and 118.0645, Local Government Code) . . . $5; <u>and</u>

<u>(5) court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized</u>

by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed $35.

Sec. 101.1014. STATUTORY PROBATE COURT FEES AND COSTS: TEXAS PROBATE CODE. The clerk of a statutory probate court shall collect fees and costs under the Texas Probate Code as follows:

(1) [~~(10)~~] fee for deposit of a will with the county clerk during testator's lifetime (Sec. 71, Texas Probate Code) . . . $3;

(2) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding; and

(3) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code) . . . probable cost of the guardianship proceeding.

Sec. 101.1015. STATUTORY PROBATE COURT FEES AND COSTS: PROPERTY CODE. The clerk of a statutory probate court shall collect a [~~(11)~~] court cost in the amount of $10 or more, as taxed by the court under Section 21.047, Property Code, [~~costs~~] for each special commissioner in an eminent domain proceeding [~~(Sec. 21.047, Property Code) . . . as taxed by the court, $10 or more;~~

[~~(12) jury fee for civil case (Sec. 51.604, Government Code) . . . $22;~~

[~~(13) court cost in civil cases other than suits for~~

~~delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed $35;~~

[~~(14) the expense of preserving the record as a court cost, if imposed on a party by the referring court or associate judge (Sec. 54.612, Government Code) . . . actual cost;~~

[~~(15) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding;~~

[~~(16) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code) . . . probable cost of the guardianship proceeding;~~

[~~(17) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Secs. 571.017 and 571.018, Health and Safety Code) . . . reasonable compensation to the following persons appointed under the Texas Mental Health Code:~~

[~~(A) attorneys;~~

[~~(B) physicians;~~

[~~(C) language interpreters;~~

[~~(D) sign interpreters; and~~

[~~(E) masters;~~

[~~(18) for a hearing or proceeding under the Texas~~

~~Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Sec. 571.018, Health and Safety Code):~~

[~~(A) attorney's fees;~~

[~~(B) physician examination fees;~~

[~~(C) expense of transportation to a mental health facility or to a federal agency not to exceed $50 if transporting within the same county and not to exceed the reasonable cost of transportation if transporting between counties;~~

[~~(D) costs and salary supplements authorized under Section 574.031, Health and Safety Code; and~~

[~~(E) prosecutors' fees authorized under Section 574.031, Health and Safety Code;~~

[~~(19) expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated (Sec. 574.008, Health and Safety Code) . . . actual expenses unless certain arrangements are made to hold the hearing in the county in which the patient is receiving services;~~

[~~(20) expenses for expert witness testimony for an indigent patient (Sec. 574.010, Health and Safety Code) . . . if authorized by the court as reimbursement to the attorney ad litem, court-approved expenses;~~

[~~(21) fee for judge's services for holding a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50;~~

[~~(22) expenses to reimburse judge for holding a~~

~~hearing in a hospital or location other than the county courthouse (Sec. 574.031, Health and Safety Code) . . . reasonable and necessary expenses as certified,~~

[~~(23) fee for services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50; and~~

[~~(24) a fee not otherwise listed in this section that is required to be collected under Section 25.0029, Government Code (Sec. 25.0029, Government Code) . . . as prescribed by law relating to county judges' fees~~].

SECTION 7.106. (a) Subchapter G, Chapter 101, Government Code, is amended by amending Section 101.121 and adding Sections 101.1211 through 101.1216 to read as follows:

Sec. 101.121. COUNTY COURT FEES AND COSTS: ALCOHOLIC BEVERAGE CODE. The clerk of a county court shall collect a [~~:~~

[~~(1)~~] fee of $5 under Section 61.31, Alcoholic Beverage Code, for hearing on application for a license to manufacture, distribute, store, or sell beer. [~~(Sec. 61.31, Alcoholic Beverage Code) . . . $5;~~]

Sec. 101.1211. COUNTY COURT FEES AND COSTS: CIVIL PRACTICE AND REMEDIES CODE. The clerk of a county court shall collect:

(1) a [~~(2)~~] court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court (Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed $15 [~~$10~~];

(2) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(3) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid; and

(4) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the

court for any proceeding.

Sec. 101.1212. COUNTY COURT FEES AND COSTS: GOVERNMENT CODE. The clerk of a county court shall collect the following fees and costs under the Government Code:

(1) [~~(3)~~] appellate judicial system filing fees:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than $5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than $5;

(C) Third Court of Appeals District (Sec. 22.2041, Government Code) . . . $5;

(D) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than $5;

(E) [~~(D)~~] Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than $5;

(F) Eleventh Court of Appeals District (Sec. 22.2121, Government Code) . . . $5; and

(G) [~~(E)~~] Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than $5;

(2) [~~(4)~~] a jury fee (Sec. 51.604, Government Code) . . . $22; and

(3) [~~(5)~~] a filing fee in each civil case filed to be used for court-related purposes for the support of the judiciary (Sec. 51.703, Government Code) . . . $40. [~~;~~]

Sec. 101.1213. COUNTY COURT FEES AND COSTS: HEALTH AND SAFETY CODE. The clerk of a county court shall collect the following fees and costs under the Health and Safety Code:

(1) [~~(6)~~] for filing an application for registration of death (Sec. 193.007, Health and Safety Code) . . . $1;

(2) [~~(7)~~] fee for judge's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed $50;

(3) [~~(8)~~] fee for prosecutor's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed $50;

(4) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Secs. 571.017 and 571.018, Health and Safety Code) . . . reasonable compensation to the following persons appointed under the Texas Mental Health Code:

(A) attorneys;

(B) physicians;

(C) language interpreters;

(D) sign interpreters; and

(E) masters;

(5) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Sec. 571.018, Health and Safety Code):

(A) attorney's fees;

(B) physician examination fees;

(C) expense of transportation to a mental health facility or to a federal agency not to exceed $50 if transporting within the same county and not to exceed the reasonable cost of transportation if transporting between counties;

(D) costs and salary supplements authorized under Section 574.031, Health and Safety Code; and

(E) prosecutors' fees authorized under Section 574.031, Health and Safety Code;

(6) expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated (Sec. 574.008, Health and Safety Code) . . . actual expenses unless certain arrangements are made to hold the hearing in the county in which the patient is receiving services;

(7) expenses for expert witness testimony for an indigent patient (Sec. 574.010, Health and Safety Code) . . . if authorized by the court as reimbursement to the attorney ad litem, court-approved expenses;

(8) fee for judge's services for holding a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50;

(9) expenses to reimburse judge for holding a hearing in a hospital or location other than the county courthouse (Sec. 574.031, Health and Safety Code) . . . reasonable and necessary expenses as certified; and

(10) fee for services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50.

Sec. 101.1214. COUNTY COURT FEES AND COSTS: LOCAL

GOVERNMENT CODE. The clerk of a county court shall collect the following fees and costs under the Local Government Code:

(1) [~~(9)~~] additional filing fee to fund contingency fund for liability insurance, if authorized by the county commissioners court (Sec. 82.003, Local Government Code) . . . not to exceed $5;

(2) [~~(10)~~] civil court actions (Sec. 118.052, Local Government Code):

(A) filing of original action (Secs. 118.052 and 118.053, Local Government Code):

(i) garnishment after judgment (Sec. 118.052, Local Government Code) . . . $15; and

(ii) all others (Sec. 118.052, Local Government Code) . . . $40;

(B) filing of action other than original (Secs. 118.052 and 118.054, Local Government Code) . . . $30; and

(C) services rendered after judgment in original action (Secs. 118.052 and 118.0545, Local Government Code):

(i) abstract of judgment (Sec. 118.052, Local Government Code) . . . $5; and

(ii) execution, order of sale, writ, or other process (Sec. 118.052, Local Government Code) . . . $5;

(3) [~~(11)~~] probate court actions (Sec. 118.052, Local Government Code):

(A) probate original action (Secs. 118.052 and 118.055, Local Government Code):

(i) probate of a will with independent

executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title (Sec. 118.052, Local Government Code) . . . $40;

(ii) community survivors (Sec. 118.052, Local Government Code) . . . $40;

(iii) small estates (Sec. 118.052, Local Government Code) . . . $40;

(iv) declarations of heirship (Sec. 118.052, Local Government Code) . . . $40;

(v) mental health or chemical dependency services (Sec. 118.052, Local Government Code) . . . $40; and

(vi) additional, special fee (Secs. 118.052 and 118.064, Local Government Code) . . . $5;

(B) services in pending probate action (Secs. 118.052 and 118.056, Local Government Code):

(i) filing an inventory and appraisement after the 120th day after the date of the initial filing of the action (Sec. 118.052, Local Government Code) . . . $25;

(ii) approving and recording bond (Sec. 118.052, Local Government Code) . . . $3;

(iii) administering oath (Sec. 118.052, Local Government Code) . . . $2;

(iv) filing annual or final account of estate (Sec. 118.052, Local Government Code) . . . $25;

(v) filing application for sale of real or personal property (Sec. 118.052, Local Government Code) . . . $25;

(vi) filing annual or final report of

guardian of a person (Sec. 118.052, Local Government Code) . . . $10; and

(vii) filing a document not listed under this paragraph after the filing of an order approving the inventory and appraisement or after the 120th day after the date of the initial filing of the action, whichever occurs first (Secs. 118.052 and 191.007, Local Government Code), if more than 25 pages . . . $25;

(C) adverse probate action (Secs. 118.052 and 118.057, Local Government Code) . . . $40; and

(D) claim against estate (Secs. 118.052 and 118.058, Local Government Code) . . . $2;

(4) [~~(12)~~] other fees (Sec. 118.052, Local Government Code):

(A) issuing document (Secs. 118.052 and 118.059, Local Government Code):

(i) original document and one copy (Sec. 118.052, Local Government Code) . . . $4; and

(ii) each additional set of an original and one copy (Sec. 118.052, Local Government Code) . . . $4;

(B) certified papers (Secs. 118.052 and 118.060, Local Government Code):

(i) for the clerk's certificate (Sec. 118.052, Local Government Code) . . . $5; and

(ii) a fee per page or part of a page (Sec. 118.052, Local Government Code) . . . $1;

(C) noncertified papers, for each page or part of

a page (Secs. 118.052 and 118.0605, Local Government Code) . . . $1;

(D) letters testamentary, letter of guardianship, letter of administration, or abstract of judgment (Secs. 118.052 and 118.061, Local Government Code) . . . $2;

(E) safekeeping of wills (Secs. 118.052 and 118.062, Local Government Code) . . . $5;

(F) mail service of process (Secs. 118.052 and 118.063, Local Government Code) . . . same as sheriff; and

(G) records management and preservation fee (Secs. 118.052, 118.0546, and 118.0645, Local Government Code) . . . $5;

(5) [~~(13)~~] deposit on filing petition requesting permission to create a municipal civic center authority (Sec. 281.013, Local Government Code) . . . $200;

(6) [~~(14)~~] additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . not to exceed $5;

(7) [~~(15)~~] additional filing fee for filing documents not subject to certain filing fees to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . $1;

(8) [~~(16)~~] additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed $20;

(9) [~~(17)~~] court cost in civil cases other than suits

for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed $35;

(10) additional filing fee for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $5; and

(11) on the filing of a civil suit an additional filing fee to be used for court-related purposes for the support of the judiciary (Sec. 133.154, Local Government Code) . . . $37.

Sec. 101.1215. COUNTY COURT FEES AND COSTS: TEXAS PROBATE CODE. The clerk of a county court shall collect the following fees and costs under the Texas Probate Code:

(1) [~~(18)~~] fee for deposit of a will with the county clerk during testator's lifetime (Sec. 71, Texas Probate Code) . . . $3;

(2) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding; and

(3) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate

Code) . . . probable cost of the guardianship proceeding.

Sec. 101.1216. COUNTY COURT FEES AND COSTS UNDER OTHER LAWS. The clerk of a county court shall collect the following fees and costs:

(1) [~~(19)~~] fee for county attorney in a suit regarding a railroad company's failure to keep roadbed and right-of-way in proper condition (Art. 6327, Vernon's Texas Civil Statutes) . . . $10; and

(2) [~~(20)~~] appeal bond from a petitioner or taxpayer in a water control and preservation district (Art. 7818, Vernon's Texas Civil Statutes) . . . $100[~~;~~

[~~(21) additional filing fee for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $5;~~

[~~(22) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

[~~(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs;~~

[~~(23) monthly payment for remaining court fees and~~

~~costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

[~~(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs that remain unpaid;~~

[~~(24) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):~~

[~~(A) expenses of service of process;~~

[~~(B) postage; and~~

[~~(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding;~~

[~~(25) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding;~~

[~~(26) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code)~~

~~. . . probable cost of the guardianship proceeding;~~

[~~(27) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Secs. 571.017 and 571.018, Health and Safety Code) . . . reasonable compensation to the following persons appointed under the Texas Mental Health Code:~~

[~~(A) attorneys;~~

[~~(B) physicians;~~

[~~(C) language interpreters;~~

[~~(D) sign interpreters; and~~

[~~(E) masters;~~

[~~(28) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Sec. 571.018, Health and Safety Code):~~

[~~(A) attorney's fees;~~

[~~(B) physician examination fees;~~

[~~(C) expense of transportation to a mental health facility or to a federal agency not to exceed $50 if transporting within the same county and not to exceed the reasonable cost of transportation if transporting between counties;~~

[~~(D) costs and salary supplements authorized under Section 574.031, Health and Safety Code; and~~

[~~(E) prosecutors' fees authorized under Section 574.031, Health and Safety Code;~~

[~~(29) expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated (Sec. 574.008, Health and Safety Code) . . .~~

~~actual expenses unless certain arrangements are made to hold the hearing in the county in which the patient is receiving services;~~

[~~(30) expenses for expert witness testimony for an indigent patient (Sec. 574.010, Health and Safety Code) . . . if authorized by the court as reimbursement to the attorney ad litem, court-approved expenses;~~

[~~(31) fee for judge's services for holding a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50;~~

[~~(32) expenses to reimburse judge for holding a hearing in a hospital or location other than the county courthouse (Sec. 574.031, Health and Safety Code) . . . reasonable and necessary expenses as certified; and~~

[~~(33) fee for services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50~~].

(b) Section 101.123, Government Code, is repealed.

SECTION 7.107. Subchapter H, Chapter 101, Government Code, is amended by amending Section 101.141 and adding Section 101.151 to read as follows:

Sec. 101.141. JUSTICE COURT AND SMALL CLAIMS COURT FEES AND COSTS COLLECTED BY CLERK. (a) A clerk of a justice court shall collect fees and costs under the Civil Practice and Remedies Code as follows:

(1) additional court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the commissioners court [~~of a county with a population of at least 2.5 million~~] (Sec. 152.005, Civil Practice and Remedies Code) . . . not to exceed $5 [~~$3~~];

(2) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(3) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid; and

(4) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or

frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding.

(b) A clerk of a justice court shall collect fees and costs under other laws as follows:

(1) the cost of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed $100;

(2) additional filing fees:

(A) to fund Dallas County civil court facilities (Sec. 51.705, Government Code) . . . not more than $15; and

(B) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $2;

(3) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . $1.50; and

(4) fee for hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 685.008, Transportation Code) . . . $20[~~;~~

[~~(5) court fees and costs, if ordered by the court, for~~

~~a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

[~~(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs;~~

[~~(6) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

[~~(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs that remain unpaid;~~

[~~(7) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):~~

[~~(A) expenses of service of process;~~

[~~(B) postage; and~~

[~~(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding; and~~

[~~(8) the cost of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed $100~~].

Sec. 101.151. JUSTICE COURT AND SMALL CLAIMS COURT FEES COLLECTED BY JUSTICE OF THE PEACE. (a) [~~(b)~~] A justice of the peace shall collect the following fees under the Local Government Code:

(1) services rendered before judgment (Secs. 118.121 and 118.122, Local Government Code):

(A) justice court (Sec. 118.121, Local Government Code) . . . $15; and

(B) small claims court (Sec. 118.121, Local Government Code) . . . $10; and

(2) services rendered after judgment (Secs. 118.121 and 118.123, Local Government Code):

(A) transcript (Sec. 118.121, Local Government Code) . . . $10;

(B) abstract of judgment (Sec. 118.121, Local Government Code) . . . $5;

(C) execution, order of sale, writ of restitution, or other writ or process (Sec. 118.121, Local Government Code) . . . $5 per page;

(D) certified copy of court papers (Secs. 118.121 and 118.1235, Local Government Code) . . . $2 for first page; $0.25 for each additional page; and

(E) issuing other document (no return required)

(Sec. 118.121, Local Government Code) . . . $1 for first page; $0.25 for each additional page. [~~;~~]

(b) A justice of the peace shall collect the following fees under the Civil Practice and Remedies Code:

(1) [~~(3)~~] court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(2) [~~(4)~~] monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid; and

(3) [~~(5)~~] the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious

or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding.

SECTION 7.108. Section 101.181, Government Code, as amended by Chapters 37, 296, and 737, Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

Sec. 101.181. MUNICIPAL COURTS OF RECORD FEES AND COSTS. The clerk of a municipal court of record shall collect the following fees and costs:

(1) from an appellant, a fee for preparation of the clerk's record (Sec. 30.00014, Government Code) . . . $25;

(2) from an appellant in the City of El Paso, an appellate court docket fee (Sec. 30.00147, Government Code) . . . $25; and

(3) the cost of a special program that a court may order a child to attend after finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program, not to exceed $100.

SECTION 7.109. (a) Subchapter B, Chapter 102, Government Code, is amended by reenacting and amending Section 102.021, as amended by Chapters 296, 992, and 1360, Acts of the 79th Legislature, Regular Session, 2005, and adding Sections 102.0211 through 102.0214 to read as follows:

Sec. 102.021. COURT COSTS ON CONVICTION: CODE OF CRIMINAL

PROCEDURE. A person convicted of an offense shall pay the following under the Code of Criminal Procedure, in addition to all other costs:

(1) court cost on conviction of any offense, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Art. 102.0045, Code of Criminal Procedure) . . . $4 [~~court costs on conviction of a felony (Sec. 133.102, Local Government Code) . . . $133~~];

(2) [~~court costs on conviction of a Class A or Class B misdemeanor (Sec. 133.102, Local Government Code) . . . $83,~~

[~~(3) court costs on conviction of a nonjailable misdemeanor offense, including a criminal violation of a municipal ordinance, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Sec. 133.102, Local Government Code) . . . $40,~~

[~~(4) court costs on certain convictions in statutory county courts (Sec. 51.702, Government Code) . . . $15,~~

[~~(5) court costs on certain convictions in certain county courts (Sec. 51.703, Government Code) . . . $15,~~

[~~(6) a time payment fee if convicted of a felony or misdemeanor for paying any part of a fine, court costs, or restitution on or after the 31st day after the date on which a judgment is entered assessing the fine, court costs, or restitution (Sec. 133.103, Local Government Code) . . . $25,~~

[~~(7)~~] a fee for services of prosecutor (Art. 102.008, Code of Criminal Procedure) . . . $25;

(3) [~~(8)~~] fees for services of peace officer:

(A) issuing a written notice to appear in court for certain violations (Art. 102.011, Code of Criminal Procedure) . . . $5;

(B) executing or processing an issued arrest warrant or capias (Art. 102.011, Code of Criminal Procedure) . . . $50;

(C) summoning a witness (Art. 102.011, Code of Criminal Procedure) . . . $5;

(D) serving a writ not otherwise listed (Art. 102.011, Code of Criminal Procedure) . . . $35;

(E) taking and approving a bond and, if necessary, returning the bond to courthouse (Art. 102.011, Code of Criminal Procedure) . . . $10;

(F) commitment or release (Art. 102.011, Code of Criminal Procedure) . . . $5;

(G) summoning a jury (Art. 102.011, Code of Criminal Procedure) . . . $5;

(H) attendance of a prisoner in habeas corpus case if prisoner has been remanded to custody or held to bail (Art. 102.011, Code of Criminal Procedure) . . . $8 each day;

(I) mileage for certain services performed (Art. 102.011, Code of Criminal Procedure) . . . $0.29 per mile; and

(J) services of a sheriff or constable who serves process and attends examining trial in certain cases (Art. 102.011, Code of Criminal Procedure) . . . not to exceed $5;

(4) [~~(9)~~] services of a peace officer in conveying a witness outside the county (Art. 102.011, Code of Criminal

Procedure) . . . $10 per day or part of a day, plus actual necessary travel expenses;

(5) [~~(10)~~] overtime of peace officer for time spent testifying in the trial or traveling to or from testifying in the trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;

(6) [~~(11)~~] court costs on an offense relating to rules of the road, when offense occurs within a school crossing zone (Art. 102.014, Code of Criminal Procedure) . . . $25;

(7) [~~(12)~~] court costs on an offense of passing a school bus (Art. 102.014, Code of Criminal Procedure) . . . $25;

(8) [~~(13)~~] court costs on an offense of truancy or contributing to truancy (Art. 102.014, Code of Criminal Procedure) . . . $20;

(9) [~~(14)~~] cost for visual recording of intoxication arrest before conviction (Art. 102.018, Code of Criminal Procedure) . . . $15;

(10) [~~(15)~~] cost of certain evaluations (Art. 102.018, Code of Criminal Procedure) . . . actual cost;

(11) [~~(16)~~] additional costs attendant to certain intoxication convictions under Chapter 49, Penal Code, for emergency medical services, trauma facilities, and trauma care systems (Art. 102.0185, Code of Criminal Procedure) . . . $100;

(12) [~~(16-a)~~] additional costs attendant to certain child sexual assault and related convictions, for child abuse prevention programs (Art. 102.0186, Code of Criminal Procedure) . . . $100;

(13) [~~(17)~~] cost for DNA testing for certain felonies

(Art. 102.020, Code of Criminal Procedure) . . . $250;

(14) [~~(18)~~] court cost on an offense of public lewdness or indecent exposure (Art. 102.020, Code of Criminal Procedure) . . . $50;

(15) if required by the court, a restitution fee for costs incurred in collecting restitution installments and for the compensation to victims of crime fund (Art. 42.037, Code of Criminal Procedure) . . . $12; and

(16) if directed by the justice of the peace or municipal court judge hearing the case, court costs on conviction in a criminal action (Art. 45.041, Code of Criminal Procedure) . . . part or all of the costs as directed by the judge.

Sec. 102.0211. COURT COSTS ON CONVICTION: GOVERNMENT CODE. A person convicted of an offense shall pay the following under the Government Code, in addition to all other costs:

(1) court costs on certain convictions in statutory county courts (Sec. 51.702, Government Code) . . . $15; and

(2) court costs on certain convictions in certain county courts (Sec. 51.703, Government Code) . . . $15.

Sec. 102.0212. COURT COSTS ON CONVICTION: LOCAL GOVERNMENT CODE. A person convicted of an offense shall pay the following under the Local Government Code, in addition to all other costs:

(1) court costs on conviction of a felony (Sec. 133.102, Local Government Code) . . . $133;

(2) court costs on conviction of a Class A or Class B misdemeanor (Sec. 133.102, Local Government Code) . . . $83;

(3) court costs on conviction of a nonjailable

misdemeanor offense, including a criminal violation of a municipal ordinance, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Sec. 133.102, Local Government Code) . . . $40;

(4) a time payment fee if convicted of a felony or misdemeanor for paying any part of a fine, court costs, or restitution on or after the 31st day after the date on which a judgment is entered assessing the fine, court costs, or restitution (Sec. 133.103, Local Government Code) . . . $25; and

(5) a cost on conviction of any offense, other than an offense relating to a pedestrian or the parking of a motor vehicle (Sec. 133.105, Local Government Code) . . . $4.

Sec. 102.0213. COURT COSTS ON CONVICTION: TRANSPORTATION CODE. A person convicted of an offense shall pay the following under the Transportation Code, in addition to all other costs:

(1) [~~(19)~~] court cost on conviction of a misdemeanor under Subtitle C, Title 7, Transportation Code (Sec. 542.403, Transportation Code) . . . $3;

(2) [~~(20)~~] cost for impoundment of vehicle (Sec. 601.263, Transportation Code) . . . $15 per day; and

(3) [~~(21)~~] a civil and criminal enforcement cost on conviction of an offense of, or related to, the nonpayment of a toll in certain counties (Sec. 284.2031, Transportation Code) . . . $1.[~~;~~]

Sec. 102.0214. COURT COSTS ON CONVICTION: PARKS AND WILDLIFE CODE. A person convicted of an offense shall pay under Section 12.110, Parks and Wildlife Code, in addition to all other

costs, [~~(22) if directed by the justice of the peace or municipal court judge hearing the case, court costs on conviction in a criminal action (Art. 45.041, Code of Criminal Procedure) . . . part or all of the costs as directed by the judge;~~

[~~(22)~~] the actual cost of any storage, care, feeding, cold storage, or processing necessary for an unlawfully taken, shipped, or possessed game bird, fowl, animal, game fish, or exotic animal [~~(Sec. 12.110, Parks and Wildlife Code) . . . actual cost; and~~

[~~(22) court cost on conviction of any offense, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Art. 102.0045, Code of Criminal Procedure) . . . $4~~].

(b) Section 102.022, Government Code, is repealed.

SECTION 7.110. Subchapter C, Chapter 102, Government Code, is amended by amending Section 102.041 and adding Section 102.042 to read as follows:

Sec. 102.041. ADDITIONAL COURT COSTS ON CONVICTION IN DISTRICT COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a district court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $20;

(2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . $40;

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . $25;

(4) a security fee on a felony offense (Art. 102.017, Code of Criminal Procedure) . . . $5;

(5) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $3; and

(6) a graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . $5. [~~, and~~]

Sec. 102.042. ADDITIONAL COURT COSTS ON CONVICTION IN DISTRICT COURT: HUMAN RESOURCES CODE. The clerk of a district court shall collect from a defendant [~~(7)~~] a court cost of $4 under Section 152.0522, Human Resources Code, on conviction in Comal County [~~(Sec. 152.0522, Human Resources Code) . . . $4~~].

SECTION 7.111. Subchapter D, Chapter 102, Government Code, is amended by reenacting and amending Section 102.061, as amended by Chapters 804 and 949, Acts of the 79th Legislature, Regular Session, 2005, and adding Section 102.062 to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $20;

(2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . $40;

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . $25;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $3;

(5) a graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . $5; and

(6) [~~a court cost on conviction in Comal County (Sec. 152.0522, Human Resources Code) . . . $4.~~

[~~(7)~~] a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed $5.

Sec. 102.062. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: HUMAN RESOURCES CODE. The clerk of a statutory county court shall collect from a defendant a court cost of $4 under Section 152.0522, Human Resources Code, on conviction in Comal County.

SECTION 7.112. Section 102.081, Government Code, is amended to read as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $20;

(2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . $40;

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . $25;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $3;

(5) a graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . $5; and

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed $5.

SECTION 7.113. Subchapter F, Chapter 102, Government Code, is amended by reenacting and amending Section 102.101, as amended by Chapters 240 and 949, Acts of the 79th Legislature, Regular Session, 2005, and adding Sections 102.102 and 102.103 to read as follows:

Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $3;

(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . $3;

(3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of $3;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $4 [~~$3~~];

(5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . $4;

(6) [~~a court cost on conviction in Comal County (Sec. 152.0522, Human Resources Code) . . . $1.50; and~~

[~~(7)~~] a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed $5;

(7) a fee on conviction of certain offenses involving

issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed $30; and

(8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed $7.

Sec. 102.102. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: BUSINESS & COMMERCE CODE. The clerk of a justice court shall collect from a defendant a court cost not to exceed $30 under Section 3.506, Business & Commerce Code, on conviction of certain offenses involving issuing or passing a subsequently dishonored check.

Sec. 102.103. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: HUMAN RESOURCES CODE. A clerk of a justice court shall collect from a defendant a court cost of $1.50 under Section 152.0522, Human Resources Code, on conviction in Comal County.

SECTION 7.114. Section 102.121, Government Code, is amended to read as follows:

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court shall collect fees and costs on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $3;

(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . $3;

(3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of $3;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $3;

(5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed $4; and

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed $5.

SECTION 7.115. Subchapter H, Chapter 102, Government Code, is amended by amending Section 102.141 and adding Section 102.142 to read as follows:

Sec. 102.141. ADDITIONAL COURT COSTS IN MUNICIPAL COURT OF RECORD: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court of record shall collect [~~the following fees and costs:~~

[~~(1)~~] from a defendant on conviction of a misdemeanor offense[~~,~~] a fee of not more than $4 under Article 102.0172, Code of Criminal Procedure, for the technology fund. [~~on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed $4,~~]

Sec. 102.142. ADDITIONAL COURT COSTS IN MUNICIPAL COURT OF RECORD: GOVERNMENT CODE. The clerk of a municipal court of record shall collect the following fees and costs:

(1) [~~(2)~~] from an appellant, a fee for preparation of the clerk's record (Sec. 30.00014, Government Code) . . . $25; and

(2) [~~(3)~~] from an appellant in the City of El Paso, an appellate court docket fee (Sec. 30.00147, Government Code) . . .

$25.

SECTION 7.116. Subchapter B, Chapter 103, Government Code, is amended by amending Section 103.021, reenacting and amending Section 103.022, as amended by Chapters 296 and 992, Acts of the 79th Legislature, Regular Session, 2005, and adding Sections 103.0211 through 103.0215 and 103.023 through 103.033 to read as follows:

Sec. 103.021. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: CODE OF CRIMINAL PROCEDURE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Code of Criminal Procedure if ordered by the court or otherwise required:

(1) a personal bond fee (Art. 17.42, Code of Criminal Procedure) . . . the greater of $20 or three percent of the amount of the bail fixed for the accused;

(2) cost of electronic monitoring as a condition of release on personal bond (Art. 17.43, Code of Criminal Procedure) . . . actual cost;

(3) a fee for verification of and monitoring of motor vehicle ignition interlock (Art. 17.441, Code of Criminal Procedure) . . . not to exceed $10;

(4) repayment of reward paid by a crime stoppers organization on conviction of a felony (Art. 37.073, Code of Criminal Procedure) . . . amount ordered;

(5) reimbursement to general revenue fund for payments made to victim of an offense as condition of community supervision (Art. 42.12, Code of Criminal Procedure) . . . not to exceed $50 for

a misdemeanor offense or $100 for a felony offense;

(6) payment to a crime stoppers organization as condition of community supervision (Art. 42.12, Code of Criminal Procedure) . . . not to exceed $50;

(7) children's advocacy center fee (Art. 42.12, Code of Criminal Procedure) . . . not to exceed $50;

(8) family violence shelter center fee (Art. 42.12, Code of Criminal Procedure) . . . not to exceed $100;

(9) community supervision fee (Art. 42.12, Code of Criminal Procedure) . . . not less than $25 or more than $60 per month;

(10) additional community supervision fee for certain offenses (Art. 42.12, Code of Criminal Procedure) . . . $5 per month;

(11) for certain financially able sex offenders as a condition of community supervision, the costs of treatment, specialized supervision, or rehabilitation (Art. 42.12, Code of Criminal Procedure) . . . all or part of the reasonable and necessary costs of the treatment, supervision, or rehabilitation as determined by the judge;

(12) fee for failure to appear for trial in a justice or municipal court if a jury trial is not waived (Art. 45.026, Code of Criminal Procedure) . . . costs incurred for impaneling the jury;

(13) costs of certain testing, assessments, or programs during a deferral period (Art. 45.051, Code of Criminal Procedure) . . . amount ordered;

(14) special expense on dismissal of certain misdemeanor complaints (Art. 45.051, Code of Criminal Procedure) . . . not to exceed amount of fine assessed;

(15) an additional fee:

(A) for a copy of the defendant's driving record to be requested from the Department of Public Safety by the judge (Art. 45.0511(c-1), Code of Criminal Procedure) . . . $10;

(B) as an administrative fee for requesting a driving safety course or a course under the motorcycle operator training and safety program for certain traffic offenses to cover the cost of administering the article (Art. 45.0511(f)(1), Code of Criminal Procedure) . . . not to exceed $10; or

(C) [~~(B)~~] for requesting a driving safety course or a course under the motorcycle operator training and safety program before the final disposition of the case (Art. 45.0511(f)(2), Code of Criminal Procedure) . . . not to exceed the maximum amount of the fine for the offense committed by the defendant;

(16) a request fee for teen court program (Art. 45.052, Code of Criminal Procedure) . . . not to exceed $10;

(17) a fee to cover costs of required duties of teen court (Art. 45.052, Code of Criminal Procedure) . . . $10;

(18) a mileage fee for officer performing certain services (Art. 102.001, Code of Criminal Procedure) . . . $0.15 per mile;

(19) certified mailing of notice of hearing date (Art. 102.006, Code of Criminal Procedure) . . . $1, plus postage;

(20) certified mailing of certified copies of an order of expunction (Art. 102.006, Code of Criminal Procedure) . . . $2, plus postage;

(20-a) a fee to defray the cost of notifying state agencies of orders of expungement (Art. 45.0216, Code of Criminal Procedure) . . . $30 per application;

(20-b) a fee to defray the cost of notifying state agencies of orders of expunction (Art. 45.055, Code of Criminal Procedure) . . . $30 per application;

[~~(20-c) a fee to defray the cost of notifying state agencies of orders of expungement (Sec. 106.12, Alcoholic Beverage Code) . . . $30 per application;~~

[~~(20-d) a fee to defray the cost of notifying state agencies of orders of expungement (Sec. 161.255, Health and Safety Code) . . . $30 per application;~~]

(21) sight orders:

(A) if the face amount of the check or sight order does not exceed $10 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed $10;

(B) if the face amount of the check or sight order is greater than $10 but does not exceed $100 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed $15;

(C) if the face amount of the check or sight order is greater than $100 but does not exceed $300 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed $30;

(D) if the face amount of the check or sight order is greater than $300 but does not exceed $500 (Art. 102.007, Code of

Criminal Procedure) . . . not to exceed $50; and

(E) if the face amount of the check or sight order is greater than $500 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed $75;

(22) fees for a pretrial intervention program (Art. 102.012, Code of Criminal Procedure) . . . not to exceed $60 a month plus expenses;

(23) parking fee violations for child safety fund in municipalities with populations:

(A) greater than 850,000 (Art. 102.014, Code of Criminal Procedure) . . . not less than $2 and not to exceed $5; and

(B) less than 850,000 (Art. 102.014, Code of Criminal Procedure) . . . not to exceed $5;

(24) an administrative fee for collection of fines, fees, restitution, or other costs (Art. 102.072, Code of Criminal Procedure) . . . not to exceed $2 for each transaction; and

(25) a collection fee, if authorized by the commissioners court of a county or the governing body of a municipality, for certain debts and accounts receivable, including unpaid fines, fees, court costs, forfeited bonds, and restitution ordered paid (Art. 103.0031, Code of Criminal Procedure) . . . 30 percent of an amount more than 60 days past due.

Sec. 103.0211. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: GOVERNMENT CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Government Code if ordered by the court or otherwise required:

(1) [~~(25)~~] a court reporter fee when testimony is taken:

(A) in a criminal court in Dallas County (Sec. 25.0593, Government Code) . . . $3;

(B) in a county criminal court of appeals in Dallas County (Sec. 25.0594, Government Code) . . . $3;

(C) in a county court at law in McLennan County (Sec. 25.1572, Government Code) . . . $3; and

(D) in a county criminal court in Tarrant County (Sec. 25.2223, Government Code) . . . $3;

(2) a court reporter service fee if the courts have official court reporters (Sec. 51.601, Government Code) . . . $15;

(3) [~~(26)~~] a speedy trial filing fee in El Paso County (Sec. 54.745, Government Code) . . . $100;

(4) [~~(27)~~] costs for use of magistrate in Brazos County (Sec. 54.1116, Government Code) . . . not to exceed $50;

(5) the costs of a criminal magistrate if the court determines that the nonprevailing party is able to defray the costs:

(A) in Bexar County (Sec. 54.913, Government Code) . . . magistrate's fees;

(B) in Dallas County (Sec. 54.313, Government Code) . . . magistrate's fees;

(C) in Lubbock County (Sec. 54.883, Government Code) . . . magistrate's fees;

(D) in Tarrant County (Sec. 54.663, Government Code) . . . magistrate's fees;

(E) in Travis County (Sec. 54.983, Government Code) . . . magistrate's fees; and

(F) in Williamson County (Sec. 54.958, Government Code) . . . expense of the magistrate;

(6) [~~(28)~~] an administrative fee for participation in certain community supervision programs (Sec. 76.015, Government Code) . . . not less than $25 and not more than $40 per month; and

(7) fee paid on filing a petition for an order of nondisclosure of criminal history record information in certain cases (Sec. 411.081, Government Code) . . . $28.

Sec. 103.0212. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: FAMILY CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Family Code if ordered by the court or otherwise required:

(1) [~~(29)~~] in family matters:

(A) issuing writ of withholding (Sec. 8.262, Family Code) . . . $15;

(B) filing copy of writ of withholding to subsequent employer (Sec. 8.267, Family Code) . . . $15;

(C) issuing and delivering modified writ of withholding or notice of termination (Sec. 8.302, Family Code) . . . $15;

(D) issuing and delivering notice of termination of withholding (Sec. 8.303, Family Code) . . . $15;

(E) issuance of change of name certificate (Sec. 45.106, Family Code) . . . $10;

(F) protective order fee (Sec. 81.003, Family

Code) . . . $16;

(G) filing suit requesting adoption of child (Sec. 108.006, Family Code) . . . $15;

(H) filing fees for suits affecting parent-child relationship (Sec. 110.002, Family Code):

(i) suit or motion for modification (Sec. 110.002, Family Code) . . . $15;

(ii) motion for enforcement (Sec. 110.002, Family Code) . . . $15;

(iii) notice of application for judicial writ of withholding (Sec. 110.002, Family Code) . . . $15;

(iv) motion to transfer (Sec. 110.002, Family Code) . . . $15;

(v) petition for license suspension (Sec. 110.002, Family Code) . . . $15;

(vi) motion to revoke a stay of license suspension (Sec. 110.002, Family Code) . . . $15; and

(vii) motion for contempt (Sec. 110.002, Family Code) . . . $15;

(I) order or writ of income withholding to be delivered to employer (Sec. 110.004, Family Code) . . . not to exceed $15;

(J) filing fee for transferred case (Sec. 110.005, Family Code) . . . $45;

(K) filing a writ of withholding (Sec. 158.319, Family Code) . . . $15;

(L) filing a request for modified writ of

withholding or notice of termination (Sec. 158.403, Family Code) . . . not to exceed $15;

(M) filing an administrative writ to employer (Sec. 158.503, Family Code) . . . not to exceed $15; and

(N) genetic testing fees in relation to a child born to a gestational mother (Sec. 160.762, Family Code) . . . as assessed by the court; and

(2) [~~(30)~~] in juvenile court:

(A) fee schedule for deferred prosecution services (Sec. 53.03, Family Code) . . . maximum fee of $15 a month;

(B) a teen court administration fee (Sec. 54.032, Family Code) . . . not to exceed $10;

(C) court costs for juvenile probation diversion fund (Sec. 54.0411, Family Code) . . . $20;

(D) a juvenile delinquency prevention fee (Sec. 54.0461, Family Code) . . . $5; and

(E) a court fee for child's probationary period (Sec. 54.061, Family Code) . . . not to exceed $15 a month. [~~;~~]

Sec. 103.0213. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: TRANSPORTATION CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Transportation Code if ordered by the court or otherwise required:

(1) [~~(31) a court reporter service fee if the courts have official court reporters (Sec. 51.601, Government Code) . . . $15;~~

[~~(32)~~] administrative fee on dismissal of charge of

driving with an expired motor vehicle registration (Sec. 502.407, Transportation Code) . . . not to exceed $10;

(2) [~~(33)~~] administrative fee on dismissal of charge of driving with an expired driver's license (Sec. 521.026, Transportation Code) . . . not to exceed $10;

(3) [~~(34)~~] administrative fee on remediation of charge of driving with an expired inspection certificate (Sec. 548.605, Transportation Code) . . . not to exceed $10;

(4) [~~(35)~~] administrative fee for failure to appear for a complaint or citation on certain offenses (Sec. 706.006, Transportation Code) . . . $30 for each violation; and

(5) [~~(36)~~] administrative fee for failure to pay or satisfy certain judgments (Sec. 706.006, Transportation Code) . . . $30. [~~;~~]

Sec. 103.0214. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: HEALTH AND SAFETY CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Health and Safety Code if ordered by the court or otherwise required:

(1) a fee to defray the cost of notifying state agencies of orders of expungement (Sec. 161.255, Health and Safety Code) . . . $30 per application; and

(2) [~~(37) fee paid on filing a petition for an order of nondisclosure of criminal history record information in certain cases (Sec. 411.081, Government Code) . . . $28;~~

[~~(38)~~] on a finding that an animal's owner has cruelly treated the animal, court costs including:

(A) investigation (Sec. 821.023, Health and Safety Code) . . . actual costs;

(B) expert witnesses (Sec. 821.023, Health and Safety Code) . . . actual costs;

(C) housing and caring for the animal during its impoundment (Sec. 821.023, Health and Safety Code) . . . actual costs;

(D) conducting any public sale ordered by the court (Sec. 821.023, Health and Safety Code) . . . actual costs; and

(E) humanely destroying the animal if destruction is ordered by the court (Sec. 821.023, Health and Safety Code) . . . actual costs[~~;~~

[~~(39) the costs of a criminal magistrate if the court determines that the nonprevailing party is able to defray the costs:~~

[~~(A) in Bexar County (Sec. 54.913, Government Code) . . . magistrate's fees;~~

[~~(B) in Dallas County (Sec. 54.313, Government Code) . . . magistrate's fees;~~

[~~(C) in Lubbock County (Sec. 54.883, Government Code) . . . magistrate's fees;~~

[~~(D) in Tarrant County (Sec. 54.663, Government Code) . . . magistrate's fees;~~

[~~(E) in Travis County (Sec. 54.983, Government Code) . . . magistrate's fees; and~~

[~~(F) in Williamson County (Sec. 54.958,~~

~~Government Code) . . . expense of the magistrate; and~~

[~~(40) a collection fee, if authorized by the commissioners court of a county or the governing body of a municipality, for certain debts and accounts receivable, including unpaid fines, fees, court costs, forfeited bonds, and restitution ordered paid (Art. 103.0031, Code of Criminal Procedure) . . . 30 percent of an amount more than 60 days past due~~].

Sec. 103.0215. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: ALCOHOLIC BEVERAGE CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay a fee under Section 106.12, Alcoholic Beverage Code, of $30 per application to defray the cost of notifying state agencies of orders of expungement.

Sec. 103.022. MISCELLANEOUS FEES AND COSTS: BUSINESS ORGANIZATIONS CODE. A reasonable appraiser's fee [~~The following fees and costs~~] shall be paid or collected as court costs under Section 10.365, Business Organizations Code, for determining the fair value of ownership interests of owners who have perfected their rights.

Sec. 103.023. MISCELLANEOUS FEES AND COSTS: CIVIL PRACTICE AND REMEDIES CODE. Fees and costs shall be paid or collected under the Civil Practice and Remedies Code as follows:

(1) fee for use of an interpreter in civil cases (Sec. 21.051, Civil Practice and Remedies Code) . . . $3;

(2) fee for custodian of a record compelled by a court to produce or certify the record (Sec. 22.004, Civil Practice and Remedies Code) . . . $1;

(3) cost for use of certified copy of the record of names of all trustees appointed by any state organization of a religious congregation in this state (Sec. 126.012, Civil Practice and Remedies Code) . . . $1.50; and

(4) a witness's fee for one day to be paid by the party who subpoenas the witness (Sec. 22.001, Civil Practice and Remedies Code) . . . $10.

Sec. 103.024. MISCELLANEOUS FEES AND COSTS: CODE OF CRIMINAL PROCEDURE. Fees and costs shall be paid or collected under the Code of Criminal Procedure as follows:

(1) [~~(4)~~] filing of a restitution lien (Art. 42.22, Code of Criminal Procedure) . . . $5;

(2) [~~(5)~~] issuance and service of a warrant of arrest for certain offenses if prescribed by the municipality (Art. 45.203, Code of Criminal Procedure) . . . not to exceed $25; and

(3) a fee for each agency or organization designated by a registered sex offender for receipt of a copy of an order making the registration nonpublic (Sec. 62.353, Code of Criminal Procedure) . . . $20.

Sec. 103.025. MISCELLANEOUS FEES AND COSTS: EDUCATION CODE. Each party in a case between a juvenile board and a school district that fail to agree on a memorandum of understanding related to the juvenile justice alternative education program shall pay under Section 37.011, Education Code, its pro rata share of the costs of arbitration.

Sec. 103.026. MISCELLANEOUS FEES AND COSTS: FAMILY CODE. Fees and costs shall be paid or collected under the Family Code as

follows:

(1) [~~(6) filing a certified copy of a judicial finding of fact and conclusion of law if charged by the secretary of state (Sec. 51.905, Government Code) . . . $15;~~

[~~(7)~~] costs of determining and sending information concerning the identity of the court with continuing, exclusive jurisdiction if charged by the bureau of vital statistics (Sec. 108.006, Family Code) . . . reasonable fee;

(2) [~~(8)~~] initial operations fee paid to domestic relations office on filing of a suit affecting the parent-child relationship, if authorized by the administering entity (Sec. 203.005, Family Code) . . . not to exceed $15;

(3) [~~(9)~~] initial child support service fee paid to domestic relations office in certain counties on filing of a suit affecting the parent-child relationship, if authorized by the administering entity (Sec. 203.005, Family Code) . . . not to exceed $36;

(4) [~~(10)~~] service fee for services of a domestic relations office, if authorized by the administering entity (Sec. 203.005, Family Code) . . . not to exceed $3 per month;

(5) fee to reimburse a domestic relations office for a fee paid for filing an administrative writ of withholding (Secs. 158.503 and 203.005, Family Code) . . . the amount of the fee paid;

(6) [~~(11)~~] fee from a Title IV-D agency for each item of process to each individual on whom service is required, including service by certified or registered mail (Sec. 231.202, Family Code) . . . the amount that a sheriff or constable may charge

for serving process under Section 118.131, Local Government Code; and

(7) a fee for mailing an order vacating or staying an order suspending a license to the appropriate licensing authority (Sec. 232.013, Family Code) . . . $5 for each order mailed.

Sec. 103.027. MISCELLANEOUS FEES AND COSTS: GOVERNMENT CODE. Fees and costs shall be paid or collected under the Government Code as follows:

(1) filing a certified copy of a judicial finding of fact and conclusion of law if charged by the secretary of state (Sec. 51.905, Government Code) . . . $15;

(2) cost paid by each surety posting the bail bond for an offense other than a misdemeanor punishable by fine only under Chapter 17, Code of Criminal Procedure, for the felony prosecutor supplement fund and the fair defense account (Sec. 41.258, Government Code) . . . $15, provided the cost does not exceed $30 for all bail bonds posted at that time for an individual and the cost is not required on the posting of a personal or cash bond;

(3) to participate in a court proceeding in this state, a nonresident attorney fee for civil legal services to the indigent (Sec. 82.0361, Government Code) . . . $250 except as waived or reduced under supreme court rules for representing an indigent person;

(4) on a party's appeal of a final decision in a contested case, the cost of preparing the original or a certified copy of the record of the agency proceeding, if required by the agency's rule, as a court cost (Sec. 2001.177, Government Code)

. . . as assessed by the court, all or part of the cost of preparation;

(5) compensation to a referee in juvenile court in Wichita County taxed as costs if the judge determines the parties are able to pay the costs (Sec. 54.403, Government Code) . . . as determined by the judge; and

(6) the expense of preserving the record as a court cost in Brazos County if imposed on a party by the referring court or magistrate (Sec. 54.1111, Government Code) . . . actual cost.

Sec. 103.028. MISCELLANEOUS FEES AND COSTS: HUMAN RESOURCES CODE. Fees and costs shall be paid or collected under the Human Resources Code as follows:

(1) [~~(12)~~] certain transactions with respect to a suit for spousal support or a suit affecting the parent-child relationship in Harris County, if authorized by the county commissioners court (Sec. 152.1074, Human Resources Code) . . . not to exceed $2 per transaction; and

(2) [~~(13)~~] child support service fee in Smith County if court allows assessment by child support office (Sec. 152.2183, Human Resources Code) . . . not to exceed $2.50 a month. [~~;~~]

Sec. 103.029. MISCELLANEOUS FEES AND COSTS: HEALTH AND SAFETY CODE. Fees and costs shall be paid or collected under the Health and Safety Code as follows:

(1) a program fee for a drug court program established under Section 469.002, Health and Safety Code (Sec. 469.004, Health and Safety Code) . . . not to exceed $1,000; and

(2) a urinalysis testing and counseling fee (Sec.

469.004, Health and Safety Code) . . . the amount necessary to cover the costs of testing and counseling.

Sec. 103.030. MISCELLANEOUS FEES AND COSTS: LOCAL GOVERNMENT CODE. Fees and costs shall be paid or collected under the Local Government Code as follows:

(1) [~~(14)~~] services by the offices of the sheriff and constables (Sec. 118.131, Local Government Code) . . . amount set by county commissioners court;

[~~(15) cost paid by each surety posting the bail bond for an offense other than a misdemeanor punishable by fine only under Chapter 17, Code of Criminal Procedure, for the felony prosecutor supplement fund and the fair defense account (Sec. 41.258, Government Code) . . . $15, provided the cost does not exceed $30 for all bail bonds posted at that time for an individual and the cost is not required on the posting of a personal or cash bond;~~

[~~(16) appraiser's fee as court costs for determining the fair value of ownership interests of owners who have perfected their rights (Sec. 10.365, Business Organizations Code) . . . a reasonable fee;~~

[~~(16-a) an appraiser's fee as court costs for determining the fair value of the shares of the shareholders entitled to payment for their shares in a real estate investment trust (Sec. 25.20, Art. 6138A, Vernon's Texas Civil Statutes) . . . a reasonable fee;~~

[~~(16-b) an appraiser's fee as court costs for determining the fair value of the shares of the shareholders~~

~~entitled to payment for their shares by the existing, surviving, or new corporation (Art. 5.12, Texas Business Corporation Act) . . . a reasonable fee;~~

[~~(17) to participate in a court proceeding in this state, a nonresident attorney fee for civil legal services to the indigent (Sec. 82.0361, Government Code) . . . $250 except as waived or reduced under supreme court rules for representing an indigent person;~~

[~~(18) costs of investigation, reasonable attorney's fees, and reasonable expert witness fees in a civil suit or a criminal prosecution for recovery of the value of any fish, shellfish, reptile, amphibian, bird, or animal (Sec. 12.308, Parks and Wildlife Code) . . . actual costs.~~

[~~(18) a witness's fee for one day to be paid by the party who subpoenas the witness (Sec. 22.001, Civil Practice and Remedies Code) . . . $10;~~

[~~(19) on a party's appeal of a final decision in a contested case, the cost of preparing the original or a certified copy of the record of the agency proceeding, if required by the agency's rule, as a court cost (Sec. 2001.177, Government Code) . . . as assessed by the court, all or part of the cost of preparation;~~

[~~(20) the costs of arbitration in cases between a juvenile board and a school district that fail to agree on a memorandum of understanding related to the juvenile justice alternative education program (Sec. 37.011, Education Code) . . . each party its pro rata share of the costs;~~

[~~(21) compensation to a referee in juvenile court in Wichita County taxed as costs if the judge determines the parties are able to pay the costs (Sec. 54.403, Government Code) . . . as determined by the judge;~~

[~~(22) the expense of preserving the record as a court cost in Brazos County if imposed on a party by the referring court or magistrate (Sec. 54.1111, Government Code) . . . actual cost;~~]

(2) [~~(23)~~] a filing fee or recording fee for each page of a legal paper presented for filing or recording that fails to meet certain requirements regarding paper size, weight, substance, headings, legibility, the presence of typed or printed names under each signature, and number and size of riders or attachments (Sec. 191.007, Local Government Code) . . . twice the regular filing fee or recording fee provided by statute for that page, rider, or attachment;

(3) [~~(24)~~] a processing fee as authorized by the commissioners court for the payment by credit card of a fee, court cost, or other charge processed by a county or precinct officer (Secs. 132.002 and 132.003, Local Government Code) . . . an amount reasonably related to the expense incurred by the county or precinct officer but not to exceed five percent of the amount of the fee, court cost, or other charge being paid;

(4) [~~(25)~~] a processing fee as authorized by the governing body of the municipality for the payment by credit card of a fee, court cost, or other charge processed by a municipal official (Secs. 132.002 and 132.003, Local Government Code) . . . an amount reasonably related to the expense incurred by the municipal

official but not to exceed five percent of the amount of the fee, court cost, or other charge being paid;

(5) [~~(26)~~] a handling fee, if authorized by the commissioners court under Section 132.002, Local Government Code, for electronically processing the payment of a fee, fine, court cost, or other charge (Secs. 132.002 and 132.003, Local Government Code):

(A) charged at a flat rate that does not exceed $5 for each payment transaction; or

(B) charged at a rate reasonably related to the expense incurred in processing a payment and that does not exceed five percent of the amount of the fee, court cost, or other charge being paid;

(6) [~~(27)~~] a fee, if authorized by the commissioners court, collected by a county or precinct officer on behalf of the county from a person making payment by credit card of a fee, court cost, or other charge (Sec. 132.003, Local Government Code) . . . an amount equal to the amount of any transaction fee charged to the county by a vendor providing services in connection with payments made by credit card. [~~;~~]

Sec. 103.031. MISCELLANEOUS FEES AND COSTS: PARKS AND WILDLIFE CODE. The actual costs of investigation, reasonable attorney's fees, and reasonable expert witness fees in a civil suit or a criminal prosecution for recovery of the value of any fish, shellfish, reptile, amphibian, bird, or animal may be collected under Section 12.308, Parks and Wildlife Code.

Sec. 103.032. MISCELLANEOUS FEES AND COSTS: TEXAS BUSINESS

CORPORATION ACT. A reasonable appraiser's fee may be collected under Article 5.12, Texas Business Corporation Act, as court costs for determining the fair value of the shares of the shareholders entitled to payment for their shares by the existing, surviving, or new corporation.

Sec. 103.033. MISCELLANEOUS FEES AND COSTS: VERNON'S TEXAS CIVIL STATUTES. Fees and costs shall be paid or collected under Vernon's Texas Civil Statutes as follows:

(1) an appraiser's fee as court costs for determining the fair value of the shares of the shareholders entitled to payment for their shares in a real estate investment trust (Sec. 25.20, Art. 6138A, Vernon's Texas Civil Statutes) . . . a reasonable fee; and

(2) [~~(28)~~] a fee for sale of securities under an offering that has not been registered, if the transaction or securities are not exempt (Art. 581-35-2, Vernon's Texas Civil Statutes) . . . as set by the securities commissioner or court, but not to exceed six times the amount that would have been paid if the issuer had filed an application to register the securities and paid the fee prescribed based on the amount of sales made in this state within the prior three years, plus interest on that amount from the date of the first sale made in this state until the date the fee is paid[~~; and~~

[~~(29) a fee for mailing an order vacating or staying an order suspending a license to the appropriate licensing authority (Sec. 232.013, Family Code) . . . $5 for each order mailed~~].

SECTION 7.117. Subchapter I, Chapter 102, Government Code, 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.

(d) The commission may not control or prohibit outdoor burning of waste consisting of trees, brush, grass, leaves, branch trimmings, or other plant growth if:

(1) the person burning the waste is doing so at a site:

(A) designated for consolidated burning of waste generated from specific residential properties;

(B) located in a county with a population of less than 50,000;

(C) located outside of a municipality; and

(D) supervised at the time of the burning by an employee of a fire department who is part of the fire protection personnel, as defined by Section 419.021, Government Code, of the department and is acting in the scope of the person's employment; and

(2) the waste was generated from a property for which the site is designated.

(e) A fire department employee who will supervise a burning under Subsection (d)(1)(D) shall notify the commission of each burning supervised by the employee, and the commission shall provide the employee with information on practical alternatives to burning.

SECTION 8.002. Section 382.133(d), Health and Safety Code, as added by Section 3.02, Chapter 281, Acts of the 79th Legislature, Regular Session, 2005, is repealed to conform to Section 1, Chapter 864, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 8.003. Section 614.0032(b), Health and Safety Code, as amended by Chapters 324 and 1269, Acts of the 79th Legislature,

Regular Session, 2005, is reenacted and amended to read as follows:

(b) The office shall:

(1) [~~,~~] with the special assistance of committee members appointed under Section 614.002(b)(1)[~~, shall~~]:

(A) [~~(1)~~] review examinations to determine the competency of defendants in criminal cases to stand trial and examinations to determine the fitness of children to proceed with respect to adjudications of delinquent conduct or conduct indicating a need for supervision; and

(B) [~~(2)~~] periodically report to the legislature and the court of criminal appeals findings made as a result of the review described by Paragraph (A); and

(2) [~~Subdivision (1)~~] approve and make generally available in electronic format a standard form for use by experts in reporting competency examination results under Chapter 46B, Code of Criminal Procedure.

ARTICLE 9. CHANGES RELATING TO INSURANCE CODE

SECTION 9.001. (a) Section 401.010(a), Insurance Code, is amended to conform to Section 2, Chapter 408, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) An accountant must audit the financial reports provided by an insurer or health maintenance organization for purposes of an audit under this subchapter. The accountant who audits the reports must conduct the audit in accordance with generally accepted auditing standards or with standards adopted by the Public Company Accounting Oversight Board, as applicable, and must consider the standards specified [~~other procedures described~~] in the Financial

Condition Examiner's Handbook adopted by the National Association of Insurance Commissioners or other analagous nationally recognized standards adopted by commissioner rule.

(b) Section 2, Chapter 408, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (b), Section 14, Article 1.15A, Insurance Code, is repealed.

SECTION 9.002. (a) Section 401.011(d), Insurance Code, is amended to conform to Section 1, Chapter 408, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(d) The commissioner may not accept an audited financial report prepared wholly or partly by an individual or firm who the commissioner finds:

(1) has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. Section 1961 et seq.), or a state or federal criminal offense involving dishonest conduct;

(2) has violated the insurance laws of this state with respect to a report filed under this subchapter; [~~or~~]

(3) has demonstrated a pattern or practice of failing to detect or disclose material information in reports filed under this subchapter; or

(4) has directly or indirectly entered into an agreement of indemnity or release of liability regarding an audit of an insurer.

(b) Section 1, Chapter 408, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (c), Section 12, Article 1.15A, Insurance Code, is repealed.

SECTION 9.003. Subchapters A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, and P, Chapter 442, Insurance Code, and Section 6.069, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 3A, Article 21.28, Insurance Code, are repealed to conform to the repeal of Article 21.28, Insurance Code, by Section 9, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 9.004. (a) The following changes are made to Title 1, Insurance Code, and Subtitle C, Title 4, Insurance Code, for organizational purposes:

(1) Chapter 21A, Insurance Code, is redesignated as Chapter 443, Subtitle C, Title 4, Insurance Code, and:

(A) Subchapter A in the redesignated chapter is redesignated as Subchapter A, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.001, 21A.002, 21A.003, 21A.004, 21A.005, 21A.006, 21A.007, 21A.008, 21A.009, 21A.010, 21A.011, 21A.012, 21A.013, 21A.0135, 21A.014, 21A.015, 21A.016, and 21A.017, are redesignated as Sections 443.001, 443.002, 443.003, 443.004, 443.005, 443.006, 443.007, 443.008, 443.009, 443.010, 443.011, 443.012, 443.013, 443.0135, 443.014, 443.015, 443.016, and 443.017, respectively;

(B) Subchapter B in the redesignated chapter is redesignated as Subchapter B, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.051 through 21A.059, are redesignated as Sections 443.051 through 443.059;

(C) Subchapter C in the redesignated chapter is redesignated as Subchapter C, Chapter 443, Insurance Code, and the

sections in the redesignated subchapter, Sections 21A.101 through 21A.105, are redesignated as Sections 443.101 through 443.105;

(D) Subchapter D in the redesignated chapter is redesignated as Subchapter D, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.151 through 21A.156, are redesignated as Sections 443.151 through 443.156;

(E) Subchapter E in the redesignated chapter is redesignated as Subchapter E, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.201 through 21A.213, are redesignated as Sections 443.201 through 443.213;

(F) Subchapter F in the redesignated chapter is redesignated as Subchapter F, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.251 through 21A.261, are redesignated as Sections 443.251 through 443.261;

(G) Subchapter G in the redesignated chapter is redesignated as Subchapter G, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.301 through 21A.304, are redesignated as Sections 443.301 through 443.304;

(H) Subchapter H in the redesignated chapter is redesignated as Subchapter H, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.351 through 21A.355, are redesignated as Sections 443.351 through 443.355; and

(I) Subchapter I in the redesignated chapter is redesignated as Subchapter I, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.401 and 21A.402, are redesignated as Sections 443.401 and 443.402, respectively; and

(2) Subchapter Q, Chapter 442, Insurance Code, is redesignated as Chapter 444, Insurance Code, the heading of Subchapter Q is amended to read as follows: "CHAPTER 444 [~~SUBCHAPTER Q~~]. AGENCY CONTRACTS WITH CERTAIN INSURERS", and Sections 442.801, 442.802, 442.803, and 442.804 in the redesignated subchapter are redesignated as Sections 444.001, 444.002, 444.003, and 444.004, respectively.

(b) Sections 21A.004(a)(4), (11), (14), (17), and (26), Insurance Code, redesignated as Sections 443.004(a)(4), (11), (14), (17), and (26), Insurance Code, respectively, by Subsection (a)(1)(A) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section and to the recodification and repeal of Articles 21.28-C and 21.28-D, Insurance Code, by Chapter 727, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(4) "Delinquency proceeding" means any proceeding instituted against an insurer for the purpose of liquidating, rehabilitating, or conserving the insurer, and any proceeding under Section 443.051 [~~21A.051~~].

(11) "Guaranty association" means any mechanism mandated by [~~Article 21.28-C or 21.28-D,~~] Chapter 462, 463, or 2602[~~,~~] or other laws of this state or a similar mechanism in another state that is created for the payment of claims or continuation of policy obligations of financially impaired or insolvent insurers.

(14) "Insurer" means any person that has done, purports to do, is doing, or is authorized to do the business of

insurance in this state, and is or has been subject to the authority of or to liquidation, rehabilitation, reorganization, supervision, or conservation by any insurance commissioner. For purposes of this chapter, any other persons included under Section 443.003 [~~21A.003~~] are insurers.

(17) "Party in interest" means the commissioner, a 10 percent or greater equity security holder in the insolvent insurer, any affected guaranty association, any nondomiciliary commissioner for a jurisdiction in which the insurer has outstanding claims liabilities, and any of the following parties that have filed a request for inclusion on the service list under Section 443.007 [~~21A.007~~]:

(A) an insurer that ceded to or assumed business from the insolvent insurer; and

(B) an equity shareholder, policyholder, third-party claimant, creditor, and any other person, including any indenture trustee, with a financial or regulatory interest in the receivership proceeding.

(26) "Secured claim" means any claim secured by an asset that is not a general asset. The term includes the right to set off as provided in Section 443.209 [~~21A.209~~]. The term does not include a claim arising from a constructive or resulting trust, a special deposit claim, or a claim based on mere possession.

(c) Sections 21A.005(e), (h), and (i), Insurance Code, redesignated as Sections 443.005(e), (h), and (i), Insurance Code, respectively, by Subsection (a)(1)(A) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of

this section to read as follows:

(e) If, on motion of any party, the receivership court finds that any action, as a matter of substantial justice, should be tried in a forum outside this state, the receivership court may enter an appropriate order to stay further proceedings on the action in this state. Except as to claims against the estate, nothing in this chapter deprives a party of any contractual right to pursue arbitration. A party in arbitration may bring a claim or counterclaim against the estate, but the claim or counterclaim is subject to Section 443.209 [~~21A.209~~].

(h) At any time after an order is entered pursuant to Section 443.051, 443.101, or 443.151 [~~21A.051, 21A.101, or 21A.151~~], the commissioner or receiver may transfer the case to the county of the principal office of the person proceeded against. In the event of transfer, the court in which the proceeding was commenced, upon application of the commissioner or receiver, shall direct its clerk to transmit the court's file to the clerk of the court to which the case is to be transferred. The proceeding, after transfer, shall be conducted in the same manner as if it had been commenced in the court to which the matter is transferred.

(i) A person may not intervene in any delinquency proceeding in this state for the purpose of seeking or obtaining payment of any judgment, lien, or other claim of any kind. The claims procedure set forth in this chapter constitutes the exclusive means for obtaining payment of claims from the receivership estate. This provision is not intended to affect the rights conferred on the guaranty associations by Section 443.008(1) [~~21A.008(1)~~].

(d) Section 21A.008(e), Insurance Code, redesignated as Section 443.008(e), Insurance Code, by Subsection (a)(1)(A) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(e) Notwithstanding Subsection (c), the commencement of a delinquency proceeding under this chapter does not operate as a stay of:

(1) regulatory actions not described by Subsection (c)(7) that are taken by the commissioners of nondomiciliary states, including the suspension of licenses;

(2) criminal proceedings;

(3) any act to perfect or to maintain or continue the perfection of an interest in property to the extent that the act is accomplished within any relation back period under applicable law;

(4) set off as permitted by Section 443.209 [~~21A.209~~];

(5) pursuit and enforcement of nonmonetary governmental claims, judgments, and proceedings;

(6) presentment of a negotiable instrument and the giving of notice and protesting dishonor of the instrument;

(7) enforcement of rights against single beneficiary trusts established pursuant to and in compliance with laws relating to credit for reinsurance;

(8) termination, liquidation, and netting of obligations under qualified financial contracts as provided for in Section 443.261 [~~21A.261~~];

(9) discharge by a guaranty association of statutory responsibilities under any law governing guaranty associations; or

(10) any of the following actions:

(A) an audit by a governmental unit to determine tax liability;

(B) the issuance to the insurer by a governmental unit of a notice of tax deficiency;

(C) a demand for tax returns; or

(D) the making of an assessment for any tax and issuance of a notice and demand for payment of the assessment.

(e) Section 21A.009(c), Insurance Code, redesignated as Section 443.009(c), Insurance Code, by Subsection (a)(1)(A) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(c) If applicable law, an order, or an agreement fixes a period for commencing or continuing a civil action in a court other than the receivership court on a claim against the insurer, and the period has not expired before the date of the initial filing of the petition in a delinquency proceeding, then the period does not expire until the later of:

(1) the end of the period, including any suspension of the period occurring on or after the filing of the initial petition in the delinquency proceeding; or

(2) 30 days after termination or expiration of the stay under Section 443.008 [~~21A.008~~] with respect to the claim.

(f) Section 21A.0135, Insurance Code, redesignated as Section 443.0135, Insurance Code, by Subsection (a)(1)(A) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

Sec. 443.0135 [~~21A.0135~~]. CONTRACTS FOR SPECIAL DEPUTIES. (a) The receiver shall use a competitive bidding process in the selection of any special deputies appointed under Section 443.102 or 443.154 [~~21A.102 or 21A.154~~]. The process must include procedures to promote the participation of historically underutilized businesses that have been certified by the Texas Building and Procurement Commission under Section 2161.061, Government Code.

(b) A proposal submitted in connection with a bid solicitation under Subsection (a) must describe the efforts that have been made to include historically underutilized businesses as subcontractors and the plan for using the historically underutilized businesses in the administration of the receivership estate. A special deputy appointed under Section 443.102 or 443.154 [~~21A.102 or 21A.154~~] shall make a good faith effort to implement the plan and shall report to the receiver the special deputy's efforts to identify and subcontract with historically underutilized businesses.

(g) Sections 21A.015(a), (c), and (i), Insurance Code, redesignated as Sections 443.015(a), (c), and (i), Insurance Code, respectively, by Subsection (a)(1)(A) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) The receiver may pay any expenses under contracts, leases, employment agreements, or other arrangements entered into by the insurer prior to receivership, as the receiver deems necessary for the purposes of this chapter. The receiver is not

required to pay any expenses that the receiver determines are not necessary, and may reject any contract pursuant to Section 443.013 [~~21A.013~~].

(c) The receiver shall submit to the receivership court an application pursuant to Section 443.007 [~~21A.007~~] to approve:

(1) the terms of compensation of each special deputy or contractor with respect to which the total amount of the compensation is reasonably expected by the receiver for the duration of the delinquency proceeding to exceed $250,000, or another amount established by the receivership court; and

(2) any other anticipated expense in excess of $25,000, or another amount established by the receivership court.

(i) All expenses of receivership shall be paid from the assets of the insurer, except as provided by this subsection. In the event that the property of the insurer does not contain sufficient cash or liquid assets to defray the expenses incurred, the commissioner may advance funds from the account established under Section 443.304(c) [~~21A.304(c)~~]. Any amounts advanced shall be repaid to the account out of the first available money of the insurer.

(h) Sections 21A.051(a), (b), and (i), Insurance Code, redesignated as Sections 443.051(a), (b), and (i), Insurance Code, respectively, by Subsection (a)(1)(B) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) The commissioner may file in a district court of Travis County a petition with respect to an insurer domiciled in this

state, an unauthorized insurer, or, pursuant to Section 443.401 [~~21A.401~~], a foreign insurer:

(1) alleging that grounds exist that would justify a court order for a formal delinquency proceeding against the insurer under this chapter;

(2) alleging that the interests of policyholders, creditors, or the public will be endangered by delay; and

(3) setting forth the contents of a seizure order deemed to be necessary by the commissioner.

(b) Upon a filing under Subsection (a), the receivership court may issue, ex parte and without notice or hearing, the requested seizure order directing the commissioner to take possession and control of all or a part of the property, books, accounts, documents, and other records of an insurer, and of the premises occupied by it for transaction of its business, and until further order of the receivership court, enjoining the insurer and its officers, managers, agents, and employees from disposition of its property and from the transaction of its business except with the written consent of the commissioner. Any person having possession or control of and refusing to deliver any of the books, records, or assets of a person against whom a seizure order has been issued commits an offense. An offense under this subsection is punishable in the manner described by Section 443.010(e) [~~21A.010(e)~~].

(i) In all proceedings and judicial reviews under this section, all records of the insurer, department files, court records and papers, and other documents, so far as they pertain to

or are a part of the record of the proceedings, are confidential, and all papers filed with the clerk of the court shall be held by the clerk in a confidential file as permitted by law, except to the extent necessary to obtain compliance with any order entered in connection with the proceedings, unless and until:

(1) the court, after hearing argument in chambers, orders otherwise;

(2) the insurer requests that the matter be made public; or

(3) the commissioner applies for an order under Section 443.057 [~~21A.057~~].

(i) Section 21A.052(b), Insurance Code, redesignated as Section 443.052(b), Insurance Code, by Subsection (a)(1)(B) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) The petition must state the grounds upon which the proceeding is based and the relief requested and may include a prayer for restraining orders and injunctive relief as described in Section 443.008 [~~21A.008~~]. On the filing of the petition or order, a copy shall be forwarded by first class mail or electronic communication as permitted by the receivership court to the insurance regulatory officials and guaranty associations in states in which the insurer did business.

(j) Section 21A.056(a), Insurance Code, redesignated as Section 443.056(a), Insurance Code, by Subsection (a)(1)(B) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) The commissioner, rehabilitator, or liquidator may share documents, materials, or other information in the possession, custody, or control of the department without regard to the confidentiality of those documents, materials, or information, pertaining to an insurer that is the subject of a proceeding under this chapter with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, with state, federal, and international law enforcement authorities, with an auditor appointed by the receivership court in accordance with Section 443.355 [~~21A.355~~], and, pursuant to Section 443.105 [~~21A.105~~], with representatives of guaranty associations that may have statutory obligations as a result of the insolvency of the insurer, provided that the recipient agrees to maintain the confidentiality, if any, of the documents, material, or other information. Nothing in this section limits the power of the commissioner to disclose information under other applicable law.

(k) Section 21A.057, Insurance Code, redesignated as Section 443.057, Insurance Code, by Subsection (a)(1)(B) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section and to the recodification and repeal of Articles 1.15, 1.15A, 1.16, 1.32, and 21.28-A, Insurance Code, by Chapter 727, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 443.057 [~~21A.057~~]. GROUNDS FOR CONSERVATION, REHABILITATION, OR LIQUIDATION. The commissioner may file with a court in this state a petition with respect to an insurer domiciled

in this state or an unauthorized insurer for an order of rehabilitation or liquidation on any one or more of the following grounds:

(1) the insurer is impaired;

(2) the insurer is insolvent;

(3) the insurer is about to become insolvent, with "about to become insolvent" being defined as reasonably anticipated that the insurer will not have liquid assets to meet its next 90 days' current obligations;

(4) the insurer has neglected or refused to comply with an order of the commissioner to make good within the time prescribed by law any deficiency, whenever its capital and minimum required surplus, if a stock company, or its surplus, if a company other than stock, has become impaired;

(5) the insurer, its parent company, its subsidiaries, or its affiliates have converted, wasted, or concealed property of the insurer or have otherwise improperly disposed of, dissipated, used, released, transferred, sold, assigned, hypothecated, or removed the property of the insurer;

(6) the insurer is in a condition such that it could not meet the requirements for organization and authorization as required by law, except as to the amount of the original surplus required of a stock company under Title 6, and except as to the amount of the surplus required of a company other than a stock company in excess of the minimum surplus required to be maintained;

(7) the insurer, its parent company, its subsidiaries, or its affiliates have concealed, removed, altered, destroyed, or

failed to establish and maintain books, records, documents, accounts, vouchers, and other pertinent material adequate for the determination of the financial condition of the insurer by examination under Chapter 401 [~~Article 1.15, 1.15A, or 1.16~~] or has failed to properly administer claims or maintain claims records that are adequate for the determination of its outstanding claims liability;

(8) at any time after the issuance of an order under Section 404.003 or Chapter 441 [~~Article 1.32 or 21.28-A~~], or at the time of instituting any proceeding under this chapter, it appears to the commissioner that, upon good cause shown, it would not be in the best interest of the policyholders, creditors, or the public to proceed with the conduct of the business of the insurer;

(9) the insurer is in a condition such that the further transaction of business would be hazardous financially, according to Subchapter A, Chapter 404, [~~Article 1.32~~] or otherwise, to its policyholders, creditors, or the public;

(10) there is reasonable cause to believe that there has been embezzlement from the insurer, wrongful sequestration or diversion of the insurer's property, forgery or fraud affecting the insurer, or other illegal conduct in, by, or with respect to the insurer that, if established, would endanger assets in an amount threatening the solvency of the insurer;

(11) control of the insurer is in a person who is:

(A) dishonest or untrustworthy; or

(B) so lacking in insurance company managerial experience or capability as to be hazardous to policyholders,

creditors, or the public;

(12) any person who in fact has executive authority in the insurer, whether an officer, manager, general agent, director, trustee, employee, shareholder, or other person, has refused to be examined under oath by the commissioner concerning the insurer's affairs, whether in this state or elsewhere or if examined under oath, refuses to divulge pertinent information reasonably known to the person; and after reasonable notice of the fact, the insurer has failed promptly and effectively to terminate the employment and status of the person and all the person's influence on management;

(13) after demand by the commissioner under Chapter 401 [~~Article 1.15, 1.15A, or 1.16~~] or under this chapter, the insurer has failed promptly to make available for examination any of its own property, books, accounts, documents, or other records, or those of any subsidiary or related company within the control of the insurer or of any person having executive authority in the insurer, so far as they pertain to the insurer;

(14) without first obtaining the written consent of the commissioner, the insurer has transferred, or attempted to transfer, in a manner contrary to Chapter 823 or any law relating to bulk reinsurance, substantially its entire property or business, or has entered into any transaction the effect of which is to merge, consolidate, or reinsure substantially its entire property or business in or with the property or business of any other person;

(15) the insurer or its property has been or is the subject of an application for the appointment of a receiver, trustee, custodian, conservator, sequestrator, or similar

fiduciary of the insurer or its property otherwise than as authorized under the insurance laws of this state;

(16) within the previous five years, the insurer has wilfully and continuously violated its charter, articles of incorporation or bylaws, any insurance law of this state, or any valid order of the commissioner;

(17) the insurer has failed to pay within 60 days after the due date any obligation to any state or political subdivision of a state or any judgment entered in any state, if the court in which the judgment was entered had jurisdiction over the subject matter, except that nonpayment is not a ground until 60 days after any good faith effort by the insurer to contest the obligation has been terminated, whether it is before the commissioner or in the courts;

(18) the insurer has systematically engaged in the practice of reaching settlements with and obtaining releases from claimants, and then unreasonably delayed payment, failed to pay the agreed-upon settlements, or systematically attempted to compromise with claimants or other creditors on the ground that it is financially unable to pay its claims or obligations in full;

(19) the insurer has failed to file its annual report or other financial report required by statute within the time allowed by law;

(20) the board of directors or the holders of a majority of the shares entitled to vote, or a majority of those individuals entitled to the control of those entities specified by Section 443.003 [~~21A.003~~], request or consent to rehabilitation or liquidation under this chapter;

(21) the insurer does not comply with its domiciliary state's requirements for issuance to it of a certificate of authority, or its certificate of authority has been revoked by its state of domicile; or

(22) when authorized by department rules.

(l) Section 21A.058, Insurance Code, redesignated as Section 443.058, Insurance Code, by Subsection (a)(1)(B) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

Sec. 443.058 [~~21A.058~~]. ENTRY OF ORDER. If the commissioner establishes any of the grounds provided in Section 443.057 [~~21A.057~~], the receivership court shall grant the petition and issue the order of rehabilitation or liquidation requested in the petition.

(m) Section 21A.101(b), Insurance Code, redesignated as Section 443.101(b), Insurance Code, by Subsection (a)(1)(C) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) Any order issued under this section must require accountings to the receivership court by the rehabilitator. Accountings must be at the intervals specified by the receivership court in its order, but not less frequently than semi-annually. Each accounting must include a report concerning the rehabilitator's opinion as to the likelihood that a plan under Section 443.103 [~~21A.103~~] will be prepared by the rehabilitator and the timetable for doing so.

(n) Section 21A.102(a), Insurance Code, redesignated as

Section 443.102(a), Insurance Code, by Subsection (a)(1)(C) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) The rehabilitator may appoint one or more special deputies. A special deputy serves at the pleasure of the rehabilitator and has all the powers and responsibilities of the rehabilitator granted under this section, unless specifically limited by the rehabilitator. The rehabilitator may employ or contract with legal counsel, actuaries, accountants, appraisers, consultants, clerks, assistants, and other personnel as may be deemed necessary. Any special deputy or any other person with whom the rehabilitator contracts under this subsection may act on behalf of the commissioner only in the commissioner's capacity as rehabilitator. Any person with whom the rehabilitator contracts under this subsection is not considered an agent of the state, and any contract entered into under this subsection does not constitute a contract with the state. The provisions of any law governing the procurement of goods and services by the state does not apply to any contract entered into by the commissioner as rehabilitator. The compensation of any special deputies, employees, and contractors and all expenses of taking possession of the insurer and of conducting the rehabilitation shall be fixed by the rehabilitator, with the approval of the receivership court in accordance with Section 443.015 [~~21A.015~~], and shall be paid out of the property of the insurer. The persons appointed under this subsection serve at the pleasure of the rehabilitator. If the rehabilitator deems it necessary to the proper performance of the rehabilitator's duties

under this chapter, the rehabilitator may appoint an advisory committee of policyholders, claimants, or other creditors, including guaranty associations. The advisory committee serves at the pleasure of the rehabilitator and without compensation or reimbursement for expenses. The rehabilitator or the receivership court in rehabilitation proceedings conducted under this chapter may not appoint another committee of any nature.

(o) Section 21A.104, Insurance Code, redesignated as Section 443.104, Insurance Code, by Subsection (a)(1)(C) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

Sec. 443.104 [~~21A.104~~]. TERMINATION OF REHABILITATION. (a) When the rehabilitator believes further attempts to rehabilitate an insurer would substantially increase the risk of loss to creditors, policyholders, or the public or would be futile, the rehabilitator may move for an order of liquidation. In accordance with Section 443.105 [~~21A.105~~], the rehabilitator or the rehabilitator's designated representative shall coordinate with the guaranty associations that may become liable as a result of the liquidation and any national association of guaranty associations to plan for transition to liquidation.

(b) Because the protection of the interests of insureds, claimants, and the public requires the timely performance of all insurance policy obligations, if the payment of policy obligations is suspended in substantial part for a period of six months at any time after the appointment of the rehabilitator and the rehabilitator has not filed an application for approval of a plan

under Section 443.103 [~~21A.103~~], the rehabilitator shall petition the receivership court for an order of liquidation.

(c) The rehabilitator or the directors of the insurer may at any time petition the receivership court for, or the receivership court on its own motion may enter, an order terminating rehabilitation of an insurer. Subject to the provisions of Section 443.351 [~~21A.351~~], if the receivership court finds that rehabilitation has been accomplished and that grounds for rehabilitation under Section 443.057 [~~21A.057~~] no longer exist, it shall order that the insurer be restored to title and possession of its property and the control of the business.

(p) Sections 21A.151(b) and (e), Insurance Code, redesignated as Sections 443.151(b) and (e), Insurance Code, respectively, by Subsection (a)(1)(D) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) Upon issuance of the order of liquidation, the rights and liabilities of the insurer and of its creditors, policyholders, shareholders, members, and all other persons interested in its estate become fixed as of the date of entry of the order of liquidation, except as provided by Sections 443.152 and 443.255 [~~21A.152 and 21A.255~~], unless otherwise fixed by the court.

(e) In the event an order of liquidation is set aside on appeal, the company may not be released from delinquency proceedings except in accordance with Section 443.351 [~~21A.351~~].

(q) Sections 21A.152(b), (c), and (d), Insurance Code, redesignated as Sections 443.152(b), (c), and (d), Insurance Code,

respectively, by Subsection (a)(1)(D) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) Notwithstanding any policy or contract language or any other statute, all policies, insurance contracts other than reinsurance by which the insurer has ceded insurance obligations to another person, and surety bonds or surety undertakings, other than life or health insurance or annuities, in effect at the time of issuance of an order of liquidation, unless further extended by the receiver with the approval of the receivership court, continue in force only until the earlier of:

(1) the 30th day after the date of entry of the liquidation order;

(2) the date of expiration of the policy coverage;

(3) the date the insured has replaced the insurance coverage with equivalent insurance with another insurer or otherwise terminated the policy;

(4) the date the liquidator has effected a transfer of the policy obligation pursuant to Section 443.154(h) [~~21A.154(h)~~]; or

(5) the date proposed by the liquidator and approved by the receivership court to cancel coverage.

(c) An order of liquidation under Section 443.151 [~~21A.151~~] must terminate coverages at the time specified by Subsections (a) and (b) for purposes of any other statute.

(d) Policies of life or health insurance or annuities covered by a guaranty association and any portion of policies of

life or health insurance or annuities covered by a guaranty association continue in force for the period and under the terms provided for by any applicable guaranty association law. Policies of life or health insurance or annuities not covered by a guaranty association and any portion of policies of life or health insurance or annuities not covered by a guaranty association terminate under Subsection (b), except to the extent the liquidator proposes and the receivership court approves the use of property of the estate, consistent with Section 443.301 [~~21A.301~~], for the purpose of continuing the contracts or coverage by transferring them to an assuming reinsurer.

(r) Sections 21A.154(a), (b), (h), (k), (l), (y), and (z), Insurance Code, redesignated as Sections 443.154(a), (b), (h), (k), (l), (y), and (z), Insurance Code, respectively, by Subsection (a)(1)(D) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) The liquidator may appoint a special deputy or deputies to act for the liquidator under this chapter and employ or contract with legal counsel, actuaries, accountants, appraisers, consultants, clerks, assistants, and other personnel the liquidator may deem necessary to assist in the liquidation. A special deputy has all powers of the liquidator granted by this section, unless specifically limited by the liquidator, and serves at the pleasure of the liquidator. A special deputy or any other person with whom the liquidator contracts under this subsection may act on behalf of the commissioner only in the commissioner's

capacity as liquidator. Any person with whom the liquidator contracts is not considered to be an agent of the state and any contract under this subsection is not a contract with the state. The provisions of any law governing the procurement of goods and services by the state do not apply to any contract entered into by the commissioner as liquidator. This subsection does not waive any immunity granted by Section 443.014 [~~21A.014~~] or create any cause of action against the state.

(b) The liquidator may determine the reasonable compensation for any special deputies, employees, or contractors retained by the liquidator as provided in Subsection (a) and pay compensation in accordance with Section 443.015 [~~21A.015~~].

(h) The liquidator may use property of the estate of an insurer under a liquidation order to transfer to a solvent assuming insurer policy obligations or the insurer's obligations under surety bonds and surety undertakings as well as collateral held by the insurer with respect to the reimbursement obligations of the principals under those surety bonds and surety undertakings, if the transfer can be arranged without prejudice to applicable priorities under Section 443.301 [~~21A.301~~]. If all insureds, principals, third-party claimants, and obligees under the policies, surety bonds, and surety undertakings consent or if the receivership court so orders, the estate has no further liability under the transferred policies, surety bonds, or surety undertakings after the transfer is made.

(k) The liquidator may enter into contracts as necessary to carry out the order to liquidate and, subject to the provisions of

Section 443.013 [~~21A.013~~], may assume or reject any executory contract or unexpired lease to which the insurer is a party.

(l) The liquidator may continue to prosecute and institute in the name of the insurer or in the liquidator's own name any and all suits and other legal proceedings, in this state or elsewhere, and abandon the prosecution of claims the liquidator deems unprofitable to pursue further. If the insurer is dissolved under Section 443.153 [~~21A.153~~], the liquidator has the power to apply to any court in this state or elsewhere for leave to substitute the liquidator for the insurer as a party.

(y) The liquidator may hypothecate, encumber, lease, sell, transfer, abandon, or otherwise dispose of or deal with any property of the insurer, settle or resolve any claim brought by the liquidator on behalf of the insurer, or commute or settle any claim of reinsurance under any contract of reinsurance, as follows:

(1) if the property or claim has a market or settlement value that does not exceed the lesser of $1 million or 10 percent of the general assets of the estate as shown on the receivership's financial statements, the liquidator may take action at the liquidator's discretion, provided that the receivership court may, upon petition of the liquidator, increase the threshold upon a showing that compliance with this requirement is burdensome to the liquidator in administering the estate and is unnecessary to protect the material interests of creditors;

(2) in all instances other than those described in Subdivision (1), the liquidator may take the action only after obtaining approval of the receivership court as provided by Section

443.007 [~~21A.007~~];

(3) the liquidator may, at the liquidator's discretion, request the receivership court to approve a proposed action as provided by Section 443.007 [~~21A.007~~] if the value of the property or claim appears to be less than the threshold provided by Subdivision (1) but cannot be ascertained with certainty, or for any other reason as determined by the liquidator; and

(4) after obtaining approval of the receivership court as provided in Section 443.007 [~~21A.007~~], the liquidator may, subject to Subsection (z), transfer rights to payment under ceding reinsurance agreements covering policies to a third-party transferee.

(z) The transferee of a right to payment under Subsection (y)(4) has the rights to collect and enforce collection of the reinsurance for the amount payable to the ceding insurer or to its receiver, without diminution because of the insolvency or because the receiver has failed to pay all or a portion of the claim, based on the amounts paid or allowed pursuant to Section 443.211 [~~21A.211~~]. The transfer of the rights does not give rise to any defense regarding the reinsurer's obligations under the reinsurance agreement regardless of whether an agreement or other applicable law prohibits the transfer of rights under the reinsurance agreement. Except as provided in this subsection, any transfer of rights pursuant to Subsection (y)(4) does not impair any rights or defenses of the reinsurer that existed prior to the transfer or that would have existed in the absence of the transfer. Except as otherwise provided in this subsection, any transfer of

rights pursuant to Subsection (y)(4) does not relieve the transferee or the liquidator from obligations owed to the reinsurer pursuant to the reinsurance or other agreement.

(s) Section 21A.155(b), Insurance Code, redesignated as Section 443.155(b), Insurance Code, by Subsection (a)(1)(D) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) The notice of the entry of an order of liquidation must contain or provide directions for obtaining the following information:

(1) a statement that the insurer has been placed in liquidation;

(2) a statement that certain acts are stayed under Section 443.008 [~~21A.008~~] and describe any additional injunctive relief ordered by the receivership court;

(3) a statement whether, and to what extent, the insurer's policies continue in effect;

(4) to the extent applicable, a statement that coverage by state guaranty associations may be available for all or part of policy benefits in accordance with applicable state guaranty laws;

(5) a statement of the deadline for filing claims, if established, and the requirements for filing a proof of claim pursuant to Section 443.251 [~~21A.251~~] on or before that date;

(6) a statement of the date, time, and location of any initial status hearing scheduled at the time the notice is sent;

(7) a description of the process for obtaining notice

of matters before the receivership court; and

(8) any other information the liquidator or the receivership court deems appropriate.

(t) Section 21A.156(a), Insurance Code, redesignated as Section 443.156(a), Insurance Code, by Subsection (a)(1)(D) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) Every person who represented the insurer as an agent and receives notice in the form prescribed in Section 443.155 [~~21A.155~~] that the insurer is the subject of a liquidation order, not later than the 30th day after the date of the notice, shall provide to the liquidator, in addition to the information the agent may be required to provide pursuant to Section 443.010 [~~21A.010~~], the information in the agent's records related to any policy issued by the insurer through the agent and any policy issued by the insurer through an agent under contract to the agent, including the name and address of any subagent. For purposes of this subsection, a policy is issued through an agent if the agent has a property interest in the expiration of the policy or if the agent has had in the agent's possession a copy of the declarations of the policy at any time during the life of the policy, except where the ownership of the expiration of the policy has been transferred to another.

(u) Sections 21A.207(a), (d), and (f), Insurance Code, redesignated as Sections 443.207(a), (d), and (f), Insurance Code, respectively, by Subsection (a)(1)(E) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) Except as otherwise provided in this section, to the extent that the receiver obtains an order under Section 443.201 [~~21A.201~~] or avoids a transfer under Section 443.202, 443.203, 443.204, 443.205, or 443.206 [~~Sections 21A.202, 21A.203, 21A.204, 21A.205, or 21A.206~~], the receiver may recover the property transferred, or the value of the property, from:

(1) the initial transferee of the transfer or the entity for whose benefit the transfer was made; or

(2) any immediate or mediate transferee of the initial transferee.

(d) In addition to the remedies specifically provided under Sections 443.201-443.206 [~~21A.201-21A.206~~] and Subsection (a), if the receiver is successful in establishing a claim to the property or any part of the property, the receiver is entitled to recover judgment for:

(1) rental for the use of the tangible property from the later of the entry of the receivership order or the date of the transfer;

(2) in the case of funds or intangible property, the greater of:

(A) the actual interest or income earned by the property; or

(B) interest at the statutory rate for judgments from the later of the date of the entry of the receivership order or the date of the transfer; and

(3) except as to recoveries from guaranty associations, all costs, including investigative costs and other

expenses necessary to the recovery of the property or funds, and reasonable attorney's fees.

(f) In any action under Sections 443.201-443.206 [~~21A.201-21A.206~~], the receiver has the burden of proving the avoidability of a transfer, and the person against whom recovery or avoidance is sought has the burden of proving the nature and extent of any affirmative defense.

(v) Section 21A.208(b), Insurance Code, redesignated as Section 443.208(b), Insurance Code, by Subsection (a)(1)(E) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) A claim allowable under Subsection (a) by reason of the avoidance, whether voluntary or involuntary, or a preference, lien, conveyance, transfer, assignment, or encumbrance, may be filed as an excused late filing under Section 443.251(b) [~~21A.251(b)~~] if filed not later than the 30th day after the date of the avoidance, or within the further time allowed by the receivership court under Subsection (a).

(w) Section 21A.210(j), Insurance Code, redesignated as Section 443.210(j), Insurance Code, by Subsection (a)(1)(E) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(j) Any claim filed by an assessee who fails to pay an assessment, after the conclusion of any legal action by the assessee objecting to the assessment, is deemed a late filed claim under Section 443.251 [~~21A.251~~].

(x) Sections 21A.211(b) and (f), Insurance Code,

redesignated as Sections 443.211(b) and (f), Insurance Code, respectively, by Subsection (a)(1)(E) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section and to the recodification and repeal of Articles 21.28-C and 21.28-D, Insurance Code, by Chapter 727, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) Except as provided by Subsection (a), any reinsurance shall be payable to the receiver under a policy reinsured by the assuming insurer on the basis of claims:

(1) allowed under Section 443.253 [~~21A.253~~]; and

(2) paid under:

(A) Chapter 462, 463, or [~~Article 21.28-C or 21.28-D;~~

[~~(B) Chapter~~] 2602; or

(B) [~~(C)~~] the guaranty associations of other states.

(f) Nothing in this chapter shall be construed as authorizing the receiver, or other entity, to compel payment from a non-life reinsurer on the basis of estimated incurred but not reported losses or outstanding reserves, except outstanding reserves with respect to claims made pursuant to Section 443.255 [~~21A.255~~] and approved workers compensation claims filed under Section 443.252(d) [~~21A.252(d)~~].

(y) Sections 21A.212(a), (b), and (c), Insurance Code, redesignated as Sections 443.212(a), (b), and (c), Insurance Code, respectively, by Subsection (a)(1)(E) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of

this section to read as follows:

(a) An insured shall pay, either directly to the receiver or to any agent that has paid or is obligated to pay the receiver on behalf of the insured, any unpaid earned premium or retrospectively rated premium due the insurer based on the termination of coverage under Section 443.152 [~~21A.152~~]. Premium on surety business is deemed earned at inception if a policy term cannot be determined. All other premium is deemed earned and is prorated equally over the determined policy term, regardless of any provision in the bond, guaranty, contract or other agreement.

(b) Any person, other than the insured, shall turn over to the receiver any unpaid premium due and owing as shown on the records of the insurer, including any amount representing commissions, for the full policy term due the insurer at the time of the entry of the receivership order, whether earned or unearned, based on the termination of coverage under Section 443.152 [~~21A.152~~]. The unpaid premium due the receiver from any person other than the insured excludes any premium not collected from the insured and not earned based on the termination of coverage under Section 443.152 [~~21A.152~~].

(c) Any person, other than the insured, responsible for the remittance of a premium, shall turn over to the receiver any unearned commission of the person based on the termination of coverage under Section 443.152 [~~21A.152~~]. Credits, setoffs, or both may not be allowed to an agent, broker, premium finance company, or any other person for any amounts advanced to the insurer by the person on behalf of, but in the absence of a payment by, the

insured, or for any other amount paid by the person to any other person after the entry of the order of receivership.

(z) Sections 21A.213(h) and (i), Insurance Code, redesignated as Sections 443.213(h) and (i), Insurance Code, respectively, by Subsection (a)(1)(E) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(h) To the extent a guaranty association is required by applicable law to pay any claims for which the insurer would have been entitled to reimbursement from the policyholder, the following provisions apply:

(1) The receiver shall promptly invoice the policyholder for the reimbursement due under the agreement, and the policyholder is obligated to pay the amount invoiced to the receiver for the benefit of the guaranty associations that paid the claims. Neither the insolvency of the insurer nor the insurer's inability to perform any obligations under the deductible agreement is a defense to the policyholder's reimbursement obligation under the deductible agreement. At the time the policyholder reimbursements are collected, the receiver shall promptly forward those amounts to the guaranty association, based on the claims paid by the guaranty association that were subject to the deductible.

(2) If the collateral is insufficient to reimburse the guaranty association for claims paid within the deductible, the receiver shall use any existing collateral to make a partial reimbursement to the guaranty association, subject to any allocation under Subsection (d), (e), or (f). If more than one

guaranty association has a claim against the same collateral, the receiver shall prorate payments to each guaranty association based on the amount of the claims each guaranty association has paid.

(3) The receiver is entitled to deduct from reimbursements owed to a guaranty association or collateral to be returned to a policyholder reasonable actual expenses incurred in fulfilling the receiver's responsibilities under this section. Expenses incurred to collect reimbursements for the benefit of a guaranty association are subject to the approval of the guaranty association. Any remaining expenses that are not deducted from the reimbursements are payable subject to Section 443.015 [~~21A.015~~].

(4) The receiver shall provide any affected guaranty associations with a complete accounting of the receiver's deductible billing and collection activities on a quarterly basis, or at other intervals as may be agreed to between the receiver and the guaranty associations. Accountings under this subdivision must include copies of the policyholder billings, the reimbursements collected, the available amounts and use of collateral for each account, and any prorating of payments.

(5) If the receiver fails to make a good faith effort to collect reimbursements due from a policyholder under a deductible agreement within 120 days of receipt of claims payment reports from a guaranty association, the guaranty association may, after notice to the receiver, collect the reimbursements that are due, and, in so doing, the guaranty association shall have the same rights and remedies as the receiver. A guaranty association shall report any amounts collected under this subdivision and expenses

incurred in collecting those amounts to the receiver.

(6) The receiver shall periodically adjust the collateral held as the claims subject to the deductible agreement are paid, provided that adequate collateral is maintained. The receiver is not required to adjust the collateral more than once a year. The receiver shall inform the guaranty associations of all collateral reviews, including the basis for the adjustment.

(7) Reimbursements received or collected by a guaranty association under this section may not be considered a distribution of the insurer's assets. A guaranty association shall provide the receiver with an accounting of any amounts it has received or collected under this section and any expenses incurred in connection with that receipt or collection. The amounts received, net of any expenses incurred in connection with collection of the amounts, must be set off against the guaranty association's claim filed under Section 443.251 [~~21A.251~~] for the payments that were reimbursed.

(8) To the extent that a guaranty association pays a claim within the deductible amount that is not reimbursed by either the receiver or by policyholder payments, the guaranty association has a claim for those amounts in the delinquency proceeding in accordance with Section 443.251 [~~21A.251~~].

(9) Nothing in this section limits any rights of a guaranty association under applicable law to obtain reimbursement for claims payments made by the guaranty association under policies of the insurer or for the association's related expenses.

(i) If a claim that is subject to a deductible agreement and

secured by collateral is not covered by any guaranty association, the following provisions apply:

(1) The receiver is entitled to retain as an asset of the estate any collateral or deductible reimbursements obtained by the receiver.

(2) If a policyholder fails to assume an obligation under a deductible agreement to pay a claim, the receiver shall use the collateral to adjust and pay the claim to the extent that the available collateral, after any allocation under Subsection (d), (e), or (f), is sufficient to pay all outstanding and anticipated claims within the deductible. If the collateral is exhausted and all reasonable means of collection against the insured have been exhausted, the remaining claims shall be subject to the provisions of Sections 443.251 and 443.301 [~~21A.251 and 21A.301~~].

(3) The receiver is entitled to deduct from collateral reasonable actual expenses incurred in fulfilling the receiver's responsibilities under this section. Any remaining expenses that are not deducted from the reimbursements are payable subject to Section 443.015 [~~21A.015~~].

(aa) Sections 21A.251(a) and (b), Insurance Code, redesignated as Sections 443.251(a) and (b), Insurance Code, respectively, by Subsection (a)(1)(F) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) Except as provided by this subsection, proof of all claims must be filed with the liquidator in the form required by Section 443.252 [~~21A.252~~] on or before the last day for filing

specified in the notice required under Section 443.155 [~~21A.155~~], which date may not be later than 18 months after entry of the order of liquidation, unless the receivership court, for good cause shown, extends the time, except that proofs of claims for cash surrender values or other investment values in life insurance and annuities and for any other policies insuring the lives of persons need not be filed unless the liquidator expressly so requires. The receivership court, only upon application of the liquidator, may allow alternative procedures and requirements for the filing of proofs of claim or for allowing or proving claims. Upon application, if the receivership court dispenses with the requirements of filing a proof of claim by a person or a class or group of persons, a proof of claim for the person, class, or group is deemed to have been filed for all purposes, except that the receivership court's waiver of proof of claim requirements does not impact guaranty association proof of claim filing requirements or coverage determinations to the extent the guaranty fund statute or filing requirements are inconsistent with the receivership court's waiver of proof.

(b) The liquidator shall permit a claimant that makes a late filing to share ratably in distributions, whether past or future, as if the claim were not filed late, to the extent that the payment will not prejudice the orderly administration of the liquidation, under the following circumstances:

(1) the eligibility to file a proof of claim was not known to the claimant, and the claimant filed a proof of claim not later than the 90th day after the date of first learning of the

eligibility;

(2) a transfer to a creditor was avoided under Section 443.202, 443.203, 443.204, or 443.206 [~~21A.202, 21A.203, 21A.204, or 21A.206~~], or was voluntarily surrendered under Section 443.208 [~~21A.208~~], and the filing satisfies the conditions of Section 443.208 [~~21A.208~~]; or

(3) the valuation under Section 443.260 [~~21A.260~~], of security held by a secured creditor shows a deficiency, and the claim for the deficiency is filed not later than the 30th day after the valuation.

(bb) Sections 21A.253(b), (d), (i), and (k), Insurance Code, redesignated as Sections 443.253(b), (d), (i), and (k), Insurance Code, respectively, by Subsection (a)(1)(F) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) Pursuant to the review, the liquidator shall provide written notice of the claim determination by any means authorized by Section 443.007 [~~21A.007~~] to the claimant or the claimant's attorney and may provide notice to any reinsurer that is or may be liable in respect of the claim. The notice must set forth the amount of the claim allowed by the liquidator, if any, and the priority class of the claim as established in Section 443.301 [~~21A.301~~].

(d) A claim that has not become mature as of the coverage termination date established under Section 443.201 [~~21A.201~~] because payment on the claim is not yet due may be allowed as if it were mature. A claim that is allowed under this subsection may be

discounted to present value based upon a reasonable estimated date of the payment, if the liquidator determines that the present value of the payment is materially less than the amount of the payment.

(i) A claim that does not contain all the applicable information required by Section 443.252 [~~21A.252~~] need not be further reviewed or adjudicated, and may be denied or disallowed by the liquidator subject to the notice and objection procedures in this section.

(k) The liquidator is not required to process claims for any class until it appears reasonably likely that property will be available for a distribution to that class. If there are insufficient assets to justify processing all claims for any class listed in Section 443.301 [~~21A.301~~], the liquidator shall report the facts to the receivership court and make such recommendations as may be appropriate for handling the remainder of the claims.

(cc) Section 21A.254, Insurance Code, redesignated as Section 443.254, Insurance Code, by Subsection (a)(1)(F) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

Sec. 443.254 [~~21A.254~~]. CLAIMS UNDER OCCURRENCE POLICIES, SURETY BONDS, AND SURETY UNDERTAKINGS. (a) Subject to the provisions of Section 443.253 [~~21A.253~~], any insured has the right to file a claim for the protection afforded under the insured's policy, regardless of whether a claim is known at the time of filing, if the policy is an occurrence policy.

(b) Subject to the provisions of Section 443.253 [~~21A.253~~], an obligee under a surety bond or surety undertaking has the right

to file a claim for the protection afforded under the surety bond or surety undertaking issued by the insurer under which the obligee is the beneficiary, regardless of whether a claim is known at the time of filing.

(c) After a claim is filed under Subsection (a) or (b), at the time that a specific claim is made by or against the insured or by the obligee, the insured or the obligee shall supplement the claim, and the receiver shall treat the claim as a contingent or unliquidated claim under Section 443.255 [~~21A.255~~].

(dd) Sections 21A.255(a) and (c), Insurance Code, redesignated as Sections 443.255(a) and (c), Insurance Code, respectively, by Subsection (a)(1)(F) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) A claim of an insured or third party may be allowed under Section 443.253 [~~21A.253~~], regardless of the fact that the claim was contingent or unliquidated, if any contingency is removed in accordance with Subsection (b) and the value of the claim is determined. For purposes of this section, a claim is contingent if:

(1) the accident, casualty, disaster, loss, event, or occurrence insured, reinsured, or bonded or reinsured against occurred on or before the date fixed under Section 443.151 [~~21A.151~~]; and

(2) the act or event triggering the insurer's obligation to pay has not occurred as of the date fixed under Section 443.151 [~~21A.151~~].

(c) The liquidator may petition the receivership court to

set a date before which all claims under this section are final. In addition to the notice requirements of Section 443.007 [~~21A.007~~], the liquidator shall give notice of the filing of the petition to all claimants with claims that remain contingent or unliquidated under this section.

(ee) Section 21A.256(c), Insurance Code, redesignated as Section 443.256(c), Insurance Code, by Subsection (a)(1)(F) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(c) The liquidator may make recommendations to the receivership court for the allowance of an insured's claim after consideration of the probable outcome of any pending action against the insured on which the claim is based, the probable damages recoverable in the action, and the probable costs and expenses of defense. After allowance by the receivership court, the liquidator shall withhold any distribution payable on the claim, pending the outcome of litigation and negotiation between the insured and the third party. The liquidator may reconsider the claim as provided in Section 443.253(j) [~~21A.253(j)~~]. As claims against the insured are settled or barred, the insured or third party, as appropriate, shall be paid from the amount withheld the same percentage distribution as was paid on other claims of like priority, based on the lesser of the amount actually due from the insured by action or paid by agreement plus the reasonable costs and expense of defense, or the amount allowed on the claims by the receivership court. After all claims are settled or barred, any sum remaining from the amount withheld shall revert to the undistributed property of the

insurer.

(ff) Section 21A.257(a), Insurance Code, redesignated as Section 443.257(a), Insurance Code, by Subsection (a)(1)(F) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) When objections to the liquidator's proposed treatment of a claim are filed and the liquidator does not alter the determination of the claim as a result of the objections, the liquidator shall ask the receivership court for a hearing pursuant to Section 443.007 [~~21A.007~~].

(gg) Section 21A.258, Insurance Code, redesignated as Section 443.258, Insurance Code, by Subsection (a)(1)(F) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

Sec. 443.258 [~~21A.258~~]. LIQUIDATOR'S RECOMMENDATIONS TO RECEIVERSHIP COURT. The liquidator shall present to the receivership court, for approval, reports of claims settled or determined by the liquidator under Section 443.253 [~~21A.253~~]. The reports must be presented from time to time as determined by the liquidator and must include information identifying the claim and the amount and priority class of the claim.

(hh) Sections 21A.260(e) and (g), Insurance Code, redesignated as Sections 443.260(e) and (g), Insurance Code, respectively, by Subsection (a)(1)(F) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(e) If collateral is insufficient to satisfy in full all

potential claims against it under Subsections (c) and (g), the claims against the collateral must be paid on a pro rata basis, and an obligee or completion contractor under Subsection (c) has a claim, subject to allowance under Section 443.253 [~~21A.253~~], for any deficiency.

(g) To the extent that a guaranty association has made a payment relating to a claim against a surety bond, the guaranty association shall first be reimbursed for that payment and related expenses out of the available collateral or proceeds related to the surety bond. To the extent that the collateral is sufficient, the guaranty association shall be reimbursed 100 percent of its payment. If the collateral is insufficient to satisfy in full all potential claims against the collateral under Subsection (c) and this subsection, a guaranty association that has paid claims on the surety bond is entitled to a pro rata share of the available collateral in accordance with Subsection (e), and the guaranty association has claims against the general assets of the estate in accordance with Section 443.253 [~~21A.253~~] for any deficiency. Any payment made to a guaranty association under this subsection from collateral may not be deemed early access or otherwise deemed a distribution out of the general assets or property of the estate, and the guaranty association receiving payment shall subtract any payment from the collateral from the association's final claims against the estate.

(ii) Sections 21A.261(a) and (e), Insurance Code, redesignated as Sections 443.261(a) and (e), Insurance Code, respectively, by Subsection (a)(1)(F) of this section, are amended

to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) Notwithstanding any other provision of this chapter, including any other provision of this chapter permitting the modification of contracts, or other law of this state, a person may not be stayed or prohibited from exercising:

(1) a contractual right to terminate, liquidate, or close out any netting agreement or qualified financial contract with an insurer because of:

(A) the insolvency, financial condition, or default of the insurer at any time, provided that the right is enforceable under applicable law other than this chapter; or

(B) the commencement of a formal delinquency proceeding under this chapter;

(2) any right under a pledge, security, collateral, or guarantee agreement, or any other similar security arrangement or credit support document, relating to a netting agreement or qualified financial contract; or

(3) subject to any provision of Section 443.209(b) [~~21A.209(b)~~], any right to set off or net out any termination value, payment amount, or other transfer obligation arising under or in connection with a netting agreement or qualified financial contract where the counterparty or its guarantor is organized under the laws of the United States or a state or foreign jurisdiction approved by the Securities Valuation Office of the National Association of Insurance Commissioners as eligible for netting.

(e) Notwithstanding any other provision of this chapter, a

receiver may not avoid a transfer of money or other property arising under or in connection with a netting agreement or qualified financial contract, or any pledge, security, or collateral or guarantee agreement or any other similar security arrangement or credit support document relating to a netting agreement or qualified financial contract, that is made before the commencement of a formal delinquency proceeding under this chapter. However, a transfer may be avoided under Section 443.205(a) [~~21A.205(a)~~] if the transfer was made with actual intent to hinder, delay, or defraud the insurer, a receiver appointed for the insurer, or existing or future creditors.

(jj) Section 21A.301, Insurance Code, redesignated as Section 443.301, Insurance Code, by Subsection (a)(1)(G) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section and to the recodification and repeal of Section 2(3), Article 21.28-C, and Section 12, Article 21.28-D, Insurance Code, by Chapter 727, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 443.301 [~~21A.301~~]. PRIORITY OF DISTRIBUTION. The priority of payment of distributions on unsecured claims must be in accordance with the order in which each class of claims is set forth in this section. Every claim in each class shall be paid in full, or adequate funds retained for their payment, before the members of the next class receive payment, and all claims within a class must be paid substantially the same percentage of the amount of the claim. Except as provided by Subsections (a)(2), (a)(3), (i), and (k), subclasses may not be established within a class. No claim by

a shareholder, policyholder, or other creditor shall be permitted to circumvent the priority classes through the use of equitable remedies. The order of distribution of claims shall be:

(a) Class 1. (1) The costs and expenses of administration expressly approved or ratified by the liquidator, including the following:

(A) the actual and necessary costs of preserving or recovering the property of the insurer;

(B) reasonable compensation for all services rendered on behalf of the administrative supervisor or receiver;

(C) any necessary filing fees;

(D) the fees and mileage payable to witnesses;

(E) unsecured loans obtained by the receiver; and

(F) expenses, if any, approved by the rehabilitator of the insurer and incurred in the course of the rehabilitation that are unpaid at the time of the entry of the order of liquidation.

(2) The reasonable expenses of a guaranty association, including overhead, salaries and other general administrative expenses allocable to the receivership to include administrative and claims handling expenses and expenses in connection with arrangements for ongoing coverage, other than expenses incurred in the performance of duties under Section 462.002(3), 463.108, 463.111, 463.113, 463.353, or 2602.113[~~, Section 2(3) of Article 21.28-C, and Section 12 of Article 21.28-D~~] or similar duties under the statute governing a similar organization in another state. In the case of the Texas Property and Casualty Insurance Guaranty

Association and other property and casualty guaranty associations, the expenses shall include loss adjustment expenses, including adjusting and other expenses and defense and cost containment expenses. In the event that there are insufficient assets to pay all of the costs and expenses of administration under Subsection (a)(1) and the expenses of a guaranty association, the costs and expenses under Subsection (a)(1) shall have priority over the expenses of a guaranty association. In this event, the expenses of a guaranty association shall be paid on a pro rata basis after the payment of costs and expenses under Subsection (a)(1) in full.

(3) For purposes of Subsection (a)(1)(E), any unsecured loan obtained by the receiver, unless by its terms it otherwise provides, has priority over all other costs of administration. Absent agreement to the contrary, all claims in this subclass share pro rata.

(4) Except as expressly approved by the receiver, any expenses arising from a duty to indemnify the directors, officers, or employees of the insurer are excluded from this class and, if allowed, are Class 5 claims.

(b) Class 2. All claims under policies of insurance, including third-party claims, claims under nonassessable policies for unearned premium, claims of obligees and, subject to the discretion of the receiver, completion contractors under surety bonds and surety undertakings other than bail bonds, mortgage or financial guaranties, or other forms of insurance offering protection against investment risk, claims by principals under surety bonds and surety undertakings for wrongful dissipation of

collateral by the insurer or its agents, and claims incurred during the extension of coverage provided for in Section 443.152 [~~21A.152~~]. All other claims incurred in fulfilling the statutory obligations of a guaranty association not included in Class 1, including indemnity payments on covered claims and, in the case of the Life, Accident, Health, and Hospital Service Insurance Guaranty Association or another life and health guaranty association, all claims as a creditor of the impaired or insolvent insurer for all payments of and liabilities incurred on behalf of covered claims or covered obligations of the insurer and for the funds needed to reinsure those obligations with a solvent insurer. Notwithstanding any provision of this chapter, the following claims are excluded from Class 2 priority:

(1) obligations of the insolvent insurer arising out of reinsurance contracts;

(2) obligations, excluding unearned premium claims on policies other than reinsurance agreements, incurred after:

(A) the expiration date of the insurance policy;

(B) the policy has been replaced by the insured or canceled at the insured's request; or

(C) the policy has been canceled as provided by this chapter;

(3) obligations to insurers, insurance pools, or underwriting associations and their claims for contribution, indemnity, or subrogation, equitable or otherwise;

(4) any claim that is in excess of any applicable limits provided in the insurance policy issued by the insurer;

(5) any amount accrued as punitive or exemplary damages unless expressly covered under the terms of the policy;

(6) tort claims of any kind against the insurer and claims against the insurer for bad faith or wrongful settlement practices; and

(7) claims of the guaranty associations for assessments not paid by the insurer, which must be paid as claims in Class 5.

(c) Class 3. Claims of the federal government not included in Class 3.

(d) Class 4. Debts due employees for services or benefits to the extent that the debts do not exceed $5,000 or two months salary, whichever is the lesser, and represent payment for services performed within one year before the entry of the initial order of receivership. This priority is in lieu of any other similar priority that may be authorized by law as to wages or compensation of employees.

(e) Class 5. Claims of other unsecured creditors not included in Classes 1 through 4, including claims under reinsurance contracts, claims of guaranty associations for assessments not paid by the insurer, and other claims excluded from Class 2.

(f) Class 6. Claims of any state or local governments, except those specifically classified elsewhere in this section. Claims of attorneys for fees and expenses owed them by an insurer for services rendered in opposing a formal delinquency proceeding. In order to prove the claim, the claimant must show that the insurer that is the subject of the delinquency proceeding incurred the fees

and expenses based on its best knowledge, information, and belief, formed after reasonable inquiry, indicating opposition was in the best interests of the insurer, was well grounded in fact, and was warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that opposition was not pursued for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of the litigation.

(g) Class 7. Claims of any state or local government for a penalty or forfeiture, but only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The balance of the claims must be treated as Class 9 claims under Subsection (i).

(h) Class 8. Except as provided in Sections 443.251(b) [~~21A.251(b)~~] and (d), late filed claims that would otherwise be classified in Classes 2 through 7.

(i) Class 9. Surplus notes, capital notes or contribution notes or similar obligations, premium refunds on assessable policies, and any other claims specifically assigned to this class. Claims in this class are subject to any subordination agreements related to other claims in this class that existed before the entry of the liquidation order.

(j) Class 10. Interest on allowed claims of Classes 1 through 9, according to the terms of a plan proposed by the liquidator and approved by the receivership court.

(k) Class 11. Claims of shareholders or other owners

arising out of their capacity as shareholders or other owners, or any other capacity, except as they may be qualified in Class 2, 5, or 10. Claims in this class are subject to any subordination agreements related to other claims in this class that existed before the entry of the liquidation order.

(kk) Section 21A.302(f), Insurance Code, redesignated as Section 443.302(f), Insurance Code, by Subsection (a)(1)(G) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(f) Any claim payments made under Subsection (d) and any related expenses must be treated as early access payments under Section 443.303 [~~21A.303~~] to the guaranty association responsible for the claims.

(ll) Sections 21A.303(a), (b), (c), (e), (f), and (g), Insurance Code, redesignated as Sections 443.303(a), (b), (c), (e), (f), and (g), Insurance Code, respectively, by Subsection (a)(1)(G) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) For purposes of this section, "distributable assets" means all general assets of the liquidation estate less:

(1) amounts reserved, to the extent necessary and appropriate, for the entire Section 443.301(a) [~~21A.301(a)~~] expenses of the liquidation through and after its closure; and

(2) to the extent necessary and appropriate, reserves for distributions on claims other than those of the guaranty associations falling within the priority classes of claims established in Section 443.301(c) [~~21A.301(c)~~].

(b) Early access payments to guaranty associations must be made as soon as possible after the entry of a liquidation order and as frequently as possible after the entry of the order, but at least annually if distributable assets are available to be distributed to the guaranty associations, and must be in amounts consistent with this section. Amounts advanced to an affected guaranty association pursuant to this section shall be accounted for as advances against distributions to be made under Section 443.302 [~~21A.302~~]. Where sufficient distributable assets are available, amounts advanced are not limited to the claims and expenses paid to date by the guaranty associations; however, the liquidator may not distribute distributable assets to the guaranty associations in excess of the anticipated entire claims of the guaranty associations falling within the priority classes of claims established in Sections 443.301(b) [~~21A.301(b)~~] and (c).

(c) Within 120 days after the entry of an order of liquidation by the receivership court, and at least annually after the entry of the order, the liquidator shall apply to the receivership court for approval to make early access payments out of the general assets of the insurer to any guaranty associations having obligations arising in connection with the liquidation or shall report that there are no distributable assets at that time based on financial reporting as required in Section 443.016 [~~21A.016~~]. The liquidator may apply to the receivership court for approval to make early access payments more frequently than annually based on additional information or the recovery of material assets.

(e) Notice of each application for early access payments, or of any report required pursuant to this section, must be given in accordance with Section 443.007 [~~21A.007~~] to the guaranty associations that may have obligations arising from the liquidation. Notwithstanding the provisions of Section 443.007 [~~21A.007~~], the liquidator shall provide these guaranty associations with at least 30 days' actual notice of the filing of the application and with a complete copy of the application prior to any action by the receivership court. Any guaranty association that may have obligations arising in connection with the liquidation has:

(1) the right to request additional information from the liquidator, who may not unreasonably deny such request; and

(2) the right to object as provided by Section 443.007 [~~21A.007~~] to any part of each application or to any report filed by the liquidator pursuant to this section.

(f) In each application regarding early access payments, the liquidator shall, based on the best information available to the liquidator at the time, provide, at a minimum, the following:

(1) to the extent necessary and appropriate, the amount reserved for the entire expenses of the liquidation through and after its closure and for distributions on claims falling within the priority classes of claims established in Sections 443.301(b) [~~21A.301(b)~~] and (c);

(2) the computation of distributable assets and the amount and method of equitable allocation of early access payments to each of the guaranty associations; and

(3) the most recent financial information filed with the National Association of Insurance Commissioners by the liquidator.

(g) Each guaranty association that receives any payments pursuant to this section agrees, upon depositing the payment in any account to its benefit, to return to the liquidator any amount of these payments that may be required to pay claims of secured creditors and claims falling within the priority classes of claims established in Section 443.301(a) [~~21A.301(a)~~], (b), or (c). No bond may be required of any guaranty association.

(mm) Sections 21A.304(a), (b), and (d), Insurance Code, redesignated as Sections 443.304(a), (b), and (d), Insurance Code, respectively, by Subsection (a)(1)(G) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) If any funds of the receivership estate remain unclaimed after the final distribution under Section 443.302 [~~21A.302~~], the funds must be placed in a segregated unclaimed funds account held by the commissioner. If the owner of any of the unclaimed funds presents proof of ownership satisfactory to the commissioner before the second anniversary of the date of the termination of the delinquency proceeding, the commissioner shall remit the funds to the owner. The interest earned on funds held in the unclaimed funds account may be used to pay any administrative costs related to the handling or return of unclaimed funds.

(b) If any amounts held in the unclaimed funds account remain unclaimed on or after the second anniversary of the date of

the termination of the delinquency proceeding, the commissioner may file a motion for an order directing the disposition of the funds in the court in which the delinquency proceeding was pending. Any costs incurred in connection with the motion may be paid from the unclaimed funds account. The motion shall identify the name of the insurer, the names and last known addresses of the persons entitled to the unclaimed funds, if known, and the amount of the funds. Notice of the motion shall be given as directed by the court. Upon a finding by the court that the funds have not been claimed before the second anniversary of the date of the termination of the delinquency proceeding, the court shall order that any claims for unclaimed funds and any interest earned on the unclaimed funds that has not been expended under Subsection (a) are abandoned and that the funds must be disbursed under one of the following methods:

(1) the amounts may be deposited in the general receivership expense account under Subsection (c);

(2) the amounts may be transferred to the comptroller, and deposited into the general revenue fund; or

(3) the amounts may be used to reopen the receivership in accordance with Section 443.353 [~~21A.353~~] and be distributed to the known claimants with approved claims.

(d) Any advance to a receivership under Subsection (c)(2) may be treated as a claim under Section 443.301 [~~21A.301~~] as agreed at the time the advance is made or, in the absence of an agreement, in the priority determined to be appropriate by the court.

(nn) Section 21A.352, Insurance Code, redesignated as Section 443.352, Insurance Code, by Subsection (a)(1)(H) of this

section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

Sec. 443.352 [~~21A.352~~]. TERMINATION OF LIQUIDATION PROCEEDINGS. When all property justifying the expense of collection and distribution has been collected and distributed under this chapter, the liquidator shall apply to the receivership court for an order discharging the liquidator and terminating the proceeding. The receivership court may grant the application and make any other orders, including orders to transfer any remaining funds that are uneconomic to distribute, or pursuant to Section 443.302(c) [~~21A.302(c)~~], assign any assets that remain unliquidated, including claims and causes of action, as may be deemed appropriate.

(oo) Section 21A.354(b), Insurance Code, redesignated as Section 443.354(b), Insurance Code, by Subsection (a)(1)(H) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) If the receiver determines that any records should be maintained after the closing of the delinquency proceeding, the receiver may reserve property from the receivership estate for the maintenance of the records, and any amounts so retained are administrative expenses of the estate under Section 443.301(a) [~~21A.301(a)~~]. Any records retained pursuant to this subsection must be transferred to the custody of the commissioner, and the commissioner may retain or dispose of the records as appropriate, at the commissioner's discretion. Any records of a delinquent insurer that are transferred to the commissioner may not be

considered records of the department for any purposes, and Chapter 552, Government Code, does not apply to those records.

(pp) Sections 21A.401(a) and (d), Insurance Code, redesignated as Sections 443.401(a) and (d), Insurance Code, respectively, by Subsection (a)(1)(I) of this section, are amended to conform to the changes made by Subsection (a)(1) of this section and to the recodification and repeal of Section 17, Article 21.28-C, and Section 18, Article 21.28-D, Insurance Code, by Chapter 727, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The commissioner may initiate an action against a foreign insurer pursuant to Section 443.051 [~~21A.051~~] on any of the grounds stated in that section or on the basis that:

(1) any of the foreign insurer's property has been sequestered, garnished, or seized by official action in its domiciliary state or in any other state;

(2) the foreign insurer's certificate of authority to do business in this state has been revoked or was never issued and there are residents of this state with unpaid claims or in-force policies; or

(3) initiation of the action is necessary to enforce a stay under Section 462.309, 463.404, or [~~17, Article 21.28-C, Section 18, Article 21.28-D, or Section~~] 2602.259.

(d) Notwithstanding Section 443.201(c) [~~21A.201(c)~~], the conservator shall hold and conserve the assets located in this state until the commissioner in the insurer's domiciliary state is appointed its receiver or until an order terminating conservation

is entered under Subsection (g). Once a domiciliary receiver is appointed, the conservator shall turn over to the domiciliary receiver all property subject to an order under this section.

(qq) Sections 21A.402(a) and (c), Insurance Code, redesignated as Sections 443.402(a) and (c), Insurance Code, respectively, by Subsection (a)(1)(I) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) A domiciliary receiver appointed in another state is vested by operation of law with title to, and may summarily take possession of, all property and records of the insurer in this state. Notwithstanding any other provision of law regarding special deposits, special deposits held in this state shall be, upon the entry of an order of liquidation with a finding of insolvency, distributed to the guaranty associations in this state as early access payments subject to Section 443.303 [~~21A.303~~], in relation to the lines of business for which the special deposits were made. The holder of any special deposit shall account to the domiciliary receiver for all distributions from the special deposit at the time of the distribution. The statutory provisions of another state and all orders entered by courts of competent jurisdiction in relation to the appointment of a domiciliary receiver of an insurer and any related proceedings in another state must be given full faith and credit in this state. For purposes of this section, "another state" means any state other than this state. This state shall treat any other state than this state as a reciprocal state.

(c) Except as provided in Subsection (a), the domiciliary receiver shall handle special deposits and special deposit claims in accordance with federal law and the statutes pursuant to which the special deposits are required. All amounts in excess of the estimated amount necessary to administer the special deposit and pay the unpaid special deposit claims are deemed general assets of the estate. If there is a deficiency in any special deposit so that the claims secured by the special deposit are not fully discharged from the deposit, the claimants may share in the general assets of the insurer to the extent of the deficiency at the same priority as other claimants in their class of priority under Section 443.301 [~~21A.301~~], but the sharing must be deferred until the other claimants of their class have been paid percentages of their claims equal to the percentage paid from the special deposit. The intent of this provision is to equalize to this extent the advantage gained by the security provided by the special deposits.

(rr) Section 442.801, Insurance Code, redesignated as Section 444.001, Insurance Code, by Subsection (a)(2) of this section, is amended to conform to the repeal of Article 21.28, Insurance Code, and the enactment of Chapter 21A, Insurance Code, by Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, and to the changes made by Subsection (a)(1) of this section to read as follows:

Sec. 444.001 [~~442.801~~]. REQUIRED CONTRACT PROVISION. An agency contract entered into on or after August 27, 1973, by an insurer writing fire and casualty insurance in this state must contain, or shall be construed to contain, the following provision:

Notwithstanding any other provision of this contract, the obligation of the agent to remit written premiums to the insurer shall be changed on the commencement of a delinquency proceeding as defined by Chapter 443 [~~442~~], Insurance Code, as amended. After the commencement of the delinquency proceeding, the obligation of the agent to remit premiums is limited to premiums earned before the cancellation date of insurance policies stated in the order of a court of competent jurisdiction under Chapter 443 [~~442~~], Insurance Code, canceling the policies. The agent does not owe and may not be required to remit to the insurer or to the receiver any premiums that are unearned as of the cancellation date stated in the order.

(ss) Section 442.803, Insurance Code, redesignated as Section 444.003, Insurance Code, by Subsection (a)(2) of this section, is amended to conform to the additional changes made by Subsection (a)(2) of this section to read as follows:

Sec. 444.003 [~~442.803~~]. EFFECT OF CHAPTER [~~SUBCHAPTER~~] ON ACTION BY RECEIVER AGAINST AGENT. This chapter [~~subchapter~~] does not prejudice a cause of action by the receiver against an agent to recover:

(1) unearned premiums that were not returned to policyholders; or

(2) earned premiums that were not promptly remitted to the receiver.

(tt) Section 442.804, Insurance Code, redesignated as Section 444.004, Insurance Code, by Subsection (a)(2) of this section, is amended to conform to the additional changes made by Subsection (a)(2) of this section to read as follows:

Sec. 444.004 [~~442.804~~]. AGENT NOT RECEIVER'S AGENT. This chapter [~~subchapter~~] does not render the agent an agent of the receiver for earned or unearned premiums.

SECTION 9.005. (a) Section 462.007(b), Insurance Code, is amended to conform to Section 2, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) Except as provided by Subchapter F, this chapter does not apply to:

(1) life, annuity, health, or disability insurance;

(2) mortgage guaranty, financial guaranty, or other kinds of insurance offering protection against investment risks;

(3) a fidelity or surety bond, or any other bonding obligation;

(4) credit insurance, vendors' single-interest insurance, collateral protection insurance, or similar insurance protecting a creditor's interest arising out of a creditor-debtor transaction;

(5) insurance of warranties or service contracts;

(6) title insurance;

(7) ocean marine insurance;

(8) a transaction or combination of transactions between a person, including an affiliate of the person, and an insurer, including an affiliate of the insurer, that involves the transfer of investment or credit risk unaccompanied by the transfer of insurance risk, including transactions, except for workers' compensation insurance, involving captive insurers, policies in which deductible or self-insured retention is substantially equal

in amount to the limit of the liability under the policy, and transactions in which the insured retains a substantial portion of the risk; or

(9) insurance provided by or guaranteed by government.

(b) Section 2, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (a), Section 3, Article 21.28-C, Insurance Code, is repealed.

SECTION 9.006. (a) Section 462.207, Insurance Code, is amended to conform to Section 3, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 462.207. CLAIMS NOT COVERED: AMOUNTS DUE CERTAIN ENTITIES. (a) Any amount directly or indirectly due any reinsurer, insurer, self-insurer, insurance pool, or underwriting association, as a subrogation recovery, reinsurance recovery, contribution, or indemnification, or otherwise, is not a covered claim.

(b) An impaired insurer's insured is not liable, and the reinsurer, insurer, self-insurer, insurance pool, or underwriting association is not entitled to sue or continue a suit against the insured, for a subrogation recovery, reinsurance recovery, contribution, [~~or~~] indemnification, or any other claim asserted directly or indirectly by a reinsurer, insurer, insurance pool, or underwriting association to the extent of the applicable liability limits of the insurance policy written and issued to the insured by the insolvent insurer.

(b) Section 3, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subdivision (8),

Section 5, Article 21.28-C, Insurance Code, is repealed.

SECTION 9.007. (a) Section 462.211, Insurance Code, is amended to conform to Section 4, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, and Section 6.070, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 462.211. CLAIMS NOT COVERED: LATE FILED CLAIMS. (a) Notwithstanding any other provision of this chapter or any other law to the contrary, and subject to [~~except as provided by~~] Subsection (b), a claim that is filed with the association on a date that is later than 18 months after the date of the order of liquidation or that is unknown and unreported as of the date is not a covered claim.

(b) This section does not apply to a claim for workers' compensation benefits governed by Title 5, Labor Code, and the applicable rules of the commissioner of workers' compensation [~~Texas Workers' Compensation Commission~~].

(b) Subchapter C, Chapter 462, Insurance Code, is amended to conform to Section 4, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 462.1121 to read as follows:

Sec. 462.1121. ACTION TO OBTAIN INFORMATION CONCERNING INSURER IN RECEIVERSHIP AUTHORIZED. (a) The association may bring an action against any third-party administrator, agent, attorney, or other representative of an insurer for which a receiver has been appointed to obtain custody and control of all information, including files, records, and electronic data, related to the

insurer that is appropriate or necessary for the association, or a similar association in other states, to carry out its duties under this chapter or a similar law of another state. The association has the absolute right to obtain information under this section through emergency equitable relief, regardless of where the information is physically located.

(b) In bringing an action under this section, the association is not subject to any defense, possessory lien or other type of lien, or other legal or equitable ground for refusal to surrender the information that may be asserted against the receiver of the insurer.

(c) The association is entitled to an award of reasonable attorney's fees and costs incurred by the association in any action to obtain information under this section.

(d) The rights granted to the association under this section do not affect the receiver's title to information, and information obtained under this section remains the property of the receiver while in the custody of the association.

(c) The following are repealed:

(1) Section 4, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 8, Article 21.28-C, Insurance Code, by amending Subsection (d) and adding Subsection (i); and

(2) Section 6.070, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (d), Section 8, Article 21.28-C, Insurance Code.

SECTION 9.008. (a) Section 462.017(b), Insurance Code, is

amended to conform to Section 5, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) Venue in a suit by or against the commissioner or association relating to an action or ruling of the commissioner or association under this chapter is in Travis County. The commissioner or association is not required to give an appeal bond in an appeal of a cause of action arising under this chapter.

(b) Section 5, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (g), Section 10, Article 21.28-C, Insurance Code, is repealed.

SECTION 9.009. (a) Sections 462.308(a) and (c), Insurance Code, are amended to conform to Section 6, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The association is entitled to recover:

(1) the amount of a covered claim and the cost of defense paid on behalf of [~~under this chapter from the person on whose behalf the payment was made if the person is:~~

[~~(1)~~] a person:

(A) who is an affiliate of the impaired insurer; and

(B) whose liability obligations to other persons are satisfied wholly or partly by payment made under this chapter; and [~~or~~]

(2) the amount of a covered claim for workers' compensation insurance benefits and the costs of administration and defense of the claim paid under this chapter from an insured employer[~~:~~

[~~(A)~~] whose net worth on December 31 of the year preceding the date the insurer becomes an impaired insurer exceeds $50 million[~~; and~~

[~~(B) whose obligations under a liability policy or contract of insurance written, issued, and placed in force after January 1, 1992, are satisfied wholly or partly by payment made under this chapter~~].

(c) For purposes of Subsection (a)(2), an insured's net worth is deemed to include [~~includes~~] the aggregate net worth of the insured and of the insured's parent, subsidiary, and affiliated companies[~~,~~] computed on a consolidated basis.

(b) Section 6, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (b), Section 11, Article 21.28-C, Insurance Code, is repealed.

SECTION 9.010. (a) Section 462.212, Insurance Code, is amended to conform to Section 7, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 462.212. NET WORTH EXCLUSION. (a) Except for a workers' compensation claim governed by Title 5, Labor Code, a covered claim does not include, and the association is not liable for, any claim arising from an insurance policy of any [~~The association is not liable to pay a first-party claim of an~~] insured whose net worth on December 31 of the year preceding the date the insurer becomes an impaired insurer exceeds $50 million.

(b) For purposes of this section, an insured's net worth includes the aggregate net worth of the insured and of the insured's parent, subsidiary, and affiliated companies[~~,~~] computed on a

consolidated basis.

(c) This section does not apply:

(1) to third-party claims against an insured that has:

(A) applied for or consented to the appointment of a receiver, trustee, or liquidator for all or a substantial part of the insurer's assets;

(B) filed a voluntary petition in bankruptcy; or

(C) filed a petition or an answer seeking a reorganization or arrangement with creditors or to take advantage of any insolvency law; or

(2) if an order, judgment, or decree is entered by a court of competent jurisdiction, on the application of a creditor, adjudicating the insured bankrupt or insolvent or approving a petition seeking reorganization of the insured or of all or a substantial part of its assets.

(d) In an instance described by Subsection (c), the association is entitled to assert a claim in the bankruptcy or receivership proceeding to recover the amount of any covered claim and costs of defense paid on behalf of the insured.

(e) The association may establish procedures for requesting financial information from an insured or claimant on a confidential basis for the purpose of applying sections concerning the net worth of first-party and third-party claimants, subject to any information requested under this subsection being shared with any other association similar to the association and with the liquidator for the impaired insurer on the same confidential basis. If the insured or claimant refuses to provide the requested

financial information, the association requests an auditor's certification of that information, and the auditor's certification is available but not provided, the association may deem the net worth of the insured or claimant to be in excess of $50 million at the relevant time.

(f) In any lawsuit contesting the applicability of Section 462.308 or this section when the insured or claimant has declined to provide financial information under the procedure provided in the plan of operation under Section 462.103, the insured or claimant bears the burden of proof concerning its net worth at the relevant time. If the insured or claimant fails to prove that its net worth at the relevant time was less than the applicable amount, the court shall award the association its full costs, expenses, and reasonable attorney's fees in contesting the claim [~~This section does not exclude the payment of a covered claim for workers' compensation benefits otherwise payable under this chapter~~].

(b) Section 7, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 11A, Article 21.28-C, Insurance Code, is repealed.

SECTION 9.011. (a) Sections 462.309(c) and (e), Insurance Code, are amended to conform to Section 8, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(c) A deadline imposed under the Texas Rules of Civil Procedure or the Texas Rules of Appellate Procedure is tolled during the stay. Statutes of limitation or repose are not tolled during the stay, and any action filed during the stay is stayed upon the filing of the action.

(e) The commissioner may bring an ancillary conservation [~~delinquency~~] proceeding under Section 443.401 [~~Sections 442.751, 442.752, and 442.754~~] for the [~~limited~~] purpose of determining the application, enforcement, and extension of the stay to an impaired insurer that is not domiciled in this state.

(b) Section 8, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (a), Section 17, Article 21.28-C, Insurance Code, is repealed.

SECTION 9.012. (a) The heading to Chapter 463, Insurance Code, is amended to conform to Section 9, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

CHAPTER 463. TEXAS LIFE, ACCIDENT, HEALTH, AND HOSPITAL SERVICE INSURANCE GUARANTY ASSOCIATION

(b) Section 463.001, Insurance Code, is amended to conform to Section 9, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 463.001. SHORT TITLE. This chapter may be cited as the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association Act.

SECTION 9.013. (a) Section 463.003, Insurance Code, is amended to conform to Sections 2 and 3, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, and to more closely conform to the source law from which the section was derived, to read as follows:

Sec. 463.003. GENERAL DEFINITIONS. In this chapter:

(1) "Association" means the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association.

(1-a) "Benefit plan" means a specific employee, union, or association of natural persons benefit plan.

(2) "Board" means the board of directors of the association.

(3) "Contractual obligation" means an obligation under a policy or contract or certificate under a group policy or contract, or part of a policy or contract or certificate, for which coverage is provided under Subchapter E.

(4) "Covered policy" means a policy or contract, or portion of a policy or contract, with respect to which this chapter provides coverage as determined under Subchapter E.

(5) "Impaired insurer" means a member insurer that is designated an "impaired insurer" by the commissioner and is:

(A) [~~is~~] placed by a court in this state or another state under an order of supervision, liquidation, rehabilitation, or conservation [~~under Chapter 441 or 442 and is designated by the commissioner as an impaired insurer~~]; [~~or~~]

(B) placed under an order of liquidation or rehabilitation under Chapter 443; or

(C) placed under an order of supervision or conservation by the commissioner under Chapter 441 [~~is determined in good faith by the commissioner to be unable or potentially unable to fulfill the insurer's contractual obligations~~].

(6) "Insolvent insurer" means a member insurer that[~~:~~

[~~(A)~~] has been placed under an order of liquidation with a finding of insolvency by a court in this state or another state [~~a minimum free surplus, if a mutual insurance~~

~~company, or required capital, if a stock insurance company, that is impaired to an extent prohibited by law; and~~

[~~(B) the commissioner designates as an insolvent insurer~~].

(7) "Member insurer" means an insurer that is required to participate in the association under Section 463.052.

(7-a) "Owner" means the owner of a policy or contract and "policy owner" and "contract owner" mean the person who is identified as the legal owner under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and is properly recorded as the owner on the books of the insurer. The terms "owner," "contract owner," and "policy owner" do not include persons with a mere beneficial interest in a policy or contract.

(8) "Person" means an individual, corporation, limited liability company, partnership, association, governmental body or entity, or voluntary organization.

(8-a) "Plan sponsor" means:

(A) the employer in the case of a benefit plan established or maintained by a single employer;

(B) the employee organization in the case of a benefit plan established or maintained by an employee organization; or

(C) in a case of a benefit plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association,

committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan.

(9) "Premium" means an amount received on a covered policy, less any premium, consideration, or deposit returned on the policy, and any dividend or experience credit on the policy. The term does not include:

(A) an amount received for a policy or contract or part of a policy or contract for which coverage is not provided under Section 463.202, except that assessable premiums may not be reduced because of:

(i) an interest limitation provided by Section 463.203(b)(3); or

(ii) a limitation provided by Section 463.204 with respect to a single individual, participant, annuitant, or contract owner [~~holder~~];

(B) premiums in excess of $5 million on an unallocated annuity contract not issued under a governmental benefit [~~retirement~~] plan established under Section 401, 403(b), or 457, Internal Revenue Code of 1986; [~~or~~]

(C) premiums received from the state treasury or the United States treasury for insurance for which this state or the United States contracts to:

(i) provide welfare benefits to designated welfare recipients; or

(ii) implement Title 2, Human Resources Code, or the Social Security Act (42 U.S.C. Section 301 et seq.); or

(D) premiums in excess of $5 million with respect to multiple nongroup policies of life insurance owned by one owner, regardless of whether the policy owner is an individual, firm, corporation, or other person and regardless of whether the persons insured are officers, managers, employees, or other persons, regardless of the number of policies or contracts held by the owner.

(10) "Resident" means a person who resides in this state on the earlier of the date a member insurer becomes an impaired insurer or the date of entry of a court order that determines a member insurer to be an impaired insurer or the date of entry of a court order that determines a member insurer to be an insolvent insurer and to whom the [~~at the time a~~] member insurer [~~that~~] owes a contractual obligation [~~to the person is determined to be impaired or insolvent~~]. For the purposes of this subdivision:

(A) a person is considered to be a resident of only one state; [~~and~~]

(B) a person other than an individual is considered to be a resident of the state in which the person's principal place of business is located; and

(C) a United States citizen who is either a resident of a foreign country or a resident of a United States possession, territory, or protectorate that does not have an association similar to the association created by this chapter is considered a resident of the state of domicile of the insurer that issued the policy or contract.

(10-a) "Structured settlement annuity" means an annuity purchased to fund periodic payments for a plaintiff or

other claimant in payment for or with respect to personal injury suffered by the plaintiff or other claimant.

(11) "Supplemental contract" means a written [~~an~~] agreement for the distribution of policy or contract proceeds.

(12) "Unallocated annuity contract" means an annuity contract or group annuity certificate that is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under the contract or certificate.

(b) Subchapter A, Chapter 463, Insurance Code, is amended to conform to Section 3, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 463.0031 to read as follows:

Sec. 463.0031. DEFINITION OF PRINCIPAL PLACE OF BUSINESS OF PLAN SPONSOR OR OTHER PERSON. (a) Except as otherwise provided by this section, in this chapter, the "principal place of business" of a plan sponsor or a person other than an individual means the single state in which the individuals who establish policy for the direction, control, and coordination of the operations of the plan sponsor or person as a whole primarily exercise that function, as determined by the association in its reasonable judgment by considering the following factors:

(1) the state in which the primary executive and administrative headquarters of the plan sponsor or person is located;

(2) the state in which the principal office of the chief executive officer of the plan sponsor or person is located;

(3) the state in which the board of directors, or similar governing person or persons, of the plan sponsor or person conduct the majority of their meetings;

(4) the state in which the executive or management committee of the board of directors, or similar governing person or persons, of the plan sponsor or person conduct the majority of their meetings;

(5) the state from which the management of the overall operations of the plan sponsor or person is directed; and

(6) in the case of a benefit plan sponsored by affiliated companies comprising a consolidated corporation, the state in which the holding company or controlling affiliate has its principal place of business as determined using the factors described by Subdivisions (1)-(5).

(b) In the case of a plan sponsor, if more than 50 percent of the participants in the benefit plan are employed in a single state, that state is the principal place of business of the plan sponsor.

(c) The principal place of business of a plan sponsor of a benefit plan described in Section 463.003(8-a)(C) is the principal place of business of the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan that, in lieu of a specific or clear designation of a principal place of business, shall be deemed to be the principal place of business of the employer or employee organization that has the largest investment in that benefit plan.

(c) Section 463.052(b), Insurance Code, is amended to

conform to Section 2, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) The following do not participate as member insurers:

(1) a health maintenance organization;

(2) a fraternal benefit society;

(3) a mandatory state pooling plan;

(4) a reciprocal or interinsurance exchange; [~~and~~]

(5) an organization which has a certificate of authority or license limited to the issuance of charitable gift annuities, as defined by this code or rules adopted by the commissioner; and

(6) an entity similar to an entity described by Subdivision (1), (2), (3), [~~or~~] (4), or (5).

(d) Section 463.204, Insurance Code, is amended to conform to Section 2, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 463.204. OBLIGATIONS EXCLUDED. A contractual obligation does not include:

(1) death benefits in an amount in excess of $300,000 or a net cash surrender or net cash withdrawal value in an amount in excess of $100,000 [~~in the aggregate~~] under one or more policies on a single life;

(2) an amount in excess of:

(A) $100,000 in the present value [~~aggregate~~] under one or more annuity contracts issued with respect to a single life under [~~to the same holder of~~] individual annuity policies or [~~to the same annuitant or participant under~~] group annuity

policies; or

(B) $5 million in unallocated annuity contract benefits with respect to a single contract owner [~~holder~~] regardless of the number of those contracts;

(3) an amount in excess of the following amounts, including any net cash surrender or cash withdrawal values, [~~$200,000 in the aggregate~~] under one or more accident, health, [~~or~~] accident and health, or long-term care insurance policies on a single life:

(A) $500,000 for basic hospital, medical-surgical, or major medical insurance, as those terms are defined by this code or rules adopted by the commissioner;

(B) $300,000 for disability and long-term care insurance, as those terms are defined by this code or rules adopted by the commissioner; or

(C) $200,000 for coverages that are not defined as basic hospital, medical-surgical, major medical, disability, or long-term care insurance;

(4) an amount in excess of $100,000 in present value annuity benefits, in the aggregate, including any net cash surrender and net cash withdrawal values, with respect to each individual participating in a governmental retirement benefit plan established under Section 401, 403(b), or 457, Internal Revenue Code of 1986 (26 U.S.C. Sections 401, 403(b), and 457), covered by an unallocated annuity contract or the beneficiary or beneficiaries of the individual if the individual is deceased;

(5) an amount in excess of $100,000 in present value

annuity benefits, in the aggregate, including any net cash surrender and net cash withdrawal values, with respect to each payee of a structured settlement annuity or the beneficiary or beneficiaries of the payee if the payee is deceased;

(6) aggregate benefits in an amount in excess of $300,000 with respect to a single life, except with respect to:

(A) benefits paid under basic hospital, medical-surgical, or major medical insurance policies, described by Subdivision (3)(A), in which case the aggregate benefits are $500,000; and

(B) benefits paid to one owner of multiple nongroup policies of life insurance, whether the policy owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, in which case the maximum benefits are $5 million regardless of the number of policies and contracts held by the owner;

(7) an amount in excess of $5 million in benefits, with respect to either one plan sponsor whose plans own directly or in trust one or more unallocated annuity contracts not included in Subdivision (4) irrespective of the number of contracts with respect to the contract owner or plan sponsor or one contract owner provided coverage under Section 463.201(a)(3)(B), except that, if one or more unallocated annuity contracts are covered contracts under this chapter and are owned by a trust or other entity for the benefit of two or more plan sponsors, coverage shall be afforded by the association if the largest interest in the trust or entity

owning the contract or contracts is held by a plan sponsor whose principal place of business is in this state, and in no event shall the association be obligated to cover more than $5 million in benefits with respect to all these unallocated contracts;

(8) any contractual obligations of the insolvent or impaired insurer under a covered policy or contract that do not materially affect the economic value of economic benefits of the covered policy or contract; or

(9) [~~(4)~~] punitive, exemplary, extracontractual, or bad faith damages, regardless of whether the damages are:

(A) agreed to or assumed by an insurer or insured; or

(B) imposed by a court.

(e) The following are repealed:

(1) Section 2, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 5, Article 21.28-D, Insurance Code, by amending Subdivisions (2), (3), (4), (5), (6), (7), (9), (10), (11), and (12) and adding Subdivisions (2-a), (8-a), (9-a), and (11-a); and

(2) Section 3, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which added Section 5A to former Article 21.28-D, Insurance Code.

SECTION 9.014. (a) Section 463.051(a), Insurance Code, is amended to conform to Section 4, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association is a nonprofit legal entity existing

to pay benefits and continue coverage as provided by this chapter.

(b) Section 4, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (a), Section 6, Article 21.28-D, Insurance Code, is repealed.

SECTION 9.015. (a) Section 463.101(a), Insurance Code, is amended to conform to Section 5, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The association may:

(1) enter into contracts as necessary or proper to carry out this chapter and the purposes of this chapter;

(2) sue or be sued, including taking:

(A) necessary or proper legal action to:

(i) recover an unpaid assessment under Subchapter D; or

(ii) settle a claim or potential claim against the association; or

(B) necessary legal action to avoid payment of an improper claim;

(3) borrow money to effect the purposes of this chapter;

(4) exercise, for the purposes of this chapter and to the extent approved by the commissioner, the powers of a domestic life, accident, or health insurance company or a group hospital service corporation, except that the association may not issue an insurance policy or annuity contract other than to perform the association's obligations under this chapter; [~~and~~]

(5) to further the association's purposes, exercise

the association's powers, and perform the association's duties, join an organization of one or more state associations that have similar purposes;

(6) request information from a person seeking coverage from the association in determining its obligations under this chapter with respect to the person, and the person shall promptly comply with the request; and

(7) take any other necessary or appropriate action to discharge the association's duties and obligations under this chapter or to exercise the association's powers under this chapter.

(b) Subchapter E, Chapter 463, Insurance Code, is amended to conform to Section 5, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 463.206 to read as follows:

Sec. 463.206. ASSOCIATION DISCRETION IN MANNER OF PROVIDING BENEFITS. (a) The board shall have discretion and may exercise reasonable business judgment to determine the means by which the association is to provide the benefits of this chapter in an economical and efficient manner.

(b) If the association arranges or offers to provide the benefits of this chapter to a covered person under a plan or arrangement that fulfills the association's obligations under this chapter, the person is not entitled to benefits from the association in addition to or other than those provided under the plan or arrangement.

(c) Section 463.259, Insurance Code, is amended to conform to Section 5, Chapter 753, Acts of the 79th Legislature, Regular

Session, 2005, to read as follows:

Sec. 463.259. PREMIUM DUE DURING RECEIVERSHIP. After a court enters an order of receivership with respect to an impaired or insolvent insurer, a premium due for coverage issued by the insurer is owned by and is payable at the direction of the association. The association is liable for an unearned premium owed to a policy or contract owner that arises after the court enters the order.

(d) Section 463.261, Insurance Code, is amended to conform to Section 5, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by adding Subsections (d) and (e) to read as follows:

(d) The rights of the association under Subsection (c) include, in the case of a structured settlement annuity, any rights of the owner, beneficiary, or payee of the annuity, to the extent of benefits received under this chapter, against any person originally or by succession responsible for the losses arising from the personal injury relating to the annuity or payment for the annuity, other than a person responsible solely by reason of serving as an assignee in respect of a qualified assignment under Section 130, Internal Revenue Code of 1986 (26 U.S.C. Section 130).

(e) If a provision of this section is invalid or ineffective with respect to any person or claim for any reason, the amount payable by the association with respect to the related covered obligations is reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies, or portion of the policies, covered by the association. If the association has provided benefits with respect to a covered obligation and a person recovers amounts as to which the

association has rights described in this section, the person shall pay to the association the portion of the recovery attributable to the policies, or portion of the policies, covered by the association.

(e) Subchapter F, Chapter 463, Insurance Code, is amended to conform to Section 5, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 463.263 to read as follows:

Sec. 463.263. DEPOSIT TO BE PAID TO ASSOCIATION. (a) A deposit in this state, held under law or required by the commissioner for the benefit of creditors, including policy owners, that is not turned over to the domiciliary receiver on the entry of a final order of liquidation or order approving a rehabilitation plan of an insurer domiciled in this state or a reciprocal state in accordance with Section 443.402 shall be promptly paid to the association.

(b) The association is entitled to retain a portion of any amount paid to the association under this section equal to the percentage determined by dividing the aggregate amount of policy owners' claims related to that insolvency for which the association has provided statutory benefits by the aggregate amount of all policy owners' claims in this state related to that insolvency and shall remit to the domiciliary receiver the amount paid to the association and retained under this section.

(c) The amount paid to the association under this section, less the amount retained by the association under this section, is treated as a distribution of estate assets under Section 443.303 or

the similar law of the state of domicile of the impaired or insolvent insurer.

(f) Section 5, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 8, Article 21.28-D, Insurance Code, by amending Subsections (e), (n), and (v) and adding Subsections (u-1), (u-2), (u-3), (x), and (y), is repealed.

SECTION 9.016. (a) Section 463.151, Insurance Code, is amended to conform to Section 6, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The association shall assess member insurers, separately for each account under Section 463.105, in the amounts and at the times the board determines necessary to provide money for the association to exercise the association's powers, perform the association's duties, and carry out the purposes of this chapter. The association may not authorize and call [~~make~~] an assessment to meet the requirements of the association with respect to an impaired or insolvent insurer until the assessment is necessary to carry out the purposes of this chapter. The board shall classify assessments under Section 463.152 and determine the amount of assessments with reasonable accuracy, recognizing that exact determinations may not always be possible.

(a-1) The association shall notify each member insurer of its anticipated pro rata share of an authorized assessment not yet called not later than the 180th day after the date the assessment is authorized.

(b) Section 463.152, Insurance Code, is amended to conform to Section 6, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) Class A assessments are authorized and called [~~made~~] to pay:

(1) the association's administrative costs;

(2) administrative expenses that:

(A) are properly incurred under this chapter; and

(B) relate to an unauthorized insurer or to an entity that is not a member insurer; and

(3) other general expenses not related to a particular impaired or insolvent insurer.

(c) Class B assessments are authorized and called [~~made~~] to the extent necessary for the association to carry out the association's powers and duties under Sections 463.101, 463.103, 463.109, and 463.111(c) and Subchapter F with regard to an impaired or insolvent insurer.

(d) For purposes of this section, an assessment is authorized at the time a resolution by the board is passed under which an assessment will be called immediately or in the future from member insurers for a specified amount and an assessment is called at the time a notice has been issued by the association to member insurers requiring that an authorized assessment be paid within a period stated in the notice. An authorized assessment becomes a called assessment at the time notice is mailed by the association to member insurers.

(c) Sections 463.153(b) and (c), Insurance Code, are amended to conform to Section 6, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) Class B assessments against a member insurer for each account under Section 463.105 shall be authorized and called [~~made~~] in the proportion that the premiums received on [~~all~~] business in this state by the insurer on policies or contracts covered by each account for the three most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent bear to [~~the~~] premiums received on [~~all~~] business in this state for those calendar years by all assessed member insurers. The amount of a Class B assessment shall be allocated [~~divided~~] among the separate accounts in accordance with an allocation formula that may be based on:

(1) the premiums or reserves of the impaired or insolvent insurer; or

(2) any other standard deemed by the board in the board's sole discretion as being fair and reasonable under the circumstances [~~the proportion that the premiums on the policies covered by each account were received by the impaired or insolvent insurer from all covered policies during the year preceding the date of the impairment, as shown in the annual statements for the year preceding the date of the assessment~~].

(c) The total amount of assessments on a member insurer for each account under Section 463.105 may not exceed two [~~one~~] percent of the insurer's premiums on the policies covered by the account during the three [~~in a single~~] calendar years preceding the year in

which the insurer became an impaired or insolvent insurer. If two or more assessments are authorized in a calendar year with respect to insurers that become impaired or insolvent in different calendar years, the average annual premiums for purposes of the aggregate assessment percentage limitation described by this subsection shall be equal to the higher of the three-year average annual premiums for the applicable subaccount or account as computed in accordance with this section [~~year~~]. If the maximum assessment and the other assets of the association do not provide in a year an amount sufficient to carry out the association's responsibilities, the association shall make necessary additional assessments as soon as this chapter permits.

(d) Section 6, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 9, Article 21.28-D, Insurance Code, by amending Subsections (b), (d), (f), (g), and (h) and adding Subsection (b-1), is repealed.

SECTION 9.017. (a) Section 463.161(a), Insurance Code, is amended to conform to Section 7, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) A member insurer is entitled to show as an admitted asset a certificate of contribution in the form the commissioner approves under Section 463.156. Unless the commissioner requires a longer period, the certificate may be shown at:

(1) for the calendar year of issuance, an amount equal to the certificate's original face value approved by the commissioner; and

(2) beginning with the year following the calendar

year of issuance, an amount equal to the certificate's original face value, reduced by 20 [~~10~~] percent a year for each year after the year of issuance, for a period of five [~~10~~] years.

(b) Section 7, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (a), Section (13), Article 21.28-D, Insurance Code, is repealed.

SECTION 9.018. (a) Section 463.201, Insurance Code, is amended to conform to Section 1, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, and to conform more closely to the source law from which the section was derived to read as follows:

Sec. 463.201. INSUREDS COVERED. (a) Subject to Subsections (b) and (c), this [~~This~~] chapter provides coverage for a policy or contract described by Section 463.202 to a person who is:

(1) a person, other than a certificate holder under a group policy or contract who is not a resident, who is a beneficiary, assignee, or payee of a person described by Subdivision (2);

(2) a person who is [~~subject to Subsection (b),~~] an owner of or certificate holder under a policy or contract specified by Section 463.202, other than [~~or a contract holder under~~] an unallocated annuity contract or structured settlement annuity, and who is:

(A) a resident; or

(B) not a resident, but only under all of the following conditions:

(i) the insurers that issued the policies

or contracts are domiciled in this state;

(ii) the state in which the person resides has an association similar to the association; and

(iii) the person is not eligible for coverage by an association in any other state because the insurer was not licensed in the state at the time specified in that state's guaranty association law;

(3) a person who is the owner of an unallocated annuity contract issued to or in connection with:

(A) a benefit plan whose plan sponsor has the sponsor's principal place of business in this state; or

(B) a government lottery, if the owner is a resident; or

(4) a person who is the payee under a structured settlement annuity, or beneficiary of the payee if the payee is deceased, if:

(A) the payee is a resident, regardless of where the contract owner resides;

(B) the payee is not a resident, the contract owner of the structured settlement annuity is a resident, and the payee is not eligible for coverage by the association in the state in which the payee resides; or

(C) the payee and the contract owner are not residents, the insurer that issued the structured settlement annuity is domiciled in this state, the state in which the contract owner resides has an association similar to the association, and neither the payee or, if applicable, the payee's beneficiary, nor

the contract owner is eligible for coverage by the association in the state in which the payee or contract owner resides [~~(2) a beneficiary, assignee, or payee, other than a certificate holder under a group policy or contract who is not a resident, of a person described by Subdivision (1)~~].

(b) This chapter does not provide coverage to:

(1) a person who is a payee or the beneficiary of a payee with respect to a contract the owner of which is a resident of this state, if the payee or the payee's beneficiary is afforded any coverage by the association of another state; or

(2) a person otherwise described by Subsection (a)(3), if any coverage is provided by the association of another state to that person.

(c) This chapter is intended to provide coverage to persons who are residents of this state, and in those limited circumstances as described in this chapter, to nonresidents. In order to avoid duplicate coverage, if a person who would otherwise receive coverage under this chapter is provided coverage under the laws of any other state, the person may not be provided coverage under this chapter. In determining the application of the provisions of this subsection in situations in which a person could be covered by the association of more than one state, whether as an owner, payee, beneficiary, or assignee, this chapter shall be construed in conjunction with other state laws to result in coverage by only one association. [~~Coverage under Subsection (a)(1) applies to a person who is not a resident, only if:~~

[~~(1) the insurer that issued the policy or contract is~~

~~domiciled in this state;~~

[~~(2) the insurer never held a certificate of authority in the state in which the person resides;~~

[~~(3) the state in which the person resides has an association similar to the association; and~~

[~~(4) the person is not eligible for coverage by the association in the state in which the person resides.~~]

(b) Sections 463.202(a) and (c), Insurance Code, are amended to conform to Section 1, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) Except as limited by this chapter, the coverage provided by this chapter to a person specified by Section 463.201, subject to Sections 463.201(b) and (c), applies with respect to the following policies and contracts issued by a member insurer:

(1) a direct, nongroup life, health, accident, annuity, or supplemental policy or contract;

(2) a certificate under a direct group policy or contract;

(3) a group hospital service contract; and

(4) an unallocated annuity contract.

(c) For the purposes of this section, an annuity contract or a certificate under a group annuity contract includes:

(1) a guaranteed investment contract;

(2) a deposit administration contract;

(3) an allocated or unallocated funding agreement;

(4) a structured settlement annuity [~~agreement~~];

(5) an annuity issued to or in connection with a

government lottery [~~a lottery contract~~]; and

(6) an immediate or deferred annuity contract.

(c) Section 463.203, Insurance Code, is amended to conform to Section 1, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) This chapter does not provide coverage for:

(1) any part of a policy or contract not guaranteed by the insurer or under which the risk is borne by the policy or contract owner [~~holder~~];

(2) a policy or contract of reinsurance, unless an assumption certificate has been issued;

(3) any part of a policy or contract to the extent that the rate of interest on which that part is based:

(A) as averaged over the period of four years before the date the member insurer becomes impaired or insolvent under this chapter, whichever is earlier [~~association became obligated with respect to the policy or contract~~], exceeds a rate of interest determined by subtracting two percentage points from Moody's Corporate Bond Yield Average averaged for the same four-year period or for a lesser period if the policy or contract was issued less than four years before the date the member insurer becomes impaired or insolvent under this chapter, whichever is earlier [~~association became obligated~~]; and

(B) on and after the date the member insurer becomes impaired or insolvent under this chapter, whichever is earlier [~~association became obligated with respect to the policy or~~

~~contract~~], exceeds the rate of interest determined by subtracting three percentage points from Moody's Corporate Bond Yield Average as most recently available;

(4) a portion of a policy or contract issued to a plan or program of an employer, association, [~~or~~] similar entity, or other person to provide life, health, or annuity benefits to the entity's employees, [~~or~~] members, or others, to the extent that the plan or program is self-funded or uninsured, including benefits payable by an employer, association, or similar entity under:

(A) a multiple employer welfare arrangement as defined by Section 3, Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1002);

(B) a minimum premium group insurance plan;

(C) a stop-loss group insurance plan; or

(D) an administrative services-only contract;

(5) any part of a policy or contract to the extent that the part provides dividends, [~~or~~] experience rating credits, or voting rights, or provides that fees or allowances be paid to any person, including the policy or contract owner [~~holder~~], in connection with the service to or administration of the policy or contract;

(6) a policy or contract issued in this state by a member insurer at a time the insurer was not authorized to issue the policy or contract in this state;

(7) an unallocated annuity contract issued to or in connection with a [~~an employee~~] benefit plan protected under the federal Pension Benefit Guaranty Corporation, regardless of

whether the Pension Benefit Guaranty Corporation has not yet become liable to make any payments with respect to the benefit plan;

(8) any part of an unallocated annuity contract that is not issued to or in connection with a specific employee, a benefit plan for a union or association of individuals, or a governmental lottery; [~~or~~]

(9) any part of a financial guarantee, funding agreement, or guaranteed investment contract that:

(A) does not contain a mortality guarantee; and

(B) is not issued to or in connection with a specific employee, a benefit plan, or a governmental lottery;

(10) a part of a policy or contract to the extent that the assessments required by Subchapter D with respect to the policy or contract are preempted by federal or state law;

(11) a contractual agreement that established the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or the plan's trustee in a case in which neither the benefit plan sponsor nor its trustee is an affiliate of the member insurer; or

(12) a part of a policy or contract to the extent the policy or contract provides for interest or other changes in value that are to be determined by the use of an index or external reference stated in the policy or contract, but that have not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under

this chapter, whichever date is earlier, subject to Subsection (c).

(c) For purposes of determining the values that have been credited and are not subject to forfeiture as described by Subsection (b)(12), if a policy's or contract's interest or changes in value are credited less frequently than annually, the interest or change in value determined by using the procedures defined in the policy or contract is credited as if the contractual date of crediting interest or changing values is the earlier of the date of impairment or the date of insolvency, and is not subject to forfeiture.

(d) Section 463.260(a), Insurance Code, is amended to conform to Section 1, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The association is not liable for benefits that exceed the contractual obligations for which the insurer is liable or would have been liable if not impaired or insolvent. The association has no obligation to provide benefits outside the express written terms of the policy or contract, including:

(1) claims based on marketing materials;

(2) claims based on side letters, riders, or other documents that were issued without meeting applicable policy form filing or approval requirements;

(3) claims based on misrepresentation of or regarding policy benefits;

(4) extracontractual claims; or

(5) claims for penalties or consequential or incidental damages.

(e) Subchapter F, Chapter 463, Insurance Code, is amended to conform to Section 1, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 463.262 to read as follows:

Sec. 463.262. EFFECT OF SUBROGATION AND ASSIGNMENT OF RIGHTS AND AVAILABLE ASSETS ON ASSOCIATION OBLIGATION. (a) The limitations set forth in this chapter are limitations on the benefits for which the association is obligated before taking into account either the association's subrogation and assignment rights or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies.

(b) The costs of the association's obligations under this chapter may be met by the use of assets attributable to covered policies or reimbursed to the association pursuant to the association's subrogation and assignment rights.

(f) Section 1, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 3, Article 21.28-D, Insurance Code, is repealed.

SECTION 9.019. (a) Section 463.302(d), Insurance Code, is amended to conform to Section 8, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(d) The maximum amount recoverable under Subsections (b) and (c) is the amount needed in excess of all other available assets of the impaired or insolvent insurer to pay the insurer's contractual obligations.

(b) Section 463.304, Insurance Code, is amended to conform

to Section 8, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 463.304. DISTRIBUTION OF OWNERSHIP RIGHTS OF IMPAIRED OR INSOLVENT INSURER. In making an equitable distribution of the ownership rights of an impaired or insolvent insurer before the termination of a receivership, the court:

(1) shall consider the welfare of the policyholders of the continuing or successor insurer; and

(2) may consider the contributions of the respective parties, including the association, the shareholders and policyholders of the impaired or insolvent insurer, and any other party with a bona fide interest.

(c) Section 8, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsections (d) and (i), Section 14, Article 21.28-D, Insurance Code, is repealed.

SECTION 9.020. (a) Article 21.79H, Insurance Code, is transferred to Chapter 542, Insurance Code, redesignated as Subchapter G of that chapter, and amended to read as follows:

SUBCHAPTER G. INSURER'S RECOVERY FROM UNINSURED THIRD PARTY

Sec. 542.301. APPLICABILITY OF SUBCHAPTER [~~Art. 21.79H. RECOVERY OF CERTAIN COSTS FROM THIRD PARTY~~]. [~~(a)~~] This subchapter [~~article~~] applies to any insurer that delivers, issues for delivery, or renews a private passenger automobile insurance policy in this state, including a county mutual, a reciprocal or interinsurance exchange, or a Lloyd's plan.

Sec. 542.302. RECOVERY IN SUIT OR OTHER ACTION. [~~(b)~~] An insurer that brings suit or takes other action described by Section

542.202 [~~of this code~~] against a responsible third party relating to a loss that is covered under a private passenger automobile insurance policy issued by the insurer and for which the responsible third party is uninsured is entitled to recover, in addition to payments made by the insurer or insured, the costs of bringing the suit or taking the action, including reasonable attorney's fees and court costs.

(b) For organizational purposes, the heading to Subchapter E, Chapter 542, Insurance Code, is amended to read as follows:

SUBCHAPTER E. RECOVERY OF DEDUCTIBLE [~~COLLECTION~~] FROM THIRD PARTIES UNDER CERTAIN AUTOMOBILE INSURANCE POLICIES

SECTION 9.021. (a) Section 544.303, Insurance Code, is amended to conform to Section 1, Chapter 149, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 544.303. PROHIBITION OF CERTAIN UNDERWRITING DECISIONS BASED ON PREVIOUS MOLD CLAIM OR DAMAGE. An insurer may not make an underwriting decision regarding a residential property insurance policy based on previous mold damage or a claim for mold damage if:

(1) the applicant for insurance coverage has property eligible for coverage under a residential property policy;

(2) the property has had mold damage;

(3) mold remediation has been performed on the property; and

(4) the property was:

(A) remediated, as evidenced by a certificate of mold remediation issued to the property owner under Section

1958.154, Occupations Code, that establishes with reasonable certainty that the underlying cause of the mold at the property has been remediated; or

(B) inspected by an independent assessor or adjustor who determined, based on the inspection, that the property does not contain evidence of mold damage.

(b) Section 1, Chapter 149, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 3, Article 21.21-11, Insurance Code, is repealed.

SECTION 9.022. (a) Section 544.352, Insurance Code, is amended to conform to Section 1, Chapter 528, Acts of the 79th Legislature, Regular Session, 2005, and further amended to read as follows:

Sec. 544.352. DEFINITIONS. In this subchapter:

(1) "Appliance" means a household device operated by gas or electric current, including hoses directly attached to the device. The term includes air conditioning units, heating units, refrigerators, dishwashers, icemakers, clothes washers, water heaters, and disposals.

(2) "Insurer" means an insurance company, reciprocal or interinsurance exchange, mutual insurance company, capital stock company, county mutual insurance company, farm mutual insurance company, association, Lloyd's plan, or other entity writing residential property insurance in this state. The term includes an affiliate, as described by Section 823.003(a), if that affiliate is authorized to write and is writing residential property insurance in this state. The term does not include:

(A) the Texas Windstorm Insurance Association created and operated under Chapter 2210 [~~Article 21.49~~]; or

(B) the FAIR Plan created and operated under Chapter 2211 [~~Article 21.49A~~].

(3) [~~(2)~~] "Residential property insurance" means insurance against loss to residential real property at a fixed location or tangible personal property provided in a homeowners policy, which includes a tenant policy, a condominium owners policy, or a residential fire and allied lines policy.

(4) [~~(3)~~] "Underwriting guideline" means a rule, standard, guideline, or practice, whether written, oral, or electronic, that is used by an insurer or an agent of an insurer to:

(A) decide whether to accept or reject an application for a residential property insurance policy; or

(B) determine how to classify the risks that are accepted for the purpose of determining a rate.

(b) Section 1, Chapter 528, Acts of the 79th Legislature, Regular Session, 2005, which added Subdivision (4) to former Section 2, Article 5.35-4, Insurance Code, is repealed.

SECTION 9.023. (a) Chapter 544, Insurance Code, is amended to codify Article 21.53X, Insurance Code, as added by Section 8, Chapter 97, Acts of the 79th Legislature, Regular Session, 2005, by adding Subchapter J and is further amended to read as follows:

SUBCHAPTER J. PROHIBITED PRACTICES RELATING TO EXPOSURE TO ASBESTOS OR SILICA

Sec. 544.451. DEFINITION. In this subchapter, "health benefit plan" means a plan that provides benefits for medical,

surgical, or other treatment expenses incurred as a result of a health condition, a mental health condition, an accident, sickness, or substance abuse, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document. The term includes:

(1) a small employer health benefit plan or a health benefit plan written to provide coverage with a cooperative under Chapter 1501;

(2) a standard health benefit plan offered under Subchapter A or Subchapter B, Chapter 1507; and

(3) a health benefit plan offered under Chapter 1551, 1575, 1579, or 1601.

Sec. 544.452. APPLICABILITY OF SUBCHAPTER. This subchapter applies to any entity that offers a health benefit plan or an annuity or life insurance policy or contract in this state, including:

(1) a stock or mutual life, health, or accident insurance company;

(2) a group hospital service corporation operating under Chapter 842;

(3) a fraternal benefit society operating under Chapter 885;

(4) a stipulated premium insurance company operating under Chapter 884;

(5) a Lloyd's plan operating under Chapter 941;

(6) an exchange operating under Chapter 942;

(7) a health maintenance organization operating under Chapter 843;

(8) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846;

(9) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844;

(10) a statewide mutual assessment company operating under Chapter 881;

(11) a local mutual aid association operating under Chapter 886; and

(12) a local mutual burial association operating under Chapter 888.

Sec. 544.453. PROHIBITION. An entity that offers a health benefit plan or an annuity or life insurance policy or contract may not use the fact that a person has been exposed to asbestos fibers or silica or has filed a claim governed by Chapter 90, Civil Practice and Remedies Code, to reject, deny, limit, cancel, refuse to renew, increase the premiums for, or otherwise adversely affect the person's eligibility for or coverage under the policy or contract.

(b) Article 21.53X, Insurance Code, as added by Section 8, Chapter 97, Acts of the 79th Legislature, Regular Session, 2005, is repealed.

SECTION 9.024. Section 551.004, Insurance Code, is amended to correct references to read as follows:

Sec. 551.004. TRANSFER NOT CONSIDERED A REFUSAL TO RENEW. For purposes of this chapter and Subchapters C and D, Chapter 1952

[~~Articles 5.06-1 and 5.06-3 of this code~~], the transfer of a policyholder between admitted companies within the same insurance group is not considered a refusal to renew.

SECTION 9.0245. (a) Subchapter A, Chapter 551, Insurance Code, is amended to conform to the enactment of Article 21.49-2V, Insurance Code, by Section 8.02, Chapter 206, Acts of the 78th Legislature, Regular Session, 2003, by adding Section 551.005 to read as follows:

Sec. 551.005. MEMBERSHIP DUES. (a) In this section, "insurer" includes a county mutual insurance company, a Lloyd's plan, and a reciprocal or interinsurance exchange.

(b) Except as otherwise provided by law, an insurer may require that membership dues in its sponsoring organization be paid as a condition for issuance or renewal of a policy.

(b) Article 21.49-2V, Insurance Code, as added by Section 8.02, Chapter 206, Acts of the 78th Legislature, Regular Session, 2003, is repealed.

SECTION 9.025. Section 843.318(a), Insurance Code, is amended to conform more closely to the source law from which the section was derived to read as follows:

(a) This chapter and this code do not prohibit a physician or provider who is participating in a health maintenance organization delivery network, whether by contracting with a health maintenance organization under Section 843.101 or by subcontracting with a physician or provider in the health maintenance organization delivery network, from entering into a contractual arrangement [~~authorized by this section~~] within a

health maintenance organization delivery network described by Subsections (b)-(e).

SECTION 9.026. Section 941.003(b), Insurance Code, as amended by Chapters 631 and 1295, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and is amended to correct references to read as follows:

(b) A Lloyd's plan is subject to:

(1) Subchapter [~~Section 5, Article 1.10,~~

[~~(2) Article 1.15A,~~

[~~(3) Subchapters~~] A, [~~Q, T, and U,~~] Chapter 5, Chapter 254, Subchapters A and B, Chapter 1806, and Subtitle C, Title 10;

(2) [~~(4)~~] Articles [~~5.20,~~] 5.35, [~~5.38,~~] 5.39, and 5.40;

(3) [~~(5) Article 21.49-8,~~

[~~(6) Sections 822.203, 822.205, 822.210, and 822.212,~~

[~~(7)~~] Article 5.13-2, as provided by that article, Subchapters A-D, Chapter 2251, as provided by that chapter, and Chapter 2301, as provided by that chapter;

(4) [~~(8)~~] Chapters 251, 252, 402, [~~and~~] 541, and 2253;

(5) Subchapter A, Chapter 401;

(6) Subchapter B, Chapter 404;

(7) Subchapter C, Chapter 1806; and

(8) Sections [~~(9) Section~~] 38.001, 501.159, 822.203, 822.205, 822.210, 822.212, 2002.005, 2002.051, and 2002.052.

SECTION 9.027. Section 942.003(b), Insurance Code, as amended by Chapters 631 and 1295, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and is amended to correct

references to read as follows:

(b) An exchange is subject to:

(1) Subchapter [~~Section 5, Article 1.10,~~

[~~(2) Articles 1.15, 1.15A, and 1.16,~~

[~~(3) Subchapters~~] A, [~~Q, T, and U,~~] Chapter 5, Chapter 254, Subchapters A and B, Chapter 1806, and Subtitle C, Title 10;

(2) [~~(4)~~] Articles [~~5.20,~~] 5.35, [~~5.37, 5.38,~~] 5.39, and 5.40;

(3) [~~(5) Article 21.49-8,~~

[~~(6) Sections 822.203, 822.205, 822.210, 822.212, 861.254(a)-(f), 861.255, 862.001(b), and 862.003,~~

[~~(7)~~] Article 5.13-2, as provided by that article, Subchapters A-D, Chapter 2251, as provided by that chapter, and Chapter 2301, as provided by that chapter;

(4) Chapters 402, [~~(8) Chapter~~] 541, and 2253;

(5) Subchapter A, Chapter 401, and Sections 401.051, 401.052, 401.054, 401.055, 401.056, 401.057, 401.058, 401.059, 401.060, 401.061, 401.062, 401.151, 401.152, 401.155, and 401.156;

(6) Subchapter B, Chapter 404;

(7) Subchapter C, Chapter 1806; and

(8) Sections [~~(9) Section~~] 38.001, 501.159, 822.203, 822.205, 822.210, 822.212, 861.254(a)-(f), 861.255, 862.001(b), 862.003, 2002.002, 2002.005, 2002.051, and 2002.052.

SECTION 9.0271. (a) Section 1301.004, Insurance Code, to conform more closely to the source law from which it was derived, is transferred to Section 1301.061, Insurance Code, redesignated as Subsection (c) of that section, and amended to read as follows:

(c) [~~Sec. 1301.004. COMPLIANCE WITH CHAPTER REQUIRED.~~] Each preferred provider benefit plan offered in this state must comply with this chapter.

(b) Subchapter A, Chapter 1301, Insurance Code, is amended to conform more closely to the source law from which Chapter 1301 was derived by adding Section 1301.0041 to read as follows:

Sec. 1301.0041. APPLICABILITY. This chapter applies to any preferred provider benefit plan in which an insurer provides, through the insurer's health insurance policy, for the payment of a level of coverage that is different from the basic level of coverage provided by the health insurance policy if the insured uses a preferred provider.

SECTION 9.028. Section 1365.004, Insurance Code, is amended to conform more closely to the source law from which the section was derived to read as follows:

Sec. 1365.004. RIGHT TO REJECT COVERAGE OR SELECT ALTERNATIVE BENEFITS [~~COVERAGE~~]. An offer of coverage required under Section 1365.003 is subject to the right of the group contract holder to reject the coverage or to select an alternative level of benefits [~~coverage~~] that is offered by or negotiated with the group health benefit plan issuer.

SECTION 9.0281. Section 1367.053(c), Insurance Code, is amended to conform more closely to the source law from which the section was derived to read as follows:

(c) In addition to the immunizations required under Subsection (a), a health maintenance organization that issues a health benefit plan shall provide under the plan coverage for

immunization against rotovirus and any other immunization required for a child by law.

SECTION 9.029. (a) Section 1507.003(b), Insurance Code, is amended to conform to Section 2, Chapter 577, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) For purposes of this subchapter, "state-mandated health benefits" does not include benefits that are mandated by federal law or standard provisions or rights required under this code or other laws of this state to be provided in an individual, blanket, or group policy for accident and health insurance that are unrelated to a specific health illness, injury, or condition of an insured, including provisions related to:

(1) continuation of coverage under:

(A) Subchapters F and G, Chapter 1251;

(B) Section 1201.059; and

(C) Subchapter B, Chapter 1253;

(2) termination of coverage under Sections 1202.051 and 1501.108;

(3) preexisting conditions under Subchapter D, Chapter 1201, and Sections 1501.102-1501.105;

(4) coverage of children, including newborn or adopted children, under:

(A) Subchapter D, Chapter 1251;

(B) Sections 1201.053, 1201.061, 1201.063-1201.065, and Subchapter A, Chapter 1367;

(C) Chapter 1504;

(D) Chapter 1503;

(E) Section 1501.157;

(F) Section 1501.158; and

(G) Sections 1501.607-1501.609;

(5) services of practitioners under:

(A) Subchapters A, B, and C, Chapter 1451; or

(B) Section 1301.052;

(6) supplies and services associated with the treatment of diabetes under Subchapter B, Chapter 1358;

(7) coverage for serious mental illness under Subchapter A, Chapter 1355[~~, if the standard health benefit plan is issued to a large employer as defined by Section 1501.002~~];

(8) coverage for childhood immunizations and hearing screening as required by Subchapters B and C, Chapter 1367, other than Section 1367.053(c) and Chapter 1353;

(9) coverage for reconstructive surgery for certain craniofacial abnormalities of children as required by Subchapter D, Chapter 1367;

(10) coverage for the dietary treatment of phenylketonuria as required by Chapter 1359;

(11) coverage for referral to a non-network physician or provider when medically necessary covered services are not available through network physicians or providers, as required by Section 1271.055; and

(12) coverage for cancer screenings under:

(A) Chapter 1356;

(B) Chapter 1362; [~~and~~]

(C) Chapter 1363; and

(D) Chapter 1370.

(b) Section 2, Chapter 577, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (b), Section 3, Article 3.80, Insurance Code, is repealed.

SECTION 9.030. (a) Section 1507.053(b), Insurance Code, is amended to conform to Section 3, Chapter 577, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) For purposes of this subchapter, "state-mandated health benefits" does not include coverage that is mandated by federal law or standard provisions or rights required under this code or other laws of this state to be provided in an evidence of coverage that are unrelated to a specific health illness, injury, or condition of an enrollee, including provisions related to:

(1) continuation of coverage under Subchapter G, Chapter 1251;

(2) termination of coverage under Sections 1202.051 and 1501.108;

(3) preexisting conditions under Subchapter D, Chapter 1201, and Sections 1501.102-1501.105;

(4) coverage of children, including newborn or adopted children, under:

(A) Chapter 1504;

(B) Chapter 1503;

(C) Section 1501.157;

(D) Section 1501.158; and

(E) Sections 1501.607-1501.609;

(5) services of providers under Section 843.304;

(6) coverage for serious mental health illness under Subchapter A, Chapter 1355[~~, if the standard health benefit plan is issued to a large employer as defined by Section 1501.002~~]; and

(7) coverage for cancer screenings under:

(A) Chapter 1356;

(B) Chapter 1362; [~~and~~]

(C) Chapter 1363; and

(D) Chapter 1370.

(b) Section 3, Chapter 577, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (d), Article 20A.09N, Insurance Code, is repealed.

SECTION 9.031. Section 1801.002, Insurance Code, is repealed to conform to Section 5.01(4), Chapter 1227, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 9.032. (a) Section 1806.101, Insurance Code, is amended to conform to Section 2, Chapter 631, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 1806.101. DEFINITIONS. In this subchapter:

(1) "Insurance" includes a suretyship.

(2) "Insurer" means an insurance company or other legal entity described by Sections 1806.102(a) and (b).

(3) "Policy" includes a bond.

(b) Sections 1806.104(a) and (b), Insurance Code, are amended to conform to Section 2, Chapter 631, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) Except as otherwise provided by this subchapter, an insurer, an insurer's employee, or a broker or agent may not

knowingly:

(1) issue an insurance policy that is not in accordance with an applicable filing [~~that is filed and in effect under Chapter 2251 or 2301 or Article 5.13-2~~]; or

(2) charge, demand, or receive a premium on an insurance policy that is not in accordance with an applicable filing [~~that is filed and in effect under Chapter 2251 or 2301 or Article 5.13-2~~].

(b) Except as provided in an applicable filing [~~that is filed and in effect under Chapter 2251 or 2301 or Article 5.13-2~~], an insurer, an insurer's employee, or a broker or agent may not directly or indirectly pay, allow, or give, or offer to pay, allow, or give, as an inducement to insurance, or after insurance has been written, a rebate, discount, abatement, credit or reduction of the premium stated in an insurance policy, or a special favor or advantage in the dividends or other benefits to accrue on the policy, or any valuable consideration or inducement, not specified in the policy.

(c) Section 2, Chapter 631, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsections (a) and (d), Article 5.20, Insurance Code, is repealed.

SECTION 9.033. Section 1806.102, Insurance Code, is amended to conform to Section 1, Chapter 631, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 1806.102. APPLICABILITY OF SUBCHAPTER. (a) <u>This</u> [~~Except as provided by Subsections (b) and (c), this~~] subchapter applies to an insurer, including a corporation, reciprocal or

interinsurance exchange, mutual insurance company, association, Lloyd's plan, or other organization, writing casualty insurance or writing fidelity, surety, or guaranty bonds, on risks or operations in this state.

(b) This subchapter applies [~~does not apply~~] to:

(1) a farm mutual insurance company with respect to each line of insurance that a farm mutual insurance company is authorized to write under Section 911.151 [~~or association regulated under Chapter 911~~]; and [~~or~~]

(2) a county mutual insurance company with respect to each line of insurance that a county mutual insurance company is authorized to write under Section 912.151 [~~regulated under Chapter 912~~].

(c) Except as otherwise provided by this subchapter, this [~~This~~] subchapter does not apply to the writing of:

(1) automobile insurance;

(2) life, health, or accident insurance;

(3) professional liability insurance;

(4) reinsurance;

(5) aircraft insurance;

(6) fraternal benefit insurance;

(7) fire insurance;

(8) workers' compensation insurance;

(9) marine insurance, including noncommercial inland marine insurance and ocean marine insurance;

(10) title insurance;

(11) explosion insurance, except insurance against

loss from personal injury or property damage resulting accidentally from:

(A) a steam boiler;

(B) a heater or pressure vessel;

(C) an electrical device;

(D) an engine; or

(E) all machinery and appliances used in connection with or in the operation of a boiler, heater, vessel, electrical device, or engine described by Paragraphs (A)-(D); or

(12) insurance coverage for any of the following conditions or risks:

(A) weather or climatic conditions, including lightning, tornado, windstorm, hail, cyclone, rain, or frost and freeze;

(B) earthquake or volcanic eruption;

(C) smoke or smudge;

(D) excess or deficiency of moisture;

(E) flood;

(F) the rising water of an ocean or an ocean's tributary;

(G) bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, or any order of a civil authority made to prevent the spread of a conflagration, epidemic or catastrophe;

(H) vandalism or malicious mischief;

(I) strike or lockout;

(J) water or other fluid or substance resulting

from:

(i) the breakage or leakage of a sprinkler, pump, or other apparatus erected for extinguishing fire, or a water pipe or other conduit or container; or

(ii) casual water entering a building through a leak or opening in the building or by seepage through building walls; or

(K) accidental damage to a sprinkler, pump, fire apparatus, pipe, or other conduit or container described by Paragraph (J)(i).

SECTION 9.034. (a) Section 1901.054(b), Insurance Code, is amended to conform to Section 1, Chapter 1135, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) A rate is not excessive unless[~~:~~

[~~(1)~~] the rate is unreasonably high for the insurance coverage provided[~~; and~~

[~~(2) a reasonable degree of competition does not exist in the area with respect to the classification to which the rate applies~~].

(b) Section 1901.057, Insurance Code, is amended to conform to Section 1, Chapter 1135, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 1901.057. CONSIDERATIONS IN APPROVING RATES. In approving rates under this chapter, the <u>department</u> [~~commissioner~~] shall consider the impact of risk management courses taken by physicians and health care providers in this state.

(c) Section 1, Chapter 1135, Acts of the 79th Legislature,

Regular Session, 2005, which amended former Section 3, Article 5.15-1, Insurance Code, is repealed.

SECTION 9.035. (a) Subchapter B, Chapter 1901, Insurance Code, is amended by adding Section 1901.0541 to conform to Section 2, Chapter 1135, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 1901.0541. USE IN UNDERWRITING OF CERTAIN INFORMATION RELATED TO LAWSUITS; REFUND. (a) Notwithstanding any other provision of this code, an insurer may not consider for the purpose of setting premiums or reducing a claims-free discount for a particular insured physician's professional liability insurance a lawsuit filed against the physician if:

(1) before trial, the lawsuit was dismissed by the claimant or nonsuited; and

(2) no payment was made to the claimant under a settlement agreement.

(b) An insurer that, in setting premiums or reducing a claims-free discount for a physician's professional liability insurance, considers a lawsuit filed against the physician shall refund to the physician any increase in premiums paid by the physician that is attributable to that lawsuit or reinstate the claims-free discount if the lawsuit is dismissed by the claimant or nonsuited without payment to the claimant under a settlement agreement. The insurer shall issue the refund or reinstate the discount on or before the 30th day after the date the insurer receives written evidence that the lawsuit was dismissed or nonsuited without payment to the claimant under a settlement

agreement.

(c) This section does not prohibit an insurer from considering and using aggregate historical loss and expense experience applicable generally to a classification of physicians' professional liability insurance to set rates for that classification to the extent authorized by Chapter 2251 and Article 5.13-2. Notwithstanding Section 2251.052(c), an insurer may not assign a physician to a particular classification based on a factor described by Subsection (a).

(b) Subchapter F, Chapter 1901, Insurance Code, is amended by adding Section 1901.254 to conform to Section 2, Chapter 1135, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 1901.254. PROHIBITION OF USE OF CERTAIN INFORMATION FOR PHYSICIAN OR HEALTH CARE PROVIDER. (a) For the purpose of writing professional liability insurance for physicians and health care providers, an insurer may not consider whether, or the extent to which, a physician or health care provider provides services in this state to individuals who are recipients of Medicaid or covered by the state child health plan program established by Chapter 62, Health and Safety Code, including any consideration resulting in:

(1) denial of coverage;

(2) refusal to renew coverage;

(3) cancellation of coverage;

(4) limitation of the amount, extent, or kind of coverage available; or

(5) a determination of the rate or premium to be paid.

(b) The commissioner may adopt rules as necessary to implement this section.

(c) Section 2, Chapter 1135, Acts of the 79th Legislature, Regular Session, 2005, which added Sections 12 and 13 to former Article 5.15-1, Insurance Code, is repealed.

SECTION 9.036. (a) Subchapter F, Chapter 1901, Insurance Code, is amended by adding Section 1901.255 to conform to Section 1, Chapter 184, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 1901.255. COVERAGE FOR VOLUNTEER HEALTH CARE PROVIDERS. (a) In this section:

(1) "Charitable organization" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(2) "Volunteer health care provider" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(b) An insurer may make available professional liability insurance covering a volunteer health care provider for an act or omission resulting in death, damage, or injury to a patient while the person is acting in the course and scope of the person's duties as a volunteer health care provider as described by Chapter 84, Civil Practice and Remedies Code.

(c) This section does not affect the liability of a volunteer health care provider who is serving as a direct service volunteer of a charitable organization. Section 84.004(c), Civil Practice and Remedies Code, applies to the volunteer health care provider without regard to whether the volunteer health care provider obtains liability insurance under this section.

(d) An insurer may make professional liability insurance available under this section to a volunteer health care provider without regard to whether the volunteer health care provider is a "health care provider" as defined by Section 1901.001.

(b) Section 1, Chapter 184, Acts of the 79th Legislature, Regular Session, 2005, which added Section 12 to former Article 5.15-1, Insurance Code, is repealed.

SECTION 9.037. (a) Section 1952.101(c), Insurance Code, is amended to conform to Section 3, Chapter 1159, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(c) The coverage required by this subchapter does not apply if any insured named in the insurance policy rejects the coverage in writing. Unless the named insured requests in writing the coverage required by this subchapter, the insurer is not required to provide that coverage in or supplemental to a reinstated insurance policy or renewal insurance policy if the named insured rejected the coverage in connection with that insurance policy or an insurance policy previously issued to the insured by the same insurer or by an affiliated insurer.

(b) Section 3, Chapter 1159, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section (1), Article 5.06-1, Insurance Code, is repealed.

SECTION 9.038. (a) Section 1952.152(b), Insurance Code, is amended to conform to Section 4, Chapter 1159, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) The coverage required by this subchapter does not apply if any insured named in the insurance policy rejects the coverage in

writing. Unless the named insured requests in writing the coverage required by this subchapter, the insurer is not required to provide that coverage in or supplemental to a reinstated insurance policy or renewal insurance policy if the named insured rejected the coverage in connection with that insurance policy or an insurance policy previously issued to the insured by the same insurer or by an affiliated insurer.

(b) Section 4, Chapter 1159, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (a), Article 5.06-3, Insurance Code, is repealed.

SECTION 9.039. (a) Section 1952.155, Insurance Code, is amended by amending Subsection (b) and adding Subsection (c) to conform to Section 2, Chapter 1074, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) Except as provided by Subsection (c), an [~~An~~] insurer paying benefits under coverage required by this subchapter does not have a right of subrogation or claim against any other person or insurer to recover any benefits by reason of the alleged fault of the other person in causing or contributing to the accident.

(c) An insurer paying benefits pursuant to this subchapter, including a county mutual insurance company, shall have a right of subrogation and a claim against a person causing or contributing to the accident if, on the date of loss, financial responsibility as required by Chapter 601, Transportation Code, has not been established for a motor vehicle involved in the accident and operated by that person.

(b) Section 2, Chapter 1074, Acts of the 79th Legislature,

Regular Session, 2005, which amended former Article 5.06-3, Insurance Code, by amending Subsection (c) and adding Subsection (i), is repealed.

SECTION 9.040. (a) Section 2006.052, Insurance Code, is amended to conform to Sections 4 and 6, Chapter 291, Acts of the 79th Legislature, Regular Session, 2005, by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) This section applies to an insurer that uses a tier classification or discount program that has a premium consequence based in whole or in part on claims experience, regardless of whether any of the policies that continuously covered the policyholder was a different kind of residential property insurance policy from the policy eligible for the premium discount.

(c) A residential property insurance claim under this section does not include a claim:

(1) resulting from a loss caused by natural causes;

(2) that is filed but is not paid or payable under the policy; or

(3) that an insurer is prohibited from using under Section 544.353.

(b) Subchapter B, Chapter 2006, Insurance Code, is amended to conform to Section 4, Chapter 291, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2006.0521 to read as follows:

Sec. 2006.0521. COMPLIANCE WITH OTHER LAW REQUIRED. Any change in the amount of a premium discount provided under this subchapter must comply with the requirements of Section 551.107.

(c) Sections 4 and 6, Chapter 291, Acts of the 79th Legislature, Regular Session, 2005, which amended former Article 5.43, Insurance Code, by amending Subsection (d) and adding Subsections (a-1) and (f), are repealed.

SECTION 9.041. (a) Section 2051.151(a), Insurance Code, is amended to conform to Section 6.062, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) Except as otherwise provided by Subsection (b), an insurance company that writes workers' compensation insurance in this state shall notify a policyholder of a claim that is filed against the policyholder's policy and, after the initial notice, the company shall notify the policyholder of:

(1) any proposal to settle the claim; or

(2) on receipt of a written request from the policyholder, any administrative or judicial proceeding relating to the resolution of the claim[~~, including a benefit review conference conducted by the Texas Workers' Compensation Commission~~].

(b) Section 6.062, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section (a), Article 5.65A, Insurance Code, is repealed.

SECTION 9.042. (a) Section 2053.001, Insurance Code, is amended to conform to Section 5.01, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, by amending Subdivision (2) and adding Subdivision (2-a) to read as follows:

(2) "Insurance company" means a person authorized to engage in the business of workers' compensation insurance in this

state. The term includes:

(A) the Texas Mutual Insurance Company;

(B) a Lloyd's plan under Chapter 941; and

(C) a reciprocal and interinsurance exchange under Chapter 942.

(2-a) "Premium" means the amount charged for a workers' compensation insurance policy, including any endorsements, after the application of individual risk variations based on loss or expense considerations.

(b) Section 5.01, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 1, Article 5.55, Insurance Code, by amending Subdivision (2) and adding Subdivision (2-a), is repealed.

SECTION 9.043. (a) Sections 2053.002(a) and (b), Insurance Code, are amended to conform to Section 5.02, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) In setting rates, an insurance company shall consider:

(1) past and prospective loss cost experience;

(2) operation expenses;

(3) investment income;

(4) a reasonable margin for profit and contingencies; [~~and~~]

(5) the effect on premiums of individual risk variations based on loss or expense considerations; and

(6) any other relevant factor.

(b) A rate or premium established under this subchapter may not be excessive, inadequate, or unfairly discriminatory.

(b) Section 5.02, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsections (b) and (d), Section 2, Article 5.55, Insurance Code, is repealed.

SECTION 9.044. Section 2053.007(c), Insurance Code, is repealed to conform to Section 5.04, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 9.045. (a) Section 2053.010, Insurance Code, is amended to conform to Section 5.05, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2053.010. PENALTIES [~~ADMINISTRATIVE PENALTY~~]. If a workers' compensation insurance policy is issued and the commissioner subsequently disapproves the rate or filing on which the premium is based, the commissioner, after notice and the opportunity for a hearing, may:

(1) impose sanctions under Chapter 82;

(2) issue a cease and desist order under Chapter 83;

(3) impose administrative penalties under Chapter 84; or

(4) take any combination of these actions. [~~(a) The commissioner may assess an administrative penalty against an insurance company if the commissioner determines, based on a pattern of charges for premiums, that the company is consistently overcharging or undercharging the company's policyholders for workers' compensation insurance.~~

[~~(b) An administrative penalty under this section must be:~~

[~~(1) assessed in accordance with Section 415.021, Labor Code; and~~

[~~(2) set by the commissioner in an amount reasonable and necessary to deter overcharging or undercharging of policyholders.~~]

(b) Section 5.05, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 7, Article 5.55, Insurance Code, is repealed.

SECTION 9.046. (a) Subchapter A, Chapter 2053, Insurance Code, is amended to conform to Section 5.055, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2053.011 to read as follows:

Sec. 2053.011. EXCLUSIVE JURISDICTION. The department has exclusive jurisdiction over all rates and premiums subject to this subchapter.

(b) Section 5.055, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which added Section 8 to former Article 5.55, Insurance Code, is repealed.

SECTION 9.047. (a) Subchapter A, Chapter 2053, Insurance Code, is amended to conform to Section 5.03, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, by adding Sections 2053.012 and 2053.013 to read as follows:

Sec. 2053.012. REPORT ON LEGISLATIVE REFORMS REQUIRED. (a) Not later than December 1 of each even-numbered year, the commissioner shall report to the governor, lieutenant governor, and speaker of the house of representatives regarding the impact that legislation enacted during the regular session of the 79th Legislature reforming the workers' compensation system of this state has had on the affordability and availability of workers'

compensation insurance for the employers of this state. The report must include an analysis of:

(1) the projected workers' compensation premium savings realized by employers as a result of the reforms;

(2) the impact of the reforms on:

(A) the percentage of employers who provide workers' compensation insurance coverage for their employees; and

(B) to the extent possible, economic development and job creation;

(3) the effects of the reforms on market competition and carrier financial solvency, including an analysis of how carrier loss ratios, combined ratios, and use of individual risk variations have changed since implementation of the reforms; and

(4) the extent of participation in workers' compensation health care networks by small and medium-sized employers.

(b) If the commissioner determines that workers' compensation rate filings or premium levels analyzed by the department do not appropriately reflect the savings associated with the reforms described by Subsection (a), the commissioner shall include in the report required under Subsection (a) any recommendations, including any recommended legislative changes, necessary to identify the tools needed by the department to more effectively regulate workers' compensation rates.

(c) At the request of the department, each insurance company shall submit to the department all data and other information considered necessary by the commissioner to generate the report

required under Subsection (a). Failure by an insurance company to submit the data and information in a timely fashion, as determined by commissioner rule, constitutes grounds for sanctions under Chapter 82.

Sec. 2053.013. REVIEW OF RATES; CONSIDERATION OF OTHER LAW. In reviewing rates under this subchapter, the commissioner shall consider any state or federal legislation that has been enacted and that may impact rates and premiums for workers' compensation insurance coverage in this state.

(b) Section 5.03, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which added Subsections (e) through (h) to former Section 3, Article 5.55, Insurance Code, is repealed.

SECTION 9.048. (a) Chapter 2053, Insurance Code, is amended to conform to Section 5.06, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. UNDERWRITING GUIDELINES

Sec. 2053.031. DEFINITIONS. In this subchapter:

(1) "Insurance company" has the meaning assigned by Section 2053.001.

(2) "Underwriting guideline" means a rule, standard, guideline, or practice, whether written, oral, or electronic, that is used by an insurance company or its agent to decide whether to accept or reject an application for coverage under a workers' compensation insurance policy or to determine how to classify those risks that are accepted for the purpose of determining a rate.

Sec. 2053.032. UNDERWRITING GUIDELINES. Each underwriting

guideline used by an insurance company in writing workers' compensation insurance must be sound, actuarially justified, or otherwise substantially commensurate with the contemplated risk. An underwriting guideline may not be unfairly discriminatory.

Sec. 2053.033. ENFORCEMENT. This subchapter may be enforced in the manner provided by Section 38.003(g).

Sec. 2053.034. FILING REQUIREMENTS. Each insurance company shall file with the department a copy of the insurance company's underwriting guidelines. The insurance company shall update its filing each time the underwriting guidelines are changed. If a group of insurance companies files one set of underwriting guidelines for the group, the group shall identify which underwriting guidelines apply to each insurance company in the group.

Sec. 2053.035. APPLICABILITY OF SECTION 38.003. Section 38.003 applies to this subchapter to the extent consistent with this subchapter.

(b) Section 5.06, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which added Article 5.55A to former Subchapter D, Chapter 5, Insurance Code, is repealed.

SECTION 9.049. (a) Subchapter B, Chapter 2053, Insurance Code, is amended to conform to Section 5.08, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2053.056 to read as follows:

Sec. 2053.056. RATE HEARINGS. (a) The commissioner shall conduct a public hearing each biennium, beginning not later than December 1, 2008, to review rates to be charged for workers'

compensation insurance written in this state. A public hearing under this section is not a contested case as defined by Section 2001.003, Government Code.

(b) Not later than the 30th day before the date of the public hearing required under Subsection (a), each insurance company subject to this subtitle and Article 5.66 shall file the insurance company's rates, supporting information, and supplementary rating information with the commissioner.

(c) The commissioner shall review the information submitted under Subsection (b) to determine the positive or negative impact of the enactment of workers' compensation reform legislation enacted by the 79th Legislature, Regular Session, 2005, on workers' compensation rates and premiums. The commissioner may consider other factors, including relativities under Section 2053.051, in determining whether a change in rates has impacted the premium charged to policyholders.

(d) The commissioner shall implement rules as necessary to mandate rate reductions or to modify the use of individual risk variations if the commissioner determines that the rates or premiums charged by insurance companies do not meet the rating standards as defined in this code.

(e) The commissioner shall adopt rules as necessary to mandate rate or premium reductions by insurance companies for the use of cost-containment strategies that result in savings to the workers' compensation system, including use of a workers' compensation health care network health care delivery system, as described by Chapter 1305.

(b) Section 5.08, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Article 5.60A, Insurance Code, is repealed.

SECTION 9.050. (a) Section 2053.151(b), Insurance Code, is amended to conform to Section 5.07, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) For purposes of Subsection (a), the commissioner shall establish standards and procedures for categorizing insurance and medical benefits required to be reported on each workers' compensation claim. In establishing the standards, the commissioner shall consult with the commissioner of workers' compensation [~~Texas Workers' Compensation Commission~~] to ensure that the data collection methodology will yield data necessary for research and medical cost containment efforts.

(b) Section 5.07, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (b), Article 5.58, Insurance Code, is repealed.

SECTION 9.051. (a) Section 2054.008(d), Insurance Code, is amended to conform to Section 6.065, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(d) Except as provided by Subsection (e), a company investigation file:

(1) is confidential and not subject to required disclosure under Chapter 552, Government Code; and

(2) may be disclosed only:

(A) in a criminal proceeding;

(B) in a hearing conducted by the division of

workers' compensation of the department [~~commission~~];

(C) on a judicial determination of good cause; or

(D) to a governmental agency, political subdivision, or regulatory body if the disclosure is necessary or proper for the enforcement of a law of this state, another state, or the United States.

(b) Section 6.065, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (a), Section 10, Article 5.76-3, Insurance Code, is repealed.

SECTION 9.052. (a) Section 2054.204(a), Insurance Code, is amended to conform to Section 6.066, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The company shall file annual statements with the department [~~and commission~~] in the same manner as is required of other workers' compensation insurance companies.

(b) Section 6.066, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (e), Section 12, Article 5.76-3, Insurance Code, is repealed.

SECTION 9.053. (a) Section 2054.206, Insurance Code, is amended to conform to Section 6.067, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.206. ADDITIONAL REPORTS. The company shall file with the department [~~and the commission~~] all reports required of other workers' compensation insurance companies.

(b) Section 6.067, Chapter 265, Acts of the 79th

Legislature, Regular Session, 2005, which amended former Subsection (b), Section 16, Article 5.76-3, Insurance Code, is repealed.

SECTION 9.0531. Section 2054.253(b), Insurance Code, is amended to conform more closely to the source law from which the section was derived to read as follows:

(b) The systems may provide for a higher or lower premium payment by an insured based on[~~:~~

[~~1~~] the company's evaluation of the underwriting characteristics of the individual risk[~~;~~] and

[~~2~~] the appropriate premium to be charged for the policy coverages.

SECTION 9.054. (a) Section 2054.451(b), Insurance Code, is amended to conform to Section 6.064, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) The company shall cooperate with the division of workers' compensation of the department [~~commission~~] to compile and maintain information necessary to detect practices or patterns of conduct that violate this code relating to workers' compensation insurance or that violate Subtitle A, Title 5, Labor Code.

(b) Section 2054.452, Insurance Code, is amended to conform to Section 6.064, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.452. INVESTIGATIONS; COORDINATION [~~WITH COMMISSION~~]. (a) The company may investigate cases of suspected fraud and violations of this code relating to workers' compensation insurance.

(b) The company may:

(1) coordinate the company's investigations with those conducted by the division of workers' compensation of the department [~~commission~~] to avoid duplication of efforts; and

(2) refer to the division of workers' compensation of the department [~~commission~~] a case that is not otherwise resolved by the company so that the division [~~commission~~] may:

(A) perform any further investigation necessary under the circumstances;

(B) conduct administrative violation proceedings; and

(C) assess and collect penalties and restitution.

(c) Section 2054.454, Insurance Code, is amended to conform to Section 6.064, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.454. DEPOSIT AND USE OF PENALTIES COLLECTED BY DIVISION [~~COMMISSION~~]. A penalty collected under Section 2054.452(b):

(1) must be deposited in the Texas Department of Insurance operating account [~~general revenue fund to the credit of the commission~~]; and

(2) may be appropriated only to the division of workers' compensation of the department [~~commission~~] to offset the costs of the program under Section 2054.451.

(d) Section 6.064, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former

Subsections (a), (b), and (e), Section 9, Article 5.76-3, Insurance Code, is repealed.

SECTION 9.055. (a) Section 2054.501, Insurance Code, is amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.501. DEFINITION. In this subchapter, "division" means the [~~commission's~~] division of workers' compensation of the department [~~health and safety~~].

(b) Section 2054.502, Insurance Code, is amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.502. REQUIREMENTS FOR PREVENTION OF INJURIES. The company may make and enforce requirements for the prevention of injuries to an employee of a policyholder or applicant for insurance under this chapter. On reasonable notice, a policyholder or applicant shall grant representatives of the company[~~, the commission,~~] or the department free access to the premises of the policyholder or applicant during regular working hours for purposes of this section.

(c) Section 2054.506, Insurance Code, is amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.506. SAFETY CONSULTANT REPORT. A safety consultant acting under this subchapter shall file a written report with the division [~~commission~~] and the policyholder specifying any hazardous condition or practice identified in the safety consultation.

(d) Section 2054.509, Insurance Code, is amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.509. FOLLOW-UP INSPECTION. (a) Not earlier than the 90th day after or later than the sixth month after the date an accident prevention plan is developed under Section 2054.507, the division shall conduct a follow-up inspection of the policyholder's premises in accordance with rules adopted by the commissioner of workers' compensation [~~commission~~].

(b) The division [~~commission~~] may require the participation of the safety consultant who performed the initial consultation and developed the accident prevention plan.

(c) If the commissioner of workers' compensation [~~division~~] determines that a policyholder has complied with the terms of the accident prevention plan or has implemented other accepted corrective measures, the commissioner of workers' compensation [~~division~~] shall certify that determination.

(d) If the commissioner of workers' compensation [~~division~~] determines that a policyholder has failed or refuses to implement the accident prevention plan or other suitable hazard abatement measures, the policyholder may elect to cancel coverage not later than the 30th day after the date of the determination.

(e) Sections 2054.510(a), (c), and (d), Insurance Code, are amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) If a policyholder described by Section 2054.509(d) does not elect to cancel coverage as provided by that section:

(1) the company may cancel the coverage; or

(2) the commissioner of workers' compensation [~~commission~~] may impose an administrative penalty on the policyholder.

(c) In imposing an administrative penalty, the commissioner of workers' compensation [~~commission~~] may consider any matter that justice may require and shall consider:

(1) the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the prohibited act;

(2) the history and extent of previous administrative violations;

(3) the demonstrated good faith of the violator, including actions taken to rectify the consequences of the prohibited act;

(4) any economic benefit resulting from the prohibited act; and

(5) the penalty necessary to deter future violations.

(d) A penalty collected under this section [~~must be~~]:

(1) must be deposited in the general revenue fund [~~to the credit of the commission~~]; and [~~or~~]

(2) may be appropriated [~~reappropriated~~] to the division [~~commission~~] to offset the costs of implementing and administering this subchapter.

(f) Section 2054.512, Insurance Code, is amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.512. FEES FOR SERVICES. The division [~~commission~~] shall:

(1) charge a policyholder for the reasonable cost of services provided to the policyholder under Sections 2054.505, 2054.506, 2054.507, 2054.509, and 2054.510(a); and

(2) set the fees for the services at a cost-reimbursement level, including a reasonable allocation of the division's [~~commission's~~] administrative costs.

(g) Section 2054.513, Insurance Code, is amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.513. ENFORCEMENT OF SUBCHAPTER. The [~~compliance and practices~~] division [~~of the commission~~] shall enforce compliance with this subchapter through the administrative violation proceedings under Chapter 415, Labor Code.

(h) Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsections (a), (e), (g), (h), (i), (k), and (l), Section 8, Article 5.76-3, Insurance Code, is repealed.

SECTION 9.056. Section 2054.001(2), Insurance Code, is repealed to conform to Section 7.01, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 9.057. Section 6.068, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsections (a) and (c), Section 10, Article 5.76-5, Insurance Code, is repealed.

SECTION 9.058. Section 2151.154, Insurance Code, is amended

to conform more closely to the source law from which the section was derived to read as follows:

Sec. 2151.154. ASSIGNMENT DISTRIBUTION PLAN. (a) The plan of operation must include a voluntary, competitive limited assignment distribution plan that allows an authorized insurer to contract directly with a servicing carrier [~~insurer~~] to accept assignments to the servicing carrier [~~insurer~~] by the association.

(b) A servicing carrier [~~insurer~~] must be authorized to write automobile insurance in this state and must:

(1) have written automobile liability insurance in this state for at least five years; or

(2) be currently engaged as a servicing carrier [~~insurer~~] for assigned risk automobile business in at least one other state.

(c) After notice and hearing, the commissioner may prohibit an insurer from acting as a servicing carrier [~~insurer~~].

(d) An authorized insurer and a servicing carrier [~~insurer~~] shall determine through negotiation the terms of a contract described by this section, including the buy-out fee.

(e) The governing committee may:

(1) adopt reasonable rules for the conduct of business under a contract described by this section; and

(2) establish reasonable standards of eligibility for servicing carriers [~~insurers~~].

SECTION 9.059. (a) Section 2154.005(a), Insurance Code, is amended to conform to Section 1, Chapter 217, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The fund is an account in a depository selected by the board of regents of The Texas A&M University System in the manner provided by Section 51.003, Education Code, for funds subject to the control of institutions of higher education under Section 51.002, Education Code [~~the general revenue fund~~].

(b) Section 1, Chapter 217, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsections (a) and (c), Section 5, Article 21.61, Insurance Code, is repealed.

SECTION 9.0591. (a) The following changes are made to Subtitle A, Title 5, Labor Code, and Subtitle E, Title 10, Insurance Code, for organizational purposes:

(1) Chapter 406A, Labor Code, is redesignated as Chapter 2055, Subtitle E, Title 10, Insurance Code; and

(2) Sections 406A.001, 406A.002, 406A.003, 406A.004, 406A.005, 406A.006, 406A.007, and 406A.008 in the redesignated chapter are redesignated as Sections 2055.001, 2055.002, 2055.003, 2055.004, 2055.005, 2055.006, 2055.007, and 2055.008, Insurance Code, respectively.

(b) Section 406A.001, Labor Code, redesignated as Section 2055.001, Insurance Code, by Subsection (a)(2) of this section, is amended to conform to that redesignation to read as follows:

Sec. 2055.001 [~~406A.001~~]. DEFINITION [~~DEFINITIONS~~]. In this chapter, "business[~~:~~

[~~(1) "Business~~] entity" means a business enterprise owned by a single person or a corporation, organization, business trust, trust, partnership, joint venture, association, or other business entity.

[~~(2) "Commissioner" means the commissioner of insurance.~~

[~~(3) "Department" means the Texas Department of Insurance.~~]

(c) Section 406A.008, Labor Code, redesignated as Section 2055.008, Insurance Code, by Subsection (a)(2) of this section, is amended to conform to that redesignation to read as follows:

Sec. 2055.008 [~~406A.008~~]. APPLICABILITY OF OTHER LAW. (a) A group established under this chapter is entitled to any deviation applicable under Section 2052.004, 2053.051, or 2053.052(a) or (b)[~~, Insurance Code~~].

(b) A member of a group is not subject to the discounts and surcharges established under Subchapter F, Chapter 2053[~~, Insurance Code~~].

(d) Section 36.002, Insurance Code, is amended to conform to the redesignation of Chapter 406A, Labor Code, as Chapter 2055, Insurance Code, by Subsection (a)(1) of this section to read as follows:

Sec. 36.002. ADDITIONAL RULEMAKING AUTHORITY. The commissioner may adopt reasonable rules that are:

(1) necessary to effect the purposes of a provision of:

(A) Subchapter B, Chapter 5;

(B) Subchapter C, Chapter 1806;

(C) Subchapter A, Chapter 2301;

(D) Chapter 251, as that chapter relates to casualty insurance and fidelity, guaranty, and surety bond

insurance;

(E) Chapter 253;

(F) Chapter 2251 or 2252; or

(G) Subtitle B, Title 10; or

(2) appropriate to accomplish the purposes of a provision of:

(A) Section 37.051(a), 403.002, 492.051(b) or (c), 501.159, 941.003(b)(3) or (c), or 942.003(b)(3) or (c);

(B) Subchapter H, Chapter 544;

(C) Chapter 251, as that chapter relates to:

(i) automobile insurance;

(ii) casualty insurance and fidelity, guaranty, and surety bond insurance;

(iii) fire insurance and allied lines;

(iv) workers' compensation insurance; or

(v) aircraft insurance;

(D) Chapter 5, 252, 253, 254, 255, 256, 426, 493, 494, 1804, 1805, 1806, or 2171;

(E) Subtitle B, C, D, E, F, H, or I, Title 10;

(F) Section 417.008, Government Code; <u>or</u>

(G) [~~Chapter 406A, Labor Code; or~~

[~~(H)~~] Chapter 2154, Occupations Code.

(e) Section 1805.001, Insurance Code, is amended to conform to the redesignation of Chapter 406A, Labor Code, as Chapter 2055, Insurance Code, by Subsection (a)(1) of this section to read as follows:

Sec. 1805.001. APPLICABILITY OF CHAPTER. This chapter

applies to the kinds of insurance and insurers subject to:

(1) Section 403.002;

(2) Section 941.003 with respect to the application of a law described by Section 941.003(b)(3) or (c);

(3) Section 942.003 with respect to the application of a law described by Section 942.003(b)(3) or (c);

(4) Subchapter A, B, C, or D, Chapter 5;

(5) Subchapter H, Chapter 544;

(6) Subchapter A, Chapter 2301;

(7) Chapter 252, 253, 254, 255, 426, 1806, 1807, 2001, 2002, 2003, 2004, 2005, 2006, 2051, 2052, 2053, 2055, 2171, 2251, or 2252;

(8) Subtitle B or C, Title 10; or

(9) [~~Chapter 406A, Labor Code; or~~

[~~(10)~~] Chapter 2154, Occupations Code.

(f) Section 2051.002, Insurance Code, is amended to conform to the redesignation of Chapter 406A, Labor Code, as Chapter 2055, Insurance Code, by Subsection (a)(1) of this section to read as follows:

Sec. 2051.002. CONSTRUCTION OF CERTAIN LAWS. The following shall be construed and applied independently of any other law that relates to insurance rates and forms or prescribes the duties of the commissioner or the department:

(1) this chapter;

(2) Subchapter D, Chapter 5;

(3) Chapter 251, as that chapter relates to workers' compensation insurance; and

(4) Chapters 255, 426, 2052, [~~and~~] 2053, and 2055[~~, and~~

[~~(5) Chapter 406A, Labor Code~~].

SECTION 9.060. (a) Subchapter C, Chapter 2203, Insurance Code, is amended to conform to Section 1, Chapter 246, Acts of the 79th Legislature, Regular Session, 2005, and Section 2, Chapter 1136, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2203.1021 to read as follows:

Sec. 2203.1021. VOLUNTEER HEALTH CARE PROVIDERS. (a) In this section:

(1) "Charitable organization" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(2) "Volunteer health care provider" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(b) The association shall make available medical liability insurance or appropriate health care liability insurance covering a volunteer health care provider for the legal liability of the person against any loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence in rendering or the failure to render professional service while acting in the course and scope of the person's duties as a volunteer health care provider as described by Chapter 84, Civil Practice and Remedies Code.

(c) A volunteer health care provider who is serving as a direct service volunteer of a charitable organization is eligible to obtain from the association the liability insurance made available under this section. A volunteer health care provider who

obtains coverage under this section is subject to Section 2203.302 and the other provisions of this chapter in the same manner as physicians who are eligible to obtain medical liability insurance from the association.

(d) This section does not affect the liability of a volunteer health care provider who is serving as a direct service volunteer of a charitable organization. Section 84.004(c), Civil Practice and Remedies Code, applies to the volunteer health care provider without regard to whether the volunteer health care provider obtains liability insurance under this section.

(b) Section 1, Chapter 246, Acts of the 79th Legislature, Regular Session, 2005, and Section 2, Chapter 1136, Acts of the 79th Legislature, Regular Session, 2005, which added Section 3C to former Article 21.49-3, Insurance Code, are repealed.

SECTION 9.061. (a) Sections 2210.004(a) and (g), Insurance Code, are amended to conform to Section 1, Chapter 1153, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) For purposes of this chapter and subject to this section, "insurable property" means immovable property at a fixed location in a catastrophe area or corporeal movable property located in that immovable property, as designated in the plan of operation, that is determined by the association according to the criteria specified in the plan of operation to be in an insurable condition against windstorm and hail or fire and explosion, as appropriate, as determined by normal underwriting standards. The term includes property described by Section 2210.209.

(g) For purposes of this chapter, a residential structure is

insurable property if:

(1) the residential structure is not:

(A) a condominium, apartment, duplex, or other multifamily residence; or

(B) a hotel or resort facility;

(2) the residential structure is located within an area designated as a unit under the Coastal Barrier Resources Act (Pub. L. No. 97-348); and

(3) a building permit or plat for the residential structure was filed with the municipality, the county, or the United States Army Corps of Engineers before June 11, 2003 [~~January 1, 2004~~].

(b) Section 1, Chapter 1153, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (f), Section 3, Article 21.49, Insurance Code, is repealed.

SECTION 9.062. (a) Subchapter E, Chapter 2210, Insurance Code, is amended to conform to Section 2, Chapter 1153, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2210.209 to read as follows:

Sec. 2210.209. WINDSTORM AND HAIL INSURANCE: COVERAGE FOR CERTAIN PROPERTY LOCATED OVER WATER. (a) A windstorm and hail insurance policy issued by the association may include coverage for:

(1) a building or other structure located in the seacoast territory that is built wholly or partially over water; and

(2) the corporeal movable property contained in a

building or structure described by Subdivision (1).

(b) The association may impose appropriate limits of coverage and deductibles for coverage described by Subsection (a).

(c) The board of directors of the association shall submit any proposed changes to the plan of operation necessary to implement Subsections (a) and (b) to the commissioner in the manner provided by Section 2210.153.

(d) The commissioner shall adopt rules as necessary to implement this section, including any rules necessary to implement changes in the plan of operation proposed under Subsection (c).

(b) Section 2, Chapter 1153, Acts of the 79th Legislature, Regular Session, 2005, which added Section 3A to former Article 21.49, Insurance Code, is repealed.

SECTION 9.063. (a) Section 2210.006(b), Insurance Code, is amended to conform to Section 1, Chapter 1251, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) This chapter does not apply to:

(1) a farm mutual insurance company operating under Chapter 911;

(2) a nonaffiliated county mutual fire insurance company described by Section 912.310 that is writing exclusively industrial fire insurance policies as described by Section 912.310(a)(2); or

(3) a mutual insurance company or a statewide mutual assessment company engaged in business under Chapter 12 or 13, Title 78, Revised Statutes, respectively, before those chapters' repeal by Section 18, Chapter 40, Acts of the 41st Legislature, 1st

Called Session, 1929, as amended by Section 1, Chapter 60, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, that retains the rights and privileges under the repealed law to the extent provided by those sections.

(b) Section 1, Chapter 1251, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (k), Section 3, Article 21.49, Insurance Code, is repealed.

SECTION 9.0631. Section 2210.359(a), Insurance Code, is amended to conform more closely to the source law from which it was derived to read as follows:

(a) Except as otherwise provided by this subsection, a [~~A~~] rate approved by the commissioner under this subchapter may not reflect an average rate change that is more than 10 percent higher or lower than the rate for commercial windstorm and hail insurance or 10 percent higher or lower than the rate for noncommercial windstorm and hail insurance in effect on the date the filing is made. The rate may not reflect a rate change for an individual rating class that is 15 percent higher or lower than the rate for that individual rating class in effect on the date the filing is made. This subsection does not apply to a rate filed under Sections 2210.351(a)-(d).

SECTION 9.064. Subchapter I, Chapter 2210, Insurance Code, is repealed to conform to Section 1, Chapter 222, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 9.065. (a) Section 2211.051, Insurance Code, is amended to conform to Section 1, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2211.051. ESTABLISHMENT OF FAIR PLAN. The commissioner may establish a Fair Access to Insurance Requirements Plan to deliver residential property insurance to residents of this state in underserved areas if the commissioner determines, after a public hearing, that:

(1) in all or any part of the state, residential property insurance is not reasonably available in the voluntary market to a substantial number of insurable risks; or [~~and~~]

(2) at least 25 percent of the applicants to the residential property market assistance program who are qualified under that program's plan of operation have not been placed with an insurer in the preceding six months.

(b) Section 2211.052, Insurance Code, is amended to conform to Section 2, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, by amending Subsections (b) and (d) and adding Subsection (e) to read as follows:

(b) The governing committee is composed of 11 members appointed by the commissioner as follows:

(1) five members who represent the interests of insurers;

(2) four public members who reside in this state; and

(3) two members who are general property and casualty agents.

(d) Each member of the governing committee who represents the interests of insurers must be a full-time employee of an insurer that is a member of the association.

(e) The commissioner may remove a member of the governing

committee without cause and may replace the member in accordance with Subsection (b).

(c) Subchapter B, Chapter 2211, Insurance Code, is amended to conform to Section 2, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2211.0521 to read as follows:

Sec. 2211.0521. MEETINGS OF GOVERNING BODY. (a) Notwithstanding Chapter 551, Government Code, or any other law, members of the governing committee may meet by telephone conference call, video conference, or other similar telecommunication method. The governing committee may use telephone conference call, video conference, or other similar telecommunication method for purposes of establishing a quorum or voting or for any other meeting purpose in accordance with this subsection and Subsection (b). This subsection applies without regard to the subject matter discussed or considered by the members of the governing committee at the meeting.

(b) A meeting held by telephone conference call, video conference, or other similar telecommunication method:

(1) is subject to the notice requirements applicable to other meetings of the governing committee;

(2) may not be held unless notice of the meeting specifies the location of the meeting at which at least one member of the governing committee is physically present;

(3) must be audible to the public at the location specified in the notice under Subdivision (2); and

(4) must provide two-way audio communication between

all members of the governing committee attending the meeting during the entire meeting, and if the two-way audio communication link with members attending the meeting is disrupted so that a quorum of the governing committee is no longer participating in the meeting, the meeting may not continue until the two-way audio communication link is reestablished.

(d) Sections 2211.101(b) and (c), Insurance Code, are amended to conform to Sections 1, 2, and 3, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) Except as provided by this subsection, each [~~Each~~] insurer, as a condition of the insurer's authority to engage in the business of residential property insurance in this state, shall participate in the association in accordance with this chapter, including participating in the association's assessments [~~writings, expenses, and losses~~] in the proportion that the insurer's net direct premiums written in this state during the preceding calendar year bear to the aggregate net direct premiums written in this state by all participating insurers. The Texas Windstorm Insurance Association established by Chapter 2210 may not participate in the association for any purpose.

(c) An insurer's participation under Subsection (b) in the association's assessments [~~writings, expenses, and losses~~] must be determined in accordance with the residential property statistical plan adopted by the commissioner.

(e) The following are repealed:

(1) Section 1, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, which amended former

Subsections (a) and (b), Section 1, Article 21.49A, Insurance Code;

(2) Section 2, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 3, Article 21.49A, Insurance Code, by amending Subsections (b), (d), and (e) and adding Subsections (f) and (g); and

(3) Section 3, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (d), Section 5, Article 21.49A, Insurance Code.

SECTION 9.066. (a) Section 2211.104, Insurance Code, is amended to conform to Section 4, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, by amending Subsections (b), (c), and (d) and adding Subsection (e) to read as follows:

(b) As reimbursement for assessments paid under this section or service fees paid under Section 2211.209, each [~~If the association assesses participating insurers under this section, each~~] insurer may charge a premium surcharge on every property insurance policy insuring property in this state that the insurer issues, the effective date of which is within the three-year period beginning on the 90th day after the date of the assessment or the 90th day after the date the service fee under Section 2211.209 is paid, as applicable.

(c) The insurer shall compute the amount of the surcharge under Subsection (b) as a uniform percentage of the premium on each policy described by Subsection (b). The percentage must be equal to one-third of the ratio of the amount of the participating insurer's assessment or service fee payment to the amount of the insurer's direct earned premiums, as reported to the department in the

insurer's financial statement for the calendar year preceding the year in which the assessment or service fee payment is made so that, over the three-year period, the aggregate of all surcharges by the insurer under this section is at least equal to [~~equals~~] the amount of the assessment or service fee payment.

(d) The amount of any assessment paid and surcharged under this section may be carried by the insurer as an admitted asset of the insurer for all purposes, including exhibition in annual statements under Section 862.001, until collected [~~The minimum surcharge on a policy may be $1. A surcharge may be rounded to the nearest dollar~~].

(e) The commissioner shall adopt rules and procedures as necessary to implement this section.

(b) Section 4, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 11, Article 21.49A, Insurance Code, is repealed.

SECTION 9.067. (a) Subchapter B, Chapter 2211, Insurance Code, is amended to conform to Section 5, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2211.059 to read as follows:

Sec. 2211.059. ASSETS OF ASSOCIATION. On dissolution of the association, all assets of the association shall be deposited in the general revenue fund.

(b) Section 5, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, which added Section 16 to former Article 21.49A, Insurance Code, is repealed.

SECTION 9.068. (a) Subchapter D, Chapter 2211, Insurance

Code, is amended to conform to Section 3, Chapter 1153, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2211.157 to read as follows:

Sec. 2211.157. COVERAGE FOR CERTAIN WINDSTORM AND HAIL DAMAGE; COVERAGE FOR CERTAIN PROPERTY LOCATED OVER WATER. (a) A policy issued by the association may include coverage against loss or damage by windstorm or hail for:

(1) a building or other structure that is built wholly or partially over water; and

(2) the corporeal movable property contained in a building or structure described by Subdivision (1).

(b) The association may impose appropriate limits of coverage and deductibles for coverage described by Subsection (a).

(c) The governing committee of the association shall submit any proposed changes to the plan of operation necessary to implement Subsections (a) and (b) to the commissioner for the approval of the commissioner in the manner provided by Section 2211.053.

(d) The commissioner shall adopt rules as necessary to implement this section, including any rules necessary to implement changes in the plan of operation proposed under Subsections (a) and (b).

(b) Section 3, Chapter 1153, Acts of the 79th Legislature, Regular Session, 2005, which added Section 5A to former Article 21.49A, Insurance Code, is repealed.

SECTION 9.069. (a) Section 2212.001, Insurance Code, is amended to conform to Section 2, Chapter 184, Acts of the 79th

Legislature, Regular Session, 2005; Section 2, Chapter 246, Acts of the 79th Legislature, Regular Session, 2005; and Section 3, Chapter 1136, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2212.001. DEFINITIONS. In this chapter:

(1) "Charitable organization" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(2) "Dentist" means a person licensed to practice dentistry in this state.

(3) [~~(2)~~] "Health care liability claim" means a cause of action against a physician or dentist for treatment, lack of treatment, or other claimed departure from accepted standards of health care or safety that proximately results in injury to or death of the patient, whether the patient's claim or cause of action sounds in tort or contract.

(4) [~~(3)~~] "Physician" means a person licensed to practice medicine in this state.

(5) [~~(4)~~] "Trust" means a self-insurance trust organized and operated under this chapter.

(6) "Volunteer health care provider" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(b) Section 2, Chapter 184, Acts of the 79th Legislature, Regular Session, 2005; Section 2, Chapter 246, Acts of the 79th Legislature, Regular Session, 2005; and Section 3, Chapter 1136, Acts of the 79th Legislature, Regular Session, 2005, all of which added Subdivisions (4) and (5) to former Subsection (a), Article 21.49-4, Insurance Code, are repealed.

SECTION 9.070. (a) Subchapter C, Chapter 2212, Insurance Code, is amended to conform to Section 3, Chapter 184, Acts of the 79th Legislature, Regular Session, 2005; Section 3, Chapter 246, Acts of the 79th Legislature, Regular Session, 2005; and Section 4, Chapter 1136, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2212.102 to read as follows:

Sec. 2212.102. COVERAGE FOR VOLUNTEER HEALTH CARE PROVIDERS. (a) The trust, in accordance with Section 2212.054, may make available professional liability insurance covering a volunteer health care provider for an act or omission resulting in death, damage, or injury to a patient while the person is acting in the course and scope of the person's duties as a volunteer health care provider as described by Chapter 84, Civil Practice and Remedies Code.

(b) This section does not affect the liability of a volunteer health care provider who is serving as a direct service volunteer of a charitable organization. Section 84.004(c), Civil Practice and Remedies Code, applies to the volunteer health care provider without regard to whether the volunteer health care provider obtains liability insurance under this section.

(c) The trust may make professional liability insurance available under this section to a volunteer health care provider without regard to whether the volunteer health care provider is a physician or dentist.

(b) Section 3, Chapter 184, Acts of the 79th Legislature, Regular Session, 2005; Section 3, Chapter 246, Acts of the 79th Legislature, Regular Session, 2005; and Section 4, Chapter 1136,

Acts of the 79th Legislature, Regular Session, 2005, all of which added Subsection (c-1) to former Article 21.49-4, Insurance Code, are repealed.

SECTION 9.071. (a) Section 2251.003(b), Insurance Code, is amended to conform to Section 1, Chapter 70, Acts of the 79th Legislature, Regular Session, 2005; Section 1, Chapter 71, Acts of the 79th Legislature, Regular Session, 2005; and Section 4, Chapter 102, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) This subchapter and Subchapters B, C, D, and E apply to all lines of the following kinds of insurance written under an insurance policy or contract issued by an insurer authorized to engage in the business of insurance in this state:

(1) general liability insurance;

(2) residential and commercial property insurance, including farm and ranch insurance and farm and ranch owners insurance;

(3) personal and commercial casualty insurance, except as provided by Section 2251.004;

(4) medical professional liability insurance;

(5) fidelity, guaranty, and surety bonds other than criminal court appearance bonds;

(6) personal umbrella insurance;

(7) personal liability insurance;

(8) guaranteed auto protection (GAP) insurance;

(9) involuntary unemployment insurance;

(10) financial guaranty insurance;

(11) inland marine insurance;

(12) rain insurance;

(13) hail insurance on farm crops; [~~and~~]

(14) personal and commercial automobile insurance;

(15) multi-peril insurance; and

(16) identity theft insurance issued under Chapter 706.

(b) Section 2301.003(b), Insurance Code, is amended to conform to Section 1, Chapter 70, Acts of the 79th Legislature, Regular Session, 2005; Section 1, Chapter 71, Acts of the 79th Legislature, Regular Session, 2005; and Section 4, Chapter 102, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) This subchapter applies to all lines of the following kinds of insurance written under an insurance policy or contract issued by an insurer authorized to engage in the business of insurance in this state:

(1) general liability insurance;

(2) residential and commercial property insurance, including farm and ranch insurance and farm and ranch owners insurance;

(3) personal and commercial casualty insurance, except as provided by Section 2301.005;

(4) medical professional liability insurance;

(5) fidelity, guaranty, and surety bonds other than criminal court appearance bonds;

(6) personal umbrella insurance;

(7) personal liability insurance;

(8) guaranteed auto protection (GAP) insurance;

(9) involuntary unemployment insurance;

(10) financial guaranty insurance;

(11) inland marine insurance;

(12) rain insurance;

(13) hail insurance on farm crops; [~~and~~]

(14) personal and commercial automobile insurance;

(15) multi-peril insurance; and

(16) identity theft insurance issued under Chapter 706.

(c) Section 1, Chapter 70, Acts of the 79th Legislature, Regular Session, 2005; Section 1, Chapter 71, Acts of the 79th Legislature, Regular Session, 2005; and Section 4, Chapter 102, Acts of the 79th Legislature, Regular Session, 2005, all of which amended former Subsection (a), Section 2, Article 5.13-2, Insurance Code, are repealed.

SECTION 9.072. (a) Subchapter E, Chapter 2251, Insurance Code, is amended by adding Section 2251.205 to conform to Section 1, Chapter 1118, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2251.205. APPLICATION OF FILING REQUIREMENTS TO OTHER INSURERS. An insurer is subject to the filing requirements determined by the commissioner by rule under Section 2251.204 if:

(1) the insurer, along with the insurer's affiliated companies or group, issues personal automobile liability insurance policies only below 101 percent of the minimum limits required by

Chapter 601, Transportation Code; and

(2) the insurer, along with the insurer's affiliated companies or group, has a market share of less than 3.5 percent of the personal automobile insurance market in this state.

(b) Section 1, Chapter 1118, Acts of the 79th Legislature, Regular Session, 2005, which added Subsection (h) to former Section 13, Article 5.13-2, Insurance Code, is repealed.

SECTION 9.073. (a) Section 2253.001, Insurance Code, is amended to conform to Section 2, Chapter 291, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2253.001. RATING TERRITORIES. (a) Notwithstanding any other provision of this code, an insurer, in writing residential property or personal automobile insurance, may use rating territories that subdivide a county only if:

(1) the county is subdivided; and

(2) the rate for any subdivision in the county is not greater than 15 percent higher than the rate used in any other subdivision in the county by that insurer.

(b) The [~~For residential property insurance or personal automobile insurance, the~~] commissioner by rule may allow a greater rate difference than the rate difference specified by Subsection (a).

(b) Section 2, Chapter 291, Acts of the 79th Legislature, Regular Session, 2005, which amended former Article 5.171, Insurance Code, is repealed.

SECTION 9.074. Section 4151.206(a), Insurance Code, is amended to conform more closely to the source law from which the

section was derived to read as follows:

(a) The commissioner shall collect and an applicant or administrator shall pay to the commissioner fees in an amount to be determined by the commissioner as follows:

(1) a filing fee not to exceed $1,000 for processing an original application for a certificate of authority for an administrator;

(2) a fee not to exceed $500 for an examination under Section 4151.201 [~~4201.201~~]; and

(3) a filing fee not to exceed $200 for an annual report.

SECTION 9.075. (a) Sections 4201.054(a) and (d), Insurance Code, are amended to conform to Section 6.072, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) Except as provided by this section, this chapter applies to utilization review of a health care service provided to a person eligible for workers' compensation medical benefits under Title 5, Labor Code. The commissioner of workers' compensation shall regulate as provided by this chapter a person who performs utilization review of a medical benefit provided under Title 5 [~~Chapter 408~~], Labor Code.

(d) The commissioner of workers' compensation [~~and the Texas Workers' Compensation Commission~~] may adopt rules [~~and enter into memoranda of understanding~~] as necessary to implement this section.

(b) Section 4201.054(b), Insurance Code, is repealed to conform to Section 6.072, Chapter 265, Acts of the 79th

Legislature, Regular Session, 2005.

(c) Section 6.072, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (c), Section 14, Article 21.58A, Insurance Code, is repealed.

SECTION 9.076. (a) Section 4201.207(b), Insurance Code, is amended to conform to Section 6.071, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) A health care provider's charges for providing medical information to a utilization review agent may not:

(1) exceed the cost of copying records regarding a workers' compensation claim as set by rules adopted by the commissioner of workers' compensation [~~Texas Workers' Compensation Commission~~]; or

(2) include any costs otherwise recouped as part of the charges for health care.

(b) Section 6.071, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (l), Section 4, Article 21.58A, Insurance Code, is repealed.

ARTICLE 10. CHANGES RELATING TO LABOR CODE

SECTION 10.001. Section 204.022(a), Labor Code, as amended by Chapters 39, 493, and 728, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(a) Benefits computed on benefit wage credits of an employee or former employee may not be charged to the account of an employer if the employee's last separation from the employer's employment

before the employee's benefit year:

(1) was required by a federal statute;

(2) was required by a statute of this state or an ordinance of a municipality of this state;

(3) would have disqualified the employee under Section 207.044, 207.045, 207.051, or 207.053 if the employment had been the employee's last work;

(4) imposes a disqualification under Section 207.044, 207.045, 207.051, or 207.053;

(5) was caused by a medically verifiable illness of the employee or the employee's minor child;

(6) was based on a natural disaster that results in a disaster declaration by the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.), if the employee would have been entitled to unemployment assistance benefits under Section 410 of that act (42 U.S.C. Section 5177) had the employee not received state unemployment compensation benefits;

(7) was caused by a natural disaster, fire, flood, or explosion that causes employees to be separated from one employer's employment;

(8) was based on a disaster that results in a disaster declaration by the governor under Section 418.014, Government Code;

(9) resulted from the employee's resigning from partial employment to accept other employment that the employee reasonably believed would increase the employee's weekly wage;

(10) was caused by the employer being called to active

military service in any branch of the United States armed forces on or after January 1, 2003;

(11) resulted from the employee leaving the employee's workplace to protect the employee from family violence or stalking as evidenced by:

(A) an active or recently issued protective order documenting family violence against, or the stalking of, the employee or the potential for family violence against, or the stalking of, the employee;

(B) a police record documenting family violence against, or the stalking of, the employee; and

(C) a physician's statement or other medical documentation of family violence against the employee; [~~or~~]

(12) resulted from a move from the area of the employee's employment that:

(A) was made with the employee's spouse who is a member of the armed forces of the United States; and

(B) resulted from the spouse's permanent change of station of longer than 120 days or a tour of duty of longer than one year; or

(13) [~~(12)~~] was caused by the employee being unable to perform the work as a result of a disability for which the employee is receiving disability insurance benefits under 42 U.S.C. Section 423.

SECTION 10.002. Section 204.022(c), Labor Code, is amended to correct a reference to read as follows:

(c) Except as provided by law, evidence regarding an

employee described by Subsection (a)(11) [~~(a)(9)~~] may not be disclosed to any person without the consent of the employee.

SECTION 10.003. Section 402.081(d), Labor Code, as amended by Chapters 265, 329, and 716, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(d) The division [~~commission~~] may charge a reasonable fee for making available for inspection any of its information that contains confidential information that must be redacted before the information is made available. However, when a request for information is for the inspection of 10 or fewer pages, and a copy of the information is not requested, the division [~~commission~~] may charge only the cost of making a copy of the page from which confidential information must be redacted. The fee for access to information under Chapter 552, Government Code, shall be in accord with the rules of the attorney general [~~Texas Building and Procurement Commission~~] that prescribe the method for computing the charge for copies under that chapter.

ARTICLE 11. CHANGES RELATING TO LOCAL GOVERNMENT CODE

SECTION 11.001. Section 143.027(a), Local Government Code, as amended by Chapters 869 and 909, Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

(a) A person appointed to a beginning position in the fire or police department must serve a probationary period of one year beginning on that person's date of employment as a fire fighter, police officer, or academy trainee. In a municipality with a population of less than 1.9 million, the commission by rule may extend the probationary period by not more than six months for a

person who:

(1) is not employed by a department in which a collective bargaining agreement or a meet-and-confer agreement currently exists or previously existed; and

(2) is required to attend a basic training academy for initial certification by the Texas Commission on Fire Protection or the Commission on Law Enforcement Officer Standards and Education.

ARTICLE 12. CHANGES RELATING TO OCCUPATIONS CODE

SECTION 12.001. Section 1701.354, Occupations Code, as amended by Chapters 735 and 954, Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

Sec. 1701.354. CONTINUING EDUCATION FOR DEPUTY CONSTABLES. (a) If the commission requires a state, county, special district, or municipal agency that employs a deputy constable to provide the deputy constable with a training program under Section 1701.352, the commission shall require the deputy constable to attend at least 20 hours of instruction in civil process.

(b) The commission shall adopt rules and procedures concerning a civil process course, including rules providing for:

(1) approval of course content and standards; and

(2) issuance of course credit.

(c) The commission may waive the instruction requirements for a deputy constable under this section:

(1) if a constable requests a waiver for the deputy constable based on a representation that the deputy constable's duty assignment does not involve civil process responsibilities; or

(2) if the deputy constable requests a waiver because

of hardship and the commission determines that a hardship exists.

SECTION 12.002. Section 1702.324(b), Occupations Code, as amended by Chapters 518, 728, 1102, and 1155, Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

(b) This chapter does not apply to:

(1) a manufacturer or a manufacturer's authorized distributor who sells equipment intended for resale and does not perform any other service that requires a license under this chapter;

(2) a person engaged exclusively in the business of obtaining and providing information to:

(A) determine creditworthiness;

(B) collect debts; or

(C) ascertain the reliability of information provided by an applicant for property, life, or disability insurance or an indemnity or surety bond;

(3) a person engaged exclusively in the business of repossessing property that is secured by a mortgage or other security interest;

(4) a person who:

(A) is engaged in the business of psychological testing or other testing and interviewing services, including services to determine attitudes, honesty, intelligence, personality, and skills, for preemployment purposes; and

(B) does not perform any other service that requires a license under this chapter;

(5) a person who:

(A) is engaged in obtaining information that is a public record under Chapter 552, Government Code, regardless of whether the person receives compensation;

(B) is not a full-time employee, as defined by Section 61.001, Labor Code, of a person licensed under this chapter; and

(C) does not perform any other act that requires a license under this chapter;

(6) a licensed engineer practicing engineering or directly supervising engineering practice under Chapter 1001, including forensic analysis, burglar alarm system engineering, and necessary data collection;

(7) an employee of a cattle association who inspects livestock brands under the authority granted to the cattle association by the Grain Inspection, Packers and Stockyards Administration of the United States Department of Agriculture;

(8) a landman performing activities in the course and scope of the landman's business;

(9) an attorney while engaged in the practice of law;

(10) a person who obtains a document for use in litigation under an authorization or subpoena issued for a written or oral deposition;

(11) an admitted insurer, insurance adjuster, agent, or insurance broker licensed by the state, performing duties in connection with insurance transacted by that person;

(12) a person who on the person's own property or on

property owned or managed by the person's employer:

(A) installs, changes, or repairs a mechanical security device;

(B) repairs an electronic security device; or

(C) cuts or makes a key for a security device;

(13) security personnel, including security contract personnel, working at a commercial nuclear power plant licensed by the United States Nuclear Regulatory Commission;

(14) a person or firm licensed as an accountant or accounting firm under Chapter 901, an owner of an accounting firm, or an employee of an accountant or accounting firm; or

(15) a retailer, wholesaler, or other person who sells mechanical security devices, including locks and deadbolts, but who does not:

(A) service mechanical security devices for the public outside of the person's premises; or

(B) claim to act as a locksmith.

SECTION 12.003. Section 2002.054(c), Occupations Code, as amended by Chapters 929 and 1006, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(c) Except as provided by Section 2002.0541, the organization may not permit a person who is not [~~a member of the organization or who is not~~] authorized by the organization to sell or offer to sell raffle tickets.

SECTION 12.004. Section 2303.158, Occupations Code, as added by Chapters 737 and 953, Acts of the 79th Legislature, Regular Session, 2005, is repealed to conform to Chapter 1197, Acts of the

79th Legislature, Regular Session, 2005.

ARTICLE 12A. CHANGES RELATING TO PENAL CODE

SECTION 12A.001. Section 46.01(6), Penal Code, is amended to read as follows:

(6) "Illegal knife" means a:

(A) knife with a blade over five and one-half inches;

(B) hand instrument designed to cut or stab another by being thrown;

(C) dagger, including but not limited to a dirk, stiletto [~~stilletto~~], and poniard;

(D) bowie knife;

(E) sword; or

(F) spear.

ARTICLE 13. CHANGES RELATING TO SPECIAL DISTRICT LOCAL LAWS CODE

SECTION 13.001. Section 1006.151(a), Special District Local Laws Code, as added by Section 1.01, Chapter 729, Acts of the 79th Legislature, Regular Session, 2005, is amended to correct a reference to read as follows:

(a) The district administrator shall prepare an annual budget for approval by the board. The budget must be for the fiscal year prescribed by Section 1006.152 [~~1007.152~~].

SECTION 13.002. Section 1006.202(a), Special District Local Laws Code, as added by Section 1.01, Chapter 729, Acts of the 79th Legislature, Regular Session, 2005, is amended to correct a reference to read as follows:

(a) At the time general obligation bonds are issued under

Section 1006.201 [~~1007.201~~], the board shall impose an ad valorem tax at a rate sufficient to:

(1) create an interest and sinking fund; and

(2) pay the principal of and interest on the bonds as the bonds mature.

SECTION 13.003. Section 1008.253(b), Special District Local Laws Code, is amended to conform more closely to the source law from which the section was derived to read as follows:

(b) The board must specify in the order calling the election:

(1) the date of the election;

(2) [~~the hours during which the polls must be open;~~

[~~(3)~~] the location of the polling places;

(3) [~~(4)~~] the presiding and alternate election judges for each polling place;

(4) [~~(5)~~] the amount of the bonds to be authorized; and

(5) [~~(6)~~] the maximum maturity of the bonds.

SECTION 13.0035. (a) Section 5001.001, Special District Local Laws Code, is amended to conform to Section 1, Chapter 81, Acts of the 62nd Legislature, Regular Session, 1971, to read as follows:

Sec. 5001.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

(1) "Commission" means the navigation and canal commission of the district.

(2) "Commissioner" means a member of the commission.

(3) "District"[~~, "district"~~] means the Aransas County

Navigation District No. 1.

(b) Chapter 5001, Special District Local Laws Code, is amended to conform to Chapter 81, Acts of the 62nd Legislature, Regular Session, 1971, by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. COMMISSION

Sec. 5001.021. GOVERNING BODY; TERMS. (a) The district is governed by a commission consisting of five commissioners, each elected to a navigation and canal commissioner's office by number.

(b) Commissioners serve two-year terms.

Sec. 5001.022. QUALIFICATIONS. To be eligible for election to any of the following offices, a person must have the following qualifications:

(1) for the office of Navigation and Canal Commissioner No. 1, a person must reside in and be a freehold property taxpaying voter of Aransas County Commissioners' Precinct No. 1;

(2) for the office of Navigation and Canal Commissioner No. 2, a person must reside in and be a freehold property taxpaying voter of Aransas County Commissioners' Precinct No. 2;

(3) for the office of Navigation and Canal Commissioner No. 3, a person must reside in and be a freehold property taxpaying voter of Aransas County Commissioners' Precinct No. 3;

(4) for the office of Navigation and Canal Commissioner No. 4, a person must reside in and be a freehold property taxpaying voter of Aransas County Commissioners' Precinct

No. 4; and

(5) for the office of Navigation and Canal Commissioner No. 5, a person must reside in and be a freehold property taxpaying voter of Aransas County.

Sec. 5001.023. ELECTION OF COMMISSIONERS. On a uniform election date in each odd-numbered year, five commissioners shall be elected.

Sec. 5001.024. NOTICE OF ELECTION. The secretary of the commission shall give notice of an election by posting or publishing the notice for at least 20 days before the date of the election.

Sec. 5001.025. VACANCIES. (a) A vacancy in the office of a commissioner that occurs for any reason shall be filled by the remaining members of the commission except as provided by this section.

(b) If three or more vacancies in commissioners' offices occur at the same time, a special election may be called as provided by Section 62.066, Water Code.

Sec. 5001.026. REMOVAL FROM OFFICE. (a) A commissioner may be removed from office for malfeasance or nonfeasance in office by unanimous vote of the commissioners court of Aransas County after a hearing.

(b) Appeal from a judgment of removal may be taken to a district court in Aransas County. The court shall try the case de novo.

(c) Section 5001.051, Special District Local Laws Code, is amended to read as follows:

Sec. 5001.051. DEFINITION [~~DEFINITIONS~~]. In this subchapter, "fund" [~~:~~

[~~(1) "Commission" means the navigation and canal commission of the district.~~

[~~(2) "Fund"~~] means a promotion and development fund created by the district.

SECTION 13.004. Section 7202.005, Special District Local Laws Code, as added by Chapter 895, Acts of the 79th Legislature, Regular Session, 2005, is repealed as duplicative of Section 7202.006, Special District Local Laws Code, as added by Chapter 770, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 13.005. (a) Section 8101.003(a), Special District Local Laws Code, is amended to conform to Section 1, Chapter 993, Acts of the 78th Legislature, Regular Session, 2003, to read as follows:

(a) The legislature finds that[~~:~~

[~~(1) all of the lands and other property included in the boundaries of the authority will benefit from the improvements and facilities to be constructed, acquired, or otherwise provided under this chapter; and~~

[~~(2)~~] the authority is created to serve a public use and benefit.

(b) Section 8101.051, Special District Local Laws Code, is amended to conform to Section 1, Chapter 993, Acts of the 78th Legislature, Regular Session, 2003, to read as follows:

Sec. 8101.051. BOUNDARIES. [~~(a)~~] The authority is in Henderson County and, unless modified as provided by Section

8101.052, [~~or~~] by Subchapter J, Chapter 49, Water Code, or by Subchapter O, Chapter 51, Water Code, the boundaries of the authority are coextensive with the corporate limits of the city of Athens, Henderson County, Texas, as those corporate limits existed on September 1, 2003 [~~May 2, 1957~~].

[~~(b) Territory annexed by the City of Athens after May 2, 1957, does not become a part of the authority solely because of its annexation to the city.~~

[~~(c) A defect or irregularity in the boundaries of the city of Athens as they existed on May 2, 1957, or in a proceeding related to the territory of or an annexation by the city before that date does not affect the validity of the authority or any of its rights, powers, privileges, or functions.~~]

(c) Section 8101.052(a), Special District Local Laws Code, is amended to conform to Section 1, Chapter 993, Acts of the 78th Legislature, Regular Session, 2003, to read as follows:

(a) The board, as provided by this section, may annex territory the City of Athens annexes [~~after May 2, 1957~~]. The authority may not annex territory under this section if bonds supported by ad valorem taxes previously voted on remain unissued and unsold.

(d) Section 1, Chapter 993, Acts of the 78th Legislature, 2003, which amended former Subsections (a) and (b), Section 2, Chapter 142, Acts of the 55th Legislature, Regular Session, 1957, is repealed.

SECTION 13.006. (a) Chapter 221, Water Code, is renumbered as Chapter 8502, Special District Local Laws Code, and Sections

221.001, 221.002, 221.003, 221.004, 221.005, 221.006, 221.007, 221.008, 221.009, 221.010, 221.011, 221.012, 221.013, 221.014, 221.015, 221.016, 221.017, 221.018, and 221.019, Water Code, are renumbered as Sections 8502.001, 8502.002, 8502.003, 8502.004, 8502.005, 8502.006, 8502.007, 8502.008, 8502.009, 8502.010, 8502.011, 8502.012, 8502.013, 8502.014, 8502.015, 8502.016, 8502.017, 8502.018, and 8502.019, Special District Local Laws Code, respectively.

(b) Chapter 222, Water Code, is renumbered as Chapter 8503, Special District Local Laws Code, and Sections 222.001, 222.002, 222.003, 222.004, 222.005, 222.006, 222.007, 222.008, 222.009, 222.010, 222.011, 222.012, 222.013, 222.014, 222.015, 222.016, 222.017, 222.018, 222.019, 222.020, 222.021, 222.022, 222.023, 222.024, 222.025, 222.026, 222.027, 222.028, 222.029, 222.030, and 222.031, Water Code, are renumbered as Sections 8503.001, 8503.002, 8503.003, 8503.004, 8503.005, 8503.006, 8503.007, 8503.008, 8503.009, 8503.010, 8503.011, 8503.012, 8503.013, 8503.014, 8503.015, 8503.016, 8503.017, 8503.018, 8503.019, 8503.020, 8503.021, 8503.022, 8503.023, 8503.024, 8503.025, 8503.026, 8503.027, 8503.028, 8503.029, 8503.030, and 8503.031, Special District Local Laws Code, respectively.

(c) Subsection (m), Section 8502.004, Special District Local Laws Code, as renumbered from Section 221.004, Water Code, by this section, is amended to read as follows:

(m) This chapter does not confer on the authority any power under Chapter 36<u>, Water Code,</u> to regulate the groundwater of other landowners.

(d) Section 8502.010, Special District Local Laws Code, as renumbered from Section 221.010, Water Code, by this section, is amended to read as follows:

Sec. 8502.010 [~~221.010~~]. CREATION OF MASTER DISTRICT; WATER CONTROL AND IMPROVEMENT DISTRICT. A master district is created having all the powers, duties, and functions, and subject to applicable and practicable procedures for those districts, to accomplish the purposes of this chapter, as provided by Chapter 49, Water Code, and the provisions of the Water Code [~~this code~~] applicable to water control and improvement districts.

(e) Subsection (a), Section 8502.012, Special District Local Laws Code, as renumbered from Section 221.012, Water Code, by this section, is amended to read as follows:

(a) The authority is a district and a river authority as defined by Chapter 30, Water Code. All the provisions of Chapter 30, Water Code, are applicable to the authority.

(f) Section 8503.002, Special District Local Laws Code, as renumbered from Section 222.002, Water Code, by this section, is amended by adding Subdivision (2-a) to read as follows:

(2-a) "Commission" means the Texas Commission on Environmental Quality.

(g) Subsections (p) and (q), Section 8503.004, Special District Local Laws Code, as renumbered from Section 222.004, Water Code, by this section, are amended to read as follows:

(p) The authority may borrow money for its corporate purposes on notes or other written evidence of indebtedness for a period not to exceed five years as may be authorized from time to

time by an affirmative vote of 12 members of the board and repay the loans or indebtedness from the proceeds of bonds of the authority at the next bond offering. The authority may borrow money and accept grants from the United States, this state, or any corporation or agency created or designated by the United States or this state and, in connection with the loan or grant, may enter into an agreement that the United States, this state, or the corporation or agency requires. The authority may make and issue negotiable bonds for money borrowed in the manner provided by Sections 8503.013 [~~222.013~~] and 8503.014 [~~222.014~~] or other general law. This chapter does not authorize the issuance of any bonds, notes, or other evidences of indebtedness of the authority except as specifically provided by this chapter or other general law.

(q) The authority may provide for the study, correcting, and control of both artificial and natural pollution, including organic, inorganic, and thermal, of all groundwater or surface water of the Colorado River and its tributaries within the boundaries of the authority. The authority may adopt by ordinance rules with regard to the pollution, both artificial and natural, and possesses police power to enforce its rules. The authority may provide a reasonable penalty for the violation of any rule. The penalty is cumulative of any penalties fixed by the general law of this state. A penalty under this subsection may not exceed the limit for penalties provided by Section 49.004, Water Code. An ordinance enacted under this section may not be adopted in any county or counties outside the existing boundaries of the authority.

(h) Subsections (a), (b), (j), and (k), Section 8503.006, Special District Local Laws Code, as renumbered from Section 222.006, Water Code, by this section, are amended to read as follows:

(a) The powers, rights, privileges, and functions of the authority shall be exercised by the board. The board shall consist of 15 directors and shall include at least one director from each of the counties named in Section 8503.003 [~~222.003~~] except Travis County, which shall have two directors. Three directors shall be appointed at large from the counties served with electric power, other than the counties included in Section 8503.003 [~~222.003~~].

(b) A director appointed at large may not serve for a period of more than six consecutive years. A county other than a county included in Section 8503.003 [~~222.003~~] may not be represented on the board for more than six consecutive years. A county other than Travis County may not have two directors for a period greater than six consecutive years.

(j) Each director is entitled to receive fees of office of not more than $150 per day and reimbursement of actual expenses incurred in accordance with Chapter 49, Water Code. However, no director may be paid per diem in excess of 150 days in any one calendar year.

(k) Eight directors constitute a quorum at any meeting and, except as otherwise provided by this chapter or in the bylaws, all action may be taken by the affirmative vote of a majority of the directors present at any meeting, except that bonds, notes, or other evidence of indebtedness are subject to the requirements of

Sections 8503.004(p) [~~222.004(p)~~] and 8503.013(f) [~~222.013(f)~~], and no amendment of the bylaws shall be valid unless authorized or ratified by the affirmative vote of at least eight directors, unless otherwise specifically provided by this chapter.

(i) Subsections (c) and (h), Section 8503.013, Special District Local Laws Code, as renumbered from Section 222.013, Water Code, by this section, are amended to read as follows:

(c) The proceeds of the bonds and any net operating revenues derived from the sale of electric power or water that may be available after paying the interest on outstanding bonds and the principal amount of the bonds and after setting aside sufficient funds for working capital, including a reasonable amount for contingencies, and setting aside funds for reserves to secure payment of principal of and interest on outstanding bonds, shall be used:

(1) to build and construct dams or other structures within the authority, on the Colorado River and its tributaries, for the impounding and storage of floodwater and surface water;

(2) to purchase and install in the dams on the Colorado River hydroelectric generators and other related facilities for the generation of hydroelectric power;

(3) for the construction of additional lines and the purchase and installation of additional equipment the board considers necessary or expedient to enable the authority to continue to meet the demand for electric power in the areas within the authority directly served by its transmission lines and distribution systems on January 1, 1975, and other areas within the

service area served by the authority on January 1, 1975, that cannot receive comparable service from any other power source and to provide electric power to this state as provided by Section 8503.004 [~~222.004~~]; provided, however, that no steam generating capacity shall be installed by the authority, except that the authority may acquire, install, construct, enlarge and make additions to, and operate one or more steam generating plants, the sum of whose aggregate capacity may not be more than 5,000 megawatts, to be located within the boundaries of either one or more of Colorado, Fayette, Bastrop, Travis, Blanco, Burnet, Llano, or San Saba counties and to be utilized for the purpose of serving the area directly served by the authority's transmission lines and distribution systems on January 1, 1975, and to provide electric power to this state as provided by Section 8503.004 [~~222.004~~];

(4) to own or acquire an interest in one or more steam generating plants at any location within or outside the authority, if the plant or plants are owned in conjunction with one or more other utilities, public, private, or municipal, provided that an interest owned or acquired by the authority shall be utilized for the sole purpose of providing electric power and energy only in the areas within the authority directly served by its transmission lines and distribution systems as they existed on January 1, 1975;

(5) for the purpose of building dams, levees, or other flood control structures between the city of Austin and the mouth of the Colorado River that are considered necessary and desirable by the board and for acquiring or installing facilities necessary to supply water for irrigation and other useful purposes within the

counties composing the authority; and

(6) in aid of any soil conservation or soil reclamation projects within the authority that the board determines to be in the public interest.

(h) A resolution authorizing bonds may contain provisions that are part of the contract between the authority and the holder of the bonds from time to time:

(1) reserving the right to redeem the bonds at the time or times, in the amounts, and at the prices, not exceeding 105 percent of the principal amount of the bonds, plus accrued interest, as may be provided;

(2) providing for the setting aside of interest and sinking funds or reserve funds and the regulation and disposition of those funds;

(3) pledging, to secure the payment of the principal of and interest on the bonds and of the sinking fund or reserve fund payments agreed to be made with respect to the bonds, all or any part of the gross or net revenues received by the authority with respect to the property, real, personal, or mixed, acquired or constructed or to be acquired or constructed with the bonds or the proceeds of the bonds, or all or any part of the gross or net revenues previously or thereafter received by the authority from any source;

(4) prescribing the purposes to which the bonds or any bonds issued later are to be applied;

(5) agreeing to set and collect rates and charges sufficient to produce revenues adequate to pay the items specified

in Section 8503.011(a) [~~222.011(a)~~] and prescribing the use and disposition of all revenues;

(6) prescribing limitations on the issuance of additional bonds and on the agreements that may be made with the purchasers and successive holders of the bonds;

(7) relating to the construction, extension, improvement, reconstruction, operation, maintenance, and repair of the properties of the authority and the carrying of insurance on all or any part of the properties covering loss or damage or loss of use and occupancy resulting from specified risks;

(8) setting the procedure, if any, by which, if the authority so desires, the terms of a contract with the bondholders may be amended or abrogated, the amount of bonds whose holders must consent to that amendment or abrogation, and the manner in which the consent may be given;

(9) providing for the execution and delivery by the authority, to a bank or trust company authorized by law to accept trusts, of indentures and agreements for the benefit of the bondholders setting forth all of the agreements authorized by this chapter to be made with or for the benefit of the bondholders and other provisions that are customary in those kinds of indentures or agreements; and

(10) making other provisions, not inconsistent with this chapter or other general law, that the board approves, provided that an agreement, contract, or commitment may not be made that, under any contingency, could or would result in the United States government or any of its agencies or bureaus claiming the

right or privilege of controlling or managing the properties and facilities of the authority or the control or disposition of the water of the Colorado River or its tributaries; provided, however, that nothing in this chapter shall be construed as limiting or restricting the rights or powers as set out in Section 8503.014 [~~222.014~~] in the event of a default on the part of the authority; and provided further that nothing in this chapter is intended to prohibit compliance with existing federal regulations, if compliance with those regulations is done on the advice and approval of the attorney general.

(j) Subsections (b) and (c), Section 8503.014, Special District Local Laws Code, as renumbered from Section 222.014, Water Code, by this section, are amended to read as follows:

(b) If a default described by Subsection (a) has occurred and has continued for a period, if any, prescribed by the resolution authorizing the issuance of the bonds, the trustee under an indenture entered into with respect to the bonds authorized by the resolution, or, if there is no indenture, a trustee appointed in the manner provided in the resolution by the holders of 25 percent in aggregate principal amount of the bonds authorized by the resolution and then outstanding, shall, in the trustee's own name but for the equal and proportionate benefit of all of the bondholders, and with or without having possession of the bonds:

(1) by mandamus or other suit, action, or proceeding at law or in equity, enforce all rights of the bondholders, including the requirements of Section 8503.011 [~~222.011~~];

(2) bring suit on the bonds or the appurtenant

coupons;

(3) by action or suit in equity, require the authority to act as if it were the trustee of an express trust for the bondholders;

(4) by action or suit in equity, enjoin any acts or things that may be unlawful or in violation of the rights of the bondholders; or

(5) after such notice to the authority as the resolution may provide, declare the principal of all of the bonds due and payable, and if all defaults have been made good, then with the written consent of the holders of 25 percent in aggregate principal amount of the bonds then outstanding, annul the declaration and its consequences; provided, however, that the holders of more than a majority in principal amount of the bonds authorized by the resolution and then outstanding shall, by written instrument delivered to the trustee, have the right to direct and control any and all action taken or to be taken by the trustee under this section.

(c) A resolution, indenture, or agreement relating to bonds may provide that in a suit, action, or proceeding under this section, the trustee, whether or not all of the bonds have been declared due and payable and with or without possession of any of the bonds, is entitled as of right to the appointment of a receiver who may enter and take possession of all or any part of the properties of the authority, operate and maintain the properties, and set, collect, and receive rates and charges sufficient to provide revenues adequate to pay the items set forth in Section

8503.011(a) [~~222.011(a)~~] and the costs and disbursements of the suit, action, or proceeding and apply the revenues in conformity with this chapter and the resolution authorizing the bonds.

(k) Section 8503.015, Special District Local Laws Code, as renumbered from Section 222.015, Water Code, by this section, is amended to read as follows:

Sec. 8503.015 [~~222.015~~]. AUDIT. The authority is subject to the audit provisions of Subchapter G, Chapter 49, Water Code.

(l) Subsections (b) and (c), Section 8503.020, Special District Local Laws Code, as renumbered from Section 222.020, Water Code, by this section, are amended to read as follows:

(b) Nothing in this chapter shall be construed as authorizing the sale of any property or interest by the authority or by any receiver of any of its properties or through any court proceeding or otherwise, unless, by the affirmative vote of three-fourths of its statutory membership, the board has determined that the property or interest is not necessary or convenient or of beneficial use to the business of the authority and has approved the terms of the sale. Except by sale as expressly authorized in this section, authority property or interest may not come into the ownership or control, directly or indirectly, of any person, firm, or corporation other than a public authority created under the laws of this state or a nonprofit corporation created by the authority under Chapter 152, Water Code.

(c) The limitations on the sale of property of the authority in this section do not and are not intended to preclude the authority from selling any interest owned or held by the authority

in any jointly owned electric power and generating facilities constructed, or to be constructed, under Section 8503.004(t) [~~222.004(t)~~], provided that the sale of an ownership interest in a joint project is provided for and in conformance with any contract with other owners regarding the electric power and energy generating facilities.

(m) Section 8503.022, Special District Local Laws Code, as renumbered from Section 222.022, Water Code, by this section, is amended to read as follows:

Sec. 8503.022 [~~222.022~~]. PROPERTY USEFUL IN THE PRODUCTION OR UTILIZATION OF ELECTRIC ENERGY. This chapter does not prohibit or restrict the sale, lease, or other disposition, to an electric cooperative, municipality, nonprofit corporation created by the authority under Chapter 152, Water Code, or other governmental agency or body politic and corporate of this state, of any property acquired or constructed by the authority and incidental to or used or useful in the generation, production, transmission, distribution, or sale of electric energy. The authority may pledge the proceeds of a sale under this section to the same extent and in the same manner in which it is authorized to pledge its revenues.

(n) Subsection (a), Section 8503.023, Special District Local Laws Code, as renumbered from Section 222.023, Water Code, by this section, is amended to read as follows:

(a) The authority may not prevent the public use of its lands for recreational purposes and fishing except at such points where, in the opinion of the board, the use would interfere with the proper conduct of the business of the authority or would interfere

with the lawful use of the property. A lease of authority lands, except one expressly permitted by Section 8503.022 [~~222.022~~], is not lawful unless it provides for free public use of the lands for recreational purposes and fishing.

(o) Subsection (b), Section 8503.025, Special District Local Laws Code, as renumbered from Section 222.025, Water Code, by this section, is amended to read as follows:

(b) Nothing in this chapter shall prevent the authority from issuing bonds under any applicable general law of this state, provided, however, that no bonds are issued that would be in conflict with Section 8503.024 [~~222.024~~].

(p) Subsection (b), Section 8503.027, Special District Local Laws Code, as renumbered from Section 222.027, Water Code, by this section, is amended to read as follows:

(b) Nothing in this chapter affects the meaning of Section 8503.011 [~~222.011~~], formerly Section 222.011, Water Code, and Section 9, Chapter 74, Acts of the 64th Legislature, Regular Session, 1975, as it existed prior to the adoption of the former Chapter 222, Water Code [~~this chapter~~], except where specifically amended.

(q) Section 8503.028, Special District Local Laws Code, as renumbered from Section 222.028, Water Code, by this section, is amended to read as follows:

Sec. 8503.028 [~~222.028~~]. AUTHORITY POWERS IN LAMPASAS COUNTY. Notwithstanding any other provision of this chapter, the authority may exercise all powers within Lampasas County that it may otherwise exercise within the 10 counties specified in Section

8503.003 [~~222.003~~], except that the authority may not provide water or wastewater services in the portion of Lampasas County outside the Colorado River watershed without the consent of the Brazos River Authority.

(r) Subsection (b), Section 8503.030, Special District Local Laws Code, as renumbered from Section 222.030, Water Code, by this section, is amended to read as follows:

(b) In this section and Section 8503.031 [~~222.031~~]:

(1) "Municipality" includes a municipally owned utility.

(2) "Water service area" means the area in which the authority is authorized to use, distribute, and sell water on January 1, 2001.

(s) Section 8503.031, Special District Local Laws Code, as renumbered from Section 222.031, Water Code, by this section, is amended to read as follows:

Sec. 8503.031 [~~222.031~~]. AUTHORITY OF MUNICIPALITY TO CONTRACT FOR WATER. Section 8503.030 [~~222.030~~] constitutes full authority for a municipality or municipally owned utility to enter into a contract with the authority under that section. The payments made under a contract authorized by that section are operation and maintenance expenses of the municipality's utility system. A municipality or municipally owned utility that enters into a contract under that section may use proceeds from the sale of its revenue bonds to make any such payments.

(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

79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(a) To be designated as a reinvestment zone, an area must:

(1) substantially arrest or impair the sound growth of the municipality or county creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate sidewalk or street layout;

(C) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the fair value of the land;

(G) defective or unusual conditions of title;

(H) conditions that endanger life or property by fire or other cause; or

(I) structures, other than single-family residential structures, less than 10 percent of the square footage of which has been used for commercial, industrial, or residential purposes during the preceding 12 years, if the municipality has a population of 100,000 or more;

(2) be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality or county;

(3) be in a federally assisted new community located in the municipality or county or in an area immediately adjacent to a federally assisted new community; or

(4) [~~(5)~~] be an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the municipality or county by the owners of property constituting at least 50 percent of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located.

SECTION 14.004. Section 311.006(e), Tax Code, is amended to correct a reference to read as follows:

(e) Subsection (a)(1) does not apply to a reinvestment zone designated under Section 311.005(a)(4) [~~311.005(a)(5)~~].

SECTION 14.005. Section 311.0087(a), Tax Code, is amended to correct a reference to read as follows:

(a) This section applies only to a proposed reinvestment zone:

(1) the designation of which is requested in a petition submitted under Section 311.005(a)(4) [~~311.005(a)(5)~~] before July 31, 2004, to the governing body of a home-rule municipality that:

(A) has a population of more than 1.1 million;

(B) is located primarily in a county with a population of 1.5 million or less; and

(C) has created at least 20 reinvestment zones under this chapter; and

(2) that is the subject of a resolution of intent that was adopted before October 31, 2004, by the governing body of the municipality.

SECTION 14.006. Section 311.009(b), Tax Code, is amended to correct a reference to read as follows:

(b) If the zone was designated under Section 311.005(a)(4) [~~311.005(a)(5)~~], the board of directors of the zone consists of nine members. Each school district, county, or municipality, other than the municipality or county that created the zone, that levies taxes on real property in the zone may appoint one member of the board if the school district, county, or municipality has approved the payment of all or part of the tax increment produced by the unit. The member of the state senate in whose district the zone is located is a member of the board, and the member of the state house of representatives in whose district the zone is located is a member of the board, except that either may designate another individual to serve in the member's place at the pleasure of the member. If the zone is located in more than one senate or house district, this subsection applies only to the senator or representative in whose district a larger portion of the zone is located than any other senate or house district, as applicable. The remaining members of the board are appointed by the governing body of the municipality or county that created the zone.

SECTION 14.007. Section 311.0091(c), Tax Code, is amended to correct a reference to read as follows:

(c) If the zone was designated under Section 311.005(a)(4) [~~311.005(a)(5)~~], the board of directors of the zone consists of nine members, unless a greater number of members is necessary to comply with this subsection. Each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint a number of members to the board in proportion to the taxing unit's pro rata share of the total anticipated tax increment to be deposited into the tax increment fund during the term of the zone. In determining the number of members a taxing unit may appoint to the board, the taxing unit's percentage of anticipated pro rata contributions to the tax increment fund is multiplied by nine, and a number containing a fraction that is one-half or greater shall be rounded up to the next whole number. Notwithstanding any other provision of this subsection, each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint at least one member of the board, and the municipality that designated the zone is entitled to appoint at least as many members of the board as any other participating taxing unit. A taxing unit may waive its right to appoint a director. The member of the state senate in whose district the zone is located is a member of the board, and the member of the state house of representatives in whose district the zone is located is a member of the board, except that either may designate another individual to serve in the member's place at the pleasure of the member. If the zone is located in more

than one senate or house district, this subsection applies only to the senator or representative in whose district a larger portion of the zone is located than any other senate or house district, as applicable.

SECTION 14.008. Section 311.010(c), Tax Code, is amended to correct a reference to read as follows:

(c) Subject to the approval of the governing body of the municipality that created the zone, the board of a zone designated by the governing body of a municipality under Section 311.005(a)(4) [~~311.005(a)(5)~~] may exercise the power granted by Chapter 211, Local Government Code, to the governing body of the municipality that created the zone to restrict the use or uses of property in the zone. The board may provide that a restriction adopted by the board continues in effect after the termination of the zone. In that event, after termination of the zone the restriction is treated as if it had been adopted by the governing body of the municipality.

SECTION 14.009. Section 311.0101(a), Tax Code, is amended to correct a reference to read as follows:

(a) It is the goal of the legislature, subject to the constitutional requirements spelled out by the United States Supreme Court in J. A. Croson Company v. City of Richmond (822 F.2d 1355) and as hereafter further elaborated by federal and state courts, that all disadvantaged businesses in the zone designated under Section 311.005(a)(4) [~~311.005(a)(5)~~] be given full and complete access to the procurement process whereby supplies, materials, services, and equipment are acquired by the board. It is also the intent of the legislature that to the extent

constitutionally permissible, a preference be given to disadvantaged businesses. The board and general contractor shall give preference, among bids or other proposals that are otherwise comparable, to a bid or other proposal by a disadvantaged business having its home office located in this state.

SECTION 14.010. Section 311.011(f), Tax Code, is amended to correct a reference to read as follows:

(f) In a zone designated under Section 311.005(a)(4) [~~311.005(a)(5)~~] that is located in a county with a population of 3.3 million or more, the project plan must provide that at least one-third of the tax increment of the zone be used to provide affordable housing during the term of the zone.

ARTICLE 15. CHANGES RELATING TO TRANSPORTATION CODE

SECTION 15.001. Section 22.0815, Transportation Code, is amended to add a heading to read as follows:

Sec. 22.0815. OFFENSE: UNAUTHORIZED GROUND TRANSPORTATION. (a) In this section, "ground transportation business" means the transportation by motor vehicle of persons or baggage for compensation.

(b) A person commits an offense if, within the boundaries of an airport operated or controlled by a joint board for which the constituent agencies are populous home-rule municipalities, the person:

(1) solicits ground transportation business without the permission of the joint board, if required; or

(2) engages in ground transportation business without the permission of the joint board, if required.

(c) An offense under this section is a Class B misdemeanor.

SECTION 15.002. Sections 222.104(f) and (g), Transportation Code, as added by Chapter 994, Acts of the 79th Legislature, Regular Session, 2005, are repealed as duplicative of Sections 222.104(i) and (j), Transportation Code.

ARTICLE 16. CHANGES RELATING TO WATER CODE

SECTION 16.001. Section 5.131, Water Code, as added by Chapter 965, Acts of the 77th Legislature, Regular Session, 2001, is repealed as duplicative of Section 5.127, Water Code.

SECTION 16.002. The heading to Chapter 29, Water Code, is amended to conform to Section 21, Chapter 603, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

CHAPTER 29. OIL AND GAS WASTE [~~SALT WATER~~] HAULERS

ARTICLE 17. RENUMBERING

SECTION 17.001. The following provisions of enacted codes are renumbered or relettered and appropriate cross-references are changed to eliminate duplicate citations or to relocate misplaced provisions:

(1) Section 12.039, Agriculture Code, as added by Chapter 214, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 12.040, Agriculture Code.

(2) Subsection (i), Section 11.61, Alcoholic Beverage Code, as added by Chapter 452, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (j), Section 11.61, Alcoholic Beverage Code.

(3) Chapter 54, Alcoholic Beverage Code, as added by Chapter 1289, Acts of the 79th Legislature, Regular Session, 2005,

is renumbered as Chapter 50, Alcoholic Beverage Code, and Sections 54.001, 54.002, and 54.003, Alcoholic Beverage Code, as added by that Act, are renumbered as Sections 50.001, 50.002, and 50.003, Alcoholic Beverage Code, respectively.

(4) Subsection (j), Section 61.71, Alcoholic Beverage Code, as added by Chapter 452, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (l), Section 61.71, Alcoholic Beverage Code.

(5) Section 105.08, Alcoholic Beverage Code, as added by Chapter 239, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 105.09, Alcoholic Beverage Code.

(6) Section 35.58, Business & Commerce Code, as added by Chapter 649, Acts of the 78th Legislature, Regular Session, 2003, is renumbered as Section 35.60, Business & Commerce Code.

(7) Section 35.60, Business & Commerce Code, as added by Chapter 195, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 35.63, Business & Commerce Code.

(8) Article 13.30, Code of Criminal Procedure, as added by Chapter 1008, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Article 13.31, Code of Criminal Procedure.

(9) Article 13.30, Code of Criminal Procedure, as added by Chapter 1275, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Article 13.32, Code of Criminal Procedure.

(10) Subsection (p), Article 42.037, Code of Criminal Procedure, as added by Chapter 543, Acts of the 79th Legislature,

Regular Session, 2005, is relettered as Subsection (q), Article 42.037, Code of Criminal Procedure.

(11) Section 11.168, Education Code, as added by Chapter 1109, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 11.169, Education Code.

(12) Section 25.0341, Education Code, as added by Chapter 920, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 25.0342, Education Code.

(13) Subchapter D, Chapter 32, Education Code, as added by Chapter 1216, Acts of the 78th Legislature, Regular Session, 2003, is relettered as Subchapter F, Chapter 32, Education Code, and Sections 32.151, 32.152, 32.153, 32.154, 32.155, 32.156, 32.157, 32.158, 32.159, 32.160, 32.161, 32.162, and 32.163, Education Code, as added by that Act, are renumbered as Sections 32.251, 32.252, 32.253, 32.254, 32.255, 32.256, 32.257, 32.258, 32.259, 32.260, 32.261, 32.262, and 32.263, Education Code, respectively.

(13-a) Section 51.355, Education Code, as added by Chapter 303, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 51.357, Education Code.

(14) Section 51.4032, Education Code, as added by Chapter 1230, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 51.4033, Education Code.

(15) Subsection (f), Section 54.007, Education Code, as added by Chapter 888, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (g), Section 54.007, Education Code.

(16) Subsection (f), Section 54.007, Education Code, as added by Chapter 536, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (h), Section 54.007, Education Code.

(17) Section 54.073, Education Code, as added by Chapter 888, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 54.066, Education Code.

(18) Subsection (h), Section 54.203, Education Code, as added by Chapter 888, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (j), Section 54.203, Education Code.

(19) Subchapter I, Chapter 88, Education Code, as added by Chapter 388, Acts of the 76th Legislature, Regular Session, 1999, is relettered as Subchapter I-1, Chapter 88, Education Code.

(20) Subsection (d), Section 31.092, Election Code, as added by Chapter 1091, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (e), Section 31.092, Election Code.

(21) Subchapter J, Chapter 153, Family Code, as added by Chapter 482, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subchapter K, Chapter 153, Family Code.

(22) Section 231.122, Family Code, as added by Chapter 925, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 231.123, Family Code.

(23) Subsection (i), Section 156.208, Finance Code, as added by Chapter 1018, Acts of the 79th Legislature, Regular

Session, 2005, is relettered as Subsection (j), Section 156.208, Finance Code.

(24) Subchapter BB, Chapter 54, Government Code, as added by Chapter 663, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subchapter A, Chapter 54, Government Code, and Sections 54.1351, 54.1352, 54.1353, 54.1354, 54.1355, and 54.1356, Government Code, as added by that Act, are renumbered as Sections 54.001, 54.002, 54.003, 54.004, 54.005, and 54.006, Government Code, respectively.

(25) Subchapter BB, Chapter 54, Government Code, as added by Chapter 109, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subchapter B, Chapter 54, Government Code, and Sections 54.1701, 54.1702, 54.1703, 54.1704, and 54.1705, Government Code, as added by that Act, are renumbered as Sections 54.101, 54.102, 54.103, 54.104, and 54.105, Government Code, respectively.

(26) Section 62.0142, Government Code, as added by Chapter 1360, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 62.0143, Government Code.

(27) Section 405.021, Government Code, as added by Chapter 407, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 405.022, Government Code.

(28) Section 442.019, Government Code, as added by Chapter 850, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 442.020, Government Code.

(29) Section 487.060, Government Code, as added by Chapter 634, Acts of the 79th Legislature, Regular Session, 2005,

is renumbered as Section 487.061, Government Code.

(30) Chapter 490, Government Code, as added by Chapter 593, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Chapter 490A, Government Code, and Sections 490.001, 490.002, 490.003, 490.004, 490.005, 490.006, 490.007, 490.008, and 490.009, Government Code, as added by that Act, are renumbered as Sections 490A.001, 490A.002, 490A.003, 490A.004, 490A.005, 490A.006, 490A.007, 490A.008, and 490A.009, Government Code, respectively.

(31) Chapter 490, Government Code, as added by Chapter 1215, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Chapter 490B, Government Code, and Sections 490.001, 490.002, 490.003, 490.004, and 490.005, Government Code, as added by that Act, are renumbered as Sections 490B.001, 490B.002, 490B.003, 490B.004, and 490B.005, Government Code, respectively.

(32) Section 531.078, Government Code, as added by Chapter 268, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 531.088, Government Code.

(33) Section 531.078, Government Code, as added by Chapter 1008, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 531.089, Government Code.

(34) Section 531.080, Government Code, as added by Chapter 899, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 531.090, Government Code.

(35) Section 531.080, Government Code, as added by Chapter 666, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 531.091, Government Code.

(36) Section 531.082, Government Code, as added by Chapter 985, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 531.092, Government Code.

(37) Section 531.1532, Government Code, as added by Chapter 1131, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 531.1533, Government Code.

(38) Subsection (f), Section 533.009, Government Code, as added by Chapter 349, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (c), Section 533.009, Government Code.

(39) Section 552.141, Government Code, as added by Chapter 401, Acts of the 78th Legislature, Regular Session, 2003, is renumbered as Section 552.145, Government Code.

(40) Section 662.051, Government Code, as added by Chapter 697, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 662.052, Government Code.

(41) Section 775.004, Government Code, as added by Chapter 351, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 775.005, Government Code.

(42) Section 2155.149, Government Code, as added by Chapter 514, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 2155.150, Government Code.

(43) Subchapter C, Chapter 44, Health and Safety Code, as added by Chapter 775, Acts of the 75th Legislature, Regular Session, 1997, is transferred to the Government Code and redesignated as Subchapter C, Chapter 420, Government Code, and Section 44.051, Health and Safety Code, as added by that Act, is

renumbered as Section 420.051, Government Code.

(44) Subchapter D, Chapter 44, Health and Safety Code, as added by Chapter 775, Acts of the 75th Legislature, Regular Session, 1997, is transferred to the Government Code and redesignated as Subchapter D, Chapter 420, Government Code, and Sections 44.071, 44.072, 44.073, 44.074, and 44.075, Health and Safety Code, as added by that Act, are renumbered as Sections 420.071, 420.072, 420.073, 420.074, and 420.075, Government Code, respectively.

(45) Chapter 96, Health and Safety Code, as added by Chapter 326, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Chapter 97, Health and Safety Code, and Sections 96.001, 96.002, 96.003, 96.004, 96.005, 96.006, and 96.007, Health and Safety Code, as added by that Act, are renumbered as Sections 97.001, 97.002, 97.003, 97.004, 97.005, 97.006, and 97.007, Health and Safety Code, respectively.

(46) Chapter 113, Health and Safety Code, as added by Chapter 1016, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Chapter 109, Health and Safety Code, and Sections 113.001, 113.002, 113.003, 113.004, 113.005, 113.006, 113.007, 113.008, 113.009, 113.010, 113.011, 113.012, 113.013, and 113.014, Health and Safety Code, as added by that Act, are renumbered as Sections 109.001, 109.002, 109.003, 109.004, 109.005, 109.006, 109.007, 109.008, 109.009, 109.010, 109.011, 109.012, 109.013, and 109.014, Health and Safety Code, respectively.

(47) Chapter 322, Health and Safety Code, as added by Chapter 934, Acts of the 79th Legislature, Regular Session, 2005,

is renumbered as Chapter 323, Health and Safety Code, and Sections 322.001, 322.002, 322.003, 322.004, 322.005, and 322.006, Health and Safety Code, as added by that Act, are renumbered as Sections 323.001, 323.002, 323.003, 323.004, 323.005, and 323.006, Health and Safety Code, respectively.

(48) Section 361.123, Health and Safety Code, as added by Chapter 582, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 361.124, Health and Safety Code.

(49) Section 756.106, Health and Safety Code, as added by Chapter 1337, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 756.126, Health and Safety Code.

(50) Subsection (bb), Section 32.024, Human Resources Code, as added by Chapter 1314, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (cc), Section 32.024, Human Resources Code.

(51) Subchapter G, Chapter 544, Insurance Code, as added by Chapter 748, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subchapter J, Chapter 544, Insurance Code, and Sections 544.301, 544.302, and 544.303, Insurance Code, as added by that Act, are renumbered as Sections 544.451, 544.452, and 544.453, Insurance Code, respectively.

(52) Section 1551.219, Insurance Code, as added by Chapter 213, Acts of the 78th Legislature, Regular Session, 2003, is renumbered as Section 1551.224, Insurance Code.

(53) Section 212.1335, Local Government Code, as added by Chapter 1044, Acts of the 78th Legislature, Regular Session, 2003, is renumbered as Section 212.1535, Local Government Code.

(54) Section 212.138, Local Government Code, as added by Chapter 1044, Acts of the 78th Legislature, Regular Session, 2003, is renumbered as Section 212.158, Local Government Code.

(55) Section 214.904, Local Government Code, as added by Chapter 1103, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 214.905, Local Government Code.

(56) Section 230.007, Local Government Code, as added by Chapter 1399, Acts of the 77th Legislature, Regular Session, 2001, is renumbered as Section 212.157, Local Government Code.

(57) Section 301.353, Occupations Code, as added by Chapter 966, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 301.354, Occupations Code.

(58) Section 562.111, Occupations Code, as added by Section 22, Chapter 1345, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 562.112, Occupations Code.

(58-a) Subdivision (1-a), Section 1702.002, Occupations Code, as added by Chapter 10, Acts of the 78th Legislature, 3rd Called Session, 2003, is renumbered as Subdivision (1-b), Section 1702.002, Occupations Code.

(59) Section 1702.331, Occupations Code, as added by Chapter 207, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 1702.332, Occupations Code.

(60) Section 62.002, Parks and Wildlife Code, as added by Chapter 1002, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 62.0061, Parks and Wildlife Code.

(61) Subsections (g) and (h), Section 30.05, Penal Code, as added by Chapter 1093, Acts of the 79th Legislature,

Regular Session, 2005, are relettered as Subsections (i) and (j), Section 30.05, Penal Code, respectively.

(62) Subsection (i), Section 46.15, Penal Code, as added by Chapter 976, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (j), Section 46.15, Penal Code.

(63) Section 5.014, Property Code, as added by Chapter 825, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 5.015, Property Code.

(64) Section 92.016, Property Code, as added by Chapter 1344, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 92.018, Property Code.

(65) Chapter 9004, Special District Local Laws Code, as added by Chapter 729, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Chapter 9010, Special District Local Laws Code, and Sections 9004.001, 9004.002, 9004.003, 9004.004, 9004.051, 9004.052, 9004.053, 9004.054, and 9004.055, Special District Local Laws Code, as added by that Act, are renumbered as Sections 9010.001, 9010.002, 9010.003, 9010.004, 9010.051, 9010.052, 9010.053, 9010.054, and 9010.055, Special District Local Laws Code, respectively.

(66) Subsection (g), Section 32.065, Tax Code, as added by Chapter 1126, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (h), Section 32.065, Tax Code.

(67) Section 201.617, Transportation Code, as added by Chapter 474, Acts of the 79th Legislature, Regular Session, 2005,

is renumbered as Section 201.619, Transportation Code.

(68) Subsection (a), Section 225.059, Transportation Code, as added by Chapter 286, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (a-1), Section 225.059, Transportation Code.

(69) Section 225.059, Transportation Code, as added by Chapter 851, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 225.060, Transportation Code.

(70) Section 225.059, Transportation Code, as added by Chapter 1263, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 225.062, Transportation Code.

(71) Section 225.059, Transportation Code, as added by Chapter 1283, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 225.063, Transportation Code.

(72) Section 225.059, Transportation Code, as added by Chapter 651, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 225.064, Transportation Code.

(73) Section 225.059, Transportation Code, as added by Chapter 546, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 225.065, Transportation Code.

(74) Section 284.011, Transportation Code, as added by Chapter 877, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 284.013, Transportation Code.

(75) Subsection (c), Section 472.032, Transportation Code, as added by Chapter 565, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (d), Section 472.032, Transportation Code.

SECTION 17.002. The following reference changes are made to conform the provisions amended to the renumbering changes made by Section 17.001 of this Act:

(1) Subsection (g), Article 18.18, Code of Criminal Procedure, is amended to read as follows:

(g) For purposes of this article:

(1) "criminal instrument" has the meaning defined in the Penal Code;

(2) "gambling device or equipment, altered gambling equipment or gambling paraphernalia" has the meaning defined in the Penal Code;

(3) "prohibited weapon" has the meaning defined in the Penal Code;

(4) "dog-fighting equipment" means:

(A) equipment used for training or handling a fighting dog, including a harness, treadmill, cage, decoy, pen, house for keeping a fighting dog, feeding apparatus, or training pen;

(B) equipment used for transporting a fighting dog, including any automobile, or other vehicle, and its appurtenances which are intended to be used as a vehicle for transporting a fighting dog;

(C) equipment used to promote or advertise an exhibition of dog fighting, including a printing press or similar equipment, paper, ink, or photography equipment; or

(D) a dog trained, being trained, or intended to be used to fight with another dog;

(5) "obscene device" and "obscene" have the meanings assigned by Section 43.21, Penal Code;

(6) "re-encoder" has the meaning assigned by Section 35.60 [~~35.58~~], Business & Commerce Code;

(7) "scanning device" has the meaning assigned by Section 35.60 [~~35.58~~], Business & Commerce Code; and

(8) "obscene material" and "child pornography" include digital images and the media and equipment on which those images are stored.

(2) Subsection (a), Section 32.261, Education Code, as renumbered from Section 32.161, Education Code, by this article, is amended to read as follows:

(a) The agency may not use general revenue funds to pay the costs of developing, administering, and maintaining the portal. The agency may use amounts available to the agency from:

(1) gifts, grants, or donations;

(2) vendor payments described by Section 32.260(b) [~~32.160(b)~~]; or

(3) arrangements with nonprofit or private entities approved by the agency.

(3) Subsections (a) and (b), Section 420.072, Government Code, as renumbered from Section 44.072, Health and Safety Code, by this article, are amended to read as follows:

(a) A communication or record that is confidential under this subchapter may be disclosed in court or in an administrative proceeding if:

(1) the proceeding is brought by the survivor against

an advocate or a sexual assault program or is a criminal proceeding or a certification revocation proceeding in which disclosure is relevant to the claims or defense of the advocate or sexual assault program; or

(2) the survivor or a person authorized to act on behalf of the survivor consents in writing to the release of the confidential information as provided by Section 420.073 [~~44.073~~].

(b) A communication or record that is confidential under this subchapter may be disclosed only to:

(1) medical or law enforcement personnel if the advocate determines that there is a probability of imminent physical danger to any person for whom the communication or record is relevant or if there is a probability of immediate mental or emotional injury to the survivor;

(2) a governmental agency if the disclosure is required or authorized by law;

(3) a qualified person to the extent necessary for a management audit, financial audit, program evaluation, or research, except that a report of the research, audit, or evaluation may not directly or indirectly identify a survivor;

(4) a person who has the written consent of the survivor or of a person authorized to act on the survivor's behalf as provided by Section 420.073 [~~44.073~~]; or

(5) an advocate or a person under the supervision of a counseling supervisor who is participating in the evaluation or counseling of or advocacy for the survivor.

(4) Subsection (b), Section 490A.004, Government

Code, as renumbered from Section 490.004, Government Code, by this article, is amended to read as follows:

(b) The advisory board consists of one representative from each of the founding members of the network under Section 490A.003(a) [~~490.003(a)~~] and at least one member from the private sector. An organization other than a founding member of the network under Section 490A.003(a) [~~490.003(a)~~] may have a representative on the advisory board only if the creation of an additional seat on the board is authorized by a two-thirds majority vote of the existing board.

(5) Subsection (a), Section 490A.005, Government Code, as renumbered from Section 490.005, Government Code, by this article, is amended to read as follows:

(a) The network shall train and refocus existing state and local resources to build a more prosperous, dynamic, and sustainable economy throughout this state by:

(1) providing coordinated training and services that enhance the value of the state's existing infrastructure investments and make the investments available to entrepreneur participants;

(2) developing a statewide network of entrepreneurship developers and entrepreneurship centers as provided by Section 490A.006 [~~490.006~~];

(3) developing a comprehensive network of knowledge, leadership, and financial capital resources accessible through the network's entrepreneurship developers and entrepreneurship centers;

(4) educating entrepreneur participants and generating awareness of the network and its programs;

(5) identifying the most promising ventures through activities, including business-plan competitions, and assisting the ventures' potential for job and wealth creation;

(6) developing evaluation methods to measure the effectiveness of the network and the impact of entrepreneurship on local and regional economies;

(7) developing best practices for successful entrepreneurship and applied research regarding critical success factors for entrepreneurial businesses to provide a strategic competitive advantage for businesses in this state; and

(8) collaborating with existing local, state, and federal agencies and economic development professionals to use the strengths and assets of the agencies and professionals.

(6) Subsection (c), Section 490A.008, Government Code, as renumbered from Section 490.008, Government Code, by this article, is amended to read as follows:

(c) The fund may be used only for network purposes, subject to Section 490A.009 [~~490.009~~].

(7) Subsection (g), Section 531.164, Government Code, is amended to read as follows:

(g) If a child's parent or guardian does not respond to a notice under Subsection (e) or (f), the ICF-MR or nursing facility, as applicable, must attempt to locate the parent or guardian by contacting another person whose information was provided by the parent or guardian under Section 531.1533(1)(B) [~~531.1532(1)(B)~~].

(8) Subsection (c), Section 2306.585, Government Code, is amended to read as follows:

(c) The advisory committee shall advise the colonia initiatives coordinator as provided by Section 775.005 [~~775.004~~].

(9) Subsection (e), Section 109.010, Health and Safety Code, as renumbered from Section 113.010, Health and Safety Code, by this article, is amended to read as follows:

(e) The report submitted under Subsection (d) must include recommendations from the partnership and any other advisory body formed under Section 109.003 [~~113.003~~].

(10) Subsection (a), Section 323.002, Health and Safety Code, as renumbered from Section 322.002, Health and Safety Code, by this article, is amended to read as follows:

(a) At the request of the department, a health care facility shall submit to the department for approval a plan for providing the services required by Section 323.004 [~~322.004~~] to sexual assault survivors who arrive for treatment at the emergency department of the health care facility.

(11) Subsection (a), Section 323.003, Health and Safety Code, as renumbered from Section 322.003, Health and Safety Code, by this article, is amended to read as follows:

(a) If a plan required under Section 323.002 [~~322.002~~] is not approved, the department shall:

(1) return the plan to the health care facility; and

(2) identify the specific provisions under Section 323.004 [~~322.004~~] with which the plan conflicts or does not comply.

(12) Subsection (b), Section 323.004, Health and

Safety Code, as renumbered from Section 322.004, Health and Safety Code, by this article, is amended to read as follows:

(b) A health care facility providing care to a sexual assault survivor shall provide the survivor with:

(1) a forensic medical examination in accordance with Subchapter B, Chapter 420, Government Code, if the examination has been approved by a law enforcement agency;

(2) a private area, if available, to wait or speak with the appropriate medical, legal, or sexual assault crisis center staff or volunteer until a physician, nurse, or physician assistant is able to treat the survivor;

(3) access to a sexual assault program advocate, if available, as provided by Article 56.045, Code of Criminal Procedure;

(4) the information form required by Section 323.005 [~~322.005~~];

(5) a private treatment room, if available;

(6) if indicated by the history of contact, access to appropriate prophylaxis for exposure to sexually transmitted infections; and

(7) the name and telephone number of the nearest sexual assault crisis center.

(13) Subsection (j), Section 30.05, Penal Code, as relettered from Subsection (h), Section 30.05, Penal Code, by this article, is amended to read as follows:

(h) For purposes of Subsection (i) [~~(g)~~], "recognized state" means another state with which the attorney general of this

state, with the approval of the governor of this state, negotiated an agreement after determining that the other state:

(1) has firearm proficiency requirements for peace officers; and

(2) fully recognizes the right of peace officers commissioned in this state to carry weapons in the other state.

SECTION 17.003. If the number, letter, or designation assigned by Section 17.001 of this Act conflicts with a number, letter, or designation assigned by another Act of the 80th Legislature:

(1) the other Act controls, and the change made by Section 17.001 of this Act has no effect; and

(2) any cross-reference change made by Section 17.002 of this Act to conform to that change made by Section 17.001 of this Act has no effect.

ARTICLE 18. EFFECTIVE DATE

SECTION 18.001. This Act takes effect September 1, 2007.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 27, 2007

TO: Honorable David Swinford, Chair, House Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3167** by Swinford (Relating to nonsubstantive additions to and corrections in enacted codes, to the nonsubstantive codification or disposition of various laws omitted from enacted codes, and to conforming codifications enacted by the 79th Legislature to other Acts of that legislature.), **Committee Report 1st House, As Amended**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:
LBB Staff: JOB, KJG, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 20, 2007

TO: Honorable David Swinford, Chair, House Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3167** by Swinford (Relating to nonsubstantive additions to and corrections in enacted codes, to the nonsubstantive codification or disposition of various laws omitted from enacted codes, and to conforming codifications enacted by the 79th Legislature to other Acts of that legislature.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:
LBB Staff: JOB, KJG, SD

FAVORABLE
SENATE COMMITTEE REPORT ON

SB SCR SJR SR (HB) HCR HJR 3167

By Swinford / West
(Author/Senate Sponsor)

May 8, 2007
(date)

Sir:

We, your Committee on ADMINISTRATION, to which was referred the attached measure, have on May 7, 2007 (date of hearing), had the same under consideration and I am instructed to report it back with the recommendation (s) that it:

( ) do pass and be printed

(X) do pass and be ordered not printed

(X) and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. (X) yes ( ) no

A revised fiscal note was requested. ( ) yes (X) no

Considered by subcommittee. ( ) yes (X) no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Brimer, Chairman	X			
Senator Uresti, Vice-Chairman	X			
Senator Seliger	X			
Senator Shapiro	X			
Senator Wentworth	X		X	
Senator Whitmire	X			
Senator Zaffirini	X			
TOTAL VOTES	7			

COMMITTEE ACTION

S260 Considered in public hearing
S270 Testimony taken

COMMITTEE CLERK

CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill
Retain one copy of this form for Committee files

WITNESS LIST

HB 3167

Senate Committee Report

Administration

May 7, 2007 - 12:30 PM

Registering, but not testifying:

On:

Brown, Mark Mr. (Texas Legislative Council), Austin, TX

Skarke, David Mr. (Texas Legislative Council), Austin, TX

BILL ANALYSIS

Senate Research Center

H.B. 3167
By: Swinford (West, Royce)
Administration
5/4/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Legislative Council is required by law to carry out a complete nonsubstantive revision of the Texas statutes. The process involves reclassifying and rearranging the statutes in a more logical order; employing a numbering system and format that will accommodate future expansion of the law; eliminating repealed, invalid, duplicative, and other ineffective provisions; and improving the draftsmanship of law if practicable. These efforts are carried out in order to make the statutes more accessible, understandable, and usable without altering the sense, meaning, or effect of the law.

H.B. 3167 makes nonsubstantive revisions to certain laws concerning the Agriculture Code, Business & Commerce Code, Code of Criminal Procedure, Education Code, Election Code, Finance Code, Government Code, Health and Safety Code, Insurance Code, Labor Code, Local Government Code, Occupations Code, Penal Code, Special District Local Laws Code, Tax Code, Transportation Code, and the Water Code.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

ARTICLE 1. GENERAL PROVISIONS (Page 1)

ARTICLE 2. CHANGES RELATING TO AGRICULTURE CODE (Page 2)

ARTICLE 2A. CHANGES RELATING TO BUSINESS & COMMERCE CODE (Page 2)

ARTICLE 3. CHANGES RELATING TO CODE OF CRIMINAL PROCEDURE (Pages 3-5)

ARTICLE 4. CHANGES RELATING TO EDUCATION CODE (Pages 5-10)

ARTICLE 5. CHANGES RELATING TO ELECTION CODE (Pages 10-12)

ARTICLE 6. CHANGES RELATING TO FINANCE CODE (Pages 12-50)

ARTICLE 7. CHANGES RELATING TO GOVERNMENT CODE (Pages 50-147)

ARTICLE 8. CHANGES RELATING TO HEALTH AND SAFETY CODE (Pages 148-150)

ARTICLE 9. CHANGES RELATING TO INSURANCE CODE (Pages 150-310)

ARTICLE 10. CHANGES RELATING TO LABOR CODE (Pages 310-313)

ARTICLE 11. CHANGES RELATING TO LOCAL GOVERNMENT CODE (Pages 313-314)

ARTICLE 12. CHANGES RELATING TO OCCUPATIONS CODE (Pages 314-318)

ARTICLE 12A. CHANGES RELATING TO PENAL CODE (Page 318)

ARTICLE 13. CHANGES RELATING TO SPECIAL DISTRICT LOCAL LAWS CODE (Pages 318-337)

ARTICLE 14. CHANGES RELATING TO TAX CODE (Pages 338-344)

ARTICLE 15. CHANGES RELATING TO TRANSPORTATION CODE (Pages 344-345)

ARTICLE 16. CHANGES RELATING TO WATER CODE (Page 345)

ARTICLE 17. RENUMBERING (Pages 345-364)

ARTICLE 18. EFFECTIVE DATE (Page 364)

SECTION 18.01. Effective date: September 1, 2007.

REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

SENATOR KIM BRIMER, CHAIRMAN
SENATE COMMITTEE ON ADMINISTRATION

Notice is hereby given that HB 3167 (Bill No.), by Swinford / West (Author/Sponsor),

was heard by the Committee on Administration on May 7, 2007,

and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.

Tara Cn Reyd
(Clerk of the reporting committee)

IMPORTANT: TWO COPIES OF THIS FORM MUST BE ATTACHED TO A **COMMITTEE PRINTED VERSION** OF THE BILL OR RESOLUTION AND SHOULD BE DELIVERED TO THE ADMINISTRATION COMMITTEE OFFICE, E1.714. DEADLINES FOR SUBMITTING BILLS AND RESOLUTIONS WILL BE ANNOUNCED ON A REGULAR BASIS.

Paper clip the original to the bill; retain pink copy for committee files; deliver yellow copy to bill author/sponsor.

ENROLLMENT

H.B. No. 3167

AN ACT

relating to nonsubstantive additions to and corrections in enacted codes, to the nonsubstantive codification or disposition of various laws omitted from enacted codes, and to conforming codifications enacted by the 79th Legislature to other Acts of that legislature.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.001. This Act is enacted as part of the state's continuing statutory revision program under Chapter 323, Government Code. This Act is a revision for purposes of Section 43, Article III, Texas Constitution, and has the purposes of:

(1) codifying without substantive change or providing for other appropriate disposition of various statutes that were omitted from enacted codes;

(2) conforming codifications enacted by the 79th Legislature to other Acts of that legislature that amended the laws codified or added new law to subject matter codified;

(3) making necessary corrections to enacted codifications; and

(4) renumbering titles, chapters, and sections of codes that duplicate title, chapter, or section numbers.

SECTION 1.002. (a) The repeal of a statute by this Act does not affect an amendment, revision, or reenactment of the statute by the 80th Legislature, Regular Session, 2007. The amendment,

revision, or reenactment is preserved and given effect as part of the code provision that revised the statute so amended, revised, or reenacted.

(b) If any provision of this Act conflicts with a statute enacted by the 80th Legislature, Regular Session, 2007, the statute controls.

SECTION 1.003. (a) A transition or saving provision of a law codified by this Act applies to the codified law to the same extent as it applied to the original law.

(b) The repeal of a transition or saving provision by this Act does not affect the application of the provision to the codified law.

(c) In this section, "transition provision" includes any temporary provision providing for a special situation in the transition period between the existing law and the establishment or implementation of the new law.

ARTICLE 2. CHANGES RELATING TO AGRICULTURE CODE

SECTION 2.001. Sections 301.104, 301.108, and 301.258, Agriculture Code, as added by Chapter 1276, Acts of the 78th Legislature, Regular Session, 2003, are repealed to conform to the repeal of the law from which those sections were derived by Section 21.013, Chapter 816, Acts of the 78th Legislature, Regular Session, 2003.

ARTICLE 2A. CHANGES RELATING TO BUSINESS & COMMERCE CODE

SECTION 2A.001. Section 17.08(a)(5), Business & Commerce Code, is amended to correct a reference to read as follows:

(5) "State seal" means the state seal, the reverse of

the state seal, and the state arms as defined by Sections 3101.001 and 3101.002, Government Code [~~Article 6139f, Revised Statutes~~].

ARTICLE 3. CHANGES RELATING TO CODE OF CRIMINAL PROCEDURE

SECTION 3.001. Article 45.051(f), Code of Criminal Procedure, as amended by Chapters 281 and 357, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to correct a reference to read as follows:

(f) This article does not apply to:

(1) an offense to which Section 542.404 [~~or 729.004(b)~~], Transportation Code, applies; or

(2) a violation of a state law or local ordinance relating to motor vehicle control, other than a parking violation, committed by a person who:

(A) holds a commercial driver's license; or

(B) held a commercial driver's license when the offense was committed.

SECTION 3.002. (a) Article 62.001(5), Code of Criminal Procedure, as renumbered from former Article 62.01(5), Code of Criminal Procedure, and amended by Chapter 1008, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to conform to an amendment to former Article 62.01(5) by Chapter 1273, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(5) "Reportable conviction or adjudication" means a conviction or adjudication, including an adjudication of delinquent conduct or a deferred adjudication, that, regardless of the pendency of an appeal, is a conviction for or an adjudication

for or based on:

(A) a violation of Section 21.11 (Indecency with a child), 22.011 (Sexual assault), 22.021 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct), Penal Code;

(B) a violation of Section 43.05 (Compelling prostitution), 43.25 (Sexual performance by a child), or 43.26 (Possession or promotion of child pornography), Penal Code;

(C) a violation of Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the actor committed the offense or engaged in the conduct with intent to violate or abuse the victim sexually;

(D) a violation of Section 30.02 (Burglary), Penal Code, if the offense or conduct is punishable under Subsection (d) of that section and the actor committed the offense or engaged in the conduct with intent to commit a felony listed in Paragraph (A) or (C);

(E) a violation of Section 20.02 (Unlawful restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping), Penal Code, if, as applicable:

(i) the judgment in the case contains an affirmative finding under Article 42.015; or

(ii) the order in the hearing or the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age;

(F) the second violation of Section 21.08 (Indecent exposure), Penal Code, but not if the second violation results in a deferred adjudication;

(G) an attempt, conspiracy, or solicitation, as defined by Chapter 15, Penal Code, to commit an offense or engage in conduct listed in Paragraph (A), (B), (C), (D), or (E);

(H) a violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (C), (D), (E), [~~or~~] (G)<u>, or (J)</u>, but not if the violation results in a deferred adjudication; [~~or~~]

(I) the second violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of the offense of indecent exposure, but not if the second violation results in a deferred adjudication<u>; or</u>

<u>(J) a violation of Section 33.021 (Online solicitation of a minor), Penal Code</u>.

(b) Section 2, Chapter 1273, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subdivision (5), Article 62.01, Code of Criminal Procedure, is repealed.

ARTICLE 4. CHANGES RELATING TO EDUCATION CODE

SECTION 4.001. Section 7.005, Education Code, is amended to correct a cross-reference to read as follows:

Sec. 7.005. COOPERATION BETWEEN STATE AGENCIES OF EDUCATION. The State Board of Education and the Texas Higher Education Coordinating Board, in conjunction with other

appropriate agencies, shall ensure that long-range plans and educational programs established by each board provide a comprehensive education for the students of this state under the jurisdiction of that board, extending from early childhood education through postgraduate study. In assuring that programs are coordinated, the boards shall use the P-16 Council established under Section 61.076 [~~61.077~~].

SECTION 4.002. The heading to Section 21.035, Education Code, is amended to conform to Section 1.04(a), Chapter 1227, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 21.035. ADMINISTRATION BY AGENCY [~~APPLICATION OF SUNSET ACT~~].

SECTION 4.003. Section 25.086(a), Education Code, as amended by Chapters 377, 887, and 1339, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(a) A child is exempt from the requirements of compulsory school attendance if the child:

(1) attends a private or parochial school that includes in its course a study of good citizenship;

(2) is eligible to participate in a school district's special education program under Section 29.003 and cannot be appropriately served by the resident district;

(3) has a physical or mental condition of a temporary and remediable nature that makes the child's attendance infeasible and holds a certificate from a qualified physician specifying the temporary condition, indicating the treatment prescribed to remedy

the temporary condition, and covering the anticipated period of the child's absence from school for the purpose of receiving and recuperating from that remedial treatment;

(4) is expelled in accordance with the requirements of law in a school district that does not participate in a mandatory juvenile justice alternative education program under Section 37.011;

(5) is at least 17 years of age and:

(A) is attending a course of instruction to prepare for the high school equivalency examination, and:

(i) has the permission of the child's parent or guardian to attend the course;

(ii) is required by court order to attend the course;

(iii) has established a residence separate and apart from the child's parent, guardian, or other person having lawful control of the child; or

(iv) is homeless as defined by 42 U.S.C. Section 11302; or

(B) has received a high school diploma or high school equivalency certificate;

(6) is at least 16 years of age and is attending a course of instruction to prepare for the high school equivalency examination, if:

(A) the child is recommended to take the course of instruction by a public agency that has supervision or custody of the child under a court order; or

(B) the child is enrolled in a Job Corps training program under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.);

[~~(B) the child is enrolled in a Job Corps training program under 29 U.S.C. Section 2881 et seq.;~~]

(7) is at least 16 years of age and is enrolled in a high school diploma program under Chapter 18;

(8) [~~(7)~~] is enrolled in the Texas Academy of Mathematics and Science under Subchapter G, Chapter 105;

(9) [~~(8)~~] is enrolled in the Texas Academy of Leadership in the Humanities;

(10) [~~(9)~~] is enrolled in the Texas Academy of Mathematics and Science at The University of Texas at Brownsville;

(11) [~~(9)~~] is enrolled in the Texas Academy of International Studies; or

(12) [~~(10)~~] is specifically exempted under another law.

SECTION 4.004. Section 28.024, Education Code, as amended by Chapters 887 and 1339, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

Sec. 28.024. CREDIT FOR ENROLLMENT IN CERTAIN ACADEMIES. A school district shall grant to a student credit toward the academic course requirements for high school graduation, up to a maximum of two years of credit, for courses the student successfully completes at:

(1) the Texas Academy of Leadership in the Humanities under Section 96.707;

(2) the Texas Academy of Mathematics and Science under Subchapter G, Chapter 105; [~~or~~]

(3) the Texas Academy of Mathematics and Science under Section 78.10; or

(4) [~~(3)~~] the Texas Academy of International Studies under Section 87.505.

SECTION 4.005. Section 29.161(a), Education Code, is amended to correct a cross-reference to read as follows:

(a) The State Center for Early Childhood Development, in conjunction with the P-16 Council established under Section 61.076 [~~61.077~~], shall develop and adopt a school readiness certification system for use in certifying the effectiveness of prekindergarten programs, Head Start and Early Head Start programs, government-subsidized child-care programs provided by nonprofit or for-profit entities, government-subsidized faith-based child-care programs, and other government-subsidized child-care programs in preparing children for kindergarten. The system shall be made available on a voluntary basis to program providers seeking to obtain certification as evidence of the quality of the program provided.

SECTION 4.006. Section 29.908(b-2), Education Code, is amended to correct a cross-reference to read as follows:

(b-2) The P-16 Council established under Section 61.076 [~~61.077~~] shall provide guidance in case of any conflict that arises between parties to an articulation agreement under Subsection (b)(3).

SECTION 4.007. Section 32.153(d), Education Code, as added

by Chapter 1216, Acts of the 78th Legislature, Regular Session, 2003, is amended to correct references to read as follows:

(d) The P-16 Council [~~joint advisory committee~~] established under Section 61.076 [~~61.077, or any successor to that committee with advisory responsibility for coordination between secondary and postsecondary education,~~] shall serve in an advisory capacity to the agency and the Department of Information Resources in connection with functions relating to the portal.

SECTION 4.008. Section 38.016(e), Education Code, is amended to correct a reference to read as follows:

(e) An act in violation of Subsection (b) does not override the immunity from personal liability granted in Section 22.0511 [~~22.051~~] or other law or the district's sovereign and governmental immunity.

SECTION 4.009. The heading to Section 39.132, Education Code, is amended to more accurately reflect the substance of that section to read as follows:

Sec. 39.132. SANCTIONS FOR ACADEMICALLY UNACCEPTABLE [~~AND CERTAIN OTHER~~] CAMPUSES.

SECTION 4.010. Section 61.076, Education Code, is amended by adding Subsection (h) to read as follows:

(h) The council, in conjunction with the State Center for Early Childhood Development, shall develop and adopt a school readiness certification system as required by Section 29.161.

SECTION 4.011. Section 61.077, Education Code, is repealed.

ARTICLE 5. CHANGES RELATING TO ELECTION CODE

SECTION 5.001. Section 42.006(d), Election Code, as amended

by Chapter 742, Acts of the 79th Legislature, Regular Session, 2005, is repealed to conform to Chapter 1107, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 5.002. (a) Section 501.032(a), Election Code, as added by Section 1, Chapter 975, Acts of the 79th Legislature, Regular Session, 2005, is amended to conform to Section 1, Chapter 890, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The commissioners court, at its next regular session on or after the 30th day after the date the petition is filed, shall order a local option election to be held on the issue set out in the petition if the petition is filed with the voter registrar not later than the 60th day after the date the petition is issued and bears the actual signatures of a number of qualified voters of the political subdivision equal to at least:

(1) 35 percent of the registered voters in the subdivision <u>who voted in the most recent gubernatorial election</u> for a ballot issue that permits voting for or against:

(A) "The legal sale of all alcoholic beverages for off-premise consumption only.";

(B) "The legal sale of all alcoholic beverages except mixed beverages.";

(C) "The legal sale of all alcoholic beverages including mixed beverages."; or

(D) "The legal sale of mixed beverages.";

(2) 25 percent of the registered voters in the political subdivision who voted in the most recent general election

for a ballot issue that permits voting for or against "The legal sale of wine on the premises of a holder of a winery permit."; or

(3) 35 percent of the registered voters in the political subdivision who voted in the most recent gubernatorial election for an election on any other ballot issue.

(b) Section 1, Chapter 890, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (a), Section 251.11, Alcoholic Beverage Code, is repealed.

SECTION 5.003. (a) Section 501.035, Election Code, as added by Section 1, Chapter 975, Acts of the 79th Legislature, Regular Session, 2005, is amended to conform to Section 2, Chapter 890, Acts of the 79th Legislature, Regular Session, 2005, by adding Subsection (h) to read as follows:

<u>(h) Subject to Section 251.81, Alcoholic Beverage Code, a wine only package store permit may be issued for premises in an area in which the sale of wine has been legalized by a local option election under Subsection (b)(3) or (4).</u>

(b) Section 2, Chapter 890, Acts of the 79th Legislature, Regular Session, 2005, which added Subsection (d) to former Section 251.14, Alcoholic Beverage Code, is repealed.

ARTICLE 6. CHANGES RELATING TO FINANCE CODE

SECTION 6.001. Section 232.002, Family Code, is amended to read as follows:

Sec. 232.002. LICENSING AUTHORITIES SUBJECT TO CHAPTER. The following are licensing authorities subject to this chapter:

(1) Department of Agriculture;

(2) Texas Alcoholic Beverage Commission;

(3) Texas Appraiser Licensing and Certification Board;

(4) Texas Board of Architectural Examiners;

(5) Texas Board of Chiropractic Examiners;

(6) Comptroller of Public Accounts;

(7) Court Reporters Certification Board;

(8) State Board of Dental Examiners;

(9) Texas State Board of Examiners of Dietitians;

(10) Texas Funeral Service Commission;

(11) Department of State Health Services;

(12) Department of Aging and Disability Services;

(13) Texas Board of Professional Land Surveying;

(14) Texas Department of Licensing and Regulation;

(15) Texas State Board of Examiners of Marriage and Family Therapists;

(16) Texas State Board of Medical Examiners;

(17) Midwifery Board;

(18) Texas Commission on Environmental Quality;

(19) Board of Nurse Examiners;

(20) Texas Board of Occupational Therapy Examiners;

(21) Texas Optometry Board;

(22) Parks and Wildlife Department;

(23) Texas State Board of Examiners of Perfusionists;

(24) Texas State Board of Pharmacy;

(25) Texas Board of Physical Therapy Examiners;

(26) Texas State Board of Plumbing Examiners;

(27) Texas State Board of Podiatric Medical Examiners;

(28) Polygraph Examiners Board;

(29) Texas Private Security Board;

(30) Texas State Board of Examiners of Professional Counselors;

(31) Texas Board of Professional Engineers;

(32) Department of Family and Protective Services;

(33) Texas State Board of Examiners of Psychologists;

(34) Texas State Board of Public Accountancy;

(35) Department of Public Safety of the State of Texas;

(36) Public Utility Commission of Texas;

(37) Railroad Commission of Texas;

(38) Texas Real Estate Commission;

(39) State Bar of Texas;

(40) Texas State Board of Social Worker Examiners;

(41) State Board of Examiners for Speech-Language Pathology and Audiology;

(42) Texas Structural Pest Control Board;

(43) Board of Tax Professional Examiners;

(44) Secretary of State;

(45) Supreme Court of Texas;

(46) Texas Transportation Commission;

(47) State Board of Veterinary Medical Examiners;

(48) Texas Ethics Commission;

(49) Advisory Board of Athletic Trainers;

(50) State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments;

(51) Texas Board of Licensure for Professional Medical Physicists;

(52) Texas Department of Insurance;

(53) Texas Board of Orthotics and Prosthetics;

(54) savings and mortgage lending [~~loan~~] commissioner;

(55) Texas Juvenile Probation Commission; and

(56) Texas Lottery Commission under Chapter 466, Government Code.

SECTION 6.002. Section 11.001(b), Finance Code, is amended to read as follows:

(b) In this chapter, "finance agency" means:

(1) the Texas Department of Banking;

(2) the Department of Savings and Mortgage Lending [~~Loan Department~~]; or

(3) the Office of Consumer Credit Commissioner.

SECTION 6.003. Section 11.002(a), Finance Code, is amended to read as follows:

(a) The finance commission is responsible for overseeing and coordinating the Texas Department of Banking, the Department of Savings and Mortgage Lending [~~Loan Department~~], and the Office of Consumer Credit Commissioner and serves as the primary point of accountability for ensuring that state depository and lending institutions function as a system, considering the broad scope of the financial services industry. The finance commission is the policy-making body for those finance agencies and is not a separate state agency. The finance commission shall carry out its functions

in a manner that protects consumer interests, maintains a safe and sound banking system, and increases the economic prosperity of the state.

SECTION 6.004. Section 11.102(f), Finance Code, is amended to read as follows:

(f) Experience as banking commissioner, deputy banking commissioner, examiner, or supervisor of examiners for a state or federal banking regulatory agency is considered executive experience in a bank for the purposes of Subsection (e)(1)(A). Experience as savings and mortgage lending [~~loan~~] commissioner, deputy savings and mortgage lending [~~loan~~] commissioner, examiner, or supervisor of examiners for a state or federal savings and loan regulatory agency is considered executive experience in a savings association or savings bank for the purposes of Subsection (e)(2)(A).

SECTION 6.005. Section 11.103(b), Finance Code, is amended to read as follows:

(b) If the banking commissioner, savings and mortgage lending [~~loan~~] commissioner, or consumer credit commissioner has knowledge that a potential ground for removal exists, the banking commissioner, savings and mortgage lending [~~loan~~] commissioner, or consumer credit commissioner shall notify the presiding officer of the finance commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the banking commissioner, savings and mortgage lending [~~loan~~] commissioner, or

consumer credit commissioner shall notify the next highest ranking officer of the finance commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 6.006. Section 11.107(c), Finance Code, is amended to read as follows:

(c) The presiding officer may:

(1) adopt rules and procedures as the presiding officer considers necessary for the orderly operation of the finance commission and for communication among the finance commission, the department, the Department of Savings and Mortgage Lending [~~Loan Department~~], and the Office of Consumer Credit Commissioner;

(2) adopt internal procedures governing the time and place of meetings, the type of notice for special public meetings, the manner in which public meetings are to be conducted, and other similar matters; and

(3) appoint committees composed of finance commission members as the presiding officer considers necessary to carry out the commission's business.

SECTION 6.007. Section 11.111, Finance Code, is amended to read as follows:

Sec. 11.111. SEPARATION OF FUNCTIONS. The finance commission shall develop and implement policies that clearly separate the policymaking responsibilities of the finance commission and the management responsibilities of the banking commissioner, savings and mortgage lending [~~loan~~] commissioner,

and consumer credit commissioner and staff of the finance agencies.

SECTION 6.008. Section 11.303, Finance Code, is amended to read as follows:

Sec. 11.303. DISCLOSURE OF CERTAIN INFORMATION TO FINANCE COMMISSION PROHIBITED. Information regarding the financial condition of a state savings association or savings bank obtained through examination or otherwise may not be disclosed to a member of the finance commission, except that the savings and mortgage lending [~~loan~~] commissioner may disclose to the finance commission a file or record pertinent to a hearing or matter pending before the commission.

SECTION 6.009. Section 11.305(d), Finance Code, is amended to read as follows:

(d) The Texas Department of Banking and the Department of Savings and Mortgage Lending [~~Loan Department~~] shall jointly conduct a continuing review of the condition of the state banking system. The review must include a review of all available national and state economic forecasts and an analysis of changing banking practices and new banking legislation. Periodically the departments shall submit a report to the finance commission on the results of the review, including information relating to the condition of the state banking system at the time of the report and the predicted condition of that system in the future.

SECTION 6.010. Section 11.3055, Finance Code, is amended to read as follows:

Sec. 11.3055. FINANCIAL SERVICES STUDY. (a) The finance commission may assign the banking commissioner, savings and

mortgage lending [~~loan~~] commissioner, or consumer credit commissioner to conduct research on:

(1) the availability, quality, and prices of financial services, including lending and depository services, offered in this state to agricultural businesses, small businesses, and individual consumers in this state; and

(2) the practices of business entities in this state that provide financial services to agricultural businesses, small businesses, and individual consumers in this state.

(b) The banking commissioner, savings and mortgage lending [~~loan~~] commissioner, or consumer credit commissioner may:

(1) apply for and receive public and private grants and gifts to conduct the research authorized by this section; and

(2) contract with public and private entities to carry out studies and analyses under this section.

SECTION 6.011. Section 11.307(a), Finance Code, is amended to read as follows:

(a) The finance commission shall adopt rules applicable to each entity regulated by the Texas Department of Banking or the Department of Savings and Mortgage Lending [~~Loan Department~~] specifying the manner in which the entity provides consumers with information on how to file complaints with the appropriate agency.

SECTION 6.012. The heading of Chapter 13, Finance Code, is amended to read as follows:

CHAPTER 13. DEPARTMENT OF SAVINGS AND MORTGAGE LENDING [~~LOAN DEPARTMENT~~]

SECTION 6.013. Section 13.002, Finance Code, is amended to

read as follows:

Sec. 13.002. SAVINGS AND MORTGAGE LENDING [~~LOAN~~] COMMISSIONER. (a) The savings and mortgage lending [~~loan~~] commissioner is the chief executive officer of the Department of Savings and Mortgage Lending [~~Loan Department~~]. The finance commission, by at least five affirmative votes, shall appoint the savings and mortgage lending [~~loan~~] commissioner. The savings and mortgage lending [~~loan~~] commissioner serves at the will of the finance commission and is subject to the finance commission's orders and direction.

(b) The savings and mortgage lending [~~loan~~] commissioner must have not less than seven years' experience in the executive management of a savings association or savings bank or in savings association or savings bank supervision.

(c) The finance commission shall set the compensation of the savings and mortgage lending [~~loan~~] commissioner. The compensation shall be paid from money of the Department of Savings and Mortgage Lending [~~Loan Department~~].

SECTION 6.014. Section 13.003, Finance Code, is amended to read as follows:

Sec. 13.003. DEPUTY COMMISSIONERS. (a) The savings and mortgage lending [~~loan~~] commissioner shall appoint one or more deputy savings and mortgage lending [~~loan~~] commissioners.

(b) One deputy savings and mortgage lending [~~loan~~] commissioner must have the qualifications required of the savings and mortgage lending [~~loan~~] commissioner. During the savings and mortgage lending [~~loan~~] commissioner's absence or inability to

serve, that deputy savings and mortgage lending [~~loan~~] commissioner has the powers and shall perform the duties of the savings and mortgage lending [~~loan~~] commissioner.

SECTION 6.015. Section 13.004, Finance Code, is amended to read as follows:

Sec. 13.004. EXAMINERS. The savings and mortgage lending [~~loan~~] commissioner shall appoint savings association and savings bank examiners.

SECTION 6.016. Section 13.005, Finance Code, is amended to read as follows:

Sec. 13.005. COMPENSATION OF OFFICERS AND EMPLOYEES. (a) Subject to Subsection (b), each officer and employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] is entitled to compensation set by the finance commission. The compensation shall be paid from the money of the Department of Savings and Mortgage Lending [~~Loan Department~~].

(b) Chapter 654, Government Code, applies to a position of the Department of Savings and Mortgage Lending [~~Loan Department~~] only if it is classified in salary groups 1-10 under the General Appropriations Act. The legislature in the General Appropriations Act may determine the total amount appropriated to the Department of Savings and Mortgage Lending [~~Loan Department~~] but may not determine the number or salaries of employees other than the positions specifically subject to Chapter 654, Government Code, as provided by this section. The finance commission, subject to the limits provided by this section, shall otherwise determine the number of employees of the Department of Savings and Mortgage

Lending [~~Loan Department~~] and the salaries of those employees. The Department of Savings and Mortgage Lending [~~Loan Department~~] may use money appropriated to it for any purpose to pay the salaries determined by the finance commission.

SECTION 6.017. Section 13.006, Finance Code, is amended to read as follows:

Sec. 13.006. OATH OF OFFICE. Before assuming the duties of office, each deputy savings and mortgage lending [~~loan~~] commissioner, examiner, assistant examiner, conservator, supervisor, and special agent and each other officer or employee specified by the savings and mortgage lending [~~loan~~] commissioner must take an oath of office to discharge faithfully the duties assigned and uphold the constitution and laws of this state and the United States.

SECTION 6.018. Section 13.007, Finance Code, is amended to read as follows:

Sec. 13.007. GENERAL POWERS AND DUTIES OF COMMISSIONER. The savings and mortgage lending [~~loan~~] commissioner shall:

(1) supervise and regulate the organization, operation, and liquidation of state savings associations, as provided by Subtitle B, Title 3, and state savings banks, as provided by Subtitle C, Title 3; and

(2) enforce those subtitles personally or through a deputy savings and mortgage lending [~~loan~~] commissioner, examiner, supervisor, conservator, or other agent.

SECTION 6.019. Sections 13.008(b) and (c), Finance Code, are amended to read as follows:

(b) The savings and mortgage lending [~~loan~~] commissioner shall:

(1) collect all fees, penalties, charges, and revenue required to be paid by state savings associations and savings banks; and

(2) periodically submit to the finance commission, as directed by the finance commission, a complete report of the receipts and expenditures of the Department of Savings and Mortgage Lending [~~Loan Department~~].

(c) The cost of an audit of the financial transactions of the Department of Savings and Mortgage Lending [~~Loan Department~~] under Chapter 321, Government Code, shall be paid to the state auditor from the money of the Department of Savings and Mortgage Lending [~~Loan Department~~].

SECTION 6.020. Sections 13.010(b), (c), and (d), Finance Code, are amended to read as follows:

(b) A person may not be a Department of Savings and Mortgage Lending [~~Loan Department~~] employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in a field regulated by the Department of Savings and Mortgage Lending [~~Loan Department~~]; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in a field regulated by the

Department of Savings and Mortgage Lending [~~Loan Department~~].

(c) A person may not act as the general counsel to the Department of Savings and Mortgage Lending [~~Loan Department~~] if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the Department of Savings and Mortgage Lending. [~~Loan Department~~]

(d) Before the 11th day after the date on which an employee begins employment with the Department of Savings and Mortgage Lending [~~Loan Department~~], the employee shall read the conflict-of-interest statutes applicable to employees of the Department of Savings and Mortgage Lending [~~Loan Department~~] and sign a notarized affidavit stating that the employee has read those statutes.

SECTION 6.021. Sections 13.011(a), (c), (d), and (e), Finance Code, are amended to read as follows:

(a) The savings and mortgage lending [~~loan~~] commissioner shall prepare information of consumer interest describing:

(1) the regulatory functions of the Department of Savings and Mortgage Lending [~~Loan Department~~]; and

(2) the procedures by which consumer complaints are filed with and resolved by the Department of Savings and Mortgage Lending [~~Loan Department~~].

(c) The Department of Savings and Mortgage Lending [~~Loan Department~~] shall maintain a file on each written complaint filed with the Department of Savings and Mortgage Lending [~~Loan Department~~]. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the Department of Savings and Mortgage Lending [~~Loan Department~~];

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the agency closed the file without taking action other than to investigate the complaint.

(d) The Department of Savings and Mortgage Lending [~~Loan Department~~] shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the Department of Savings and Mortgage Lending's [~~Loan Department's~~] policies and procedures relating to complaint investigation and resolution.

(e) The Department of Savings and Mortgage Lending [~~Loan Department~~], at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

SECTION 6.022. Section 13.012, Finance Code, is amended to read as follows:

Sec. 13.012. SUNSET PROVISION. The office of savings and mortgage lending [~~loan~~] commissioner and the Department of Savings

and Mortgage Lending [~~Loan Department~~] are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office and department are abolished September 1, 2013.

SECTION 6.023. Section 13.013, Finance Code, is amended to read as follows:

Sec. 13.013. STANDARDS OF CONDUCT. The savings and mortgage lending [~~loan~~] commissioner or the savings and mortgage lending [~~loan~~] commissioner's designee shall provide to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

SECTION 6.024. Sections 13.014(a) and (b), Finance Code, are amended to read as follows:

(a) The savings and mortgage lending [~~loan~~] commissioner or the savings and mortgage lending [~~loan~~] commissioner's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the Department of Savings and Mortgage Lending [~~Loan Department~~] to avoid the unlawful employment

practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the Department of Savings and Mortgage Lending [~~Loan Department's~~] personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

SECTION 6.025. Section 13.015, Finance Code, is amended to read as follows:

Sec. 13.015. EMPLOYEE INCENTIVE PROGRAM. The savings and mortgage lending [~~loan~~] commissioner or the savings and mortgage lending [~~loan~~] commissioner's designee shall provide to agency employees information and training on the benefits and methods of participation in the state employee incentive program.

SECTION 6.026. Section 61.002(5), Finance Code, is amended to read as follows:

(5) "Commissioner" means the savings and mortgage lending [~~loan~~] commissioner.

SECTION 6.027. Section 62.303(b), Finance Code, is amended to read as follows:

(b) For purposes of Subsection (a), an association is in good standing if the association has paid all fees, assessments, and money due and payable to the Department of Savings and Mortgage Lending [~~Loan Department~~].

SECTION 6.028. Section 62.559(a), Finance Code, is amended to read as follows:

(a) Except as provided by this section, information obtained by the commissioner under this subchapter is confidential

and may not be disclosed by the commissioner or an officer or employee of the Department of Savings and Mortgage Lending [~~Loan Department~~].

SECTION 6.029. Section 66.001, Finance Code, is amended to read as follows:

Sec. 66.001. GENERAL DUTIES. The Department of Savings and Mortgage Lending [~~Loan Department~~] and the commissioner shall regulate associations and subsidiaries of associations operating under this subtitle.

SECTION 6.030. Section 66.002, Finance Code, is amended to read as follows:

Sec. 66.002. ADOPTION OF RULES. The finance commission may adopt rules relating to:

(1) the minimum amounts of capital stock and paid-in surplus required for incorporation as a capital stock association;

(2) the minimum amounts of savings liability and expense funds required for incorporation as a mutual association;

(3) the fees and procedures for processing, hearing, and deciding applications filed with the commissioner or the Department of Savings and Mortgage Lending [~~Loan Department~~] under this subtitle;

(4) the books and records that an association is required to keep and the location at which the books and records are required to be maintained;

(5) the accounting principles and practices that an association is required to observe;

(6) the conditions under which records may be copied

or reproduced for permanent storage before the original records are destroyed;

(7) the form, contents, and time of publication of statements of condition;

(8) the form and contents of annual reports and other reports that an association is required to prepare and publish or file;

(9) the manner in which assets, liabilities, and transactions in general are to be described when entered in the books of an association, so that the entry accurately describes the subject matter of the entry; and

(10) the conditions under which the commissioner may require an asset to be charged off or reserves established by transfer from surplus or paid-in capital because of the depreciation of or overstated value of the asset.

SECTION 6.031. Section 66.107(b), Finance Code, is amended to read as follows:

(b) The commissioner shall set the matter for hearing to be held not earlier than the 11th day or later than the 30th day after the date of the request. The hearing must be held at the offices of the Department of Savings and Mortgage Lending [~~Loan Department~~] in Austin.

SECTION 6.032. Section 66.306, Finance Code, is amended to read as follows:

Sec. 66.306. PRIORITY OF CLAIMS. On liquidation of an association, claims for payment have the following priority:

(1) obligations incurred by the commissioner or the

liquidating agent, fees and assessments due the Department of Savings and Mortgage Lending [~~Loan Department~~], and expenses of liquidation, all of which may be covered by the proper reserve of money;

(2) approved claims of creditors, to the extent that the claims are secured by, or constitute a lien on, the assets or property of the association;

(3) approved claims of depositors against the general liquidating account of the association;

(4) approved claims of general creditors and the unsecured portion of a creditor obligation described by Subdivision (2);

(5) otherwise approved claims that were not filed within the time prescribed by Section 66.305;

(6) approved claims of subordinated creditors; and

(7) claims of shareholders of the association.

SECTION 6.033. Sections 66.401(c) and (d), Finance Code, are amended to read as follows:

(c) The commissioner may employ legal counsel to bring and prosecute a derivative suit. The commissioner may:

(1) pay the counsel from funds appropriated for the operation of the Department of Savings and Mortgage Lending [~~Loan Department~~]; or

(2) require the association for which the suit is brought to pay the counsel directly or to reimburse the Department of Savings and Mortgage Lending [~~Loan Department~~] for the payment.

(d) The association shall be paid an amount equal to the

amount of the proceeds of a judgment on a suit brought under this section less unreimbursed costs and expenses, including attorney's fees, incurred by the Department of Savings and Mortgage Lending [~~Loan Department~~] in prosecuting the suit.

SECTION 6.034. Section 89.006(a), Finance Code, is amended to read as follows:

(a) The commissioner, a member of the finance commission, a deputy commissioner, an examiner, or any other officer or employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] is not personally liable for damages arising from the person's official act or omission unless the act or omission is corrupt or malicious.

SECTION 6.035. Section 89.052(a), Finance Code, is amended to read as follows:

(a) The commissioner and an examiner, supervisor, conservator, liquidator, inspector, deputy, assistant, clerk, or other employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] who is appointed or acting under this subtitle shall be removed from the person's position with the department if the person:

(1) does not keep secret a fact or information about an association obtained during an examination or because of the person's official position, except when the public duty of the person requires otherwise; or

(2) wilfully makes a false official report about the condition of an association.

SECTION 6.036. Section 89.102(a), Finance Code, is amended

to read as follows:

(a) The commissioner may require an association that knowingly violates this subtitle or a rule adopted under this subtitle to pay to the Department of Savings and Mortgage Lending [~~Loan Department~~] an administrative penalty not to exceed $1,000 for each day that the violation occurs after notice of the violation is given by the commissioner.

SECTION 6.037. Sections 91.002(1) and (5), Finance Code, are amended to read as follows:

(1) "Appropriate banking agency":

(A) means:

(i) with respect to a savings bank chartered by this state, the Department of Savings and Mortgage Lending [~~Loan Department~~];

(ii) with respect to a federal savings bank, the Office of Thrift Supervision;

(iii) with respect to a savings and loan association chartered by this state, the Department of Savings and Mortgage Lending [~~Loan Department~~];

(iv) with respect to a federal savings and loan association, the Office of Thrift Supervision;

(v) with respect to a bank chartered by this state, the Texas Department of Banking; and

(vi) with respect to a national bank, the Office of the Comptroller of the Currency; and

(B) includes:

(i) in each case in which a state bank is a

member of the Federal Reserve System, the board of governors of the Federal Reserve System;

(ii) in each case where required by the Federal Deposit Insurance Act (12 U.S.C. Section 1811 et seq.), the Federal Deposit Insurance Corporation; and

(iii) any successor of a state or federal agency specified by this subdivision.

(5) "Commissioner" means the savings and mortgage lending [~~loan~~] commissioner.

SECTION 6.038. Section 92.555(a), Finance Code, is amended to read as follows:

(a) Except as provided by this section, information the commissioner obtains under this subchapter that is not published is confidential and may not be disclosed by the commissioner or an officer or employee of the Department of Savings and Mortgage Lending [~~Loan Department~~].

SECTION 6.039. Section 96.001, Finance Code, is amended to read as follows:

Sec. 96.001. GENERAL DUTIES. The Department of Savings and Mortgage Lending [~~Loan Department~~] and the commissioner shall regulate savings banks and subsidiaries of savings banks operating under this subtitle.

SECTION 6.040. Section 96.002(a), Finance Code, is amended to read as follows:

(a) The finance commission may adopt rules necessary to supervise and regulate savings banks and to protect public investment in savings banks, including rules relating to:

(1) the minimum amounts of capital required to incorporate and operate as a savings bank, which may not be less than the amounts required of corresponding national banks;

(2) the fees and procedures for processing, hearing, and deciding applications filed with the commissioner or the Department of Savings and Mortgage Lending [~~Loan Department~~] under this subtitle;

(3) the books and records that a savings bank is required to keep and the location at which the books and records are required to be maintained;

(4) the accounting principles and practices that a savings bank is required to observe;

(5) the conditions under which records may be copied or reproduced for permanent storage before the originals are destroyed;

(6) the form, content, and time of publication of statements of condition;

(7) the form and content of annual reports and other reports that a savings bank is required to prepare and publish or file;

(8) the manner in which assets, liabilities, and transactions in general are to be described when entered in the books of a savings bank, so that the entry accurately describes the subject matter of the entry;

(9) the conditions under which the commissioner may require an asset to be charged off or reserves established by transfer from surplus or paid-in capital because of depreciation of

or overstated value of the asset;

(10) the change of control of a savings bank;

(11) the conduct, management, and operation of a savings bank;

(12) the withdrawable accounts, bonuses, plans, and contracts for savings programs;

(13) the merger, consolidation, reorganization, conversion, and liquidation of a savings bank;

(14) the establishment of an additional office or the change of office location or name of a savings bank;

(15) the requirements for a savings bank's holding companies, including those relating to:

(A) registration and periodic reporting of a holding company with the commissioner; and

(B) transactions between a holding company, an affiliate of a holding company, or a savings bank; and

(16) the powers of a savings bank to make loans and investments that contain provisions reasonably necessary to ensure that a loan made by a savings bank is consistent with sound lending practices and that the savings bank's investment will promote the purposes of this subtitle, including provisions governing:

(A) the type of loans and the conditions under which a savings bank may originate, make, or sell loans;

(B) the conditions under which a savings bank may purchase or participate in a loan made by another lender;

(C) the conditions for the servicing of a loan for another lender;

(D) the conditions under which a savings bank may lend money on the security of a loan made by another person;

(E) the conditions under which a savings bank may pledge loans held by it as collateral for borrowing by the savings bank;

(F) the conditions under which a savings bank may invest in securities and debt instruments;

(G) the documentation that a savings bank must have in its files at the time of funding or purchase of a loan, an investment, or a participation in a loan;

(H) the form and content of statements of expenses and fees and other charges that are paid by a borrower or that a borrower is obligated to pay;

(I) the title information that must be maintained;

(J) the borrower's insurance coverage of property securing a loan;

(K) an appraisal report;

(L) the financial statement of a borrower;

(M) the fees or other compensation that may be paid to a person in connection with obtaining a loan for a savings bank, including an officer, director, employee, affiliated person, consultant, or third party;

(N) the conditions under which the savings bank may advance money to pay a tax, assessment, insurance premium, or other similar charge for the protection of the savings bank's interest in property securing the savings bank's loans;

(O) the terms under which a savings bank may acquire and deal in real property;

(P) the valuation on a savings bank's books of real property held by the savings bank;

(Q) the terms governing the investment by a savings bank in a subsidiary, the powers that may be exercised by a subsidiary, and the activities that may be engaged in by a subsidiary; and

(R) any other matter considered necessary to administer each type of transaction.

SECTION 6.041. Section 96.107(b), Finance Code, is amended to read as follows:

(b) The commissioner shall set the hearing to be held not earlier than the 10th day or later than the 30th day after the date of the request. The hearing must be held at the offices of the Department of Savings and Mortgage Lending [~~Loan Department~~].

SECTION 6.042. Section 96.159(b), Finance Code, is amended to read as follows:

(b) The commissioner shall set the hearing to be held not earlier than the 10th day or later than the 30th day after the date of the request. The hearing must be held at the offices of the Department of Savings and Mortgage Lending [~~Loan Department~~].

SECTION 6.043. Section 96.351, Finance Code, is amended to read as follows:

Sec. 96.351. DISCLOSURE BY DEPARTMENT PROHIBITED. Except as otherwise provided by this subtitle or a rule adopted under this subtitle, the following are confidential and may not be disclosed

by the commissioner or an examiner, supervisor, conservator, liquidator, inspector, deputy, or assistant clerk or other employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] who is appointed or acting under this subtitle:

(1) information, regardless of the circumstances under which the information is obtained, regarding a financial institution or a shareholder, participant, officer, director, manager, affiliate, or service provider of a financial institution, other than information in a public statement or the public portion of a call report or profit and loss statement; and

(2) all related files and records of the department.

SECTION 6.044. Section 96.353(a), Finance Code, is amended to read as follows:

(a) Confidential information that is provided to a financial institution or an affiliate or service provider of a financial institution, whether in the form of a report of examination or otherwise, is the confidential property of the Department of Savings and Mortgage Lending [~~Loan Department~~].

SECTION 6.045. Section 96.355(a), Finance Code, is amended to read as follows:

(a) Notwithstanding any other law, the commissioner may refuse to release information or records in the custody of the Department of Savings and Mortgage Lending [~~Loan Department~~] if the commissioner believes release of the information or records might jeopardize an investigation of possibly unlawful activities.

SECTION 6.046. Section 96.357, Finance Code, is amended to read as follows:

Sec. 96.357. REMOVAL FOR VIOLATION. A person who violates this subchapter or who wilfully makes a false official report on the condition of a financial institution shall be removed from office or further employment with the Department of Savings and Mortgage Lending [~~Loan Department~~].

SECTION 6.047. Sections 96.401(c) and (d), Finance Code, are amended to read as follows:

(c) The commissioner may employ legal counsel to bring and prosecute a derivative suit. The commissioner may:

(1) pay counsel from funds appropriated for the operation of the Department of Savings and Mortgage Lending [~~Loan Department~~]; or

(2) require the savings bank for which the suit is brought to pay the counsel directly or to reimburse the Department of Savings and Mortgage Lending [~~Loan Department~~] for the payment.

(d) The savings bank shall be paid an amount equal to the amount of the proceeds of a judgment on a suit brought under this section less unreimbursed costs and expenses, including attorney's fees incurred by the Department of Savings and Mortgage Lending [~~Loan Department~~] in prosecuting the suit.

SECTION 6.048. Section 96.404, Finance Code, is amended to read as follows:

Sec. 96.404. INTEREST IN SAVINGS BANK PROHIBITED FOR DEPARTMENT. (a) A savings bank or a director, officer, employee, or representative of a savings bank may not give a loan or gratuity, directly or indirectly, to the commissioner, an employee of the Department of Savings and Mortgage Lending [~~Loan Department~~], or a

spouse of the commissioner or employee.

(b) The commissioner or an employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] may not:

(1) hold an office or position in a domestic savings bank or exercise a right to vote on a domestic savings bank matter because the person is a member of or shareholder in the savings bank;

(2) hold an interest, directly or indirectly, in a domestic savings bank; or

(3) undertake an indebtedness as a borrower, directly or indirectly, or endorser, surety, or guarantor or sell or otherwise dispose of a loan or investment to a domestic savings bank.

(c) If the commissioner or an employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] has a prohibited, direct or indirect right or interest in a domestic savings bank at the time of appointment or employment, the commissioner or employee shall dispose of the right or interest not later than the 60th day after the date of appointment or employment.

(d) If the commissioner or an employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] is indebted as a borrower, directly or indirectly, or is an endorser, surety, or guarantor on a note to a domestic savings bank at the time of appointment or employment, the commissioner or employee may continue in that capacity until that debt is paid.

SECTION 6.049. Section 96.405, Finance Code, is amended to read as follows:

Sec. 96.405. PERMITTED TRANSACTIONS FOR DEPARTMENT RELATING TO SAVINGS BANK. (a) The commissioner or an employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] may hold a deposit account at a savings bank and receive earnings on the account.

(b) If a loan or other note of the commissioner or an employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] is acquired by a savings bank, the commissioner or employee may continue as a borrower, endorser, surety, or guarantor of the loan or note until the loan or note is paid.

SECTION 6.050. Section 119.008(a), Finance Code, is amended to read as follows:

(a) The commissioner, a member of the finance commission, a deputy commissioner, an examiner, or any other officer or employee of the Department of Savings and Mortgage Lending [~~Loan Department~~] is not personally liable for damages arising from the person's official act or omission unless the act or omission is corrupt or malicious.

SECTION 6.051. Section 119.201(a), Finance Code, is amended to read as follows:

(a) The commissioner may require a savings bank that knowingly violates this subtitle or a rule adopted under this subtitle to pay to the Department of Savings and Mortgage Lending [~~department~~] an administrative penalty not to exceed $10,000 for each day that the violation occurs after notice of the violation is given by the commissioner.

SECTION 6.052. Section 156.002(1), Finance Code, is amended

to read as follows:

(1) "Commissioner" means the savings and mortgage lending [~~loan~~] commissioner.

SECTION 6.053. Section 157.002(1), Finance Code, is amended to read as follows:

(1) "Commissioner" means the savings and mortgage lending [~~loan~~] commissioner.

SECTION 6.054. Section 157.007, Finance Code, is amended to read as follows:

Sec. 157.007. DISCLOSURE STATEMENT. A mortgage banker shall include the following notice to a mortgage loan applicant with an application for a mortgage loan:

"COMPLAINTS REGARDING MORTGAGE BANKERS SHOULD BE SENT TO THE DEPARTMENT OF SAVINGS AND MORTGAGE LENDING [~~LOAN DEPARTMENT~~], _____ (street address of the Department of Savings and Mortgage Lending [~~Loan Department~~]). A TOLL-FREE CONSUMER HOTLINE IS AVAILABLE AT _____ (telephone number of the Department of Savings and Mortgage Lending's [~~Loan Department's~~] toll-free consumer hotline)."

SECTION 6.055. Section 157.008(a), Finance Code, is amended to read as follows:

(a) If the Department of Savings and Mortgage Lending [~~Loan Department~~] receives a signed written complaint from a person concerning a mortgage banker, the commissioner shall notify the representative designated by the mortgage banker under Section 157.003(b) in writing of the complaint and provide a copy of the complaint to the representative.

SECTION 6.056. Section 187.202(e), Finance Code, is amended to read as follows:

(e) A credit union, savings association, or savings bank that does not maintain a branch in this state and desires to establish or acquire and maintain a representative trust office shall comply with this section, except that the notice required by Subsection (a) must be filed with, and the duties and responsibilities of the banking commissioner under Subsections (b)-(d) shall be performed by:

(1) the Texas credit union commissioner, with respect to a credit union; or

(2) the Texas savings and mortgage lending [~~loan~~] commissioner, with respect to a savings association or savings bank.

SECTION 6.057. Section 187.303(b), Finance Code, is amended to read as follows:

(b) With respect to the trust business of a credit union, savings association, or savings bank, the duties and responsibilities of the banking commissioner under Subsection (a) shall be performed by:

(1) the Texas credit union commissioner, with respect to a credit union; or

(2) the Texas savings and mortgage lending [~~loan~~] commissioner, with respect to a savings association or savings bank.

SECTION 6.058. Section 201.002(9), Finance Code, is amended to read as follows:

(9) "Commissioner" has the meaning assigned to the term "banking commissioner" by Section 31.002(a), except that for purposes of Chapter 203 and the laws of this state as they relate to Chapter 203, with respect to a state savings bank, the term means the savings and mortgage lending [~~loan~~] commissioner of Texas.

SECTION 6.059. Section 273.003(2), Finance Code, is amended to read as follows:

(2) "Commissioner" means the savings and mortgage lending [~~loan~~] commissioner.

SECTION 6.060. Section 341.103, Finance Code, is amended to read as follows:

Sec. 341.103. REGULATION OF SAVINGS ASSOCIATIONS. (a) The savings and mortgage lending [~~loan~~] commissioner shall enforce this subtitle relating to the regulation of state savings associations operating under this subtitle.

(b) The official exercising authority over the operation of federal savings associations equivalent to the authority exercised by the savings and mortgage lending [~~loan~~] commissioner over state savings associations may enforce this subtitle relating to the regulation of a federal savings association operating under this subtitle.

SECTION 6.061. Section 411.081(i), Government Code, is amended to read as follows:

(i) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure to the following noncriminal justice agencies or entities only:

(1) the State Board for Educator Certification;

(2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;

(3) the Texas State Board of Medical Examiners;

(4) the Texas School for the Blind and Visually Impaired;

(5) the Board of Law Examiners;

(6) the State Bar of Texas;

(7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;

(8) the Texas School for the Deaf;

(9) the Department of Family and Protective Services;

(10) the Texas Youth Commission;

(11) the Department of Assistive and Rehabilitative Services;

(12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a community center providing services to persons with mental illness or retardation;

(13) the Texas Private Security Board;

(14) a municipal or volunteer fire department;

(15) the Board of Nurse Examiners;

(16) a safe house providing shelter to children in harmful situations;

(17) a public or nonprofit hospital or hospital district;

(18) the Texas Juvenile Probation Commission;

(19) the securities commissioner, the banking commissioner, the savings and mortgage lending [~~loan~~] commissioner, or the credit union commissioner;

(20) the Texas State Board of Public Accountancy;

(21) the Texas Department of Licensing and Regulation;

(22) the Health and Human Services Commission; and

(23) the Department of Aging and Disability Services.

SECTION 6.062. Section 411.1385, Government Code, is amended to read as follows:

Sec. 411.1385. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: SAVINGS AND MORTGAGE LENDING [~~LOAN~~] COMMISSIONER. (a) The savings and mortgage lending [~~loan~~] commissioner is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant for or holder of a mortgage broker or loan officer license issued under Chapter 156, Finance Code.

(b) Criminal history record information obtained by the savings and mortgage lending [~~loan~~] commissioner under Subsection (a) may be released or disclosed only as provided by Section 156.206, Finance Code.

SECTION 6.063. Sections 2306.260(a) and (g), Government Code, are amended to read as follows:

(a) The department shall conduct a study to examine mortgage foreclosure rates in Bexar, Cameron, Dallas, El Paso, Harris, and Travis Counties and shall establish an advisory committee to direct the focus of the study. The advisory committee shall be composed of:

(1) the director or the director's representative;

(2) the savings and mortgage lending [~~loan~~] commissioner or the commissioner's representative;

(3) four members appointed by the director who represent community and consumer interests;

(4) four members appointed by the savings and mortgage lending [~~loan~~] commissioner who represent the mortgage lending industry; and

(5) a representative of the Texas Housing Research Consortium at The University of Texas at Austin.

(g) All information used to conduct the study must be accessible to the department, the Department of Savings and Mortgage Lending [~~Loan Department~~], and the legislature. The department shall prepare a consolidated analysis and recapitulation of the information used to conduct the study and shall make the analysis and recapitulation available to the public. The department shall ensure that the analysis and recapitulation of the information used to conduct the study contain only aggregate data and do not contain data specific to any mortgage.

SECTION 6.064. Section 12.018, Property Code, is amended to read as follows:

Sec. 12.018. TRANSFER BY RECEIVER OR CONSERVATOR OF FAILED DEPOSITORY INSTITUTION. If a bank, savings and loan association, savings bank, or other depository institution is placed in receivership or conservatorship by a state or federal agency, instrumentality, or institution, including the Banking Department of Texas, Department of Savings and Mortgage Lending [~~Loan~~

~~Department~~] of Texas, Office of the Comptroller of the Currency, Resolution Trust Corporation, Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or their successors, a person at any time may record an affidavit or memorandum of a sale, transfer, purchase, or acquisition agreement between the receiver or conservator of the failed depository institution and another depository institution. If the sale, transfer, purchase, or acquisition agreement transfers or sells an interest in land or in a mortgage or other lien vested according to the real property records in the failed depository institution, a recorded affidavit or memorandum under this section is constructive notice of the transfer or sale. The failure of the affidavit or memorandum to be executed by the record owner or of the affidavit, memorandum, or agreement to contain language of conveyance does not create a defect in title to the land or the lien.

SECTION 6.065. Section 74.704, Property Code, is amended to read as follows:

Sec. 74.704. ASSISTANCE IN ENFORCEMENT. If the comptroller or the attorney general requests, the State Auditor, Banking Commissioner of Texas, securities commissioner, commissioner of insurance, savings and mortgage lending [~~loan~~] commissioner, Credit Union Commission, Department of Public Safety of the State of Texas, or any district or county attorney shall assist the comptroller or attorney general in enforcing this title.

SECTION 6.066. Section 721.003(a), Transportation Code, is amended to read as follows:

(a) The governing bodies of the following state agencies or

divisions by rule may exempt from the requirements of Section 721.002 a motor vehicle that is under the control and custody of the agency or division:

(1) Texas Commission on Fire Protection;

(2) Texas State Board of Pharmacy;

(3) Texas Department of Mental Health and Mental Retardation;

(4) Department of Public Safety of the State of Texas;

(5) the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice;

(6) Board of Pardons and Paroles;

(7) Parks and Wildlife Department;

(8) Railroad Commission of Texas;

(9) Texas Alcoholic Beverage Commission;

(10) Texas Department of Banking;

(11) Department of Savings and Mortgage Lending [~~Loan Department~~];

(12) Texas Juvenile Probation Commission;

(13) Texas Natural Resource Conservation Commission;

(14) Texas Youth Commission;

(15) Texas Lottery Commission;

(16) the office of the attorney general;

(17) Texas Department of Insurance; and

(18) an agency that receives an appropriation under an article of the General Appropriations Act that appropriates money to the legislature.

SECTION 6.067. Section 171.260(b), Tax Code, is amended to

read as follows:

(b) The savings and mortgage lending [~~loan~~] commissioner shall appoint a conservator under Subtitle B or C, Title 3, Finance Code, to pay the franchise tax of a savings and loan association that is organized under the laws of this state and that the commissioner certifies as being delinquent in the payment of the association's franchise tax.

SECTION 6.068. Section 26.342(3), Water Code, is amended to read as follows:

(3) "Corporate fiduciary" means an entity chartered by the Banking Department of Texas, the Department of Savings and Mortgage Lending [~~Loan Department of Texas~~], the United States comptroller of the currency, or the director of the United States Office of Thrift Supervision that acts as a receiver, conservator, guardian, executor, administrator, trustee, or fiduciary of real or personal property.

ARTICLE 7. CHANGES RELATING TO GOVERNMENT CODE

PART A. GENERAL CHANGES

SECTION 7.001. Section 51.201(a), Government Code, is amended to conform to Section 5a, Article V, Texas Constitution, as added by H.J.R. No. 75, Acts of the 77th Legislature, Regular Session, 2001, and approved by the voters at the election held November 6, 2001, to read as follows:

(a) An [~~A clerk of a court of appeals serves for a term of two years and the~~] order appointing a [~~the~~] clerk of a court of appeals must be recorded in the minutes of the court.

SECTION 7.002. Section 57.002(c), Government Code, as

amended by Chapters 584 and 614, Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

(c) Subject to Subsection (e), in a county with a population of less than 50,000, a court may appoint a spoken language interpreter who is not a licensed court interpreter.

SECTION 7.003. Section 305.0062(d), Government Code, is amended to correct a reference to read as follows:

(d) If a registrant cannot reasonably determine the amount of an expenditure under Section 305.006(b) that is directly attributable to a member of the legislative or executive branch as required by Subsection (a), the registrant shall apportion the expenditure made by that registrant or by others on the registrant's behalf and with the registrant's consent or ratification according to the total number of persons in attendance. However, if an expenditure is for an event to which all legislators are invited, the registrant shall report the expenditure under Subsection (a)(8) [~~(a)(7)~~] and not under any other subdivision of that subsection or any other provision of this chapter.

SECTION 7.004. Section 411.110(a), Government Code, as amended by Chapters 282 and 1300, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(a) The Department of State Health Services is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1) a person who is:

(A) an applicant for a license or certificate

under the Emergency Medical Services Act (Chapter 773, Health and Safety Code);

(B) an owner or manager of an applicant for an emergency medical services provider license under that Act; or

(C) the holder of a license or certificate under that Act; [~~or~~]

(2) an applicant for a license or a license holder under Subchapter N, Chapter 431, Health and Safety Code; or

(3) [~~(2)~~] an applicant for a license, the owner or manager of an applicant for a massage establishment license, or a license holder under Chapter 455, Occupations Code.

SECTION 7.0041. Section 2054.2595, Government Code, is repealed to conform to Section 8, Chapter 1260, Acts of the 79th Legislature, Regular Session, 2005, and Section 6, Chapter 1292, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 7.0042. Section 2054.260, Government Code, as amended by Chapters 1260 and 1292, Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

Sec. 2054.260. REPORTING REQUIREMENTS. (a) Not later than September 1 of each even-numbered year, the department shall report on the status, progress, benefits, and efficiency gains of the project. The department shall provide the report to:

(1) the presiding officer of each house of the legislature;

(2) the chair of each committee in the legislature that has primary jurisdiction over the department;

(3) the governor; and

(4) each state agency or local government participating in the project.

(b) Not later than September 1 of each even-numbered year, the department shall report on financial matters, including project costs and revenues, and on any significant issues regarding contract performance on the project.

(c) The department shall provide the report to:

(1) the presiding officer of each house of the legislature; and

(2) the chair of each committee in the legislature with primary jurisdiction over the department.

SECTION 7.0043. Sections 2054.272(a) and (c), Government Code, as added by Chapter 672, Acts of the 79th Legislature, Regular Session, 2005, are amended to conform to Section 26, Chapter 1260, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) A state agency that has jurisdiction over matters related to occupational licenses, including a licensing entity of this state, shall develop in cooperation with the department [~~authority~~] a link through the TexasOnline portal.

(c) The department [~~authority~~] may not charge a fee to implement this section.

SECTION 7.005. Section 2054.272, Government Code, as added by Chapter 1292, Acts of the 79th Legislature, Regular Session, 2005, and Section 2054.273, Government Code, as added by Chapter 1260, Acts of the 79th Legislature, Regular Session, 2005, are consolidated and renumbered as Section 2054.2721, Government Code,

and reenacted to read as follows:

Sec. 2054.2721. INDEPENDENT ANNUAL AUDIT. (a) Not later than August 1 of each year, any private vendor chosen to implement or manage the project shall have an audit of the vendor's finances associated with the management and operation of the project performed by an independent certified public accountant selected by the state. The vendor shall pay for the audit and shall have a copy of the audit provided to the department.

(b) Not later than August 15 of each year, the department shall provide a copy of the audit report to:

(1) the presiding officer of each house of the legislature; and

(2) the chair of each committee in the legislature with primary jurisdiction over the department.

(c) The department shall keep a copy of the audit report and make the audit report available for inspection by any interested person during regular business hours.

SECTION 7.0051. Section 2054.273(a), Government Code, as added by Chapter 1292, Acts of the 79th Legislature, Regular Session, 2005, is amended to conform to Section 26, Chapter 1260, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) A state agency or a vendor, as determined by the department [~~authority~~], shall collect all fees charged to use the project. If a state agency collects the fees charged to use the project, the state agency shall forward the fees to the vendor, if the state has contracted with a vendor under Section 2054.252(d).

If the state has not contracted with a vendor, the state agency shall forward to the state an amount equal to the state's share of the fees. If a vendor collects or receives the fees charged for use of the project, it shall forward to the state an amount equal to the state's share of the fees as provided by the vendor's contract with the department.

SECTION 7.0052. Section 2205.043(b), Government Code, is amended to correct a reference to read as follows:

(b) The board shall adopt rules, consistent with federal regulations and Section 3101.001 [~~Article 6139f, Revised Statutes~~], governing the color, size, and location of marks of identification required by this section.

SECTION 7.006. Section 2262.051(a), Government Code, as amended by Chapters 309 and 785, Acts of the 78th Legislature, Regular Session, 2003, is reenacted to read as follows:

(a) In consultation with the attorney general, the Department of Information Resources, the comptroller, and the state auditor, the commission shall develop or periodically update a contract management guide for use by state agencies. Participation by the state auditor under this subsection is subject to approval by the legislative audit committee for inclusion in the audit plan under Section 321.013(c).

PART B. UPDATE OF COURT FEES

SECTION 7.101. The heading to Section 101.021, Government Code, is amended to read as follows:

Sec. 101.021. SUPREME COURT FEES AND COSTS: GOVERNMENT CODE.

SECTION 7.102. The heading to Section 101.041, Government Code, is amended to read as follows:

Sec. 101.041. COURT OF APPEALS FEES AND COSTS: GOVERNMENT CODE.

SECTION 7.103. (a) Subchapter D, Chapter 101, Government Code, is amended by amending Section 101.061 and adding Sections 101.0611 through 101.0617 to read as follows:

Sec. 101.061. DISTRICT COURT FEES AND COSTS: CIVIL PRACTICE AND REMEDIES CODE. The clerk of a district court shall collect fees and costs under the Civil Practice and Remedies Code as follows:

(1) filing fee in action with respect to a fraudulent court record or fraudulent lien or claim filed against property (Sec. 12.005, Civil Practice and Remedies Code) . . . $15;

(2) fee for service of notice of action with respect to a fraudulent court record or fraudulent lien or claim filed against property (Sec. 12.005, Civil Practice and Remedies Code) . . . not to exceed $20, if notice delivered in person, or the cost of postage, if service is by registered or certified mail;

(3) court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court (Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed $15 [~~$10~~];

(4) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(5) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid; and

(6) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding.

Sec. 101.0611. DISTRICT COURT FEES AND COSTS: GOVERNMENT CODE. The clerk of a district court shall collect fees and costs under the Government Code as follows:

(1) appellate judicial system filing fees for:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than $5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than $5;

(C) Third Court of Appeals District (Sec. 22.2041, Government Code) . . . $5;

(D) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than $5;

(E) [~~(D)~~] Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than $5;

(F) Eleventh Court of Appeals District (Sec. 22.2121, Government Code) . . . $5; and

(G) [~~(E)~~] Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than $5;

(2) when administering a case for the Rockwall County Court at Law (Sec. 25.2012, Government Code) . . . civil fees and court costs as if the case had been filed in district court;

(3) [~~(5)~~] additional filing fees:

(A) for each suit filed for insurance contingency fund, if authorized by the county commissioners court (Sec. 51.302, Government Code) . . . not to exceed $5; and

(B) [~~for each civil suit filed, for court-related purposes for the support of the judiciary and for civil legal services to an indigent:~~

[~~(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.151, Local~~

~~Government Code) . . . . $45; or~~

[~~(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.151, Local Government Code) . . . $50;~~

[~~(C)~~] to fund the improvement of Dallas County civil court facilities, if authorized by the county commissioners court (Sec. 51.705, Government Code) . . . not more than $15; [~~and~~

[~~(D) on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent:~~

[~~(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.152, Local Government Code) . . . $5; or~~

[~~(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.152, Local Government Code) . . . $10;~~]

(4) [~~(6)~~] for filing a suit, including an appeal from an inferior court:

(A) for a suit with 10 or fewer plaintiffs (Sec. 51.317, Government Code) . . . $50;

(B) for a suit with at least 11 but not more than 25 plaintiffs (Sec. 51.317, Government Code) . . . $75;

(C) for a suit with at least 26 but not more than 100 plaintiffs (Sec. 51.317, Government Code) . . . $100;

(D) for a suit with at least 101 but not more than

500 plaintiffs (Sec. 51.317, Government Code) . . . $125;

(E) for a suit with at least 501 but not more than 1,000 plaintiffs (Sec. 51.317, Government Code) . . . $150; or

(F) for a suit with more than 1,000 plaintiffs (Sec. 51.317, Government Code) . . . $200;

(5) [~~(7)~~] for filing a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition (Sec. 51.317, Government Code) . . . $15;

(6) [~~(8)~~] for issuing a citation or other writ or process not otherwise provided for, including one copy, when requested at the time a suit or action is filed (Sec. 51.317, Government Code) . . . $8;

(7) [~~(9)~~] for records management and preservation (Sec. 51.317, Government Code) . . . $10;

(8) [~~(10)~~] for issuing a subpoena, including one copy (Sec. 51.318, Government Code) . . . $8;

(9) [~~(11)~~] for issuing a citation, commission for deposition, writ of execution, order of sale, writ of execution and order of sale, writ of injunction, writ of garnishment, writ of attachment, or writ of sequestration not provided for in Section 51.317, or any other writ or process not otherwise provided for, including one copy if required by law (Sec. 51.318, Government Code) . . . $8;

(10) [~~(12)~~] for searching files or records to locate a cause when the docket number is not provided (Sec. 51.318, Government Code) . . . $5;

(11) [~~(13)~~] for searching files or records to

ascertain the existence of an instrument or record in the district clerk's office (Sec. 51.318, Government Code) . . . $5;

(12) [~~(14)~~] for abstracting a judgment (Sec. 51.318, Government Code) . . . $8;

(13) [~~(15)~~] for approving a bond (Sec. 51.318, Government Code) . . . $4;

(14) [~~(16)~~] for a certified copy of a record, judgment, order, pleading, or paper on file or of record in the district clerk's office, including certificate and seal, for each page or part of a page (Sec. 51.318, Government Code) . . . $1;

(15) [~~(17)~~] for a noncertified copy, for each page or part of a page (Sec. 51.318, Government Code) . . . not to exceed $1;

(16) fee for performing a service:

(A) related to the matter of the estate of a deceased person (Sec. 51.319, Government Code) . . . the same fee allowed the county clerk for those services;

(B) related to the matter of a minor (Sec. 51.319, Government Code) . . . the same fee allowed the county clerk for the service;

(C) of serving process by certified or registered mail (Sec. 51.319, Government Code) . . . the same fee a sheriff or constable is authorized to charge for the service under Section 118.131, Local Government Code; and

(D) prescribed or authorized by law but for which no fee is set (Sec. 51.319, Government Code) . . . a reasonable fee;

(17) [~~(18)~~] jury fee (Sec. 51.604, Government Code)

. . . $30;

(18) additional filing fee for family protection on filing a suit for dissolution of a marriage under Chapter 6, Family Code, if authorized by the county commissioners court (Sec. 51.961, Government Code) . . . not to exceed $30;

(19) at a hearing held by an associate judge in Dallas County, a court cost to preserve the record, in the absence of a court reporter, by other means (Sec. 54.509, Government Code) . . . as assessed by the referring court or associate judge; and

(20) at a hearing held by an associate judge in Duval County, a court cost to preserve the record (Sec. 54.1151, Government Code) . . . as imposed by the referring court or associate judge.

Sec. 101.0612. DISTRICT COURT FEES AND COSTS: HEALTH AND SAFETY CODE. The clerk of a district court shall collect for filing a report of divorce or annulment a fee of $1 under Section [~~(Sec.~~]194.002, Health and Safety Code.[~~) . . . . $1;~~]

Sec. 101.0613. DISTRICT COURT FEES AND COSTS: HUMAN RESOURCES CODE. The clerk of a district court shall collect fees and costs under the Human Resources Code as follows:

(1) [~~(20)~~] for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . $4;

(2) [~~(21) additional filing fee for family protection on filing a suit for dissolution of a marriage under Chapter 6, Family Code, if authorized by the county commissioners court (Sec. 51.961, Government Code) . . . not to exceed $30;~~

[~~(22)~~] fee on filing a suit for dissolution of a

marriage for services of child support department in Harris County, if authorized by the county commissioners court (Sec. 152.1074, Human Resources Code) . . . not to exceed $12;

(3) [~~(22-a)~~] a child support service fee in Nueces County if ordered by the commissioners court and assessed by the court (Sec. 152.1844, Human Resources Code) . . . not to exceed $5 a month payable annually in advance;

(4) [~~(22-b)~~] a service fee to be paid by a person ordered by a district court to pay child or spousal support:

(A) in Collin County if authorized by the juvenile board (Sec. 152.0492, Human Resources Code) . . . not to exceed $2.50 added to first support payment each month;

(B) in Johnson County if authorized by the juvenile board (Sec. 152.1322, Human Resources Code) . . . $1.00 added to first support payment each month; and

(C) in Montague County (Sec. 152.1752, Human Resources Code) . . . $1 if fee is ordered to be paid monthly, 50 cents if fee is ordered to be paid semimonthly or weekly;

(5) [~~(22-c)~~] attorney's fees as an additional cost in Montague County on a finding of contempt of court for failure to pay child or spousal support if the contempt action is initiated by the probation department (Sec. 152.1752, Human Resources Code) . . . $15;

(6) [~~(23)~~] fee on filing a suit requesting an adoption in Montague County (Sec. 152.1752, Human Resources Code) . . . $25;

(7) [~~(24)~~] court cost on citation for contempt of court for failure to comply with child support order in Nueces

County, if authorized by the commissioners court (Sec. 152.1844, Human Resources Code) . . . not to exceed $10;

(8) [~~(25)~~] fee on filing a suit for divorce in Orange County (Sec. 152.1873, Human Resources Code) . . . not less than $5;

(9) [~~(26)~~] court costs on citation for contempt of court in Orange County for failure to comply with a child support order or order providing for possession of or access to a child (Sec. 152.1873, Human Resources Code) . . . amount determined by district clerk;

(10) [~~(27)~~] fee on filing a suit requesting an adoption in Orange County (Sec. 152.1874, Human Resources Code) . . . not less than $25; and

(11) [~~(28)~~] fee on filing a suit requesting an adoption in Wichita County (Sec. 152.2496, Human Resources Code) . . . $100.

Sec. 101.0614. DISTRICT COURT FEES AND COSTS: INSURANCE CODE. The clerk of a district court shall collect court costs and reasonable and necessary expert witness fees under Section 544.054, Insurance Code, which may include expert witness fees in Travis County in an action in which the plaintiff prevails against an insurer for economic damages sustained by the plaintiff as a result of unfair discrimination.

Sec. 101.0615. DISTRICT COURT FEES AND COSTS: LOCAL GOVERNMENT CODE. The clerk of a district court shall collect fees and costs under the Local Government Code as follows:

(1) additional filing fees:

(A) for each civil suit filed, for court-related purposes for the support of the judiciary and for civil legal services to an indigent:

(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.151, Local Government Code) . . . $45; or

(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.151, Local Government Code) . . . $50;

(B) on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent:

(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.152, Local Government Code) . . . $5; or

(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.152, Local Government Code) . . . $10;

(2) [~~(29)~~] additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . not to exceed $5;

(3) [~~(30)~~] additional filing fee for filing documents not subject to certain filing fees to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . $1;

(4) [~~(31)~~] additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed $20;

(5) [~~(32)~~] court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed $35; and

(6) on the filing of a civil suit, an additional filing fee to be used for court-related purposes for the support of the judiciary (Sec. 133.154, Local Government Code) . . . $37.

Sec. 101.0616. DISTRICT COURT FEES AND COSTS: TEXAS PROBATE CODE. The clerk of a district court shall collect fees and costs under the Texas Probate Code as follows:

(1) [~~(33) when administering a case for the Rockwall County Court at Law (Sec. 25.2012, Government Code) . . . civil fees and court costs as if the case had been filed in district court;~~

[~~(34) at a hearing held by an associate judge in Dallas County, a court cost to preserve the record, in the absence of a court reporter, by other means (Sec. 54.509, Government Code) . . . as assessed by the referring court or associate judge;~~

[~~(35) at a hearing held by an associate judge in Duval County, a court cost to preserve the record (Sec. 54.1151, Government Code, as added by Chapter 1150, Acts of the 78th Legislature, Regular Session, 2003) . . . as imposed by the referring court or associate judge;~~

[~~(36) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

[~~(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs;~~

[~~(37) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

[~~(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs that remain unpaid;~~

[~~(38) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):~~

[~~(A) expenses of service of process;~~

[~~(B) postage; and~~

[~~(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the~~

~~court for any proceeding;~~

[~~(39) fee for performing a service:~~

[~~(A) related to the matter of the estate of a deceased person (Sec. 51.319, Government Code) . . . the same fee allowed the county clerk for those services;~~

[~~(B) related to the matter of a minor (Sec. 51.319, Government Code) . . . the same fee allowed the county clerk for the service;~~

[~~(C) of serving process by certified or registered mail (Sec. 51.319, Government Code) . . . the same fee a sheriff or constable is authorized to charge for the service under Section 118.131, Local Government Code; and~~

[~~(D) prescribed or authorized by law but for which no fee is set (Sec. 51.319, Government Code) . . . a reasonable fee;~~

[~~(40) court costs, which may include expert witness fees in Travis County in an action in which the plaintiff prevails against an insurer for economic damages sustained by the plaintiff as a result of unfair discrimination (Sec. 544.054, Insurance Code) . . . court costs and reasonable and necessary expert witness fees;~~

[~~(41)~~] security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding; and

(2) [~~(42)~~] security deposit on filing, by any person

other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code) . . . probable cost of the guardianship proceeding. [~~; and~~]

Sec. 101.0617. DISTRICT COURT FEES AND COSTS: TAX CODE. The clerk of a district court shall collect a [~~(43)~~] fee of $5 under Section 42.221, Tax Code, for filing an additional petition for review of an appraisal review board order relating to certain regulated property running through or operating in more than one county after the first petition for review relating to the same property is filed for a tax year [~~(Sec. 42.221, Tax Code) . . . $5~~].

(b) Section 101.062, Government Code, is repealed.

SECTION 7.104. (a) Subchapter E, Chapter 101, Government Code, is amended by amending Section 101.081 and adding Sections 101.0811 through 101.0817 to read as follows:

Sec. 101.081. STATUTORY COUNTY COURT FEES AND COSTS: CIVIL PRACTICE AND REMEDIES CODE. The clerk of a statutory county court shall collect fees and costs under the Civil Practice and Remedies Code as follows:

(1) court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court (Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed $15 [~~$10~~];

(2) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(3) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid; and

(4) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding.

Sec. 101.0811. STATUTORY COUNTY COURT FEES AND COSTS: GOVERNMENT CODE. The clerk of a statutory county court shall collect fees and costs under the Government Code as follows:

(1) [~~(2)~~] appellate judicial system filing fees:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than $5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than $5;

(C) Third Court of Appeals District (Sec. 22.2041, Government Code) . . . $5;

(D) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than $5;

(E) [~~(D)~~] Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than $5;

(F) Eleventh Court of Appeals District (Sec. 22.2121, Government Code) . . . $5; and

(G) [~~(E)~~] Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than $5;

(2) [~~(3)~~] an official court reporter fee, County Court at Law No. 2 of Bexar County (Sec. 25.0172, Government Code) . . . $3;

(3) in Brazoria County, in matters of concurrent jurisdiction with the district court, fees (Sec. 25.0222, Government Code) . . . as prescribed by law for district judges according to the nature of the matter;

(4) a court reporter fee when testimony is taken in a county court at law in McLennan County (Sec. 25.1572, Government Code) . . . $3;

(5) a stenographer fee, if a record or part of a record is made:

(A) in a county court at law in Hidalgo County (Sec. 25.1102, Government Code) . . . $20; and

(B) in a county court at law in Nolan County (Sec. 25.1792, Government Code) . . . $25;

(6) jury fee (Sec. 51.604, Government Code) . . . $22;

(7) an additional filing fee:

(A) for each civil case filed to be used for court-related purposes for the support of the judiciary, if authorized by the county commissioners court (Sec. 51.702, Government Code) . . . $40; and

(B) to fund the improvement of Dallas County civil court facilities, if authorized by the county commissioners court (Sec. 51.705, Government Code) . . . not more than $15[~~; and~~

[~~(C) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $5~~];

(8) the official court reporter's fee taxed as costs in civil actions in a statutory county court:

(A) in Bexar County Courts at Law:

(i) Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 (Sec. 25.0172, Government Code) . . . taxed in the same manner as the fee is taxed in district court; and

(ii) No. 2 (Sec. 25.0172, Government Code) . . . $3;

(B) in Galveston County (Sec. 25.0862, Government Code) . . . taxed in the same manner as the fee is taxed in civil cases in the district courts; and

(C) in Parker County (Sec. 25.1862, Government Code) . . . taxed in the same manner as the fee is taxed in civil cases in the district courts;

(9) a stenographer's fee as costs in each civil, criminal, and probate case in which a record is made by the official court reporter in a statutory county court in Nolan County (Sec. 25.1792, Government Code) . . . $25;

(10) in Nueces County, in matters of concurrent jurisdiction with the district court, with certain exceptions, fees (Sec. 25.1802, Government Code) . . . equal to those in district court cases; and

(11) a fee not otherwise listed in this subchapter that is required to be collected under Section 25.0008, Government Code, in a county other than Brazos, Cameron, Ellis, Guadalupe, Harris, Henderson, Liberty, Moore, Nolan, Panola, Parker, Starr, Victoria, and Williamson . . . as prescribed by law relating to county judges' fees.

Sec. 101.0812. STATUTORY COUNTY COURT FEES AND COSTS: HEALTH AND SAFETY CODE. The clerk of a statutory county court shall collect fees and costs under the Health and Safety Code as follows:

(1) [~~(8)~~] for filing an application for registration of death (Sec. 193.007, Health and Safety Code) . . . $1;

(2) [~~(9)~~] fee for judge's services on an application

for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed $50;

(3) [~~(10)~~] fee for prosecutor's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed $50;

(4) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Secs. 571.017 and 571.018, Health and Safety Code) . . . reasonable compensation to the following persons appointed under the Texas Mental Health Code:

(A) attorneys;

(B) physicians;

(C) language interpreters;

(D) sign interpreters; and

(E) masters;

(5) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Sec. 571.018, Health and Safety Code):

(A) attorney's fees;

(B) physician examination fees;

(C) expense of transportation to a mental health facility or to a federal agency not to exceed $50 if transporting within the same county and not to exceed the reasonable cost of transportation if transporting between counties;

(D) costs and salary supplements authorized under Section 574.031, Health and Safety Code; and

(E) prosecutors' fees authorized under Section

574.031, Health and Safety Code;

(6) expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated (Sec. 574.008, Health and Safety Code) . . . actual expenses unless certain arrangements are made to hold the hearing in the county in which the patient is receiving services;

(7) expenses for expert witness testimony for an indigent patient (Sec. 574.010, Health and Safety Code) . . . if authorized by the court as reimbursement to the attorney ad litem, court-approved expenses;

(8) fee for judge's services for holding a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50;

(9) expenses to reimburse judge for holding a hearing in a hospital or location other than the county courthouse (Sec. 574.031, Health and Safety Code) . . . reasonable and necessary expenses as certified; and

(10) fee for services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50.

Sec. 101.0813. STATUTORY COUNTY COURT FEES AND COSTS: HUMAN RESOURCES CODE. The clerk of a statutory county court shall collect [~~(11)~~] for filing a suit in Comal County a fee of $4 under Section [~~(Sec.~~] 152.0522, Human Resources Code.[~~) . . . . $4,~~]

Sec. 101.0814. STATUTORY COUNTY COURT FEES AND COSTS: LOCAL GOVERNMENT CODE. The clerk of a statutory county court shall collect fees and costs under the Local Government Code as follows:

(1) [~~(12)~~] additional filing fee to fund contingency fund for liability insurance, if authorized by the county commissioners court (Sec. 82.003, Local Government Code) . . . not to exceed $5;

(2) [~~(13)~~] civil court actions (Sec. 118.052, Local Government Code):

(A) filing of original action (Secs. 118.052 and 118.053, Local Government Code):

(i) garnishment after judgment (Sec. 118.052, Local Government Code) . . . $15; and

(ii) all others (Sec. 118.052, Local Government Code) . . . $40;

(B) filing of action other than original (Secs. 118.052 and 118.054, Local Government Code) . . . $30; and

(C) services rendered after judgment in original action (Secs. 118.052 and 118.0545, Local Government Code):

(i) abstract of judgment (Sec. 118.052, Local Government Code) . . . $5; and

(ii) execution, order of sale, writ, or other process (Sec. 118.052, Local Government Code) . . . $5;

(3) [~~(14)~~] probate court actions (Sec. 118.052, Local Government Code):

(A) probate original action (Secs. 118.052 and 118.055, Local Government Code):

(i) probate of a will with independent executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title (Sec. 118.052, Local Government Code) . . . $40;

(ii) community survivors (Sec. 118.052, Local Government Code) . . . $40;

(iii) small estates (Sec. 118.052, Local Government Code) . . . $40;

(iv) declarations of heirship (Sec. 118.052, Local Government Code) . . . $40;

(v) mental health or chemical dependency services (Sec. 118.052, Local Government Code) . . . $40; and

(vi) additional, special fee (Secs. 118.052 and 118.064, Local Government Code) . . . $5;

(B) services in pending probate action (Secs. 118.052 and 118.056, Local Government Code):

(i) filing an inventory and appraisement after the 120th day after the date of the initial filing of the action (Sec. 118.052, Local Government Code) . . . $25;

(ii) approving and recording bond (Sec. 118.052, Local Government Code) . . . $3;

(iii) administering oath (Sec. 118.052, Local Government Code) . . . $2;

(iv) filing annual or final account of estate (Sec. 118.052, Local Government Code) . . . $25;

(v) filing application for sale of real or personal property (Sec. 118.052, Local Government Code) . . . $25;

(vi) filing annual or final report of guardian of a person (Sec. 118.052, Local Government Code) . . . $10; and

(vii) filing a document not listed under this paragraph after the filing of an order approving the inventory and appraisement or after the 120th day after the date of the initial filing of the action, whichever occurs first (Secs. 118.052 and 191.007, Local Government Code), if more than 25 pages . . . $25;

(C) adverse probate action (Secs. 118.052 and 118.057, Local Government Code) . . . $40; and

(D) claim against estate (Secs. 118.052 and 118.058, Local Government Code) . . . $2;

(4) [~~(15)~~] other fees (Sec. 118.052, Local Government Code):

(A) issuing document (Secs. 118.052 and 118.059, Local Government Code):

(i) original document and one copy (Sec. 118.052, Local Government Code) . . . $4; and

(ii) each additional set of an original and one copy (Sec. 118.052, Local Government Code) . . . $4;

(B) certified papers (Secs. 118.052 and 118.060, Local Government Code):

(i) for the clerk's certificate (Sec. 118.052, Local Government Code) . . . $5; and

(ii) a fee per page or part of a page (Sec. 118.052, Local Government Code) . . . $1;

(C) noncertified papers, for each page or part of a page (Secs. 118.052 and 118.0605, Local Government Code) . . . $1;

(D) letters testamentary, letter of guardianship, letter of administration, or abstract of judgment (Secs. 118.052 and 118.061, Local Government Code) . . . $2;

(E) safekeeping of wills (Secs. 118.052 and 118.062, Local Government Code) . . . $5;

(F) mail service of process (Secs. 118.052 and 118.063, Local Government Code) . . . same as sheriff; and

(G) records management and preservation fee (Secs. 118.052, 118.0546, and 118.0645, Local Government Code) . . . $5;

(5) additional filing fee for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $5;

(6) on the filing of a civil suit, an additional filing fee to be used for court-related purposes for the support of the judiciary (Sec. 133.154, Local Government Code) . . . $37;

(7) [~~(16)~~] additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . not to exceed $5;

(8) [~~(17)~~] additional filing fee for filing documents not subject to certain filing fees to fund the courthouse security

fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . $1;

(9) [~~(18)~~] additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed $20; and

(10) [~~(19)~~] court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed $35. [~~;~~]

Sec. 101.0815. STATUTORY COUNTY COURT FEES AND COSTS: TEXAS PROBATE CODE. The clerk of a statutory county court shall collect fees and costs under the Texas Probate Code as follows:

(1) [~~(20)~~] fee for deposit of a will with the county clerk during testator's lifetime (Sec. 71, Texas Probate Code) . . . $3;

(2) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding; and

(3) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code) . . . probable cost of the guardianship proceeding.

Sec. 101.0816. STATUTORY COUNTY COURT FEES AND COSTS:

PROPERTY CODE. The clerk of a statutory county court shall collect a [~~(21)~~] court cost in the amount of $10 or more, as taxed by the court under Section 21.047, Property Code, for each special commissioner in an eminent domain proceeding. [~~(Sec. 21.047, Property Code) . . . as taxed by the court, $10 or more;~~]

Sec. 101.0817. STATUTORY COUNTY COURT FEES AND COSTS UNDER OTHER LAWS. The clerk of a statutory county court shall collect a [~~(22)~~] fee of $10 under Article 6327, Vernon's Texas Civil Statutes, for a county attorney in a suit regarding a railroad company's failure to keep roadbed and right-of-way in proper condition [~~(Art. 6327, Vernon's Texas Civil Statutes) . . . $10;~~

[~~(23) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

[~~(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs;~~

[~~(24) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

[~~(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of~~

~~Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs that remain unpaid;~~

[~~(25) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):~~

[~~(A) expenses of service of process;~~

[~~(B) postage; and~~

[~~(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding;~~

[~~(26) the official court reporter's fee taxed as costs in civil actions in a statutory county court:~~

[~~(A) in Bexar County Courts at Law:~~

[~~(i) Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 (Sec. 25.0172, Government Code) . . . taxed in the same manner as the fee is taxed in district court; and~~

[~~(ii) No. 2 (Sec. 25.0172, Government Code) . . . $3;~~

[~~(B) in Galveston County (Sec. 25.0862, Government Code) . . . taxed in the same manner as the fee is taxed in civil cases in the district courts; and~~

[~~(C) in Parker County (Sec. 25.1862, Government Code) . . . taxed in the same manner as the fee is taxed in civil cases in the district courts;~~

[~~(27) a stenographer's fee as costs in each civil,~~

~~criminal, and probate case in which a record is made by the official court reporter in a statutory county court in Nolan County (Sec. 25.1792, Government Code) . . . $25;~~

[~~(28) in Brazoria County, in matters of concurrent jurisdiction with the district court, fees (Sec. 25.0222, Government Code) . . . as prescribed by law for district judges according to the nature of the matter;~~

[~~(29) in Nueces County, in matters of concurrent jurisdiction with the district court, with certain exceptions, fees (Sec. 25.1802, Government Code) . . . equal to those in district court cases;~~

[~~(30) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding;~~

[~~(31) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code) . . . probable cost of the guardianship proceeding;~~

[~~(32) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Secs. 571.017 and 571.018, Health and Safety Code) . . . reasonable compensation to the following persons appointed under the Texas Mental Health Code:~~

[~~(A) attorneys;~~

[~~(B) physicians;~~

[~~(C) language interpreters;~~

[~~(D) sign interpreters; and~~

[~~(E) masters;~~

[~~(33) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Sec. 571.018, Health and Safety Code):~~

[~~(A) attorney's fees;~~

[~~(B) physician examination fees;~~

[~~(C) expense of transportation to a mental health facility or to a federal agency not to exceed $50 if transporting within the same county and not to exceed the reasonable cost of transportation if transporting between counties;~~

[~~(D) costs and salary supplements authorized under Section 574.031, Health and Safety Code; and~~

[~~(E) prosecutors' fees authorized under Section 574.031, Health and Safety Code;~~

[~~(34) expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated (Sec. 574.008, Health and Safety Code) . . . actual expenses unless certain arrangements are made to hold the hearing in the county in which the patient is receiving services;~~

[~~(35) expenses for expert witness testimony for an indigent patient (Sec. 574.010, Health and Safety Code) . . . if authorized by the court as reimbursement to the attorney ad litem, court-approved expenses;~~

[~~(36) fee for judge's services for holding a hearing on~~

~~an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50;~~

[~~(37) expenses to reimburse judge for holding a hearing in a hospital or location other than the county courthouse (Sec. 574.031, Health and Safety Code) . . . reasonable and necessary expenses as certified;~~

[~~(38) fee for services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50; and~~

[~~(39) a fee not otherwise listed in this section that is required to be collected under Section 25.0008, Government Code (Sec. 25.0008, Government Code), in a county other than Brazos, Cameron, Ellis, Guadalupe, Harris, Henderson, Liberty, Moore, Nolan, Panola, Parker, Starr, Victoria, and Williamson . . . as prescribed by law relating to county judges' fees~~].

(b) Section 101.083, Government Code, is repealed.

SECTION 7.105. Subchapter F, Chapter 101, Government Code, is amended by amending Section 101.101 and adding Sections 101.1011 through 101.1015 to read as follows:

Sec. 101.101. STATUTORY PROBATE COURT FEES AND COSTS: CIVIL PRACTICE AND REMEDIES CODE. The clerk of a statutory probate court shall collect a [~~fees and costs as follows:~~

[~~(1)~~] court cost in an amount not to exceed $15 under Section 152.004, Civil Practice and Remedies Code, in certain civil

cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court. [~~(Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed $10,~~]

Sec. 101.1011. STATUTORY PROBATE COURT FEES AND COSTS: GOVERNMENT CODE. The clerk of a statutory probate court shall collect fees and costs under the Government Code as follows:

(1) [~~(2)~~] appellate judicial system filing fees:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than $5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than $5;

(C) Third Court of Appeals District (Sec. 22.2041, Government Code) . . . $5;

(D) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than $5;

(E) [~~(D)~~] Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than $5;

(F) Eleventh Court of Appeals District (Sec. 22.2121, Government Code) . . . $5; and

(G) [~~(E)~~] Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than $5;

(2) [~~(3)~~] additional filing fees as follows:

(A) for certain cases to be used for court-related purposes for support of the judiciary, if authorized by the county commissioners court (Sec. 51.704, Government Code) . . . $40; and

(B) to fund the improvement of Dallas County civil court facilities, if authorized by the county commissioners court (Sec. 51.705, Government Code) . . . not more than $15[~~, and~~

[~~(C) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $5~~];

(3) jury fee for civil case (Sec. 51.604, Government Code) . . . $22;

(4) the expense of preserving the record as a court cost, if imposed on a party by the referring court or associate judge (Sec. 54.612, Government Code) . . . actual cost; and

(5) a fee not otherwise listed in this subchapter that is required to be collected under Section 25.0029, Government Code (Sec. 25.0029, Government Code) . . . as prescribed by law relating to county judges' fees.

Sec. 101.1012. STATUTORY PROBATE COURT FEES AND COSTS: HEALTH AND SAFETY CODE. The clerk of a statutory probate court shall collect fees and costs under the Health and Safety Code as follows:

(1) [~~(4)~~] for filing an application for registration of death (Sec. 193.007, Health and Safety Code) . . . $1;

(2) [~~(5)~~] fee for judge's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed $50;

(3) [~~(6)~~] fee for prosecutor's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed $50;

(4) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Secs. 571.017 and 571.018, Health and Safety Code) . . . reasonable compensation to the following persons appointed under the Texas Mental Health Code:

(A) attorneys;

(B) physicians;

(C) language interpreters;

(D) sign interpreters; and

(E) masters;

(5) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Sec. 571.018, Health and Safety Code):

(A) attorney's fees;

(B) physician examination fees;

(C) expense of transportation to a mental health facility or to a federal agency not to exceed $50 if transporting within the same county and not to exceed the reasonable cost of transportation if transporting between counties;

(D) costs and salary supplements authorized under Section 574.031, Health and Safety Code; and

(E) prosecutors' fees authorized under Section 574.031, Health and Safety Code;

(6) expenses of transporting certain patients from the

county of treatment to a hearing in the county in which the proceedings originated (Sec. 574.008, Health and Safety Code) . . . actual expenses unless certain arrangements are made to hold the hearing in the county in which the patient is receiving services;

(7) expenses for expert witness testimony for an indigent patient (Sec. 574.010, Health and Safety Code) . . . if authorized by the court as reimbursement to the attorney ad litem, court-approved expenses;

(8) fee for judge's services for holding a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50;

(9) expenses to reimburse judge for holding a hearing in a hospital or location other than the county courthouse (Sec. 574.031, Health and Safety Code) . . . reasonable and necessary expenses as certified; and

(10) fee for services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50.

Sec. 101.1013. STATUTORY PROBATE COURT FEES AND COSTS: LOCAL GOVERNMENT CODE. The clerk of a statutory probate court shall collect fees and costs under the Local Government Code as follows:

(1) additional filing fee for filing any civil action

or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee to fund civil legal services for the indigent (Sec. 133.153, Local Government Code). . . $5;

(2) [~~(7)~~] additional filing fee to fund contingency fund for liability insurance, if authorized by the county commissioners court (Sec. 82.003, Local Government Code) . . . not to exceed $5;

(3) [~~(8)~~] probate court actions (Sec. 118.052, Local Government Code):

(A) probate original action (Secs. 118.052 and 118.055, Local Government Code):

(i) probate of a will with independent executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title (Sec. 118.052, Local Government Code) . . . $40;

(ii) community survivors (Sec. 118.052, Local Government Code) . . . $40;

(iii) small estates (Sec. 118.052, Local Government Code) . . . $40;

(iv) declarations of heirship (Sec. 118.052, Local Government Code) . . . $40;

(v) mental health or chemical dependency services (Sec. 118.052, Local Government Code) . . . $40; and

(vi) additional, special fee (Secs. 118.052 and 118.064, Local Government Code) . . . $5;

(B) services in pending probate action (Secs. 118.052 and 118.056, Local Government Code):

(i) filing an inventory and appraisement after the 120th day after the date of the initial filing of the action (Sec. 118.052, Local Government Code) . . . $25;

(ii) approving and recording bond (Sec. 118.052, Local Government Code) . . . $3;

(iii) administering oath (Sec. 118.052, Local Government Code) . . . $2;

(iv) filing annual or final account of estate (Sec. 118.052, Local Government Code). . . $25;

(v) filing application for sale of real or personal property (Sec. 118.052, Local Government Code) . . . $25;

(vi) filing annual or final report of guardian of a person (Sec. 118.052, Local Government Code) . . . $10; and

(vii) filing a document not listed under this paragraph after the filing of an order approving the inventory and appraisement or after the 120th day after the date of the initial filing of the action, whichever occurs first (Secs. 118.052 and 191.007, Local Government Code), if more than 25 pages . . . $25;

(C) adverse probate action (Secs. 118.052 and 118.057, Local Government Code) . . . $40; and

(D) claim against estate (Secs. 118.052 and 118.058, Local Government Code) . . . $2;

(4) [~~(9)~~] other fees (Sec. 118.052, Local Government

Code):

(A) issuing document (Secs. 118.052 and 118.059, Local Government Code):

(i) original document and one copy (Sec. 118.052, Local Government Code) . . . $4; and

(ii) each additional set of an original and one copy (Sec. 118.052, Local Government Code) . . . $4;

(B) certified papers (Secs. 118.052 and 118.060, Local Government Code):

(i) for the clerk's certificate (Sec. 118.052, Local Government Code) . . . $5; and

(ii) a fee per page or part of a page (Sec. 118.052, Local Government Code) . . . $1;

(C) noncertified papers, for each page or part of a page (Secs. 118.052 and 118.0605, Local Government Code) . . . $1;

(D) letters testamentary, letter of guardianship, letter of administration, or abstract of judgment (Secs. 118.052 and 118.061, Local Government Code) . . . $2;

(E) safekeeping of wills (Secs. 118.052 and 118.062, Local Government Code) . . . $5;

(F) mail service of process (Secs. 118.052 and 118.063, Local Government Code) . . . same as sheriff; and

(G) records management and preservation fee (Secs. 118.052 and 118.0645, Local Government Code) . . . $5; <u>and</u>

<u>(5) court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized</u>

by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed $35.

Sec. 101.1014. STATUTORY PROBATE COURT FEES AND COSTS: TEXAS PROBATE CODE. The clerk of a statutory probate court shall collect fees and costs under the Texas Probate Code as follows:

(1) [~~(10)~~] fee for deposit of a will with the county clerk during testator's lifetime (Sec. 71, Texas Probate Code) . . . $3;

(2) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding; and

(3) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code) . . . probable cost of the guardianship proceeding.

Sec. 101.1015. STATUTORY PROBATE COURT FEES AND COSTS: PROPERTY CODE. The clerk of a statutory probate court shall collect a [~~(11)~~] court cost in the amount of $10 or more, as taxed by the court under Section 21.047, Property Code, [~~costs~~] for each special commissioner in an eminent domain proceeding [~~(Sec. 21.047, Property Code) . . . as taxed by the court, $10 or more;~~

[~~(12) jury fee for civil case (Sec. 51.604, Government Code) . . . $22;~~

[~~(13) court cost in civil cases other than suits for~~

~~delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . . not to exceed $35;~~

[~~(14) the expense of preserving the record as a court cost, if imposed on a party by the referring court or associate judge (Sec. 54.612, Government Code) . . . actual cost;~~

[~~(15) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding;~~

[~~(16) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code) . . . probable cost of the guardianship proceeding;~~

[~~(17) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Secs. 571.017 and 571.018, Health and Safety Code) . . . reasonable compensation to the following persons appointed under the Texas Mental Health Code:~~

[~~(A) attorneys;~~

[~~(B) physicians;~~

[~~(C) language interpreters;~~

[~~(D) sign interpreters; and~~

[~~(E) masters;~~

[~~(18) for a hearing or proceeding under the Texas~~

~~Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Sec. 571.018, Health and Safety Code):~~

[~~(A) attorney's fees;~~

[~~(B) physician examination fees;~~

[~~(C) expense of transportation to a mental health facility or to a federal agency not to exceed $50 if transporting within the same county and not to exceed the reasonable cost of transportation if transporting between counties;~~

[~~(D) costs and salary supplements authorized under Section 574.031, Health and Safety Code; and~~

[~~(E) prosecutors' fees authorized under Section 574.031, Health and Safety Code;~~

[~~(19) expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated (Sec. 574.008, Health and Safety Code) . . . actual expenses unless certain arrangements are made to hold the hearing in the county in which the patient is receiving services;~~

[~~(20) expenses for expert witness testimony for an indigent patient (Sec. 574.010, Health and Safety Code) . . . if authorized by the court as reimbursement to the attorney ad litem, court-approved expenses;~~

[~~(21) fee for judge's services for holding a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50;~~

[~~(22) expenses to reimburse judge for holding a~~

~~hearing in a hospital or location other than the county courthouse (Sec. 574.031, Health and Safety Code) . . . . reasonable and necessary expenses as certified;~~

[~~(23) fee for services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . . as assessed by the judge, not to exceed $50; and~~

[~~(24) a fee not otherwise listed in this section that is required to be collected under Section 25.0029, Government Code (Sec. 25.0029, Government Code) . . . . as prescribed by law relating to county judges' fees~~].

SECTION 7.106. (a) Subchapter G, Chapter 101, Government Code, is amended by amending Section 101.121 and adding Sections 101.1211 through 101.1216 to read as follows:

Sec. 101.121. COUNTY COURT FEES AND COSTS: ALCOHOLIC BEVERAGE CODE. The clerk of a county court shall collect a [~~:~~

[~~(1)~~] fee of $5 under Section 61.31, Alcoholic Beverage Code, for hearing on application for a license to manufacture, distribute, store, or sell beer. [~~(Sec. 61.31, Alcoholic Beverage Code) . . . $5;~~]

Sec. 101.1211. COUNTY COURT FEES AND COSTS: CIVIL PRACTICE AND REMEDIES CODE. The clerk of a county court shall collect:

(1) a [~~(2)~~] court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court (Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed $15 [~~$10~~];

(2) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(3) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid; and

(4) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the

court for any proceeding.

Sec. 101.1212. COUNTY COURT FEES AND COSTS: GOVERNMENT CODE. The clerk of a county court shall collect the following fees and costs under the Government Code:

(1) [~~(3)~~] appellate judicial system filing fees:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than $5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than $5;

(C) Third Court of Appeals District (Sec. 22.2041, Government Code) . . . $5;

(D) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than $5;

(E) [~~(D)~~] Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than $5;

(F) Eleventh Court of Appeals District (Sec. 22.2121, Government Code) . . . $5; and

(G) [~~(E)~~] Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than $5;

(2) [~~(4)~~] a jury fee (Sec. 51.604, Government Code) . . . $22; and

(3) [~~(5)~~] a filing fee in each civil case filed to be used for court-related purposes for the support of the judiciary (Sec. 51.703, Government Code) . . . $40. [~~;~~]

Sec. 101.1213. COUNTY COURT FEES AND COSTS: HEALTH AND SAFETY CODE. The clerk of a county court shall collect the following fees and costs under the Health and Safety Code:

(1) [~~(6)~~] for filing an application for registration of death (Sec. 193.007, Health and Safety Code) . . . $1;

(2) [~~(7)~~] fee for judge's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed $50;

(3) [~~(8)~~] fee for prosecutor's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed $50;

(4) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Secs. 571.017 and 571.018, Health and Safety Code) . . . reasonable compensation to the following persons appointed under the Texas Mental Health Code:

(A) attorneys;

(B) physicians;

(C) language interpreters;

(D) sign interpreters; and

(E) masters;

(5) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Sec. 571.018, Health and Safety Code):

(A) attorney's fees;

(B) physician examination fees;

(C) expense of transportation to a mental health facility or to a federal agency not to exceed $50 if transporting within the same county and not to exceed the reasonable cost of transportation if transporting between counties;

(D) costs and salary supplements authorized under Section 574.031, Health and Safety Code; and

(E) prosecutors' fees authorized under Section 574.031, Health and Safety Code;

(6) expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated (Sec. 574.008, Health and Safety Code) . . . actual expenses unless certain arrangements are made to hold the hearing in the county in which the patient is receiving services;

(7) expenses for expert witness testimony for an indigent patient (Sec. 574.010, Health and Safety Code) . . . if authorized by the court as reimbursement to the attorney ad litem, court-approved expenses;

(8) fee for judge's services for holding a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50;

(9) expenses to reimburse judge for holding a hearing in a hospital or location other than the county courthouse (Sec. 574.031, Health and Safety Code) . . . reasonable and necessary expenses as certified; and

(10) fee for services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50.

Sec. 101.1214. COUNTY COURT FEES AND COSTS: LOCAL

GOVERNMENT CODE. The clerk of a county court shall collect the following fees and costs under the Local Government Code:

(1) [~~(9)~~] additional filing fee to fund contingency fund for liability insurance, if authorized by the county commissioners court (Sec. 82.003, Local Government Code) . . . not to exceed $5;

(2) [~~(10)~~] civil court actions (Sec. 118.052, Local Government Code):

(A) filing of original action (Secs. 118.052 and 118.053, Local Government Code):

(i) garnishment after judgment (Sec. 118.052, Local Government Code) . . . $15; and

(ii) all others (Sec. 118.052, Local Government Code) . . . $40;

(B) filing of action other than original (Secs. 118.052 and 118.054, Local Government Code) . . . $30; and

(C) services rendered after judgment in original action (Secs. 118.052 and 118.0545, Local Government Code):

(i) abstract of judgment (Sec. 118.052, Local Government Code) . . . $5; and

(ii) execution, order of sale, writ, or other process (Sec. 118.052, Local Government Code) . . . $5;

(3) [~~(11)~~] probate court actions (Sec. 118.052, Local Government Code):

(A) probate original action (Secs. 118.052 and 118.055, Local Government Code):

(i) probate of a will with independent

executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title (Sec. 118.052, Local Government Code) . . . $40;

(ii) community survivors (Sec. 118.052, Local Government Code) . . . $40;

(iii) small estates (Sec. 118.052, Local Government Code) . . . $40;

(iv) declarations of heirship (Sec. 118.052, Local Government Code) . . . $40;

(v) mental health or chemical dependency services (Sec. 118.052, Local Government Code) . . . $40; and

(vi) additional, special fee (Secs. 118.052 and 118.064, Local Government Code) . . . $5;

(B) services in pending probate action (Secs. 118.052 and 118.056, Local Government Code):

(i) filing an inventory and appraisement after the 120th day after the date of the initial filing of the action (Sec. 118.052, Local Government Code) . . . $25;

(ii) approving and recording bond (Sec. 118.052, Local Government Code) . . . $3;

(iii) administering oath (Sec. 118.052, Local Government Code) . . . $2;

(iv) filing annual or final account of estate (Sec. 118.052, Local Government Code) . . . $25;

(v) filing application for sale of real or personal property (Sec. 118.052, Local Government Code) . . . $25;

(vi) filing annual or final report of

guardian of a person (Sec. 118.052, Local Government Code) . . . $10; and

(vii) filing a document not listed under this paragraph after the filing of an order approving the inventory and appraisement or after the 120th day after the date of the initial filing of the action, whichever occurs first (Secs. 118.052 and 191.007, Local Government Code), if more than 25 pages . . . $25;

(C) adverse probate action (Secs. 118.052 and 118.057, Local Government Code) . . . $40; and

(D) claim against estate (Secs. 118.052 and 118.058, Local Government Code) . . . $2;

(4) [~~(12)~~] other fees (Sec. 118.052, Local Government Code):

(A) issuing document (Secs. 118.052 and 118.059, Local Government Code):

(i) original document and one copy (Sec. 118.052, Local Government Code) . . . $4; and

(ii) each additional set of an original and one copy (Sec. 118.052, Local Government Code) . . . $4;

(B) certified papers (Secs. 118.052 and 118.060, Local Government Code):

(i) for the clerk's certificate (Sec. 118.052, Local Government Code) . . . $5; and

(ii) a fee per page or part of a page (Sec. 118.052, Local Government Code) . . . $1;

(C) noncertified papers, for each page or part of

a page (Secs. 118.052 and 118.0605, Local Government Code) . . . $1;

(D) letters testamentary, letter of guardianship, letter of administration, or abstract of judgment (Secs. 118.052 and 118.061, Local Government Code) . . . $2;

(E) safekeeping of wills (Secs. 118.052 and 118.062, Local Government Code) . . . $5;

(F) mail service of process (Secs. 118.052 and 118.063, Local Government Code) . . . same as sheriff; and

(G) records management and preservation fee (Secs. 118.052, 118.0546, and 118.0645, Local Government Code) . . . $5;

(5) [~~(13)~~] deposit on filing petition requesting permission to create a municipal civic center authority (Sec. 281.013, Local Government Code) . . . $200;

(6) [~~(14)~~] additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . not to exceed $5;

(7) [~~(15)~~] additional filing fee for filing documents not subject to certain filing fees to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . $1;

(8) [~~(16)~~] additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed $20;

(9) [~~(17)~~] court cost in civil cases other than suits

for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed $35;

(10) additional filing fee for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $5; and

(11) on the filing of a civil suit an additional filing fee to be used for court-related purposes for the support of the judiciary (Sec. 133.154, Local Government Code) . . . $37.

Sec. 101.1215. COUNTY COURT FEES AND COSTS: TEXAS PROBATE CODE. The clerk of a county court shall collect the following fees and costs under the Texas Probate Code:

(1) [~~(18)~~] fee for deposit of a will with the county clerk during testator's lifetime (Sec. 71, Texas Probate Code) . . . $3;

(2) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding; and

(3) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate

Code) . . . probable cost of the guardianship proceeding.

Sec. 101.1216. COUNTY COURT FEES AND COSTS UNDER OTHER LAWS. The clerk of a county court shall collect the following fees and costs:

(1) [~~(19)~~] fee for county attorney in a suit regarding a railroad company's failure to keep roadbed and right-of-way in proper condition (Art. 6327, Vernon's Texas Civil Statutes) . . . $10; and

(2) [~~(20)~~] appeal bond from a petitioner or taxpayer in a water control and preservation district (Art. 7818, Vernon's Texas Civil Statutes) . . . $100[~~;~~

[~~(21) additional filing fee for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $5;~~

[~~(22) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

[~~(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs;~~

[~~(23) monthly payment for remaining court fees and~~

~~costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:~~

[~~(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs that remain unpaid;~~

[~~(24) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):~~

[~~(A) expenses of service of process;~~

[~~(B) postage; and~~

[~~(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding;~~

[~~(25) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding;~~

[~~(26) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code)~~

~~. . . probable cost of the guardianship proceeding;~~

[~~(27) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Secs. 571.017 and 571.018, Health and Safety Code) . . . reasonable compensation to the following persons appointed under the Texas Mental Health Code:~~

[~~(A) attorneys;~~

[~~(B) physicians;~~

[~~(C) language interpreters;~~

[~~(D) sign interpreters; and~~

[~~(E) masters;~~

[~~(28) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Sec. 571.018, Health and Safety Code):~~

[~~(A) attorney's fees;~~

[~~(B) physician examination fees;~~

[~~(C) expense of transportation to a mental health facility or to a federal agency not to exceed $50 if transporting within the same county and not to exceed the reasonable cost of transportation if transporting between counties;~~

[~~(D) costs and salary supplements authorized under Section 574.031, Health and Safety Code; and~~

[~~(E) prosecutors' fees authorized under Section 574.031, Health and Safety Code;~~

[~~(29) expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated (Sec. 574.008, Health and Safety Code) . . .~~

~~actual expenses unless certain arrangements are made to hold the hearing in the county in which the patient is receiving services;~~

[~~(30) expenses for expert witness testimony for an indigent patient (Sec. 574.010, Health and Safety Code) . . . if authorized by the court as reimbursement to the attorney ad litem, court-approved expenses;~~

[~~(31) fee for judge's services for holding a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50;~~

[~~(32) expenses to reimburse judge for holding a hearing in a hospital or location other than the county courthouse (Sec. 574.031, Health and Safety Code) . . . reasonable and necessary expenses as certified; and~~

[~~(33) fee for services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50~~].

(b) Section 101.123, Government Code, is repealed.

SECTION 7.107. Subchapter H, Chapter 101, Government Code, is amended by amending Section 101.141 and adding Section 101.151 to read as follows:

Sec. 101.141. JUSTICE COURT AND SMALL CLAIMS COURT FEES AND COSTS COLLECTED BY CLERK. (a) A clerk of a justice court shall collect fees and costs under the Civil Practice and Remedies Code as follows:

(1) additional court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the commissioners court [~~of a county with a population of at least 2.5 million~~] (Sec. 152.005, Civil Practice and Remedies Code) . . . not to exceed $5 [~~$3~~];

(2) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(3) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid; and

(4) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or

frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding.

(b) A clerk of a justice court shall collect fees and costs under other laws as follows:

(1) the cost of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed $100;

(2) additional filing fees:

(A) to fund Dallas County civil court facilities (Sec. 51.705, Government Code) . . . not more than $15; and

(B) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $2;

(3) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . $1.50; and

(4) fee for hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 685.008, Transportation Code) . . . $20[~~;~~

[~~(5) court fees and costs, if ordered by the court, for~~

~~a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . . the lesser of:~~

[~~(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs;~~

[~~(6) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . . the lesser of:~~

[~~(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or~~

[~~(B) the total amount of court fees and costs that remain unpaid;~~

[~~(7) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):~~

[~~(A) expenses of service of process;~~

[~~(B) postage; and~~

[~~(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding; and~~

[~~(8) the cost of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed $100~~].

Sec. 101.151. JUSTICE COURT AND SMALL CLAIMS COURT FEES COLLECTED BY JUSTICE OF THE PEACE. (a) [~~(b)~~] A justice of the peace shall collect the following fees under the Local Government Code:

(1) services rendered before judgment (Secs. 118.121 and 118.122, Local Government Code):

(A) justice court (Sec. 118.121, Local Government Code) . . . $15; and

(B) small claims court (Sec. 118.121, Local Government Code) . . . $10; and

(2) services rendered after judgment (Secs. 118.121 and 118.123, Local Government Code):

(A) transcript (Sec. 118.121, Local Government Code) . . . $10;

(B) abstract of judgment (Sec. 118.121, Local Government Code) . . . $5;

(C) execution, order of sale, writ of restitution, or other writ or process (Sec. 118.121, Local Government Code) . . . $5 per page;

(D) certified copy of court papers (Secs. 118.121 and 118.1235, Local Government Code) . . . $2 for first page; $0.25 for each additional page; and

(E) issuing other document (no return required)

(Sec. 118.121, Local Government Code) . . . $1 for first page; $0.25 for each additional page. [~~;~~]

(b) A justice of the peace shall collect the following fees under the Civil Practice and Remedies Code:

(1) [~~(3)~~] court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(2) [~~(4)~~] monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid; and

(3) [~~(5)~~] the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious

or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding.

SECTION 7.108. Section 101.181, Government Code, as amended by Chapters 37, 296, and 737, Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

Sec. 101.181. MUNICIPAL COURTS OF RECORD FEES AND COSTS. The clerk of a municipal court of record shall collect the following fees and costs:

(1) from an appellant, a fee for preparation of the clerk's record (Sec. 30.00014, Government Code) . . . $25;

(2) from an appellant in the City of El Paso, an appellate court docket fee (Sec. 30.00147, Government Code) . . . $25; and

(3) the cost of a special program that a court may order a child to attend after finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program, not to exceed $100.

SECTION 7.109. (a) Subchapter B, Chapter 102, Government Code, is amended by reenacting and amending Section 102.021, as amended by Chapters 296, 992, and 1360, Acts of the 79th Legislature, Regular Session, 2005, and adding Sections 102.0211 through 102.0214 to read as follows:

Sec. 102.021. COURT COSTS ON CONVICTION: CODE OF CRIMINAL

PROCEDURE. A person convicted of an offense shall pay the following under the Code of Criminal Procedure, in addition to all other costs:

(1) court cost on conviction of any offense, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Art. 102.0045, Code of Criminal Procedure) . . . $4 [~~court costs on conviction of a felony (Sec. 133.102, Local Government Code) . . . $133~~];

(2) [~~court costs on conviction of a Class A or Class B misdemeanor (Sec. 133.102, Local Government Code) . . . $83;~~

[~~(3) court costs on conviction of a nonjailable misdemeanor offense, including a criminal violation of a municipal ordinance, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Sec. 133.102, Local Government Code) . . . $40;~~

[~~(4) court costs on certain convictions in statutory county courts (Sec. 51.702, Government Code) . . . $15;~~

[~~(5) court costs on certain convictions in certain county courts (Sec. 51.703, Government Code) . . . $15;~~

[~~(6) a time payment fee if convicted of a felony or misdemeanor for paying any part of a fine, court costs, or restitution on or after the 31st day after the date on which a judgment is entered assessing the fine, court costs, or restitution (Sec. 133.103, Local Government Code) . . . $25;~~

[~~(7)~~] a fee for services of prosecutor (Art. 102.008, Code of Criminal Procedure) . . . $25;

(3) [~~(8)~~] fees for services of peace officer:

(A) issuing a written notice to appear in court for certain violations (Art. 102.011, Code of Criminal Procedure) . . . $5;

(B) executing or processing an issued arrest warrant or capias (Art. 102.011, Code of Criminal Procedure) . . . $50;

(C) summoning a witness (Art. 102.011, Code of Criminal Procedure) . . . $5;

(D) serving a writ not otherwise listed (Art. 102.011, Code of Criminal Procedure) . . . $35;

(E) taking and approving a bond and, if necessary, returning the bond to courthouse (Art. 102.011, Code of Criminal Procedure) . . . $10;

(F) commitment or release (Art. 102.011, Code of Criminal Procedure) . . . $5;

(G) summoning a jury (Art. 102.011, Code of Criminal Procedure) . . . $5;

(H) attendance of a prisoner in habeas corpus case if prisoner has been remanded to custody or held to bail (Art. 102.011, Code of Criminal Procedure) . . . $8 each day;

(I) mileage for certain services performed (Art. 102.011, Code of Criminal Procedure) . . . $0.29 per mile; and

(J) services of a sheriff or constable who serves process and attends examining trial in certain cases (Art. 102.011, Code of Criminal Procedure) . . . not to exceed $5;

(4) [~~(9)~~] services of a peace officer in conveying a witness outside the county (Art. 102.011, Code of Criminal

Procedure) . . . $10 per day or part of a day, plus actual necessary travel expenses;

(5) [~~(10)~~] overtime of peace officer for time spent testifying in the trial or traveling to or from testifying in the trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;

(6) [~~(11)~~] court costs on an offense relating to rules of the road, when offense occurs within a school crossing zone (Art. 102.014, Code of Criminal Procedure) . . . $25;

(7) [~~(12)~~] court costs on an offense of passing a school bus (Art. 102.014, Code of Criminal Procedure) . . . $25;

(8) [~~(13)~~] court costs on an offense of truancy or contributing to truancy (Art. 102.014, Code of Criminal Procedure) . . . $20;

(9) [~~(14)~~] cost for visual recording of intoxication arrest before conviction (Art. 102.018, Code of Criminal Procedure) . . . $15;

(10) [~~(15)~~] cost of certain evaluations (Art. 102.018, Code of Criminal Procedure) . . . actual cost;

(11) [~~(16)~~] additional costs attendant to certain intoxication convictions under Chapter 49, Penal Code, for emergency medical services, trauma facilities, and trauma care systems (Art. 102.0185, Code of Criminal Procedure) . . . $100;

(12) [~~(16-a)~~] additional costs attendant to certain child sexual assault and related convictions, for child abuse prevention programs (Art. 102.0186, Code of Criminal Procedure) . . . $100;

(13) [~~(17)~~] cost for DNA testing for certain felonies

(Art. 102.020, Code of Criminal Procedure) . . . $250;

(14) [~~(18)~~] court cost on an offense of public lewdness or indecent exposure (Art. 102.020, Code of Criminal Procedure) . . . $50;

(15) if required by the court, a restitution fee for costs incurred in collecting restitution installments and for the compensation to victims of crime fund (Art. 42.037, Code of Criminal Procedure) . . . $12; and

(16) if directed by the justice of the peace or municipal court judge hearing the case, court costs on conviction in a criminal action (Art. 45.041, Code of Criminal Procedure) . . . part or all of the costs as directed by the judge.

Sec. 102.0211. COURT COSTS ON CONVICTION: GOVERNMENT CODE. A person convicted of an offense shall pay the following under the Government Code, in addition to all other costs:

(1) court costs on certain convictions in statutory county courts (Sec. 51.702, Government Code) . . . $15; and

(2) court costs on certain convictions in certain county courts (Sec. 51.703, Government Code) . . . $15.

Sec. 102.0212. COURT COSTS ON CONVICTION: LOCAL GOVERNMENT CODE. A person convicted of an offense shall pay the following under the Local Government Code, in addition to all other costs:

(1) court costs on conviction of a felony (Sec. 133.102, Local Government Code) . . . $133;

(2) court costs on conviction of a Class A or Class B misdemeanor (Sec. 133.102, Local Government Code) . . . $83;

(3) court costs on conviction of a nonjailable

misdemeanor offense, including a criminal violation of a municipal ordinance, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Sec. 133.102, Local Government Code) . . . $40;

(4) a time payment fee if convicted of a felony or misdemeanor for paying any part of a fine, court costs, or restitution on or after the 31st day after the date on which a judgment is entered assessing the fine, court costs, or restitution (Sec. 133.103, Local Government Code) . . . $25; and

(5) a cost on conviction of any offense, other than an offense relating to a pedestrian or the parking of a motor vehicle (Sec. 133.105, Local Government Code) . . . $4.

Sec. 102.0213. COURT COSTS ON CONVICTION: TRANSPORTATION CODE. A person convicted of an offense shall pay the following under the Transportation Code, in addition to all other costs:

(1) [~~(19)~~] court cost on conviction of a misdemeanor under Subtitle C, Title 7, Transportation Code (Sec. 542.403, Transportation Code) . . . $3;

(2) [~~(20)~~] cost for impoundment of vehicle (Sec. 601.263, Transportation Code) . . . $15 per day; and

(3) [~~(21)~~] a civil and criminal enforcement cost on conviction of an offense of, or related to, the nonpayment of a toll in certain counties (Sec. 284.2031, Transportation Code) . . . $1.[~~;~~]

Sec. 102.0214. COURT COSTS ON CONVICTION: PARKS AND WILDLIFE CODE. A person convicted of an offense shall pay under Section 12.110, Parks and Wildlife Code, in addition to all other

costs, [~~(22) if directed by the justice of the peace or municipal court judge hearing the case, court costs on conviction in a criminal action (Art. 45.041, Code of Criminal Procedure) . . . part or all of the costs as directed by the judge;~~

[~~(22)~~] the actual cost of any storage, care, feeding, cold storage, or processing necessary for an unlawfully taken, shipped, or possessed game bird, fowl, animal, game fish, or exotic animal [~~(Sec. 12.110, Parks and Wildlife Code) . . . actual cost; and~~

[~~(22) court cost on conviction of any offense, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Art. 102.0045, Code of Criminal Procedure) . . . $4~~].

(b) Section 102.022, Government Code, is repealed.

SECTION 7.110. Subchapter C, Chapter 102, Government Code, is amended by amending Section 102.041 and adding Section 102.042 to read as follows:

Sec. 102.041. ADDITIONAL COURT COSTS ON CONVICTION IN DISTRICT COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a district court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $20;

(2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . $40;

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . $25;

(4) a security fee on a felony offense (Art. 102.017, Code of Criminal Procedure) . . . $5;

(5) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $3; and

(6) a graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . $5. [~~; and~~]

Sec. 102.042. ADDITIONAL COURT COSTS ON CONVICTION IN DISTRICT COURT: HUMAN RESOURCES CODE. The clerk of a district court shall collect from a defendant [~~(7)~~] a court cost of $4 under Section 152.0522, Human Resources Code, on conviction in Comal County [~~(Sec. 152.0522, Human Resources Code) . . . $4~~].

SECTION 7.111. Subchapter D, Chapter 102, Government Code, is amended by reenacting and amending Section 102.061, as amended by Chapters 804 and 949, Acts of the 79th Legislature, Regular Session, 2005, and adding Section 102.062 to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $20;

(2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . $40;

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . $25;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $3;

(5) a graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . $5; and

(6) [~~a court cost on conviction in Comal County (Sec. 152.0522, Human Resources Code) . . . $4.~~

[~~(7)~~] a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed $5.

Sec. 102.062. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: HUMAN RESOURCES CODE. The clerk of a statutory county court shall collect from a defendant a court cost of $4 under Section 152.0522, Human Resources Code, on conviction in Comal County.

SECTION 7.112. Section 102.081, Government Code, is amended to read as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $20;

(2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . $40;

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . $25;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $3;

(5) a graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . $5; and

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed $5.

SECTION 7.113. Subchapter F, Chapter 102, Government Code, is amended by reenacting and amending Section 102.101, as amended by Chapters 240 and 949, Acts of the 79th Legislature, Regular Session, 2005, and adding Sections 102.102 and 102.103 to read as follows:

Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $3;

(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . $3;

(3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of $3;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $4 [~~$3~~];

(5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . $4;

(6) [~~a court cost on conviction in Comal County (Sec. 152.0522, Human Resources Code) . . . $1.50; and~~

[~~(7)~~] a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed $5;

(7) a fee on conviction of certain offenses involving

issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed $30; and

(8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed $7.

Sec. 102.102. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: BUSINESS & COMMERCE CODE. The clerk of a justice court shall collect from a defendant a court cost not to exceed $30 under Section 3.506, Business & Commerce Code, on conviction of certain offenses involving issuing or passing a subsequently dishonored check.

Sec. 102.103. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: HUMAN RESOURCES CODE. A clerk of a justice court shall collect from a defendant a court cost of $1.50 under Section 152.0522, Human Resources Code, on conviction in Comal County.

SECTION 7.114. Section 102.121, Government Code, is amended to read as follows:

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court shall collect fees and costs on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $3;

(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . $3;

(3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of $3;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $3;

(5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed $4; and

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed $5.

SECTION 7.115. Subchapter H, Chapter 102, Government Code, is amended by amending Section 102.141 and adding Section 102.142 to read as follows:

Sec. 102.141. ADDITIONAL COURT COSTS IN MUNICIPAL COURT OF RECORD: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court of record shall collect [~~the following fees and costs:~~

[~~(1)~~] from a defendant on conviction of a misdemeanor offense[~~,~~] a fee of not more than $4 under Article 102.0172, Code of Criminal Procedure, for the technology fund. [~~on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed $4,~~]

Sec. 102.142. ADDITIONAL COURT COSTS IN MUNICIPAL COURT OF RECORD: GOVERNMENT CODE. The clerk of a municipal court of record shall collect the following fees and costs:

(1) [~~(2)~~] from an appellant, a fee for preparation of the clerk's record (Sec. 30.00014, Government Code) . . . $25; and

(2) [~~(3)~~] from an appellant in the City of El Paso, an appellate court docket fee (Sec. 30.00147, Government Code) . . .

$25.

SECTION 7.116. Subchapter B, Chapter 103, Government Code, is amended by amending Section 103.021, reenacting and amending Section 103.022, as amended by Chapters 296 and 992, Acts of the 79th Legislature, Regular Session, 2005, and adding Sections 103.0211 through 103.0215 and 103.023 through 103.033 to read as follows:

Sec. 103.021. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: CODE OF CRIMINAL PROCEDURE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Code of Criminal Procedure if ordered by the court or otherwise required:

(1) a personal bond fee (Art. 17.42, Code of Criminal Procedure) . . . the greater of $20 or three percent of the amount of the bail fixed for the accused;

(2) cost of electronic monitoring as a condition of release on personal bond (Art. 17.43, Code of Criminal Procedure) . . . actual cost;

(3) a fee for verification of and monitoring of motor vehicle ignition interlock (Art. 17.441, Code of Criminal Procedure) . . . not to exceed $10;

(4) repayment of reward paid by a crime stoppers organization on conviction of a felony (Art. 37.073, Code of Criminal Procedure) . . . amount ordered;

(5) reimbursement to general revenue fund for payments made to victim of an offense as condition of community supervision (Art. 42.12, Code of Criminal Procedure) . . . not to exceed $50 for

a misdemeanor offense or $100 for a felony offense;

(6) payment to a crime stoppers organization as condition of community supervision (Art. 42.12, Code of Criminal Procedure) . . . not to exceed $50;

(7) children's advocacy center fee (Art. 42.12, Code of Criminal Procedure) . . . not to exceed $50;

(8) family violence shelter center fee (Art. 42.12, Code of Criminal Procedure) . . . not to exceed $100;

(9) community supervision fee (Art. 42.12, Code of Criminal Procedure) . . . not less than $25 or more than $60 per month;

(10) additional community supervision fee for certain offenses (Art. 42.12, Code of Criminal Procedure) . . . $5 per month;

(11) for certain financially able sex offenders as a condition of community supervision, the costs of treatment, specialized supervision, or rehabilitation (Art. 42.12, Code of Criminal Procedure) . . . all or part of the reasonable and necessary costs of the treatment, supervision, or rehabilitation as determined by the judge;

(12) fee for failure to appear for trial in a justice or municipal court if a jury trial is not waived (Art. 45.026, Code of Criminal Procedure) . . . costs incurred for impaneling the jury;

(13) costs of certain testing, assessments, or programs during a deferral period (Art. 45.051, Code of Criminal Procedure) . . . amount ordered;

(14) special expense on dismissal of certain misdemeanor complaints (Art. 45.051, Code of Criminal Procedure) . . . not to exceed amount of fine assessed;

(15) an additional fee:

(A) for a copy of the defendant's driving record to be requested from the Department of Public Safety by the judge (Art. 45.0511(c-1), Code of Criminal Procedure) . . . $10;

(B) as an administrative fee for requesting a driving safety course or a course under the motorcycle operator training and safety program for certain traffic offenses to cover the cost of administering the article (Art. 45.0511(f)(1), Code of Criminal Procedure) . . . not to exceed $10; or

(C) [~~(B)~~] for requesting a driving safety course or a course under the motorcycle operator training and safety program before the final disposition of the case (Art. 45.0511(f)(2), Code of Criminal Procedure) . . . not to exceed the maximum amount of the fine for the offense committed by the defendant;

(16) a request fee for teen court program (Art. 45.052, Code of Criminal Procedure) . . . not to exceed $10;

(17) a fee to cover costs of required duties of teen court (Art. 45.052, Code of Criminal Procedure) . . . $10;

(18) a mileage fee for officer performing certain services (Art. 102.001, Code of Criminal Procedure) . . . $0.15 per mile;

(19) certified mailing of notice of hearing date (Art. 102.006, Code of Criminal Procedure) . . . $1, plus postage;

(20) certified mailing of certified copies of an order of expunction (Art. 102.006, Code of Criminal Procedure) . . . $2, plus postage;

(20-a) a fee to defray the cost of notifying state agencies of orders of expungement (Art. 45.0216, Code of Criminal Procedure) . . . $30 per application;

(20-b) a fee to defray the cost of notifying state agencies of orders of expunction (Art. 45.055, Code of Criminal Procedure) . . . $30 per application;

[~~(20-c) a fee to defray the cost of notifying state agencies of orders of expungement (Sec. 106.12, Alcoholic Beverage Code) . . . $30 per application;~~

[~~(20-d) a fee to defray the cost of notifying state agencies of orders of expungement (Sec. 161.255, Health and Safety Code) . . . $30 per application;~~]

(21) sight orders:

(A) if the face amount of the check or sight order does not exceed $10 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed $10;

(B) if the face amount of the check or sight order is greater than $10 but does not exceed $100 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed $15;

(C) if the face amount of the check or sight order is greater than $100 but does not exceed $300 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed $30;

(D) if the face amount of the check or sight order is greater than $300 but does not exceed $500 (Art. 102.007, Code of

Criminal Procedure) . . . not to exceed $50; and

(E) if the face amount of the check or sight order is greater than $500 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed $75;

(22) fees for a pretrial intervention program (Art. 102.012, Code of Criminal Procedure) . . . not to exceed $60 a month plus expenses;

(23) parking fee violations for child safety fund in municipalities with populations:

(A) greater than 850,000 (Art. 102.014, Code of Criminal Procedure) . . . not less than $2 and not to exceed $5; and

(B) less than 850,000 (Art. 102.014, Code of Criminal Procedure) . . . not to exceed $5;

(24) an administrative fee for collection of fines, fees, restitution, or other costs (Art. 102.072, Code of Criminal Procedure) . . . not to exceed $2 for each transaction; and

(25) a collection fee, if authorized by the commissioners court of a county or the governing body of a municipality, for certain debts and accounts receivable, including unpaid fines, fees, court costs, forfeited bonds, and restitution ordered paid (Art. 103.0031, Code of Criminal Procedure) . . . 30 percent of an amount more than 60 days past due.

Sec. 103.0211. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: GOVERNMENT CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Government Code if ordered by the court or otherwise required:

(1) [~~(25)~~] a court reporter fee when testimony is taken:

(A) in a criminal court in Dallas County (Sec. 25.0593, Government Code) . . . $3;

(B) in a county criminal court of appeals in Dallas County (Sec. 25.0594, Government Code) . . . $3;

(C) in a county court at law in McLennan County (Sec. 25.1572, Government Code) . . . $3; and

(D) in a county criminal court in Tarrant County (Sec. 25.2223, Government Code) . . . $3;

(2) a court reporter service fee if the courts have official court reporters (Sec. 51.601, Government Code) . . . $15;

(3) [~~(26)~~] a speedy trial filing fee in El Paso County (Sec. 54.745, Government Code) . . . $100;

(4) [~~(27)~~] costs for use of magistrate in Brazos County (Sec. 54.1116, Government Code) . . . not to exceed $50;

(5) the costs of a criminal magistrate if the court determines that the nonprevailing party is able to defray the costs:

(A) in Bexar County (Sec. 54.913, Government Code) . . . magistrate's fees;

(B) in Dallas County (Sec. 54.313, Government Code) . . . magistrate's fees;

(C) in Lubbock County (Sec. 54.883, Government Code) . . . magistrate's fees;

(D) in Tarrant County (Sec. 54.663, Government Code) . . . magistrate's fees;

(E) in Travis County (Sec. 54.983, Government Code) . . . magistrate's fees; and

(F) in Williamson County (Sec. 54.958, Government Code) . . . expense of the magistrate;

(6) [~~(28)~~] an administrative fee for participation in certain community supervision programs (Sec. 76.015, Government Code) . . . not less than $25 and not more than $40 per month; and

(7) fee paid on filing a petition for an order of nondisclosure of criminal history record information in certain cases (Sec. 411.081, Government Code) . . . $28.

Sec. 103.0212. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: FAMILY CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Family Code if ordered by the court or otherwise required:

(1) [~~(29)~~] in family matters:

(A) issuing writ of withholding (Sec. 8.262, Family Code) . . . $15;

(B) filing copy of writ of withholding to subsequent employer (Sec. 8.267, Family Code) . . . $15;

(C) issuing and delivering modified writ of withholding or notice of termination (Sec. 8.302, Family Code) . . . $15;

(D) issuing and delivering notice of termination of withholding (Sec. 8.303, Family Code) . . . $15;

(E) issuance of change of name certificate (Sec. 45.106, Family Code) . . . $10;

(F) protective order fee (Sec. 81.003, Family

Code) . . . $16;

(G) filing suit requesting adoption of child (Sec. 108.006, Family Code) . . . $15;

(H) filing fees for suits affecting parent-child relationship (Sec. 110.002, Family Code):

(i) suit or motion for modification (Sec. 110.002, Family Code) . . . $15;

(ii) motion for enforcement (Sec. 110.002, Family Code) . . . $15;

(iii) notice of application for judicial writ of withholding (Sec. 110.002, Family Code) . . . $15;

(iv) motion to transfer (Sec. 110.002, Family Code) . . . $15;

(v) petition for license suspension (Sec. 110.002, Family Code) . . . $15;

(vi) motion to revoke a stay of license suspension (Sec. 110.002, Family Code) . . . $15; and

(vii) motion for contempt (Sec. 110.002, Family Code) . . . $15;

(I) order or writ of income withholding to be delivered to employer (Sec. 110.004, Family Code) . . . not to exceed $15;

(J) filing fee for transferred case (Sec. 110.005, Family Code) . . . $45;

(K) filing a writ of withholding (Sec. 158.319, Family Code) . . . $15;

(L) filing a request for modified writ of

withholding or notice of termination (Sec. 158.403, Family Code) . . . not to exceed $15;

(M) filing an administrative writ to employer (Sec. 158.503, Family Code) . . . not to exceed $15; and

(N) genetic testing fees in relation to a child born to a gestational mother (Sec. 160.762, Family Code) . . . as assessed by the court; and

(2) [~~(30)~~] in juvenile court:

(A) fee schedule for deferred prosecution services (Sec. 53.03, Family Code) . . . maximum fee of $15 a month;

(B) a teen court administration fee (Sec. 54.032, Family Code) . . . not to exceed $10;

(C) court costs for juvenile probation diversion fund (Sec. 54.0411, Family Code) . . . $20;

(D) a juvenile delinquency prevention fee (Sec. 54.0461, Family Code) . . . $5; and

(E) a court fee for child's probationary period (Sec. 54.061, Family Code) . . . not to exceed $15 a month. [~~;~~]

Sec. 103.0213. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: TRANSPORTATION CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Transportation Code if ordered by the court or otherwise required:

(1) [~~(31) a court reporter service fee if the courts have official court reporters (Sec. 51.601, Government Code) . . . $15;~~

[~~(32)~~] administrative fee on dismissal of charge of

driving with an expired motor vehicle registration (Sec. 502.407, Transportation Code) . . . not to exceed $10;

(2) [~~(33)~~] administrative fee on dismissal of charge of driving with an expired driver's license (Sec. 521.026, Transportation Code) . . . not to exceed $10;

(3) [~~(34)~~] administrative fee on remediation of charge of driving with an expired inspection certificate (Sec. 548.605, Transportation Code) . . . not to exceed $10;

(4) [~~(35)~~] administrative fee for failure to appear for a complaint or citation on certain offenses (Sec. 706.006, Transportation Code) . . . $30 for each violation; and

(5) [~~(36)~~] administrative fee for failure to pay or satisfy certain judgments (Sec. 706.006, Transportation Code) . . . $30. [~~;~~]

Sec. 103.0214. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: HEALTH AND SAFETY CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Health and Safety Code if ordered by the court or otherwise required:

(1) a fee to defray the cost of notifying state agencies of orders of expungement (Sec. 161.255, Health and Safety Code) . . . $30 per application; and

(2) [~~(37) fee paid on filing a petition for an order of nondisclosure of criminal history record information in certain cases (Sec. 411.081, Government Code) . . . $28;~~

[~~(38)~~] on a finding that an animal's owner has cruelly treated the animal, court costs including:

(A) investigation (Sec. 821.023, Health and Safety Code) . . . actual costs;

(B) expert witnesses (Sec. 821.023, Health and Safety Code) . . . actual costs;

(C) housing and caring for the animal during its impoundment (Sec. 821.023, Health and Safety Code) . . . actual costs;

(D) conducting any public sale ordered by the court (Sec. 821.023, Health and Safety Code) . . . actual costs; and

(E) humanely destroying the animal if destruction is ordered by the court (Sec. 821.023, Health and Safety Code) . . . actual costs[~~;~~

[~~(39) the costs of a criminal magistrate if the court determines that the nonprevailing party is able to defray the costs:~~

[~~(A) in Bexar County (Sec. 54.913, Government Code) . . . magistrate's fees;~~

[~~(B) in Dallas County (Sec. 54.313, Government Code) . . . magistrate's fees;~~

[~~(C) in Lubbock County (Sec. 54.883, Government Code) . . . magistrate's fees;~~

[~~(D) in Tarrant County (Sec. 54.663, Government Code) . . . magistrate's fees;~~

[~~(E) in Travis County (Sec. 54.983, Government Code) . . . magistrate's fees; and~~

[~~(F) in Williamson County (Sec. 54.958,~~

~~Government Code) . . . expense of the magistrate; and~~

[~~(40) a collection fee, if authorized by the commissioners court of a county or the governing body of a municipality, for certain debts and accounts receivable, including unpaid fines, fees, court costs, forfeited bonds, and restitution ordered paid (Art. 103.0031, Code of Criminal Procedure) . . . 30 percent of an amount more than 60 days past due~~].

Sec. 103.0215. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: ALCOHOLIC BEVERAGE CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay a fee under Section 106.12, Alcoholic Beverage Code, of $30 per application to defray the cost of notifying state agencies of orders of expungement.

Sec. 103.022. MISCELLANEOUS FEES AND COSTS: BUSINESS ORGANIZATIONS CODE. A reasonable appraiser's fee [~~The following fees and costs~~] shall be paid or collected as court costs under Section 10.365, Business Organizations Code, for determining the fair value of ownership interests of owners who have perfected their rights.

Sec. 103.023. MISCELLANEOUS FEES AND COSTS: CIVIL PRACTICE AND REMEDIES CODE. Fees and costs shall be paid or collected under the Civil Practice and Remedies Code as follows:

(1) fee for use of an interpreter in civil cases (Sec. 21.051, Civil Practice and Remedies Code) . . . $3;

(2) fee for custodian of a record compelled by a court to produce or certify the record (Sec. 22.004, Civil Practice and Remedies Code) . . . $1;

(3) cost for use of certified copy of the record of names of all trustees appointed by any state organization of a religious congregation in this state (Sec. 126.012, Civil Practice and Remedies Code) . . . $1.50; and

(4) a witness's fee for one day to be paid by the party who subpoenas the witness (Sec. 22.001, Civil Practice and Remedies Code) . . . $10.

Sec. 103.024. MISCELLANEOUS FEES AND COSTS: CODE OF CRIMINAL PROCEDURE. Fees and costs shall be paid or collected under the Code of Criminal Procedure as follows:

(1) [~~(4)~~] filing of a restitution lien (Art. 42.22, Code of Criminal Procedure) . . . $5;

(2) [~~(5)~~] issuance and service of a warrant of arrest for certain offenses if prescribed by the municipality (Art. 45.203, Code of Criminal Procedure) . . . not to exceed $25; and

(3) a fee for each agency or organization designated by a registered sex offender for receipt of a copy of an order making the registration nonpublic (Sec. 62.353, Code of Criminal Procedure) . . . $20.

Sec. 103.025. MISCELLANEOUS FEES AND COSTS: EDUCATION CODE. Each party in a case between a juvenile board and a school district that fail to agree on a memorandum of understanding related to the juvenile justice alternative education program shall pay under Section 37.011, Education Code, its pro rata share of the costs of arbitration.

Sec. 103.026. MISCELLANEOUS FEES AND COSTS: FAMILY CODE. Fees and costs shall be paid or collected under the Family Code as

follows:

(1) [~~(6) filing a certified copy of a judicial finding of fact and conclusion of law if charged by the secretary of state (Sec. 51.905, Government Code) . . . $15;~~

[~~(7)~~] costs of determining and sending information concerning the identity of the court with continuing, exclusive jurisdiction if charged by the bureau of vital statistics (Sec. 108.006, Family Code) . . . reasonable fee;

(2) [~~(8)~~] initial operations fee paid to domestic relations office on filing of a suit affecting the parent-child relationship, if authorized by the administering entity (Sec. 203.005, Family Code) . . . not to exceed $15;

(3) [~~(9)~~] initial child support service fee paid to domestic relations office in certain counties on filing of a suit affecting the parent-child relationship, if authorized by the administering entity (Sec. 203.005, Family Code) . . . not to exceed $36;

(4) [~~(10)~~] service fee for services of a domestic relations office, if authorized by the administering entity (Sec. 203.005, Family Code) . . . not to exceed $3 per month;

(5) fee to reimburse a domestic relations office for a fee paid for filing an administrative writ of withholding (Secs. 158.503 and 203.005, Family Code) . . . the amount of the fee paid;

(6) [~~(11)~~] fee from a Title IV-D agency for each item of process to each individual on whom service is required, including service by certified or registered mail (Sec. 231.202, Family Code) . . . the amount that a sheriff or constable may charge

for serving process under Section 118.131, Local Government Code; and

(7) a fee for mailing an order vacating or staying an order suspending a license to the appropriate licensing authority (Sec. 232.013, Family Code) . . . $5 for each order mailed.

Sec. 103.027. MISCELLANEOUS FEES AND COSTS: GOVERNMENT CODE. Fees and costs shall be paid or collected under the Government Code as follows:

(1) filing a certified copy of a judicial finding of fact and conclusion of law if charged by the secretary of state (Sec. 51.905, Government Code) . . . $15;

(2) cost paid by each surety posting the bail bond for an offense other than a misdemeanor punishable by fine only under Chapter 17, Code of Criminal Procedure, for the felony prosecutor supplement fund and the fair defense account (Sec. 41.258, Government Code) . . . $15, provided the cost does not exceed $30 for all bail bonds posted at that time for an individual and the cost is not required on the posting of a personal or cash bond;

(3) to participate in a court proceeding in this state, a nonresident attorney fee for civil legal services to the indigent (Sec. 82.0361, Government Code) . . . $250 except as waived or reduced under supreme court rules for representing an indigent person;

(4) on a party's appeal of a final decision in a contested case, the cost of preparing the original or a certified copy of the record of the agency proceeding, if required by the agency's rule, as a court cost (Sec. 2001.177, Government Code)

. . . as assessed by the court, all or part of the cost of preparation;

(5) compensation to a referee in juvenile court in Wichita County taxed as costs if the judge determines the parties are able to pay the costs (Sec. 54.403, Government Code) . . . as determined by the judge; and

(6) the expense of preserving the record as a court cost in Brazos County if imposed on a party by the referring court or magistrate (Sec. 54.1111, Government Code) . . . actual cost.

Sec. 103.028. MISCELLANEOUS FEES AND COSTS: HUMAN RESOURCES CODE. Fees and costs shall be paid or collected under the Human Resources Code as follows:

(1) [~~(12)~~] certain transactions with respect to a suit for spousal support or a suit affecting the parent-child relationship in Harris County, if authorized by the county commissioners court (Sec. 152.1074, Human Resources Code) . . . not to exceed $2 per transaction; and

(2) [~~(13)~~] child support service fee in Smith County if court allows assessment by child support office (Sec. 152.2183, Human Resources Code) . . . not to exceed $2.50 a month. [~~;~~]

Sec. 103.029. MISCELLANEOUS FEES AND COSTS: HEALTH AND SAFETY CODE. Fees and costs shall be paid or collected under the Health and Safety Code as follows:

(1) a program fee for a drug court program established under Section 469.002, Health and Safety Code (Sec. 469.004, Health and Safety Code) . . . not to exceed $1,000; and

(2) a urinalysis testing and counseling fee (Sec.

469.004, Health and Safety Code) . . . the amount necessary to cover the costs of testing and counseling.

Sec. 103.030. MISCELLANEOUS FEES AND COSTS: LOCAL GOVERNMENT CODE. Fees and costs shall be paid or collected under the Local Government Code as follows:

(1) [~~(14)~~] services by the offices of the sheriff and constables (Sec. 118.131, Local Government Code) . . . amount set by county commissioners court;

[~~(15) cost paid by each surety posting the bail bond for an offense other than a misdemeanor punishable by fine only under Chapter 17, Code of Criminal Procedure, for the felony prosecutor supplement fund and the fair defense account (Sec. 41.258, Government Code) . . . $15, provided the cost does not exceed $30 for all bail bonds posted at that time for an individual and the cost is not required on the posting of a personal or cash bond;~~

[~~(16) appraiser's fee as court costs for determining the fair value of ownership interests of owners who have perfected their rights (Sec. 10.365, Business Organizations Code) . . . a reasonable fee;~~

[~~(16-a) an appraiser's fee as court costs for determining the fair value of the shares of the shareholders entitled to payment for their shares in a real estate investment trust (Sec. 25.20, Art. 6138A, Vernon's Texas Civil Statutes) . . . a reasonable fee;~~

[~~(16-b) an appraiser's fee as court costs for determining the fair value of the shares of the shareholders~~

~~entitled to payment for their shares by the existing, surviving, or new corporation (Art. 5.12, Texas Business Corporation Act) . . . a reasonable fee;~~

[~~(17) to participate in a court proceeding in this state, a nonresident attorney fee for civil legal services to the indigent (Sec. 82.0361, Government Code) . . . $250 except as waived or reduced under supreme court rules for representing an indigent person;~~

[~~(18) costs of investigation, reasonable attorney's fees, and reasonable expert witness fees in a civil suit or a criminal prosecution for recovery of the value of any fish, shellfish, reptile, amphibian, bird, or animal (Sec. 12.308, Parks and Wildlife Code) . . . actual costs.~~

[~~(18) a witness's fee for one day to be paid by the party who subpoenas the witness (Sec. 22.001, Civil Practice and Remedies Code) . . . $10;~~

[~~(19) on a party's appeal of a final decision in a contested case, the cost of preparing the original or a certified copy of the record of the agency proceeding, if required by the agency's rule, as a court cost (Sec. 2001.177, Government Code) . . . as assessed by the court, all or part of the cost of preparation;~~

[~~(20) the costs of arbitration in cases between a juvenile board and a school district that fail to agree on a memorandum of understanding related to the juvenile justice alternative education program (Sec. 37.011, Education Code) . . . each party its pro rata share of the costs;~~

[~~(21) compensation to a referee in juvenile court in Wichita County taxed as costs if the judge determines the parties are able to pay the costs (Sec. 54.403, Government Code) . . . as determined by the judge;~~

[~~(22) the expense of preserving the record as a court cost in Brazos County if imposed on a party by the referring court or magistrate (Sec. 54.1111, Government Code) . . . actual cost;~~]

(2) [~~(23)~~] a filing fee or recording fee for each page of a legal paper presented for filing or recording that fails to meet certain requirements regarding paper size, weight, substance, headings, legibility, the presence of typed or printed names under each signature, and number and size of riders or attachments (Sec. 191.007, Local Government Code) . . . twice the regular filing fee or recording fee provided by statute for that page, rider, or attachment;

(3) [~~(24)~~] a processing fee as authorized by the commissioners court for the payment by credit card of a fee, court cost, or other charge processed by a county or precinct officer (Secs. 132.002 and 132.003, Local Government Code) . . . an amount reasonably related to the expense incurred by the county or precinct officer but not to exceed five percent of the amount of the fee, court cost, or other charge being paid;

(4) [~~(25)~~] a processing fee as authorized by the governing body of the municipality for the payment by credit card of a fee, court cost, or other charge processed by a municipal official (Secs. 132.002 and 132.003, Local Government Code) . . . an amount reasonably related to the expense incurred by the municipal

official but not to exceed five percent of the amount of the fee, court cost, or other charge being paid;

(5) [~~(26)~~] a handling fee, if authorized by the commissioners court under Section 132.002, Local Government Code, for electronically processing the payment of a fee, fine, court cost, or other charge (Secs. 132.002 and 132.003, Local Government Code):

(A) charged at a flat rate that does not exceed $5 for each payment transaction; or

(B) charged at a rate reasonably related to the expense incurred in processing a payment and that does not exceed five percent of the amount of the fee, court cost, or other charge being paid;

(6) [~~(27)~~] a fee, if authorized by the commissioners court, collected by a county or precinct officer on behalf of the county from a person making payment by credit card of a fee, court cost, or other charge (Sec. 132.003, Local Government Code) . . . an amount equal to the amount of any transaction fee charged to the county by a vendor providing services in connection with payments made by credit card. [~~;~~]

Sec. 103.031. MISCELLANEOUS FEES AND COSTS: PARKS AND WILDLIFE CODE. The actual costs of investigation, reasonable attorney's fees, and reasonable expert witness fees in a civil suit or a criminal prosecution for recovery of the value of any fish, shellfish, reptile, amphibian, bird, or animal may be collected under Section 12.308, Parks and Wildlife Code.

Sec. 103.032. MISCELLANEOUS FEES AND COSTS: TEXAS BUSINESS

CORPORATION ACT. A reasonable appraiser's fee may be collected under Article 5.12, Texas Business Corporation Act, as court costs for determining the fair value of the shares of the shareholders entitled to payment for their shares by the existing, surviving, or new corporation.

Sec. 103.033. MISCELLANEOUS FEES AND COSTS: VERNON'S TEXAS CIVIL STATUTES. Fees and costs shall be paid or collected under Vernon's Texas Civil Statutes as follows:

(1) an appraiser's fee as court costs for determining the fair value of the shares of the shareholders entitled to payment for their shares in a real estate investment trust (Sec. 25.20, Art. 6138A, Vernon's Texas Civil Statutes) . . . a reasonable fee; and

(2) [~~(28)~~] a fee for sale of securities under an offering that has not been registered, if the transaction or securities are not exempt (Art. 581-35-2, Vernon's Texas Civil Statutes) . . . as set by the securities commissioner or court, but not to exceed six times the amount that would have been paid if the issuer had filed an application to register the securities and paid the fee prescribed based on the amount of sales made in this state within the prior three years, plus interest on that amount from the date of the first sale made in this state until the date the fee is paid[~~, and~~

[~~(29) a fee for mailing an order vacating or staying an order suspending a license to the appropriate licensing authority (Sec. 232.013, Family Code) . . . . $5 for each order mailed~~].

SECTION 7.117. Subchapter I, Chapter 102, Government Code, 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.

(d) The commission may not control or prohibit outdoor burning of waste consisting of trees, brush, grass, leaves, branch trimmings, or other plant growth if:

(1) the person burning the waste is doing so at a site:

(A) designated for consolidated burning of waste generated from specific residential properties;

(B) located in a county with a population of less than 50,000;

(C) located outside of a municipality; and

(D) supervised at the time of the burning by an employee of a fire department who is part of the fire protection personnel, as defined by Section 419.021, Government Code, of the department and is acting in the scope of the person's employment; and

(2) the waste was generated from a property for which the site is designated.

(e) A fire department employee who will supervise a burning under Subsection (d)(1)(D) shall notify the commission of each burning supervised by the employee, and the commission shall provide the employee with information on practical alternatives to burning.

SECTION 8.002. Section 382.133(d), Health and Safety Code, as added by Section 3.02, Chapter 281, Acts of the 79th Legislature, Regular Session, 2005, is repealed to conform to Section 1, Chapter 864, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 8.003. Section 614.0032(b), Health and Safety Code, as amended by Chapters 324 and 1269, Acts of the 79th Legislature,

Regular Session, 2005, is reenacted and amended to read as follows:

(b) The office shall:

(1) [~~,~~] with the special assistance of committee members appointed under Section 614.002(b)(1)[~~, shall~~]:

(A) [~~(1)~~] review examinations to determine the competency of defendants in criminal cases to stand trial and examinations to determine the fitness of children to proceed with respect to adjudications of delinquent conduct or conduct indicating a need for supervision; and

(B) [~~(2)~~] periodically report to the legislature and the court of criminal appeals findings made as a result of the review described by Paragraph (A); and

(2) [~~Subdivision (1)~~] approve and make generally available in electronic format a standard form for use by experts in reporting competency examination results under Chapter 46B, Code of Criminal Procedure.

ARTICLE 9. CHANGES RELATING TO INSURANCE CODE

SECTION 9.001. (a) Section 401.010(a), Insurance Code, is amended to conform to Section 2, Chapter 408, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) An accountant must audit the financial reports provided by an insurer or health maintenance organization for purposes of an audit under this subchapter. The accountant who audits the reports must conduct the audit in accordance with generally accepted auditing standards or with standards adopted by the Public Company Accounting Oversight Board, as applicable, and must consider the standards specified [~~other procedures described~~] in the Financial

Condition Examiner's Handbook adopted by the National Association of Insurance Commissioners or other analagous nationally recognized standards adopted by commissioner rule.

(b) Section 2, Chapter 408, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (b), Section 14, Article 1.15A, Insurance Code, is repealed.

SECTION 9.002. (a) Section 401.011(d), Insurance Code, is amended to conform to Section 1, Chapter 408, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(d) The commissioner may not accept an audited financial report prepared wholly or partly by an individual or firm who the commissioner finds:

(1) has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. Section 1961 et seq.), or a state or federal criminal offense involving dishonest conduct;

(2) has violated the insurance laws of this state with respect to a report filed under this subchapter; [~~or~~]

(3) has demonstrated a pattern or practice of failing to detect or disclose material information in reports filed under this subchapter; or

(4) has directly or indirectly entered into an agreement of indemnity or release of liability regarding an audit of an insurer.

(b) Section 1, Chapter 408, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (c), Section 12, Article 1.15A, Insurance Code, is repealed.

SECTION 9.003. Subchapters A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, and P, Chapter 442, Insurance Code, and Section 6.069, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 3A, Article 21.28, Insurance Code, are repealed to conform to the repeal of Article 21.28, Insurance Code, by Section 9, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 9.004. (a) The following changes are made to Title 1, Insurance Code, and Subtitle C, Title 4, Insurance Code, for organizational purposes:

(1) Chapter 21A, Insurance Code, is redesignated as Chapter 443, Subtitle C, Title 4, Insurance Code, and:

(A) Subchapter A in the redesignated chapter is redesignated as Subchapter A, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.001, 21A.002, 21A.003, 21A.004, 21A.005, 21A.006, 21A.007, 21A.008, 21A.009, 21A.010, 21A.011, 21A.012, 21A.013, 21A.0135, 21A.014, 21A.015, 21A.016, and 21A.017, are redesignated as Sections 443.001, 443.002, 443.003, 443.004, 443.005, 443.006, 443.007, 443.008, 443.009, 443.010, 443.011, 443.012, 443.013, 443.0135, 443.014, 443.015, 443.016, and 443.017, respectively;

(B) Subchapter B in the redesignated chapter is redesignated as Subchapter B, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.051 through 21A.059, are redesignated as Sections 443.051 through 443.059;

(C) Subchapter C in the redesignated chapter is redesignated as Subchapter C, Chapter 443, Insurance Code, and the

sections in the redesignated subchapter, Sections 21A.101 through 21A.105, are redesignated as Sections 443.101 through 443.105;

(D) Subchapter D in the redesignated chapter is redesignated as Subchapter D, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.151 through 21A.156, are redesignated as Sections 443.151 through 443.156;

(E) Subchapter E in the redesignated chapter is redesignated as Subchapter E, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.201 through 21A.213, are redesignated as Sections 443.201 through 443.213;

(F) Subchapter F in the redesignated chapter is redesignated as Subchapter F, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.251 through 21A.261, are redesignated as Sections 443.251 through 443.261;

(G) Subchapter G in the redesignated chapter is redesignated as Subchapter G, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.301 through 21A.304, are redesignated as Sections 443.301 through 443.304;

(H) Subchapter H in the redesignated chapter is redesignated as Subchapter H, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.351 through 21A.355, are redesignated as Sections 443.351 through 443.355; and

(I) Subchapter I in the redesignated chapter is redesignated as Subchapter I, Chapter 443, Insurance Code, and the sections in the redesignated subchapter, Sections 21A.401 and 21A.402, are redesignated as Sections 443.401 and 443.402, respectively; and

(2) Subchapter Q, Chapter 442, Insurance Code, is redesignated as Chapter 444, Insurance Code, the heading of Subchapter Q is amended to read as follows: "CHAPTER 444 [~~SUBCHAPTER Q~~]. AGENCY CONTRACTS WITH CERTAIN INSURERS", and Sections 442.801, 442.802, 442.803, and 442.804 in the redesignated subchapter are redesignated as Sections 444.001, 444.002, 444.003, and 444.004, respectively.

(b) Sections 21A.004(a)(4), (11), (14), (17), and (26), Insurance Code, redesignated as Sections 443.004(a)(4), (11), (14), (17), and (26), Insurance Code, respectively, by Subsection (a)(1)(A) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section and to the recodification and repeal of Articles 21.28-C and 21.28-D, Insurance Code, by Chapter 727, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(4) "Delinquency proceeding" means any proceeding instituted against an insurer for the purpose of liquidating, rehabilitating, or conserving the insurer, and any proceeding under Section 443.051 [~~21A.051~~].

(11) "Guaranty association" means any mechanism mandated by [~~Article 21.28-C or 21.28-D,~~] Chapter 462, 463, or 2602[~~,~~] or other laws of this state or a similar mechanism in another state that is created for the payment of claims or continuation of policy obligations of financially impaired or insolvent insurers.

(14) "Insurer" means any person that has done, purports to do, is doing, or is authorized to do the business of

insurance in this state, and is or has been subject to the authority of or to liquidation, rehabilitation, reorganization, supervision, or conservation by any insurance commissioner. For purposes of this chapter, any other persons included under Section 443.003 [~~21A.003~~] are insurers.

(17) "Party in interest" means the commissioner, a 10 percent or greater equity security holder in the insolvent insurer, any affected guaranty association, any nondomiciliary commissioner for a jurisdiction in which the insurer has outstanding claims liabilities, and any of the following parties that have filed a request for inclusion on the service list under Section 443.007 [~~21A.007~~]:

(A) an insurer that ceded to or assumed business from the insolvent insurer; and

(B) an equity shareholder, policyholder, third-party claimant, creditor, and any other person, including any indenture trustee, with a financial or regulatory interest in the receivership proceeding.

(26) "Secured claim" means any claim secured by an asset that is not a general asset. The term includes the right to set off as provided in Section 443.209 [~~21A.209~~]. The term does not include a claim arising from a constructive or resulting trust, a special deposit claim, or a claim based on mere possession.

(c) Sections 21A.005(e), (h), and (i), Insurance Code, redesignated as Sections 443.005(e), (h), and (i), Insurance Code, respectively, by Subsection (a)(1)(A) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of

this section to read as follows:

(e) If, on motion of any party, the receivership court finds that any action, as a matter of substantial justice, should be tried in a forum outside this state, the receivership court may enter an appropriate order to stay further proceedings on the action in this state. Except as to claims against the estate, nothing in this chapter deprives a party of any contractual right to pursue arbitration. A party in arbitration may bring a claim or counterclaim against the estate, but the claim or counterclaim is subject to Section 443.209 [~~21A.209~~].

(h) At any time after an order is entered pursuant to Section 443.051, 443.101, or 443.151 [~~21A.051, 21A.101, or 21A.151~~], the commissioner or receiver may transfer the case to the county of the principal office of the person proceeded against. In the event of transfer, the court in which the proceeding was commenced, upon application of the commissioner or receiver, shall direct its clerk to transmit the court's file to the clerk of the court to which the case is to be transferred. The proceeding, after transfer, shall be conducted in the same manner as if it had been commenced in the court to which the matter is transferred.

(i) A person may not intervene in any delinquency proceeding in this state for the purpose of seeking or obtaining payment of any judgment, lien, or other claim of any kind. The claims procedure set forth in this chapter constitutes the exclusive means for obtaining payment of claims from the receivership estate. This provision is not intended to affect the rights conferred on the guaranty associations by Section 443.008(1) [~~21A.008(1)~~].

(d) Section 21A.008(e), Insurance Code, redesignated as Section 443.008(e), Insurance Code, by Subsection (a)(1)(A) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(e) Notwithstanding Subsection (c), the commencement of a delinquency proceeding under this chapter does not operate as a stay of:

(1) regulatory actions not described by Subsection (c)(7) that are taken by the commissioners of nondomiciliary states, including the suspension of licenses;

(2) criminal proceedings;

(3) any act to perfect or to maintain or continue the perfection of an interest in property to the extent that the act is accomplished within any relation back period under applicable law;

(4) set off as permitted by Section 443.209 [~~21A.209~~];

(5) pursuit and enforcement of nonmonetary governmental claims, judgments, and proceedings;

(6) presentment of a negotiable instrument and the giving of notice and protesting dishonor of the instrument;

(7) enforcement of rights against single beneficiary trusts established pursuant to and in compliance with laws relating to credit for reinsurance;

(8) termination, liquidation, and netting of obligations under qualified financial contracts as provided for in Section 443.261 [~~21A.261~~];

(9) discharge by a guaranty association of statutory responsibilities under any law governing guaranty associations; or

(10) any of the following actions:

(A) an audit by a governmental unit to determine tax liability;

(B) the issuance to the insurer by a governmental unit of a notice of tax deficiency;

(C) a demand for tax returns; or

(D) the making of an assessment for any tax and issuance of a notice and demand for payment of the assessment.

(e) Section 21A.009(c), Insurance Code, redesignated as Section 443.009(c), Insurance Code, by Subsection (a)(1)(A) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(c) If applicable law, an order, or an agreement fixes a period for commencing or continuing a civil action in a court other than the receivership court on a claim against the insurer, and the period has not expired before the date of the initial filing of the petition in a delinquency proceeding, then the period does not expire until the later of:

(1) the end of the period, including any suspension of the period occurring on or after the filing of the initial petition in the delinquency proceeding; or

(2) 30 days after termination or expiration of the stay under Section 443.008 [~~21A.008~~] with respect to the claim.

(f) Section 21A.0135, Insurance Code, redesignated as Section 443.0135, Insurance Code, by Subsection (a)(1)(A) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

Sec. 443.0135 [~~21A.0135~~]. CONTRACTS FOR SPECIAL DEPUTIES. (a) The receiver shall use a competitive bidding process in the selection of any special deputies appointed under Section 443.102 or 443.154 [~~21A.102 or 21A.154~~]. The process must include procedures to promote the participation of historically underutilized businesses that have been certified by the Texas Building and Procurement Commission under Section 2161.061, Government Code.

(b) A proposal submitted in connection with a bid solicitation under Subsection (a) must describe the efforts that have been made to include historically underutilized businesses as subcontractors and the plan for using the historically underutilized businesses in the administration of the receivership estate. A special deputy appointed under Section 443.102 or 443.154 [~~21A.102 or 21A.154~~] shall make a good faith effort to implement the plan and shall report to the receiver the special deputy's efforts to identify and subcontract with historically underutilized businesses.

(g) Sections 21A.015(a), (c), and (i), Insurance Code, redesignated as Sections 443.015(a), (c), and (i), Insurance Code, respectively, by Subsection (a)(1)(A) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) The receiver may pay any expenses under contracts, leases, employment agreements, or other arrangements entered into by the insurer prior to receivership, as the receiver deems necessary for the purposes of this chapter. The receiver is not

required to pay any expenses that the receiver determines are not necessary, and may reject any contract pursuant to Section 443.013 [~~21A.013~~].

(c) The receiver shall submit to the receivership court an application pursuant to Section 443.007 [~~21A.007~~] to approve:

(1) the terms of compensation of each special deputy or contractor with respect to which the total amount of the compensation is reasonably expected by the receiver for the duration of the delinquency proceeding to exceed $250,000, or another amount established by the receivership court; and

(2) any other anticipated expense in excess of $25,000, or another amount established by the receivership court.

(i) All expenses of receivership shall be paid from the assets of the insurer, except as provided by this subsection. In the event that the property of the insurer does not contain sufficient cash or liquid assets to defray the expenses incurred, the commissioner may advance funds from the account established under Section 443.304(c) [~~21A.304(c)~~]. Any amounts advanced shall be repaid to the account out of the first available money of the insurer.

(h) Sections 21A.051(a), (b), and (i), Insurance Code, redesignated as Sections 443.051(a), (b), and (i), Insurance Code, respectively, by Subsection (a)(1)(B) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) The commissioner may file in a district court of Travis County a petition with respect to an insurer domiciled in this

state, an unauthorized insurer, or, pursuant to Section 443.401 [~~21A.401~~], a foreign insurer:

(1) alleging that grounds exist that would justify a court order for a formal delinquency proceeding against the insurer under this chapter;

(2) alleging that the interests of policyholders, creditors, or the public will be endangered by delay; and

(3) setting forth the contents of a seizure order deemed to be necessary by the commissioner.

(b) Upon a filing under Subsection (a), the receivership court may issue, ex parte and without notice or hearing, the requested seizure order directing the commissioner to take possession and control of all or a part of the property, books, accounts, documents, and other records of an insurer, and of the premises occupied by it for transaction of its business, and until further order of the receivership court, enjoining the insurer and its officers, managers, agents, and employees from disposition of its property and from the transaction of its business except with the written consent of the commissioner. Any person having possession or control of and refusing to deliver any of the books, records, or assets of a person against whom a seizure order has been issued commits an offense. An offense under this subsection is punishable in the manner described by Section 443.010(e) [~~21A.010(e)~~].

(i) In all proceedings and judicial reviews under this section, all records of the insurer, department files, court records and papers, and other documents, so far as they pertain to

or are a part of the record of the proceedings, are confidential, and all papers filed with the clerk of the court shall be held by the clerk in a confidential file as permitted by law, except to the extent necessary to obtain compliance with any order entered in connection with the proceedings, unless and until:

(1) the court, after hearing argument in chambers, orders otherwise;

(2) the insurer requests that the matter be made public; or

(3) the commissioner applies for an order under Section 443.057 [~~21A.057~~].

(i) Section 21A.052(b), Insurance Code, redesignated as Section 443.052(b), Insurance Code, by Subsection (a)(1)(B) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) The petition must state the grounds upon which the proceeding is based and the relief requested and may include a prayer for restraining orders and injunctive relief as described in Section 443.008 [~~21A.008~~]. On the filing of the petition or order, a copy shall be forwarded by first class mail or electronic communication as permitted by the receivership court to the insurance regulatory officials and guaranty associations in states in which the insurer did business.

(j) Section 21A.056(a), Insurance Code, redesignated as Section 443.056(a), Insurance Code, by Subsection (a)(1)(B) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) The commissioner, rehabilitator, or liquidator may share documents, materials, or other information in the possession, custody, or control of the department without regard to the confidentiality of those documents, materials, or information, pertaining to an insurer that is the subject of a proceeding under this chapter with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, with state, federal, and international law enforcement authorities, with an auditor appointed by the receivership court in accordance with Section 443.355 [~~21A.355~~], and, pursuant to Section 443.105 [~~21A.105~~], with representatives of guaranty associations that may have statutory obligations as a result of the insolvency of the insurer, provided that the recipient agrees to maintain the confidentiality, if any, of the documents, material, or other information. Nothing in this section limits the power of the commissioner to disclose information under other applicable law.

(k) Section 21A.057, Insurance Code, redesignated as Section 443.057, Insurance Code, by Subsection (a)(1)(B) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section and to the recodification and repeal of Articles 1.15, 1.15A, 1.16, 1.32, and 21.28-A, Insurance Code, by Chapter 727, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 443.057 [~~21A.057~~]. GROUNDS FOR CONSERVATION, REHABILITATION, OR LIQUIDATION. The commissioner may file with a court in this state a petition with respect to an insurer domiciled

in this state or an unauthorized insurer for an order of rehabilitation or liquidation on any one or more of the following grounds:

(1) the insurer is impaired;

(2) the insurer is insolvent;

(3) the insurer is about to become insolvent, with "about to become insolvent" being defined as reasonably anticipated that the insurer will not have liquid assets to meet its next 90 days' current obligations;

(4) the insurer has neglected or refused to comply with an order of the commissioner to make good within the time prescribed by law any deficiency, whenever its capital and minimum required surplus, if a stock company, or its surplus, if a company other than stock, has become impaired;

(5) the insurer, its parent company, its subsidiaries, or its affiliates have converted, wasted, or concealed property of the insurer or have otherwise improperly disposed of, dissipated, used, released, transferred, sold, assigned, hypothecated, or removed the property of the insurer;

(6) the insurer is in a condition such that it could not meet the requirements for organization and authorization as required by law, except as to the amount of the original surplus required of a stock company under Title 6, and except as to the amount of the surplus required of a company other than a stock company in excess of the minimum surplus required to be maintained;

(7) the insurer, its parent company, its subsidiaries, or its affiliates have concealed, removed, altered, destroyed, or

failed to establish and maintain books, records, documents, accounts, vouchers, and other pertinent material adequate for the determination of the financial condition of the insurer by examination under Chapter 401 [~~Article 1.15, 1.15A, or 1.16~~] or has failed to properly administer claims or maintain claims records that are adequate for the determination of its outstanding claims liability;

(8) at any time after the issuance of an order under Section 404.003 or Chapter 441 [~~Article 1.32 or 21.28-A~~], or at the time of instituting any proceeding under this chapter, it appears to the commissioner that, upon good cause shown, it would not be in the best interest of the policyholders, creditors, or the public to proceed with the conduct of the business of the insurer;

(9) the insurer is in a condition such that the further transaction of business would be hazardous financially, according to Subchapter A, Chapter 404, [~~Article 1.32~~] or otherwise, to its policyholders, creditors, or the public;

(10) there is reasonable cause to believe that there has been embezzlement from the insurer, wrongful sequestration or diversion of the insurer's property, forgery or fraud affecting the insurer, or other illegal conduct in, by, or with respect to the insurer that, if established, would endanger assets in an amount threatening the solvency of the insurer;

(11) control of the insurer is in a person who is:

(A) dishonest or untrustworthy; or

(B) so lacking in insurance company managerial experience or capability as to be hazardous to policyholders,

creditors, or the public;

(12) any person who in fact has executive authority in the insurer, whether an officer, manager, general agent, director, trustee, employee, shareholder, or other person, has refused to be examined under oath by the commissioner concerning the insurer's affairs, whether in this state or elsewhere or if examined under oath, refuses to divulge pertinent information reasonably known to the person; and after reasonable notice of the fact, the insurer has failed promptly and effectively to terminate the employment and status of the person and all the person's influence on management;

(13) after demand by the commissioner under Chapter 401 [~~Article 1.15, 1.15A, or 1.16~~] or under this chapter, the insurer has failed promptly to make available for examination any of its own property, books, accounts, documents, or other records, or those of any subsidiary or related company within the control of the insurer or of any person having executive authority in the insurer, so far as they pertain to the insurer;

(14) without first obtaining the written consent of the commissioner, the insurer has transferred, or attempted to transfer, in a manner contrary to Chapter 823 or any law relating to bulk reinsurance, substantially its entire property or business, or has entered into any transaction the effect of which is to merge, consolidate, or reinsure substantially its entire property or business in or with the property or business of any other person;

(15) the insurer or its property has been or is the subject of an application for the appointment of a receiver, trustee, custodian, conservator, sequestrator, or similar

fiduciary of the insurer or its property otherwise than as authorized under the insurance laws of this state;

(16) within the previous five years, the insurer has wilfully and continuously violated its charter, articles of incorporation or bylaws, any insurance law of this state, or any valid order of the commissioner;

(17) the insurer has failed to pay within 60 days after the due date any obligation to any state or political subdivision of a state or any judgment entered in any state, if the court in which the judgment was entered had jurisdiction over the subject matter, except that nonpayment is not a ground until 60 days after any good faith effort by the insurer to contest the obligation has been terminated, whether it is before the commissioner or in the courts;

(18) the insurer has systematically engaged in the practice of reaching settlements with and obtaining releases from claimants, and then unreasonably delayed payment, failed to pay the agreed-upon settlements, or systematically attempted to compromise with claimants or other creditors on the ground that it is financially unable to pay its claims or obligations in full;

(19) the insurer has failed to file its annual report or other financial report required by statute within the time allowed by law;

(20) the board of directors or the holders of a majority of the shares entitled to vote, or a majority of those individuals entitled to the control of those entities specified by Section 443.003 [~~21A.003~~], request or consent to rehabilitation or liquidation under this chapter;

(21) the insurer does not comply with its domiciliary state's requirements for issuance to it of a certificate of authority, or its certificate of authority has been revoked by its state of domicile; or

(22) when authorized by department rules.

(l) Section 21A.058, Insurance Code, redesignated as Section 443.058, Insurance Code, by Subsection (a)(1)(B) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

Sec. 443.058 [~~21A.058~~]. ENTRY OF ORDER. If the commissioner establishes any of the grounds provided in Section 443.057 [~~21A.057~~], the receivership court shall grant the petition and issue the order of rehabilitation or liquidation requested in the petition.

(m) Section 21A.101(b), Insurance Code, redesignated as Section 443.101(b), Insurance Code, by Subsection (a)(1)(C) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) Any order issued under this section must require accountings to the receivership court by the rehabilitator. Accountings must be at the intervals specified by the receivership court in its order, but not less frequently than semi-annually. Each accounting must include a report concerning the rehabilitator's opinion as to the likelihood that a plan under Section 443.103 [~~21A.103~~] will be prepared by the rehabilitator and the timetable for doing so.

(n) Section 21A.102(a), Insurance Code, redesignated as

Section 443.102(a), Insurance Code, by Subsection (a)(1)(C) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) The rehabilitator may appoint one or more special deputies. A special deputy serves at the pleasure of the rehabilitator and has all the powers and responsibilities of the rehabilitator granted under this section, unless specifically limited by the rehabilitator. The rehabilitator may employ or contract with legal counsel, actuaries, accountants, appraisers, consultants, clerks, assistants, and other personnel as may be deemed necessary. Any special deputy or any other person with whom the rehabilitator contracts under this subsection may act on behalf of the commissioner only in the commissioner's capacity as rehabilitator. Any person with whom the rehabilitator contracts under this subsection is not considered an agent of the state, and any contract entered into under this subsection does not constitute a contract with the state. The provisions of any law governing the procurement of goods and services by the state does not apply to any contract entered into by the commissioner as rehabilitator. The compensation of any special deputies, employees, and contractors and all expenses of taking possession of the insurer and of conducting the rehabilitation shall be fixed by the rehabilitator, with the approval of the receivership court in accordance with Section 443.015 [~~21A.015~~], and shall be paid out of the property of the insurer. The persons appointed under this subsection serve at the pleasure of the rehabilitator. If the rehabilitator deems it necessary to the proper performance of the rehabilitator's duties

under this chapter, the rehabilitator may appoint an advisory committee of policyholders, claimants, or other creditors, including guaranty associations. The advisory committee serves at the pleasure of the rehabilitator and without compensation or reimbursement for expenses. The rehabilitator or the receivership court in rehabilitation proceedings conducted under this chapter may not appoint another committee of any nature.

(o) Section 21A.104, Insurance Code, redesignated as Section 443.104, Insurance Code, by Subsection (a)(1)(C) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

Sec. 443.104 [~~21A.104~~]. TERMINATION OF REHABILITATION. (a) When the rehabilitator believes further attempts to rehabilitate an insurer would substantially increase the risk of loss to creditors, policyholders, or the public or would be futile, the rehabilitator may move for an order of liquidation. In accordance with Section 443.105 [~~21A.105~~], the rehabilitator or the rehabilitator's designated representative shall coordinate with the guaranty associations that may become liable as a result of the liquidation and any national association of guaranty associations to plan for transition to liquidation.

(b) Because the protection of the interests of insureds, claimants, and the public requires the timely performance of all insurance policy obligations, if the payment of policy obligations is suspended in substantial part for a period of six months at any time after the appointment of the rehabilitator and the rehabilitator has not filed an application for approval of a plan

under Section 443.103 [~~21A.103~~], the rehabilitator shall petition the receivership court for an order of liquidation.

(c) The rehabilitator or the directors of the insurer may at any time petition the receivership court for, or the receivership court on its own motion may enter, an order terminating rehabilitation of an insurer. Subject to the provisions of Section 443.351 [~~21A.351~~], if the receivership court finds that rehabilitation has been accomplished and that grounds for rehabilitation under Section 443.057 [~~21A.057~~] no longer exist, it shall order that the insurer be restored to title and possession of its property and the control of the business.

(p) Sections 21A.151(b) and (e), Insurance Code, redesignated as Sections 443.151(b) and (e), Insurance Code, respectively, by Subsection (a)(1)(D) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) Upon issuance of the order of liquidation, the rights and liabilities of the insurer and of its creditors, policyholders, shareholders, members, and all other persons interested in its estate become fixed as of the date of entry of the order of liquidation, except as provided by Sections 443.152 and 443.255 [~~21A.152 and 21A.255~~], unless otherwise fixed by the court.

(e) In the event an order of liquidation is set aside on appeal, the company may not be released from delinquency proceedings except in accordance with Section 443.351 [~~21A.351~~].

(q) Sections 21A.152(b), (c), and (d), Insurance Code, redesignated as Sections 443.152(b), (c), and (d), Insurance Code,

respectively, by Subsection (a)(1)(D) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) Notwithstanding any policy or contract language or any other statute, all policies, insurance contracts other than reinsurance by which the insurer has ceded insurance obligations to another person, and surety bonds or surety undertakings, other than life or health insurance or annuities, in effect at the time of issuance of an order of liquidation, unless further extended by the receiver with the approval of the receivership court, continue in force only until the earlier of:

(1) the 30th day after the date of entry of the liquidation order;

(2) the date of expiration of the policy coverage;

(3) the date the insured has replaced the insurance coverage with equivalent insurance with another insurer or otherwise terminated the policy;

(4) the date the liquidator has effected a transfer of the policy obligation pursuant to Section 443.154(h) [~~21A.154(h)~~]; or

(5) the date proposed by the liquidator and approved by the receivership court to cancel coverage.

(c) An order of liquidation under Section 443.151 [~~21A.151~~] must terminate coverages at the time specified by Subsections (a) and (b) for purposes of any other statute.

(d) Policies of life or health insurance or annuities covered by a guaranty association and any portion of policies of

life or health insurance or annuities covered by a guaranty association continue in force for the period and under the terms provided for by any applicable guaranty association law. Policies of life or health insurance or annuities not covered by a guaranty association and any portion of policies of life or health insurance or annuities not covered by a guaranty association terminate under Subsection (b), except to the extent the liquidator proposes and the receivership court approves the use of property of the estate, consistent with Section 443.301 [~~21A.301~~], for the purpose of continuing the contracts or coverage by transferring them to an assuming reinsurer.

(r) Sections 21A.154(a), (b), (h), (k), (l), (y), and (z), Insurance Code, redesignated as Sections 443.154(a), (b), (h), (k), (l), (y), and (z), Insurance Code, respectively, by Subsection (a)(1)(D) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) The liquidator may appoint a special deputy or deputies to act for the liquidator under this chapter and employ or contract with legal counsel, actuaries, accountants, appraisers, consultants, clerks, assistants, and other personnel the liquidator may deem necessary to assist in the liquidation. A special deputy has all powers of the liquidator granted by this section, unless specifically limited by the liquidator, and serves at the pleasure of the liquidator. A special deputy or any other person with whom the liquidator contracts under this subsection may act on behalf of the commissioner only in the commissioner's

capacity as liquidator. Any person with whom the liquidator contracts is not considered to be an agent of the state and any contract under this subsection is not a contract with the state. The provisions of any law governing the procurement of goods and services by the state do not apply to any contract entered into by the commissioner as liquidator. This subsection does not waive any immunity granted by Section 443.014 [~~21A.014~~] or create any cause of action against the state.

(b) The liquidator may determine the reasonable compensation for any special deputies, employees, or contractors retained by the liquidator as provided in Subsection (a) and pay compensation in accordance with Section 443.015 [~~21A.015~~].

(h) The liquidator may use property of the estate of an insurer under a liquidation order to transfer to a solvent assuming insurer policy obligations or the insurer's obligations under surety bonds and surety undertakings as well as collateral held by the insurer with respect to the reimbursement obligations of the principals under those surety bonds and surety undertakings, if the transfer can be arranged without prejudice to applicable priorities under Section 443.301 [~~21A.301~~]. If all insureds, principals, third-party claimants, and obligees under the policies, surety bonds, and surety undertakings consent or if the receivership court so orders, the estate has no further liability under the transferred policies, surety bonds, or surety undertakings after the transfer is made.

(k) The liquidator may enter into contracts as necessary to carry out the order to liquidate and, subject to the provisions of

Section 443.013 [~~21A.013~~], may assume or reject any executory contract or unexpired lease to which the insurer is a party.

(1) The liquidator may continue to prosecute and institute in the name of the insurer or in the liquidator's own name any and all suits and other legal proceedings, in this state or elsewhere, and abandon the prosecution of claims the liquidator deems unprofitable to pursue further. If the insurer is dissolved under Section 443.153 [~~21A.153~~], the liquidator has the power to apply to any court in this state or elsewhere for leave to substitute the liquidator for the insurer as a party.

(y) The liquidator may hypothecate, encumber, lease, sell, transfer, abandon, or otherwise dispose of or deal with any property of the insurer, settle or resolve any claim brought by the liquidator on behalf of the insurer, or commute or settle any claim of reinsurance under any contract of reinsurance, as follows:

(1) if the property or claim has a market or settlement value that does not exceed the lesser of $1 million or 10 percent of the general assets of the estate as shown on the receivership's financial statements, the liquidator may take action at the liquidator's discretion, provided that the receivership court may, upon petition of the liquidator, increase the threshold upon a showing that compliance with this requirement is burdensome to the liquidator in administering the estate and is unnecessary to protect the material interests of creditors;

(2) in all instances other than those described in Subdivision (1), the liquidator may take the action only after obtaining approval of the receivership court as provided by Section

443.007 [~~21A.007~~];

(3) the liquidator may, at the liquidator's discretion, request the receivership court to approve a proposed action as provided by Section 443.007 [~~21A.007~~] if the value of the property or claim appears to be less than the threshold provided by Subdivision (1) but cannot be ascertained with certainty, or for any other reason as determined by the liquidator; and

(4) after obtaining approval of the receivership court as provided in Section 443.007 [~~21A.007~~], the liquidator may, subject to Subsection (z), transfer rights to payment under ceding reinsurance agreements covering policies to a third-party transferee.

(z) The transferee of a right to payment under Subsection (y)(4) has the rights to collect and enforce collection of the reinsurance for the amount payable to the ceding insurer or to its receiver, without diminution because of the insolvency or because the receiver has failed to pay all or a portion of the claim, based on the amounts paid or allowed pursuant to Section 443.211 [~~21A.211~~]. The transfer of the rights does not give rise to any defense regarding the reinsurer's obligations under the reinsurance agreement regardless of whether an agreement or other applicable law prohibits the transfer of rights under the reinsurance agreement. Except as provided in this subsection, any transfer of rights pursuant to Subsection (y)(4) does not impair any rights or defenses of the reinsurer that existed prior to the transfer or that would have existed in the absence of the transfer. Except as otherwise provided in this subsection, any transfer of

rights pursuant to Subsection (y)(4) does not relieve the transferee or the liquidator from obligations owed to the reinsurer pursuant to the reinsurance or other agreement.

(s) Section 21A.155(b), Insurance Code, redesignated as Section 443.155(b), Insurance Code, by Subsection (a)(1)(D) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) The notice of the entry of an order of liquidation must contain or provide directions for obtaining the following information:

(1) a statement that the insurer has been placed in liquidation;

(2) a statement that certain acts are stayed under Section 443.008 [~~21A.008~~] and describe any additional injunctive relief ordered by the receivership court;

(3) a statement whether, and to what extent, the insurer's policies continue in effect;

(4) to the extent applicable, a statement that coverage by state guaranty associations may be available for all or part of policy benefits in accordance with applicable state guaranty laws;

(5) a statement of the deadline for filing claims, if established, and the requirements for filing a proof of claim pursuant to Section 443.251 [~~21A.251~~] on or before that date;

(6) a statement of the date, time, and location of any initial status hearing scheduled at the time the notice is sent;

(7) a description of the process for obtaining notice

of matters before the receivership court; and

(8) any other information the liquidator or the receivership court deems appropriate.

(t) Section 21A.156(a), Insurance Code, redesignated as Section 443.156(a), Insurance Code, by Subsection (a)(1)(D) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) Every person who represented the insurer as an agent and receives notice in the form prescribed in Section 443.155 [~~21A.155~~] that the insurer is the subject of a liquidation order, not later than the 30th day after the date of the notice, shall provide to the liquidator, in addition to the information the agent may be required to provide pursuant to Section 443.010 [~~21A.010~~], the information in the agent's records related to any policy issued by the insurer through the agent and any policy issued by the insurer through an agent under contract to the agent, including the name and address of any subagent. For purposes of this subsection, a policy is issued through an agent if the agent has a property interest in the expiration of the policy or if the agent has had in the agent's possession a copy of the declarations of the policy at any time during the life of the policy, except where the ownership of the expiration of the policy has been transferred to another.

(u) Sections 21A.207(a), (d), and (f), Insurance Code, redesignated as Sections 443.207(a), (d), and (f), Insurance Code, respectively, by Subsection (a)(1)(E) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) Except as otherwise provided in this section, to the extent that the receiver obtains an order under Section 443.201 [~~21A.201~~] or avoids a transfer under Section 443.202, 443.203, 443.204, 443.205, or 443.206 [~~Sections 21A.202, 21A.203, 21A.204, 21A.205, or 21A.206~~], the receiver may recover the property transferred, or the value of the property, from:

(1) the initial transferee of the transfer or the entity for whose benefit the transfer was made; or

(2) any immediate or mediate transferee of the initial transferee.

(d) In addition to the remedies specifically provided under Sections 443.201-443.206 [~~21A.201-21A.206~~] and Subsection (a), if the receiver is successful in establishing a claim to the property or any part of the property, the receiver is entitled to recover judgment for:

(1) rental for the use of the tangible property from the later of the entry of the receivership order or the date of the transfer;

(2) in the case of funds or intangible property, the greater of:

(A) the actual interest or income earned by the property; or

(B) interest at the statutory rate for judgments from the later of the date of the entry of the receivership order or the date of the transfer; and

(3) except as to recoveries from guaranty associations, all costs, including investigative costs and other

expenses necessary to the recovery of the property or funds, and reasonable attorney's fees.

(f) In any action under Sections 443.201-443.206 [~~21A.201-21A.206~~], the receiver has the burden of proving the avoidability of a transfer, and the person against whom recovery or avoidance is sought has the burden of proving the nature and extent of any affirmative defense.

(v) Section 21A.208(b), Insurance Code, redesignated as Section 443.208(b), Insurance Code, by Subsection (a)(1)(E) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) A claim allowable under Subsection (a) by reason of the avoidance, whether voluntary or involuntary, or a preference, lien, conveyance, transfer, assignment, or encumbrance, may be filed as an excused late filing under Section 443.251(b) [~~21A.251(b)~~] if filed not later than the 30th day after the date of the avoidance, or within the further time allowed by the receivership court under Subsection (a).

(w) Section 21A.210(j), Insurance Code, redesignated as Section 443.210(j), Insurance Code, by Subsection (a)(1)(E) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(j) Any claim filed by an assessee who fails to pay an assessment, after the conclusion of any legal action by the assessee objecting to the assessment, is deemed a late filed claim under Section 443.251 [~~21A.251~~].

(x) Sections 21A.211(b) and (f), Insurance Code,

redesignated as Sections 443.211(b) and (f), Insurance Code, respectively, by Subsection (a)(1)(E) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section and to the recodification and repeal of Articles 21.28-C and 21.28-D, Insurance Code, by Chapter 727, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) Except as provided by Subsection (a), any reinsurance shall be payable to the receiver under a policy reinsured by the assuming insurer on the basis of claims:

(1) allowed under Section 443.253 [~~21A.253~~]; and

(2) paid under:

(A) Chapter 462, 463, or [~~Article 21.28-C or 21.28-D,~~

[~~(B) Chapter~~] 2602; or

(B) [~~(C)~~] the guaranty associations of other states.

(f) Nothing in this chapter shall be construed as authorizing the receiver, or other entity, to compel payment from a non-life reinsurer on the basis of estimated incurred but not reported losses or outstanding reserves, except outstanding reserves with respect to claims made pursuant to Section 443.255 [~~21A.255~~] and approved workers compensation claims filed under Section 443.252(d) [~~21A.252(d)~~].

(y) Sections 21A.212(a), (b), and (c), Insurance Code, redesignated as Sections 443.212(a), (b), and (c), Insurance Code, respectively, by Subsection (a)(1)(E) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of

this section to read as follows:

(a) An insured shall pay, either directly to the receiver or to any agent that has paid or is obligated to pay the receiver on behalf of the insured, any unpaid earned premium or retrospectively rated premium due the insurer based on the termination of coverage under Section 443.152 [~~21A.152~~]. Premium on surety business is deemed earned at inception if a policy term cannot be determined. All other premium is deemed earned and is prorated equally over the determined policy term, regardless of any provision in the bond, guaranty, contract or other agreement.

(b) Any person, other than the insured, shall turn over to the receiver any unpaid premium due and owing as shown on the records of the insurer, including any amount representing commissions, for the full policy term due the insurer at the time of the entry of the receivership order, whether earned or unearned, based on the termination of coverage under Section 443.152 [~~21A.152~~]. The unpaid premium due the receiver from any person other than the insured excludes any premium not collected from the insured and not earned based on the termination of coverage under Section 443.152 [~~21A.152~~].

(c) Any person, other than the insured, responsible for the remittance of a premium, shall turn over to the receiver any unearned commission of the person based on the termination of coverage under Section 443.152 [~~21A.152~~]. Credits, setoffs, or both may not be allowed to an agent, broker, premium finance company, or any other person for any amounts advanced to the insurer by the person on behalf of, but in the absence of a payment by, the

insured, or for any other amount paid by the person to any other person after the entry of the order of receivership.

(z) Sections 21A.213(h) and (i), Insurance Code, redesignated as Sections 443.213(h) and (i), Insurance Code, respectively, by Subsection (a)(1)(E) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(h) To the extent a guaranty association is required by applicable law to pay any claims for which the insurer would have been entitled to reimbursement from the policyholder, the following provisions apply:

(1) The receiver shall promptly invoice the policyholder for the reimbursement due under the agreement, and the policyholder is obligated to pay the amount invoiced to the receiver for the benefit of the guaranty associations that paid the claims. Neither the insolvency of the insurer nor the insurer's inability to perform any obligations under the deductible agreement is a defense to the policyholder's reimbursement obligation under the deductible agreement. At the time the policyholder reimbursements are collected, the receiver shall promptly forward those amounts to the guaranty association, based on the claims paid by the guaranty association that were subject to the deductible.

(2) If the collateral is insufficient to reimburse the guaranty association for claims paid within the deductible, the receiver shall use any existing collateral to make a partial reimbursement to the guaranty association, subject to any allocation under Subsection (d), (e), or (f). If more than one

guaranty association has a claim against the same collateral, the receiver shall prorate payments to each guaranty association based on the amount of the claims each guaranty association has paid.

(3) The receiver is entitled to deduct from reimbursements owed to a guaranty association or collateral to be returned to a policyholder reasonable actual expenses incurred in fulfilling the receiver's responsibilities under this section. Expenses incurred to collect reimbursements for the benefit of a guaranty association are subject to the approval of the guaranty association. Any remaining expenses that are not deducted from the reimbursements are payable subject to Section 443.015 [~~21A.015~~].

(4) The receiver shall provide any affected guaranty associations with a complete accounting of the receiver's deductible billing and collection activities on a quarterly basis, or at other intervals as may be agreed to between the receiver and the guaranty associations. Accountings under this subdivision must include copies of the policyholder billings, the reimbursements collected, the available amounts and use of collateral for each account, and any prorating of payments.

(5) If the receiver fails to make a good faith effort to collect reimbursements due from a policyholder under a deductible agreement within 120 days of receipt of claims payment reports from a guaranty association, the guaranty association may, after notice to the receiver, collect the reimbursements that are due, and, in so doing, the guaranty association shall have the same rights and remedies as the receiver. A guaranty association shall report any amounts collected under this subdivision and expenses

incurred in collecting those amounts to the receiver.

(6) The receiver shall periodically adjust the collateral held as the claims subject to the deductible agreement are paid, provided that adequate collateral is maintained. The receiver is not required to adjust the collateral more than once a year. The receiver shall inform the guaranty associations of all collateral reviews, including the basis for the adjustment.

(7) Reimbursements received or collected by a guaranty association under this section may not be considered a distribution of the insurer's assets. A guaranty association shall provide the receiver with an accounting of any amounts it has received or collected under this section and any expenses incurred in connection with that receipt or collection. The amounts received, net of any expenses incurred in connection with collection of the amounts, must be set off against the guaranty association's claim filed under Section 443.251 [~~21A.251~~] for the payments that were reimbursed.

(8) To the extent that a guaranty association pays a claim within the deductible amount that is not reimbursed by either the receiver or by policyholder payments, the guaranty association has a claim for those amounts in the delinquency proceeding in accordance with Section 443.251 [~~21A.251~~].

(9) Nothing in this section limits any rights of a guaranty association under applicable law to obtain reimbursement for claims payments made by the guaranty association under policies of the insurer or for the association's related expenses.

(i) If a claim that is subject to a deductible agreement and

secured by collateral is not covered by any guaranty association, the following provisions apply:

(1) The receiver is entitled to retain as an asset of the estate any collateral or deductible reimbursements obtained by the receiver.

(2) If a policyholder fails to assume an obligation under a deductible agreement to pay a claim, the receiver shall use the collateral to adjust and pay the claim to the extent that the available collateral, after any allocation under Subsection (d), (e), or (f), is sufficient to pay all outstanding and anticipated claims within the deductible. If the collateral is exhausted and all reasonable means of collection against the insured have been exhausted, the remaining claims shall be subject to the provisions of Sections 443.251 and 443.301 [~~21A.251 and 21A.301~~].

(3) The receiver is entitled to deduct from collateral reasonable actual expenses incurred in fulfilling the receiver's responsibilities under this section. Any remaining expenses that are not deducted from the reimbursements are payable subject to Section 443.015 [~~21A.015~~].

(aa) Sections 21A.251(a) and (b), Insurance Code, redesignated as Sections 443.251(a) and (b), Insurance Code, respectively, by Subsection (a)(1)(F) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) Except as provided by this subsection, proof of all claims must be filed with the liquidator in the form required by Section 443.252 [~~21A.252~~] on or before the last day for filing

specified in the notice required under Section 443.155 [~~21A.155~~], which date may not be later than 18 months after entry of the order of liquidation, unless the receivership court, for good cause shown, extends the time, except that proofs of claims for cash surrender values or other investment values in life insurance and annuities and for any other policies insuring the lives of persons need not be filed unless the liquidator expressly so requires. The receivership court, only upon application of the liquidator, may allow alternative procedures and requirements for the filing of proofs of claim or for allowing or proving claims. Upon application, if the receivership court dispenses with the requirements of filing a proof of claim by a person or a class or group of persons, a proof of claim for the person, class, or group is deemed to have been filed for all purposes, except that the receivership court's waiver of proof of claim requirements does not impact guaranty association proof of claim filing requirements or coverage determinations to the extent the guaranty fund statute or filing requirements are inconsistent with the receivership court's waiver of proof.

(b) The liquidator shall permit a claimant that makes a late filing to share ratably in distributions, whether past or future, as if the claim were not filed late, to the extent that the payment will not prejudice the orderly administration of the liquidation, under the following circumstances:

(1) the eligibility to file a proof of claim was not known to the claimant, and the claimant filed a proof of claim not later than the 90th day after the date of first learning of the

eligibility;

(2) a transfer to a creditor was avoided under Section 443.202, 443.203, 443.204, or 443.206 [~~21A.202, 21A.203, 21A.204, or 21A.206~~], or was voluntarily surrendered under Section 443.208 [~~21A.208~~], and the filing satisfies the conditions of Section 443.208 [~~21A.208~~]; or

(3) the valuation under Section 443.260 [~~21A.260~~], of security held by a secured creditor shows a deficiency, and the claim for the deficiency is filed not later than the 30th day after the valuation.

(bb) Sections 21A.253(b), (d), (i), and (k), Insurance Code, redesignated as Sections 443.253(b), (d), (i), and (k), Insurance Code, respectively, by Subsection (a)(1)(F) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) Pursuant to the review, the liquidator shall provide written notice of the claim determination by any means authorized by Section 443.007 [~~21A.007~~] to the claimant or the claimant's attorney and may provide notice to any reinsurer that is or may be liable in respect of the claim. The notice must set forth the amount of the claim allowed by the liquidator, if any, and the priority class of the claim as established in Section 443.301 [~~21A.301~~].

(d) A claim that has not become mature as of the coverage termination date established under Section 443.201 [~~21A.201~~] because payment on the claim is not yet due may be allowed as if it were mature. A claim that is allowed under this subsection may be

discounted to present value based upon a reasonable estimated date of the payment, if the liquidator determines that the present value of the payment is materially less than the amount of the payment.

(i) A claim that does not contain all the applicable information required by Section 443.252 [~~21A.252~~] need not be further reviewed or adjudicated, and may be denied or disallowed by the liquidator subject to the notice and objection procedures in this section.

(k) The liquidator is not required to process claims for any class until it appears reasonably likely that property will be available for a distribution to that class. If there are insufficient assets to justify processing all claims for any class listed in Section 443.301 [~~21A.301~~], the liquidator shall report the facts to the receivership court and make such recommendations as may be appropriate for handling the remainder of the claims.

(cc) Section 21A.254, Insurance Code, redesignated as Section 443.254, Insurance Code, by Subsection (a)(1)(F) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

Sec. 443.254 [~~21A.254~~]. CLAIMS UNDER OCCURRENCE POLICIES, SURETY BONDS, AND SURETY UNDERTAKINGS. (a) Subject to the provisions of Section 443.253 [~~21A.253~~], any insured has the right to file a claim for the protection afforded under the insured's policy, regardless of whether a claim is known at the time of filing, if the policy is an occurrence policy.

(b) Subject to the provisions of Section 443.253 [~~21A.253~~], an obligee under a surety bond or surety undertaking has the right

to file a claim for the protection afforded under the surety bond or surety undertaking issued by the insurer under which the obligee is the beneficiary, regardless of whether a claim is known at the time of filing.

(c) After a claim is filed under Subsection (a) or (b), at the time that a specific claim is made by or against the insured or by the obligee, the insured or the obligee shall supplement the claim, and the receiver shall treat the claim as a contingent or unliquidated claim under Section 443.255 [~~21A.255~~].

(dd) Sections 21A.255(a) and (c), Insurance Code, redesignated as Sections 443.255(a) and (c), Insurance Code, respectively, by Subsection (a)(1)(F) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) A claim of an insured or third party may be allowed under Section 443.253 [~~21A.253~~], regardless of the fact that the claim was contingent or unliquidated, if any contingency is removed in accordance with Subsection (b) and the value of the claim is determined. For purposes of this section, a claim is contingent if:

(1) the accident, casualty, disaster, loss, event, or occurrence insured, reinsured, or bonded or reinsured against occurred on or before the date fixed under Section 443.151 [~~21A.151~~]; and

(2) the act or event triggering the insurer's obligation to pay has not occurred as of the date fixed under Section 443.151 [~~21A.151~~].

(c) The liquidator may petition the receivership court to

set a date before which all claims under this section are final. In addition to the notice requirements of Section 443.007 [~~21A.007~~], the liquidator shall give notice of the filing of the petition to all claimants with claims that remain contingent or unliquidated under this section.

(ee) Section 21A.256(c), Insurance Code, redesignated as Section 443.256(c), Insurance Code, by Subsection (a)(1)(F) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(c) The liquidator may make recommendations to the receivership court for the allowance of an insured's claim after consideration of the probable outcome of any pending action against the insured on which the claim is based, the probable damages recoverable in the action, and the probable costs and expenses of defense. After allowance by the receivership court, the liquidator shall withhold any distribution payable on the claim, pending the outcome of litigation and negotiation between the insured and the third party. The liquidator may reconsider the claim as provided in Section 443.253(j) [~~21A.253(j)~~]. As claims against the insured are settled or barred, the insured or third party, as appropriate, shall be paid from the amount withheld the same percentage distribution as was paid on other claims of like priority, based on the lesser of the amount actually due from the insured by action or paid by agreement plus the reasonable costs and expense of defense, or the amount allowed on the claims by the receivership court. After all claims are settled or barred, any sum remaining from the amount withheld shall revert to the undistributed property of the

insurer.

(ff) Section 21A.257(a), Insurance Code, redesignated as Section 443.257(a), Insurance Code, by Subsection (a)(1)(F) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) When objections to the liquidator's proposed treatment of a claim are filed and the liquidator does not alter the determination of the claim as a result of the objections, the liquidator shall ask the receivership court for a hearing pursuant to Section 443.007 [~~21A.007~~].

(gg) Section 21A.258, Insurance Code, redesignated as Section 443.258, Insurance Code, by Subsection (a)(1)(F) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

Sec. 443.258 [~~21A.258~~]. LIQUIDATOR'S RECOMMENDATIONS TO RECEIVERSHIP COURT. The liquidator shall present to the receivership court, for approval, reports of claims settled or determined by the liquidator under Section 443.253 [~~21A.253~~]. The reports must be presented from time to time as determined by the liquidator and must include information identifying the claim and the amount and priority class of the claim.

(hh) Sections 21A.260(e) and (g), Insurance Code, redesignated as Sections 443.260(e) and (g), Insurance Code, respectively, by Subsection (a)(1)(F) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(e) If collateral is insufficient to satisfy in full all

potential claims against it under Subsections (c) and (g), the claims against the collateral must be paid on a pro rata basis, and an obligee or completion contractor under Subsection (c) has a claim, subject to allowance under Section 443.253 [~~21A.253~~], for any deficiency.

(g) To the extent that a guaranty association has made a payment relating to a claim against a surety bond, the guaranty association shall first be reimbursed for that payment and related expenses out of the available collateral or proceeds related to the surety bond. To the extent that the collateral is sufficient, the guaranty association shall be reimbursed 100 percent of its payment. If the collateral is insufficient to satisfy in full all potential claims against the collateral under Subsection (c) and this subsection, a guaranty association that has paid claims on the surety bond is entitled to a pro rata share of the available collateral in accordance with Subsection (e), and the guaranty association has claims against the general assets of the estate in accordance with Section 443.253 [~~21A.253~~] for any deficiency. Any payment made to a guaranty association under this subsection from collateral may not be deemed early access or otherwise deemed a distribution out of the general assets or property of the estate, and the guaranty association receiving payment shall subtract any payment from the collateral from the association's final claims against the estate.

(ii) Sections 21A.261(a) and (e), Insurance Code, redesignated as Sections 443.261(a) and (e), Insurance Code, respectively, by Subsection (a)(1)(F) of this section, are amended

to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) Notwithstanding any other provision of this chapter, including any other provision of this chapter permitting the modification of contracts, or other law of this state, a person may not be stayed or prohibited from exercising:

(1) a contractual right to terminate, liquidate, or close out any netting agreement or qualified financial contract with an insurer because of:

(A) the insolvency, financial condition, or default of the insurer at any time, provided that the right is enforceable under applicable law other than this chapter; or

(B) the commencement of a formal delinquency proceeding under this chapter;

(2) any right under a pledge, security, collateral, or guarantee agreement, or any other similar security arrangement or credit support document, relating to a netting agreement or qualified financial contract; or

(3) subject to any provision of Section 443.209(b) [~~21A.209(b)~~], any right to set off or net out any termination value, payment amount, or other transfer obligation arising under or in connection with a netting agreement or qualified financial contract where the counterparty or its guarantor is organized under the laws of the United States or a state or foreign jurisdiction approved by the Securities Valuation Office of the National Association of Insurance Commissioners as eligible for netting.

(e) Notwithstanding any other provision of this chapter, a

receiver may not avoid a transfer of money or other property arising under or in connection with a netting agreement or qualified financial contract, or any pledge, security, or collateral or guarantee agreement or any other similar security arrangement or credit support document relating to a netting agreement or qualified financial contract, that is made before the commencement of a formal delinquency proceeding under this chapter. However, a transfer may be avoided under Section 443.205(a) [~~21A.205(a)~~] if the transfer was made with actual intent to hinder, delay, or defraud the insurer, a receiver appointed for the insurer, or existing or future creditors.

(jj) Section 21A.301, Insurance Code, redesignated as Section 443.301, Insurance Code, by Subsection (a)(1)(G) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section and to the recodification and repeal of Section 2(3), Article 21.28-C, and Section 12, Article 21.28-D, Insurance Code, by Chapter 727, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 443.301 [~~21A.301~~]. PRIORITY OF DISTRIBUTION. The priority of payment of distributions on unsecured claims must be in accordance with the order in which each class of claims is set forth in this section. Every claim in each class shall be paid in full, or adequate funds retained for their payment, before the members of the next class receive payment, and all claims within a class must be paid substantially the same percentage of the amount of the claim. Except as provided by Subsections (a)(2), (a)(3), (i), and (k), subclasses may not be established within a class. No claim by

a shareholder, policyholder, or other creditor shall be permitted to circumvent the priority classes through the use of equitable remedies. The order of distribution of claims shall be:

(a) Class 1. (1) The costs and expenses of administration expressly approved or ratified by the liquidator, including the following:

(A) the actual and necessary costs of preserving or recovering the property of the insurer;

(B) reasonable compensation for all services rendered on behalf of the administrative supervisor or receiver;

(C) any necessary filing fees;

(D) the fees and mileage payable to witnesses;

(E) unsecured loans obtained by the receiver; and

(F) expenses, if any, approved by the rehabilitator of the insurer and incurred in the course of the rehabilitation that are unpaid at the time of the entry of the order of liquidation.

(2) The reasonable expenses of a guaranty association, including overhead, salaries and other general administrative expenses allocable to the receivership to include administrative and claims handling expenses and expenses in connection with arrangements for ongoing coverage, other than expenses incurred in the performance of duties under Section 462.002(3), 463.108, 463.111, 463.113, 463.353, or 2602.113[~~, Section 2(3) of Article 21.28-C, and Section 12 of Article 21.28-D~~] or similar duties under the statute governing a similar organization in another state. In the case of the Texas Property and Casualty Insurance Guaranty

Association and other property and casualty guaranty associations, the expenses shall include loss adjustment expenses, including adjusting and other expenses and defense and cost containment expenses. In the event that there are insufficient assets to pay all of the costs and expenses of administration under Subsection (a)(1) and the expenses of a guaranty association, the costs and expenses under Subsection (a)(1) shall have priority over the expenses of a guaranty association. In this event, the expenses of a guaranty association shall be paid on a pro rata basis after the payment of costs and expenses under Subsection (a)(1) in full.

(3) For purposes of Subsection (a)(1)(E), any unsecured loan obtained by the receiver, unless by its terms it otherwise provides, has priority over all other costs of administration. Absent agreement to the contrary, all claims in this subclass share pro rata.

(4) Except as expressly approved by the receiver, any expenses arising from a duty to indemnify the directors, officers, or employees of the insurer are excluded from this class and, if allowed, are Class 5 claims.

(b) Class 2. All claims under policies of insurance, including third-party claims, claims under nonassessable policies for unearned premium, claims of obligees and, subject to the discretion of the receiver, completion contractors under surety bonds and surety undertakings other than bail bonds, mortgage or financial guaranties, or other forms of insurance offering protection against investment risk, claims by principals under surety bonds and surety undertakings for wrongful dissipation of

collateral by the insurer or its agents, and claims incurred during the extension of coverage provided for in Section 443.152 [~~21A.152~~]. All other claims incurred in fulfilling the statutory obligations of a guaranty association not included in Class 1, including indemnity payments on covered claims and, in the case of the Life, Accident, Health, and Hospital Service Insurance Guaranty Association or another life and health guaranty association, all claims as a creditor of the impaired or insolvent insurer for all payments of and liabilities incurred on behalf of covered claims or covered obligations of the insurer and for the funds needed to reinsure those obligations with a solvent insurer. Notwithstanding any provision of this chapter, the following claims are excluded from Class 2 priority:

(1) obligations of the insolvent insurer arising out of reinsurance contracts;

(2) obligations, excluding unearned premium claims on policies other than reinsurance agreements, incurred after:

(A) the expiration date of the insurance policy;

(B) the policy has been replaced by the insured or canceled at the insured's request; or

(C) the policy has been canceled as provided by this chapter;

(3) obligations to insurers, insurance pools, or underwriting associations and their claims for contribution, indemnity, or subrogation, equitable or otherwise;

(4) any claim that is in excess of any applicable limits provided in the insurance policy issued by the insurer;

(5) any amount accrued as punitive or exemplary damages unless expressly covered under the terms of the policy;

(6) tort claims of any kind against the insurer and claims against the insurer for bad faith or wrongful settlement practices; and

(7) claims of the guaranty associations for assessments not paid by the insurer, which must be paid as claims in Class 5.

(c) Class 3. Claims of the federal government not included in Class 3.

(d) Class 4. Debts due employees for services or benefits to the extent that the debts do not exceed $5,000 or two months salary, whichever is the lesser, and represent payment for services performed within one year before the entry of the initial order of receivership. This priority is in lieu of any other similar priority that may be authorized by law as to wages or compensation of employees.

(e) Class 5. Claims of other unsecured creditors not included in Classes 1 through 4, including claims under reinsurance contracts, claims of guaranty associations for assessments not paid by the insurer, and other claims excluded from Class 2.

(f) Class 6. Claims of any state or local governments, except those specifically classified elsewhere in this section. Claims of attorneys for fees and expenses owed them by an insurer for services rendered in opposing a formal delinquency proceeding. In order to prove the claim, the claimant must show that the insurer that is the subject of the delinquency proceeding incurred the fees

and expenses based on its best knowledge, information, and belief, formed after reasonable inquiry, indicating opposition was in the best interests of the insurer, was well grounded in fact, and was warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that opposition was not pursued for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of the litigation.

(g) Class 7. Claims of any state or local government for a penalty or forfeiture, but only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The balance of the claims must be treated as Class 9 claims under Subsection (i).

(h) Class 8. Except as provided in Sections 443.251(b) [~~21A.251(b)~~] and (d), late filed claims that would otherwise be classified in Classes 2 through 7.

(i) Class 9. Surplus notes, capital notes or contribution notes or similar obligations, premium refunds on assessable policies, and any other claims specifically assigned to this class. Claims in this class are subject to any subordination agreements related to other claims in this class that existed before the entry of the liquidation order.

(j) Class 10. Interest on allowed claims of Classes 1 through 9, according to the terms of a plan proposed by the liquidator and approved by the receivership court.

(k) Class 11. Claims of shareholders or other owners

arising out of their capacity as shareholders or other owners, or any other capacity, except as they may be qualified in Class 2, 5, or 10. Claims in this class are subject to any subordination agreements related to other claims in this class that existed before the entry of the liquidation order.

(kk) Section 21A.302(f), Insurance Code, redesignated as Section 443.302(f), Insurance Code, by Subsection (a)(1)(G) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(f) Any claim payments made under Subsection (d) and any related expenses must be treated as early access payments under Section 443.303 [~~21A.303~~] to the guaranty association responsible for the claims.

(ll) Sections 21A.303(a), (b), (c), (e), (f), and (g), Insurance Code, redesignated as Sections 443.303(a), (b), (c), (e), (f), and (g), Insurance Code, respectively, by Subsection (a)(1)(G) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) For purposes of this section, "distributable assets" means all general assets of the liquidation estate less:

(1) amounts reserved, to the extent necessary and appropriate, for the entire Section 443.301(a) [~~21A.301(a)~~] expenses of the liquidation through and after its closure; and

(2) to the extent necessary and appropriate, reserves for distributions on claims other than those of the guaranty associations falling within the priority classes of claims established in Section 443.301(c) [~~21A.301(c)~~].

(b) Early access payments to guaranty associations must be made as soon as possible after the entry of a liquidation order and as frequently as possible after the entry of the order, but at least annually if distributable assets are available to be distributed to the guaranty associations, and must be in amounts consistent with this section. Amounts advanced to an affected guaranty association pursuant to this section shall be accounted for as advances against distributions to be made under Section 443.302 [~~21A.302~~]. Where sufficient distributable assets are available, amounts advanced are not limited to the claims and expenses paid to date by the guaranty associations; however, the liquidator may not distribute distributable assets to the guaranty associations in excess of the anticipated entire claims of the guaranty associations falling within the priority classes of claims established in Sections 443.301(b) [~~21A.301(b)~~] and (c).

(c) Within 120 days after the entry of an order of liquidation by the receivership court, and at least annually after the entry of the order, the liquidator shall apply to the receivership court for approval to make early access payments out of the general assets of the insurer to any guaranty associations having obligations arising in connection with the liquidation or shall report that there are no distributable assets at that time based on financial reporting as required in Section 443.016 [~~21A.016~~]. The liquidator may apply to the receivership court for approval to make early access payments more frequently than annually based on additional information or the recovery of material assets.

(e) Notice of each application for early access payments, or of any report required pursuant to this section, must be given in accordance with Section 443.007 [~~21A.007~~] to the guaranty associations that may have obligations arising from the liquidation. Notwithstanding the provisions of Section 443.007 [~~21A.007~~], the liquidator shall provide these guaranty associations with at least 30 days' actual notice of the filing of the application and with a complete copy of the application prior to any action by the receivership court. Any guaranty association that may have obligations arising in connection with the liquidation has:

(1) the right to request additional information from the liquidator, who may not unreasonably deny such request; and

(2) the right to object as provided by Section 443.007 [~~21A.007~~] to any part of each application or to any report filed by the liquidator pursuant to this section.

(f) In each application regarding early access payments, the liquidator shall, based on the best information available to the liquidator at the time, provide, at a minimum, the following:

(1) to the extent necessary and appropriate, the amount reserved for the entire expenses of the liquidation through and after its closure and for distributions on claims falling within the priority classes of claims established in Sections 443.301(b) [~~21A.301(b)~~] and (c);

(2) the computation of distributable assets and the amount and method of equitable allocation of early access payments to each of the guaranty associations; and

(3) the most recent financial information filed with the National Association of Insurance Commissioners by the liquidator.

(g) Each guaranty association that receives any payments pursuant to this section agrees, upon depositing the payment in any account to its benefit, to return to the liquidator any amount of these payments that may be required to pay claims of secured creditors and claims falling within the priority classes of claims established in Section 443.301(a) [~~21A.301(a)~~], (b), or (c). No bond may be required of any guaranty association.

(mm) Sections 21A.304(a), (b), and (d), Insurance Code, redesignated as Sections 443.304(a), (b), and (d), Insurance Code, respectively, by Subsection (a)(1)(G) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) If any funds of the receivership estate remain unclaimed after the final distribution under Section 443.302 [~~21A.302~~], the funds must be placed in a segregated unclaimed funds account held by the commissioner. If the owner of any of the unclaimed funds presents proof of ownership satisfactory to the commissioner before the second anniversary of the date of the termination of the delinquency proceeding, the commissioner shall remit the funds to the owner. The interest earned on funds held in the unclaimed funds account may be used to pay any administrative costs related to the handling or return of unclaimed funds.

(b) If any amounts held in the unclaimed funds account remain unclaimed on or after the second anniversary of the date of

the termination of the delinquency proceeding, the commissioner may file a motion for an order directing the disposition of the funds in the court in which the delinquency proceeding was pending. Any costs incurred in connection with the motion may be paid from the unclaimed funds account. The motion shall identify the name of the insurer, the names and last known addresses of the persons entitled to the unclaimed funds, if known, and the amount of the funds. Notice of the motion shall be given as directed by the court. Upon a finding by the court that the funds have not been claimed before the second anniversary of the date of the termination of the delinquency proceeding, the court shall order that any claims for unclaimed funds and any interest earned on the unclaimed funds that has not been expended under Subsection (a) are abandoned and that the funds must be disbursed under one of the following methods:

(1) the amounts may be deposited in the general receivership expense account under Subsection (c);

(2) the amounts may be transferred to the comptroller, and deposited into the general revenue fund; or

(3) the amounts may be used to reopen the receivership in accordance with Section 443.353 [~~21A.353~~] and be distributed to the known claimants with approved claims.

(d) Any advance to a receivership under Subsection (c)(2) may be treated as a claim under Section 443.301 [~~21A.301~~] as agreed at the time the advance is made or, in the absence of an agreement, in the priority determined to be appropriate by the court.

(nn) Section 21A.352, Insurance Code, redesignated as Section 443.352, Insurance Code, by Subsection (a)(1)(H) of this

section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

Sec. 443.352 [~~21A.352~~]. TERMINATION OF LIQUIDATION PROCEEDINGS. When all property justifying the expense of collection and distribution has been collected and distributed under this chapter, the liquidator shall apply to the receivership court for an order discharging the liquidator and terminating the proceeding. The receivership court may grant the application and make any other orders, including orders to transfer any remaining funds that are uneconomic to distribute, or pursuant to Section 443.302(c) [~~21A.302(c)~~], assign any assets that remain unliquidated, including claims and causes of action, as may be deemed appropriate.

(oo) Section 21A.354(b), Insurance Code, redesignated as Section 443.354(b), Insurance Code, by Subsection (a)(1)(H) of this section, is amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(b) If the receiver determines that any records should be maintained after the closing of the delinquency proceeding, the receiver may reserve property from the receivership estate for the maintenance of the records, and any amounts so retained are administrative expenses of the estate under Section 443.301(a) [~~21A.301(a)~~]. Any records retained pursuant to this subsection must be transferred to the custody of the commissioner, and the commissioner may retain or dispose of the records as appropriate, at the commissioner's discretion. Any records of a delinquent insurer that are transferred to the commissioner may not be

considered records of the department for any purposes, and Chapter 552, Government Code, does not apply to those records.

(pp) Sections 21A.401(a) and (d), Insurance Code, redesignated as Sections 443.401(a) and (d), Insurance Code, respectively, by Subsection (a)(1)(I) of this section, are amended to conform to the changes made by Subsection (a)(1) of this section and to the recodification and repeal of Section 17, Article 21.28-C, and Section 18, Article 21.28-D, Insurance Code, by Chapter 727, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The commissioner may initiate an action against a foreign insurer pursuant to Section 443.051 [~~21A.051~~] on any of the grounds stated in that section or on the basis that:

(1) any of the foreign insurer's property has been sequestered, garnished, or seized by official action in its domiciliary state or in any other state;

(2) the foreign insurer's certificate of authority to do business in this state has been revoked or was never issued and there are residents of this state with unpaid claims or in-force policies; or

(3) initiation of the action is necessary to enforce a stay under Section 462.309, 463.404, or [~~17, Article 21.28-C, Section 18, Article 21.28-D, or Section~~] 2602.259.

(d) Notwithstanding Section 443.201(c) [~~21A.201(c)~~], the conservator shall hold and conserve the assets located in this state until the commissioner in the insurer's domiciliary state is appointed its receiver or until an order terminating conservation

is entered under Subsection (g). Once a domiciliary receiver is appointed, the conservator shall turn over to the domiciliary receiver all property subject to an order under this section.

(qq) Sections 21A.402(a) and (c), Insurance Code, redesignated as Sections 443.402(a) and (c), Insurance Code, respectively, by Subsection (a)(1)(I) of this section, are amended to conform to the additional changes made by Subsection (a)(1) of this section to read as follows:

(a) A domiciliary receiver appointed in another state is vested by operation of law with title to, and may summarily take possession of, all property and records of the insurer in this state. Notwithstanding any other provision of law regarding special deposits, special deposits held in this state shall be, upon the entry of an order of liquidation with a finding of insolvency, distributed to the guaranty associations in this state as early access payments subject to Section 443.303 [~~21A.303~~], in relation to the lines of business for which the special deposits were made. The holder of any special deposit shall account to the domiciliary receiver for all distributions from the special deposit at the time of the distribution. The statutory provisions of another state and all orders entered by courts of competent jurisdiction in relation to the appointment of a domiciliary receiver of an insurer and any related proceedings in another state must be given full faith and credit in this state. For purposes of this section, "another state" means any state other than this state. This state shall treat any other state than this state as a reciprocal state.

(c) Except as provided in Subsection (a), the domiciliary receiver shall handle special deposits and special deposit claims in accordance with federal law and the statutes pursuant to which the special deposits are required. All amounts in excess of the estimated amount necessary to administer the special deposit and pay the unpaid special deposit claims are deemed general assets of the estate. If there is a deficiency in any special deposit so that the claims secured by the special deposit are not fully discharged from the deposit, the claimants may share in the general assets of the insurer to the extent of the deficiency at the same priority as other claimants in their class of priority under Section 443.301 [~~21A.301~~], but the sharing must be deferred until the other claimants of their class have been paid percentages of their claims equal to the percentage paid from the special deposit. The intent of this provision is to equalize to this extent the advantage gained by the security provided by the special deposits.

(rr) Section 442.801, Insurance Code, redesignated as Section 444.001, Insurance Code, by Subsection (a)(2) of this section, is amended to conform to the repeal of Article 21.28, Insurance Code, and the enactment of Chapter 21A, Insurance Code, by Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, and to the changes made by Subsection (a)(1) of this section to read as follows:

Sec. 444.001 [~~442.801~~]. REQUIRED CONTRACT PROVISION. An agency contract entered into on or after August 27, 1973, by an insurer writing fire and casualty insurance in this state must contain, or shall be construed to contain, the following provision:

Notwithstanding any other provision of this contract, the obligation of the agent to remit written premiums to the insurer shall be changed on the commencement of a delinquency proceeding as defined by Chapter 443 [~~442~~], Insurance Code, as amended. After the commencement of the delinquency proceeding, the obligation of the agent to remit premiums is limited to premiums earned before the cancellation date of insurance policies stated in the order of a court of competent jurisdiction under Chapter 443 [~~442~~], Insurance Code, canceling the policies. The agent does not owe and may not be required to remit to the insurer or to the receiver any premiums that are unearned as of the cancellation date stated in the order.

(ss) Section 442.803, Insurance Code, redesignated as Section 444.003, Insurance Code, by Subsection (a)(2) of this section, is amended to conform to the additional changes made by Subsection (a)(2) of this section to read as follows:

Sec. 444.003 [~~442.803~~]. EFFECT OF CHAPTER [~~SUBCHAPTER~~] ON ACTION BY RECEIVER AGAINST AGENT. This chapter [~~subchapter~~] does not prejudice a cause of action by the receiver against an agent to recover:

(1) unearned premiums that were not returned to policyholders; or

(2) earned premiums that were not promptly remitted to the receiver.

(tt) Section 442.804, Insurance Code, redesignated as Section 444.004, Insurance Code, by Subsection (a)(2) of this section, is amended to conform to the additional changes made by Subsection (a)(2) of this section to read as follows:

Sec. 444.004 [~~442.804~~]. AGENT NOT RECEIVER'S AGENT. This chapter [~~subchapter~~] does not render the agent an agent of the receiver for earned or unearned premiums.

SECTION 9.005. (a) Section 462.007(b), Insurance Code, is amended to conform to Section 2, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) Except as provided by Subchapter F, this chapter does not apply to:

(1) life, annuity, health, or disability insurance;

(2) mortgage guaranty, financial guaranty, or other kinds of insurance offering protection against investment risks;

(3) a fidelity or surety bond, or any other bonding obligation;

(4) credit insurance, vendors' single-interest insurance, collateral protection insurance, or similar insurance protecting a creditor's interest arising out of a creditor-debtor transaction;

(5) insurance of warranties or service contracts;

(6) title insurance;

(7) ocean marine insurance;

(8) a transaction or combination of transactions between a person, including an affiliate of the person, and an insurer, including an affiliate of the insurer, that involves the transfer of investment or credit risk unaccompanied by the transfer of insurance risk, including transactions, except for workers' compensation insurance, involving captive insurers, policies in which deductible or self-insured retention is substantially equal

in amount to the limit of the liability under the policy, and transactions in which the insured retains a substantial portion of the risk; or

(9) insurance provided by or guaranteed by government.

(b) Section 2, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (a), Section 3, Article 21.28-C, Insurance Code, is repealed.

SECTION 9.006. (a) Section 462.207, Insurance Code, is amended to conform to Section 3, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 462.207. CLAIMS NOT COVERED: AMOUNTS DUE CERTAIN ENTITIES. (a) Any amount directly or indirectly due any reinsurer, insurer, self-insurer, insurance pool, or underwriting association, as a subrogation recovery, reinsurance recovery, contribution, or indemnification, or otherwise, is not a covered claim.

(b) An impaired insurer's insured is not liable, and the reinsurer, insurer, self-insurer, insurance pool, or underwriting association is not entitled to sue or continue a suit against the insured, for a subrogation recovery, reinsurance recovery, contribution, [~~or~~] indemnification, or any other claim asserted directly or indirectly by a reinsurer, insurer, insurance pool, or underwriting association to the extent of the applicable liability limits of the insurance policy written and issued to the insured by the insolvent insurer.

(b) Section 3, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subdivision (8),

Section 5, Article 21.28-C, Insurance Code, is repealed.

SECTION 9.007. (a) Section 462.211, Insurance Code, is amended to conform to Section 4, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, and Section 6.070, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 462.211. CLAIMS NOT COVERED: LATE FILED CLAIMS. (a) Notwithstanding any other provision of this chapter or any other law to the contrary, and subject to [~~except as provided by~~] Subsection (b), a claim that is filed with the association on a date that is later than 18 months after the date of the order of liquidation or that is unknown and unreported as of the date is not a covered claim.

(b) This section does not apply to a claim for workers' compensation benefits governed by Title 5, Labor Code, and the applicable rules of the commissioner of workers' compensation [~~Texas Workers' Compensation Commission~~].

(b) Subchapter C, Chapter 462, Insurance Code, is amended to conform to Section 4, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 462.1121 to read as follows:

Sec. 462.1121. ACTION TO OBTAIN INFORMATION CONCERNING INSURER IN RECEIVERSHIP AUTHORIZED. (a) The association may bring an action against any third-party administrator, agent, attorney, or other representative of an insurer for which a receiver has been appointed to obtain custody and control of all information, including files, records, and electronic data, related to the

insurer that is appropriate or necessary for the association, or a similar association in other states, to carry out its duties under this chapter or a similar law of another state. The association has the absolute right to obtain information under this section through emergency equitable relief, regardless of where the information is physically located.

(b) In bringing an action under this section, the association is not subject to any defense, possessory lien or other type of lien, or other legal or equitable ground for refusal to surrender the information that may be asserted against the receiver of the insurer.

(c) The association is entitled to an award of reasonable attorney's fees and costs incurred by the association in any action to obtain information under this section.

(d) The rights granted to the association under this section do not affect the receiver's title to information, and information obtained under this section remains the property of the receiver while in the custody of the association.

(c) The following are repealed:

(1) Section 4, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 8, Article 21.28-C, Insurance Code, by amending Subsection (d) and adding Subsection (i); and

(2) Section 6.070, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (d), Section 8, Article 21.28-C, Insurance Code.

SECTION 9.008. (a) Section 462.017(b), Insurance Code, is

amended to conform to Section 5, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) Venue in a suit by or against the commissioner or association relating to an action or ruling of the commissioner or association under this chapter is in Travis County. The commissioner or association is not required to give an appeal bond in an appeal of a cause of action arising under this chapter.

(b) Section 5, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (g), Section 10, Article 21.28-C, Insurance Code, is repealed.

SECTION 9.009. (a) Sections 462.308(a) and (c), Insurance Code, are amended to conform to Section 6, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The association is entitled to recover:

(1) the amount of a covered claim and the cost of defense paid on behalf of [~~under this chapter from the person on whose behalf the payment was made if the person is:~~

[~~(1)~~] a person:

(A) who is an affiliate of the impaired insurer; and

(B) whose liability obligations to other persons are satisfied wholly or partly by payment made under this chapter; and [~~or~~]

(2) the amount of a covered claim for workers' compensation insurance benefits and the costs of administration and defense of the claim paid under this chapter from an insured employer[~~:~~

[~~(A)~~] whose net worth on December 31 of the year preceding the date the insurer becomes an impaired insurer exceeds $50 million[~~; and~~

[~~(B) whose obligations under a liability policy or contract of insurance written, issued, and placed in force after January 1, 1992, are satisfied wholly or partly by payment made under this chapter~~].

(c) For purposes of Subsection (a)(2), an insured's net worth is deemed to include [~~includes~~] the aggregate net worth of the insured and of the insured's parent, subsidiary, and affiliated companies[~~,~~] computed on a consolidated basis.

(b) Section 6, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (b), Section 11, Article 21.28-C, Insurance Code, is repealed.

SECTION 9.010. (a) Section 462.212, Insurance Code, is amended to conform to Section 7, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 462.212. NET WORTH EXCLUSION. (a) Except for a workers' compensation claim governed by Title 5, Labor Code, a covered claim does not include, and the association is not liable for, any claim arising from an insurance policy of any [~~The association is not liable to pay a first-party claim of an~~] insured whose net worth on December 31 of the year preceding the date the insurer becomes an impaired insurer exceeds $50 million.

(b) For purposes of this section, an insured's net worth includes the aggregate net worth of the insured and of the insured's parent, subsidiary, and affiliated companies[~~,~~] computed on a

consolidated basis.

(c) This section does not apply:

(1) to third-party claims against an insured that has:

(A) applied for or consented to the appointment of a receiver, trustee, or liquidator for all or a substantial part of the insurer's assets;

(B) filed a voluntary petition in bankruptcy; or

(C) filed a petition or an answer seeking a reorganization or arrangement with creditors or to take advantage of any insolvency law; or

(2) if an order, judgment, or decree is entered by a court of competent jurisdiction, on the application of a creditor, adjudicating the insured bankrupt or insolvent or approving a petition seeking reorganization of the insured or of all or a substantial part of its assets.

(d) In an instance described by Subsection (c), the association is entitled to assert a claim in the bankruptcy or receivership proceeding to recover the amount of any covered claim and costs of defense paid on behalf of the insured.

(e) The association may establish procedures for requesting financial information from an insured or claimant on a confidential basis for the purpose of applying sections concerning the net worth of first-party and third-party claimants, subject to any information requested under this subsection being shared with any other association similar to the association and with the liquidator for the impaired insurer on the same confidential basis. If the insured or claimant refuses to provide the requested

financial information, the association requests an auditor's certification of that information, and the auditor's certification is available but not provided, the association may deem the net worth of the insured or claimant to be in excess of $50 million at the relevant time.

(f) In any lawsuit contesting the applicability of Section 462.308 or this section when the insured or claimant has declined to provide financial information under the procedure provided in the plan of operation under Section 462.103, the insured or claimant bears the burden of proof concerning its net worth at the relevant time. If the insured or claimant fails to prove that its net worth at the relevant time was less than the applicable amount, the court shall award the association its full costs, expenses, and reasonable attorney's fees in contesting the claim [~~This section does not exclude the payment of a covered claim for workers' compensation benefits otherwise payable under this chapter~~].

(b) Section 7, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 11A, Article 21.28-C, Insurance Code, is repealed.

SECTION 9.011. (a) Sections 462.309(c) and (e), Insurance Code, are amended to conform to Section 8, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(c) A deadline imposed under the Texas Rules of Civil Procedure or the Texas Rules of Appellate Procedure is tolled during the stay. Statutes of limitation or repose are not tolled during the stay, and any action filed during the stay is stayed upon the filing of the action.

(e) The commissioner may bring an ancillary conservation [~~delinquency~~] proceeding under Section 443.401 [~~Sections 442.751, 442.752, and 442.754~~] for the [~~limited~~] purpose of determining the application, enforcement, and extension of the stay to an impaired insurer that is not domiciled in this state.

(b) Section 8, Chapter 995, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (a), Section 17, Article 21.28-C, Insurance Code, is repealed.

SECTION 9.012. (a) The heading to Chapter 463, Insurance Code, is amended to conform to Section 9, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

CHAPTER 463. TEXAS LIFE, ACCIDENT, HEALTH, AND HOSPITAL SERVICE INSURANCE GUARANTY ASSOCIATION

(b) Section 463.001, Insurance Code, is amended to conform to Section 9, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 463.001. SHORT TITLE. This chapter may be cited as the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association Act.

SECTION 9.013. (a) Section 463.003, Insurance Code, is amended to conform to Sections 2 and 3, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, and to more closely conform to the source law from which the section was derived, to read as follows:

Sec. 463.003. GENERAL DEFINITIONS. In this chapter:

(1) "Association" means the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association.

(1-a) "Benefit plan" means a specific employee, union, or association of natural persons benefit plan.

(2) "Board" means the board of directors of the association.

(3) "Contractual obligation" means an obligation under a policy or contract or certificate under a group policy or contract, or part of a policy or contract or certificate, for which coverage is provided under Subchapter E.

(4) "Covered policy" means a policy or contract, or portion of a policy or contract, with respect to which this chapter provides coverage as determined under Subchapter E.

(5) "Impaired insurer" means a member insurer that is designated an "impaired insurer" by the commissioner and is:

(A) [~~is~~] placed by a court in this state or another state under an order of supervision, liquidation, rehabilitation, or conservation [~~under Chapter 441 or 442 and is designated by the commissioner as an impaired insurer~~]; [~~or~~]

(B) placed under an order of liquidation or rehabilitation under Chapter 443; or

(C) placed under an order of supervision or conservation by the commissioner under Chapter 441 [~~is determined in good faith by the commissioner to be unable or potentially unable to fulfill the insurer's contractual obligations~~].

(6) "Insolvent insurer" means a member insurer that[~~:~~

[~~(A)~~] has been placed under an order of liquidation with a finding of insolvency by a court in this state or another state [~~a minimum free surplus, if a mutual insurance~~

~~company, or required capital, if a stock insurance company, that is impaired to an extent prohibited by law; and~~

[~~(B) the commissioner designates as an insolvent insurer~~].

(7) "Member insurer" means an insurer that is required to participate in the association under Section 463.052.

(7-a) "Owner" means the owner of a policy or contract and "policy owner" and "contract owner" mean the person who is identified as the legal owner under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and is properly recorded as the owner on the books of the insurer. The terms "owner," "contract owner," and "policy owner" do not include persons with a mere beneficial interest in a policy or contract.

(8) "Person" means an individual, corporation, limited liability company, partnership, association, governmental body or entity, or voluntary organization.

(8-a) "Plan sponsor" means:

(A) the employer in the case of a benefit plan established or maintained by a single employer;

(B) the employee organization in the case of a benefit plan established or maintained by an employee organization; or

(C) in a case of a benefit plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association,

committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan.

(9) "Premium" means an amount received on a covered policy, less any premium, consideration, or deposit returned on the policy, and any dividend or experience credit on the policy. The term does not include:

(A) an amount received for a policy or contract or part of a policy or contract for which coverage is not provided under Section 463.202, except that assessable premiums may not be reduced because of:

(i) an interest limitation provided by Section 463.203(b)(3); or

(ii) a limitation provided by Section 463.204 with respect to a single individual, participant, annuitant, or contract owner [~~holder~~];

(B) premiums in excess of $5 million on an unallocated annuity contract not issued under a governmental benefit [~~retirement~~] plan established under Section 401, 403(b), or 457, Internal Revenue Code of 1986; [~~or~~]

(C) premiums received from the state treasury or the United States treasury for insurance for which this state or the United States contracts to:

(i) provide welfare benefits to designated welfare recipients; or

(ii) implement Title 2, Human Resources Code, or the Social Security Act (42 U.S.C. Section 301 et seq.); or

(D) premiums in excess of $5 million with respect to multiple nongroup policies of life insurance owned by one owner, regardless of whether the policy owner is an individual, firm, corporation, or other person and regardless of whether the persons insured are officers, managers, employees, or other persons, regardless of the number of policies or contracts held by the owner.

(10) "Resident" means a person who resides in this state on the earlier of the date a member insurer becomes an impaired insurer or the date of entry of a court order that determines a member insurer to be an impaired insurer or the date of entry of a court order that determines a member insurer to be an insolvent insurer and to whom the [~~at the time a~~] member insurer [~~that~~] owes a contractual obligation [~~to the person is determined to be impaired or insolvent~~]. For the purposes of this subdivision:

(A) a person is considered to be a resident of only one state; [~~and~~]

(B) a person other than an individual is considered to be a resident of the state in which the person's principal place of business is located; and

(C) a United States citizen who is either a resident of a foreign country or a resident of a United States possession, territory, or protectorate that does not have an association similar to the association created by this chapter is considered a resident of the state of domicile of the insurer that issued the policy or contract.

(10-a) "Structured settlement annuity" means an annuity purchased to fund periodic payments for a plaintiff or

other claimant in payment for or with respect to personal injury suffered by the plaintiff or other claimant.

(11) "Supplemental contract" means a written [~~an~~] agreement for the distribution of policy or contract proceeds.

(12) "Unallocated annuity contract" means an annuity contract or group annuity certificate that is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under the contract or certificate.

(b) Subchapter A, Chapter 463, Insurance Code, is amended to conform to Section 3, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 463.0031 to read as follows:

Sec. 463.0031. DEFINITION OF PRINCIPAL PLACE OF BUSINESS OF PLAN SPONSOR OR OTHER PERSON. (a) Except as otherwise provided by this section, in this chapter, the "principal place of business" of a plan sponsor or a person other than an individual means the single state in which the individuals who establish policy for the direction, control, and coordination of the operations of the plan sponsor or person as a whole primarily exercise that function, as determined by the association in its reasonable judgment by considering the following factors:

(1) the state in which the primary executive and administrative headquarters of the plan sponsor or person is located;

(2) the state in which the principal office of the chief executive officer of the plan sponsor or person is located;

(3) the state in which the board of directors, or similar governing person or persons, of the plan sponsor or person conduct the majority of their meetings;

(4) the state in which the executive or management committee of the board of directors, or similar governing person or persons, of the plan sponsor or person conduct the majority of their meetings;

(5) the state from which the management of the overall operations of the plan sponsor or person is directed; and

(6) in the case of a benefit plan sponsored by affiliated companies comprising a consolidated corporation, the state in which the holding company or controlling affiliate has its principal place of business as determined using the factors described by Subdivisions (1)-(5).

(b) In the case of a plan sponsor, if more than 50 percent of the participants in the benefit plan are employed in a single state, that state is the principal place of business of the plan sponsor.

(c) The principal place of business of a plan sponsor of a benefit plan described in Section 463.003(8-a)(C) is the principal place of business of the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan that, in lieu of a specific or clear designation of a principal place of business, shall be deemed to be the principal place of business of the employer or employee organization that has the largest investment in that benefit plan.

(c) Section 463.052(b), Insurance Code, is amended to

conform to Section 2, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) The following do not participate as member insurers:

(1) a health maintenance organization;

(2) a fraternal benefit society;

(3) a mandatory state pooling plan;

(4) a reciprocal or interinsurance exchange; [~~and~~]

(5) an organization which has a certificate of authority or license limited to the issuance of charitable gift annuities, as defined by this code or rules adopted by the commissioner; and

(6) an entity similar to an entity described by Subdivision (1), (2), (3), [~~or~~] (4), or (5).

(d) Section 463.204, Insurance Code, is amended to conform to Section 2, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 463.204. OBLIGATIONS EXCLUDED. A contractual obligation does not include:

(1) death benefits in an amount in excess of $300,000 or a net cash surrender or net cash withdrawal value in an amount in excess of $100,000 [~~in the aggregate~~] under one or more policies on a single life;

(2) an amount in excess of:

(A) $100,000 in the present value [~~aggregate~~] under one or more annuity contracts issued with respect to a single life under [~~to the same holder of~~] individual annuity policies or [~~to the same annuitant or participant under~~] group annuity

policies; or

(B) $5 million in unallocated annuity contract benefits with respect to a single contract owner [~~holder~~] regardless of the number of those contracts;

(3) an amount in excess of the following amounts, including any net cash surrender or cash withdrawal values, [~~$200,000 in the aggregate~~] under one or more accident, health, [~~or~~] accident and health, or long-term care insurance policies on a single life:

(A) $500,000 for basic hospital, medical-surgical, or major medical insurance, as those terms are defined by this code or rules adopted by the commissioner;

(B) $300,000 for disability and long-term care insurance, as those terms are defined by this code or rules adopted by the commissioner; or

(C) $200,000 for coverages that are not defined as basic hospital, medical-surgical, major medical, disability, or long-term care insurance;

(4) an amount in excess of $100,000 in present value annuity benefits, in the aggregate, including any net cash surrender and net cash withdrawal values, with respect to each individual participating in a governmental retirement benefit plan established under Section 401, 403(b), or 457, Internal Revenue Code of 1986 (26 U.S.C. Sections 401, 403(b), and 457), covered by an unallocated annuity contract or the beneficiary or beneficiaries of the individual if the individual is deceased;

(5) an amount in excess of $100,000 in present value

annuity benefits, in the aggregate, including any net cash surrender and net cash withdrawal values, with respect to each payee of a structured settlement annuity or the beneficiary or beneficiaries of the payee if the payee is deceased;

(6) aggregate benefits in an amount in excess of $300,000 with respect to a single life, except with respect to:

(A) benefits paid under basic hospital, medical-surgical, or major medical insurance policies, described by Subdivision (3)(A), in which case the aggregate benefits are $500,000; and

(B) benefits paid to one owner of multiple nongroup policies of life insurance, whether the policy owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, in which case the maximum benefits are $5 million regardless of the number of policies and contracts held by the owner;

(7) an amount in excess of $5 million in benefits, with respect to either one plan sponsor whose plans own directly or in trust one or more unallocated annuity contracts not included in Subdivision (4) irrespective of the number of contracts with respect to the contract owner or plan sponsor or one contract owner provided coverage under Section 463.201(a)(3)(B), except that, if one or more unallocated annuity contracts are covered contracts under this chapter and are owned by a trust or other entity for the benefit of two or more plan sponsors, coverage shall be afforded by the association if the largest interest in the trust or entity

owning the contract or contracts is held by a plan sponsor whose principal place of business is in this state, and in no event shall the association be obligated to cover more than $5 million in benefits with respect to all these unallocated contracts;

(8) any contractual obligations of the insolvent or impaired insurer under a covered policy or contract that do not materially affect the economic value of economic benefits of the covered policy or contract; or

(9) [~~(4)~~] punitive, exemplary, extracontractual, or bad faith damages, regardless of whether the damages are:

(A) agreed to or assumed by an insurer or insured; or

(B) imposed by a court.

(e) The following are repealed:

(1) Section 2, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 5, Article 21.28-D, Insurance Code, by amending Subdivisions (2), (3), (4), (5), (6), (7), (9), (10), (11), and (12) and adding Subdivisions (2-a), (8-a), (9-a), and (11-a); and

(2) Section 3, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which added Section 5A to former Article 21.28-D, Insurance Code.

SECTION 9.014. (a) Section 463.051(a), Insurance Code, is amended to conform to Section 4, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association is a nonprofit legal entity existing

to pay benefits and continue coverage as provided by this chapter.

(b) Section 4, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (a), Section 6, Article 21.28-D, Insurance Code, is repealed.

SECTION 9.015. (a) Section 463.101(a), Insurance Code, is amended to conform to Section 5, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The association may:

(1) enter into contracts as necessary or proper to carry out this chapter and the purposes of this chapter;

(2) sue or be sued, including taking:

(A) necessary or proper legal action to:

(i) recover an unpaid assessment under Subchapter D; or

(ii) settle a claim or potential claim against the association; or

(B) necessary legal action to avoid payment of an improper claim;

(3) borrow money to effect the purposes of this chapter;

(4) exercise, for the purposes of this chapter and to the extent approved by the commissioner, the powers of a domestic life, accident, or health insurance company or a group hospital service corporation, except that the association may not issue an insurance policy or annuity contract other than to perform the association's obligations under this chapter; [~~and~~]

(5) to further the association's purposes, exercise

the association's powers, and perform the association's duties, join an organization of one or more state associations that have similar purposes;

(6) request information from a person seeking coverage from the association in determining its obligations under this chapter with respect to the person, and the person shall promptly comply with the request; and

(7) take any other necessary or appropriate action to discharge the association's duties and obligations under this chapter or to exercise the association's powers under this chapter.

(b) Subchapter E, Chapter 463, Insurance Code, is amended to conform to Section 5, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 463.206 to read as follows:

Sec. 463.206. ASSOCIATION DISCRETION IN MANNER OF PROVIDING BENEFITS. (a) The board shall have discretion and may exercise reasonable business judgment to determine the means by which the association is to provide the benefits of this chapter in an economical and efficient manner.

(b) If the association arranges or offers to provide the benefits of this chapter to a covered person under a plan or arrangement that fulfills the association's obligations under this chapter, the person is not entitled to benefits from the association in addition to or other than those provided under the plan or arrangement.

(c) Section 463.259, Insurance Code, is amended to conform to Section 5, Chapter 753, Acts of the 79th Legislature, Regular

Session, 2005, to read as follows:

Sec. 463.259. PREMIUM DUE DURING RECEIVERSHIP. After a court enters an order of receivership with respect to an impaired or insolvent insurer, a premium due for coverage issued by the insurer is owned by and is payable at the direction of the association. The association is liable for an unearned premium owed to a policy or contract owner that arises after the court enters the order.

(d) Section 463.261, Insurance Code, is amended to conform to Section 5, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by adding Subsections (d) and (e) to read as follows:

(d) The rights of the association under Subsection (c) include, in the case of a structured settlement annuity, any rights of the owner, beneficiary, or payee of the annuity, to the extent of benefits received under this chapter, against any person originally or by succession responsible for the losses arising from the personal injury relating to the annuity or payment for the annuity, other than a person responsible solely by reason of serving as an assignee in respect of a qualified assignment under Section 130, Internal Revenue Code of 1986 (26 U.S.C. Section 130).

(e) If a provision of this section is invalid or ineffective with respect to any person or claim for any reason, the amount payable by the association with respect to the related covered obligations is reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies, or portion of the policies, covered by the association. If the association has provided benefits with respect to a covered obligation and a person recovers amounts as to which the

association has rights described in this section, the person shall pay to the association the portion of the recovery attributable to the policies, or portion of the policies, covered by the association.

(e) Subchapter F, Chapter 463, Insurance Code, is amended to conform to Section 5, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 463.263 to read as follows:

Sec. 463.263. DEPOSIT TO BE PAID TO ASSOCIATION. (a) A deposit in this state, held under law or required by the commissioner for the benefit of creditors, including policy owners, that is not turned over to the domiciliary receiver on the entry of a final order of liquidation or order approving a rehabilitation plan of an insurer domiciled in this state or a reciprocal state in accordance with Section 443.402 shall be promptly paid to the association.

(b) The association is entitled to retain a portion of any amount paid to the association under this section equal to the percentage determined by dividing the aggregate amount of policy owners' claims related to that insolvency for which the association has provided statutory benefits by the aggregate amount of all policy owners' claims in this state related to that insolvency and shall remit to the domiciliary receiver the amount paid to the association and retained under this section.

(c) The amount paid to the association under this section, less the amount retained by the association under this section, is treated as a distribution of estate assets under Section 443.303 or

the similar law of the state of domicile of the impaired or insolvent insurer.

(f) Section 5, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 8, Article 21.28-D, Insurance Code, by amending Subsections (e), (n), and (v) and adding Subsections (u-1), (u-2), (u-3), (x), and (y), is repealed.

SECTION 9.016. (a) Section 463.151, Insurance Code, is amended to conform to Section 6, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The association shall assess member insurers, separately for each account under Section 463.105, in the amounts and at the times the board determines necessary to provide money for the association to exercise the association's powers, perform the association's duties, and carry out the purposes of this chapter. The association may not authorize and call [~~make~~] an assessment to meet the requirements of the association with respect to an impaired or insolvent insurer until the assessment is necessary to carry out the purposes of this chapter. The board shall classify assessments under Section 463.152 and determine the amount of assessments with reasonable accuracy, recognizing that exact determinations may not always be possible.

(a-1) The association shall notify each member insurer of its anticipated pro rata share of an authorized assessment not yet called not later than the 180th day after the date the assessment is authorized.

(b) Section 463.152, Insurance Code, is amended to conform to Section 6, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) Class A assessments are authorized and called [~~made~~] to pay:

(1) the association's administrative costs;

(2) administrative expenses that:

(A) are properly incurred under this chapter; and

(B) relate to an unauthorized insurer or to an entity that is not a member insurer; and

(3) other general expenses not related to a particular impaired or insolvent insurer.

(c) Class B assessments are authorized and called [~~made~~] to the extent necessary for the association to carry out the association's powers and duties under Sections 463.101, 463.103, 463.109, and 463.111(c) and Subchapter F with regard to an impaired or insolvent insurer.

(d) For purposes of this section, an assessment is authorized at the time a resolution by the board is passed under which an assessment will be called immediately or in the future from member insurers for a specified amount and an assessment is called at the time a notice has been issued by the association to member insurers requiring that an authorized assessment be paid within a period stated in the notice. An authorized assessment becomes a called assessment at the time notice is mailed by the association to member insurers.

(c) Sections 463.153(b) and (c), Insurance Code, are amended to conform to Section 6, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) Class B assessments against a member insurer for each account under Section 463.105 shall be authorized and called [~~made~~] in the proportion that the premiums received on [~~all~~] business in this state by the insurer on policies or contracts covered by each account for the three most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent bear to [~~the~~] premiums received on [~~all~~] business in this state for those calendar years by all assessed member insurers. The amount of a Class B assessment shall be allocated [~~divided~~] among the separate accounts in accordance with an allocation formula that may be based on:

(1) the premiums or reserves of the impaired or insolvent insurer; or

(2) any other standard deemed by the board in the board's sole discretion as being fair and reasonable under the circumstances [~~the proportion that the premiums on the policies covered by each account were received by the impaired or insolvent insurer from all covered policies during the year preceding the date of the impairment, as shown in the annual statements for the year preceding the date of the assessment~~].

(c) The total amount of assessments on a member insurer for each account under Section 463.105 may not exceed two [~~one~~] percent of the insurer's premiums on the policies covered by the account during the three [~~in a single~~] calendar years preceding the year in

which the insurer became an impaired or insolvent insurer. If two or more assessments are authorized in a calendar year with respect to insurers that become impaired or insolvent in different calendar years, the average annual premiums for purposes of the aggregate assessment percentage limitation described by this subsection shall be equal to the higher of the three-year average annual premiums for the applicable subaccount or account as computed in accordance with this section [~~year~~]. If the maximum assessment and the other assets of the association do not provide in a year an amount sufficient to carry out the association's responsibilities, the association shall make necessary additional assessments as soon as this chapter permits.

(d) Section 6, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 9, Article 21.28-D, Insurance Code, by amending Subsections (b), (d), (f), (g), and (h) and adding Subsection (b-1), is repealed.

SECTION 9.017. (a) Section 463.161(a), Insurance Code, is amended to conform to Section 7, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) A member insurer is entitled to show as an admitted asset a certificate of contribution in the form the commissioner approves under Section 463.156. Unless the commissioner requires a longer period, the certificate may be shown at:

(1) for the calendar year of issuance, an amount equal to the certificate's original face value approved by the commissioner; and

(2) beginning with the year following the calendar

year of issuance, an amount equal to the certificate's original face value, reduced by 20 [~~10~~] percent a year for each year after the year of issuance, for a period of five [~~10~~] years.

(b) Section 7, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (a), Section (13), Article 21.28-D, Insurance Code, is repealed.

SECTION 9.018. (a) Section 463.201, Insurance Code, is amended to conform to Section 1, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, and to conform more closely to the source law from which the section was derived to read as follows:

Sec. 463.201. INSUREDS COVERED. (a) Subject to Subsections (b) and (c), this [~~This~~] chapter provides coverage for a policy or contract described by Section 463.202 to a person who is:

(1) a person, other than a certificate holder under a group policy or contract who is not a resident, who is a beneficiary, assignee, or payee of a person described by Subdivision (2);

(2) a person who is [~~subject to Subsection (b),~~] an owner of or certificate holder under a policy or contract specified by Section 463.202, other than [~~or a contract holder under~~] an unallocated annuity contract or structured settlement annuity, and who is:

(A) a resident; or

(B) not a resident, but only under all of the following conditions:

(i) the insurers that issued the policies

or contracts are domiciled in this state;

(ii) the state in which the person resides has an association similar to the association; and

(iii) the person is not eligible for coverage by an association in any other state because the insurer was not licensed in the state at the time specified in that state's guaranty association law;

(3) a person who is the owner of an unallocated annuity contract issued to or in connection with:

(A) a benefit plan whose plan sponsor has the sponsor's principal place of business in this state; or

(B) a government lottery, if the owner is a resident; or

(4) a person who is the payee under a structured settlement annuity, or beneficiary of the payee if the payee is deceased, if:

(A) the payee is a resident, regardless of where the contract owner resides;

(B) the payee is not a resident, the contract owner of the structured settlement annuity is a resident, and the payee is not eligible for coverage by the association in the state in which the payee resides; or

(C) the payee and the contract owner are not residents, the insurer that issued the structured settlement annuity is domiciled in this state, the state in which the contract owner resides has an association similar to the association, and neither the payee or, if applicable, the payee's beneficiary, nor

the contract owner is eligible for coverage by the association in the state in which the payee or contract owner resides [~~(2) a beneficiary, assignee, or payee, other than a certificate holder under a group policy or contract who is not a resident, of a person described by Subdivision (1)~~].

(b) This chapter does not provide coverage to:

(1) a person who is a payee or the beneficiary of a payee with respect to a contract the owner of which is a resident of this state, if the payee or the payee's beneficiary is afforded any coverage by the association of another state; or

(2) a person otherwise described by Subsection (a)(3), if any coverage is provided by the association of another state to that person.

(c) This chapter is intended to provide coverage to persons who are residents of this state, and in those limited circumstances as described in this chapter, to nonresidents. In order to avoid duplicate coverage, if a person who would otherwise receive coverage under this chapter is provided coverage under the laws of any other state, the person may not be provided coverage under this chapter. In determining the application of the provisions of this subsection in situations in which a person could be covered by the association of more than one state, whether as an owner, payee, beneficiary, or assignee, this chapter shall be construed in conjunction with other state laws to result in coverage by only one association. [~~Coverage under Subsection (a)(1) applies to a person who is not a resident, only if:~~

[~~(1) the insurer that issued the policy or contract is~~

~~domiciled in this state;~~

[~~(2) the insurer never held a certificate of authority in the state in which the person resides;~~

[~~(3) the state in which the person resides has an association similar to the association; and~~

[~~(4) the person is not eligible for coverage by the association in the state in which the person resides.~~]

(b) Sections 463.202(a) and (c), Insurance Code, are amended to conform to Section 1, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) Except as limited by this chapter, the coverage provided by this chapter to a person specified by Section 463.201, subject to Sections 463.201(b) and (c), applies with respect to the following policies and contracts issued by a member insurer:

(1) a direct, nongroup life, health, accident, annuity, or supplemental policy or contract;

(2) a certificate under a direct group policy or contract;

(3) a group hospital service contract; and

(4) an unallocated annuity contract.

(c) For the purposes of this section, an annuity contract or a certificate under a group annuity contract includes:

(1) a guaranteed investment contract;

(2) a deposit administration contract;

(3) an allocated or unallocated funding agreement;

(4) a structured settlement annuity [~~agreement~~];

(5) an annuity issued to or in connection with a

government lottery [~~a lottery contract~~]; and

(6) an immediate or deferred annuity contract.

(c) Section 463.203, Insurance Code, is amended to conform to Section 1, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) This chapter does not provide coverage for:

(1) any part of a policy or contract not guaranteed by the insurer or under which the risk is borne by the policy or contract owner [~~holder~~];

(2) a policy or contract of reinsurance, unless an assumption certificate has been issued;

(3) any part of a policy or contract to the extent that the rate of interest on which that part is based:

(A) as averaged over the period of four years before the date the member insurer becomes impaired or insolvent under this chapter, whichever is earlier [~~association became obligated with respect to the policy or contract~~], exceeds a rate of interest determined by subtracting two percentage points from Moody's Corporate Bond Yield Average averaged for the same four-year period or for a lesser period if the policy or contract was issued less than four years before the date the member insurer becomes impaired or insolvent under this chapter, whichever is earlier [~~association became obligated~~]; and

(B) on and after the date the member insurer becomes impaired or insolvent under this chapter, whichever is earlier [~~association became obligated with respect to the policy or~~

~~contract~~], exceeds the rate of interest determined by subtracting three percentage points from Moody's Corporate Bond Yield Average as most recently available;

(4) a portion of a policy or contract issued to a plan or program of an employer, association, [~~or~~] similar entity, or other person to provide life, health, or annuity benefits to the entity's employees, [~~or~~] members, or others, to the extent that the plan or program is self-funded or uninsured, including benefits payable by an employer, association, or similar entity under:

(A) a multiple employer welfare arrangement as defined by Section 3, Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1002);

(B) a minimum premium group insurance plan;

(C) a stop-loss group insurance plan; or

(D) an administrative services-only contract;

(5) any part of a policy or contract to the extent that the part provides dividends, [~~or~~] experience rating credits, or voting rights, or provides that fees or allowances be paid to any person, including the policy or contract owner [~~holder~~], in connection with the service to or administration of the policy or contract;

(6) a policy or contract issued in this state by a member insurer at a time the insurer was not authorized to issue the policy or contract in this state;

(7) an unallocated annuity contract issued to or in connection with a [~~an employee~~] benefit plan protected under the federal Pension Benefit Guaranty Corporation, regardless of

whether the Pension Benefit Guaranty Corporation has not yet become liable to make any payments with respect to the benefit plan;

(8) any part of an unallocated annuity contract that is not issued to or in connection with a specific employee, a benefit plan for a union or association of individuals, or a governmental lottery; [~~or~~]

(9) any part of a financial guarantee, funding agreement, or guaranteed investment contract that:

(A) does not contain a mortality guarantee; and

(B) is not issued to or in connection with a specific employee, a benefit plan, or a governmental lottery;

(10) a part of a policy or contract to the extent that the assessments required by Subchapter D with respect to the policy or contract are preempted by federal or state law;

(11) a contractual agreement that established the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or the plan's trustee in a case in which neither the benefit plan sponsor nor its trustee is an affiliate of the member insurer; or

(12) a part of a policy or contract to the extent the policy or contract provides for interest or other changes in value that are to be determined by the use of an index or external reference stated in the policy or contract, but that have not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under

this chapter, whichever date is earlier, subject to Subsection (c).

(c) For purposes of determining the values that have been credited and are not subject to forfeiture as described by Subsection (b)(12), if a policy's or contract's interest or changes in value are credited less frequently than annually, the interest or change in value determined by using the procedures defined in the policy or contract is credited as if the contractual date of crediting interest or changing values is the earlier of the date of impairment or the date of insolvency, and is not subject to forfeiture.

(d) Section 463.260(a), Insurance Code, is amended to conform to Section 1, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The association is not liable for benefits that exceed the contractual obligations for which the insurer is liable or would have been liable if not impaired or insolvent. The association has no obligation to provide benefits outside the express written terms of the policy or contract, including:

(1) claims based on marketing materials;

(2) claims based on side letters, riders, or other documents that were issued without meeting applicable policy form filing or approval requirements;

(3) claims based on misrepresentation of or regarding policy benefits;

(4) extracontractual claims; or

(5) claims for penalties or consequential or incidental damages.

(e) Subchapter F, Chapter 463, Insurance Code, is amended to conform to Section 1, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 463.262 to read as follows:

Sec. 463.262. EFFECT OF SUBROGATION AND ASSIGNMENT OF RIGHTS AND AVAILABLE ASSETS ON ASSOCIATION OBLIGATION. (a) The limitations set forth in this chapter are limitations on the benefits for which the association is obligated before taking into account either the association's subrogation and assignment rights or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies.

(b) The costs of the association's obligations under this chapter may be met by the use of assets attributable to covered policies or reimbursed to the association pursuant to the association's subrogation and assignment rights.

(f) Section 1, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 3, Article 21.28-D, Insurance Code, is repealed.

SECTION 9.019. (a) Section 463.302(d), Insurance Code, is amended to conform to Section 8, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(d) The maximum amount recoverable under Subsections (b) and (c) is the amount needed in excess of all other available assets of the impaired or insolvent insurer to pay the insurer's contractual obligations.

(b) Section 463.304, Insurance Code, is amended to conform

to Section 8, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 463.304. DISTRIBUTION OF OWNERSHIP RIGHTS OF IMPAIRED OR INSOLVENT INSURER. In making an equitable distribution of the ownership rights of an impaired or insolvent insurer before the termination of a receivership, the court:

(1) shall consider the welfare of the policyholders of the continuing or successor insurer; and

(2) may consider the contributions of the respective parties, including the association, the shareholders and policyholders of the impaired or insolvent insurer, and any other party with a bona fide interest.

(c) Section 8, Chapter 753, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsections (d) and (i), Section 14, Article 21.28-D, Insurance Code, is repealed.

SECTION 9.020. (a) Article 21.79H, Insurance Code, is transferred to Chapter 542, Insurance Code, redesignated as Subchapter G of that chapter, and amended to read as follows:

SUBCHAPTER G. INSURER'S RECOVERY FROM UNINSURED THIRD PARTY

Sec. 542.301. APPLICABILITY OF SUBCHAPTER [~~Art. 21.79H. RECOVERY OF CERTAIN COSTS FROM THIRD PARTY~~]. [~~(a)~~] This subchapter [~~article~~] applies to any insurer that delivers, issues for delivery, or renews a private passenger automobile insurance policy in this state, including a county mutual, a reciprocal or interinsurance exchange, or a Lloyd's plan.

Sec. 542.302. RECOVERY IN SUIT OR OTHER ACTION. [~~(b)~~] An insurer that brings suit or takes other action described by Section

542.202 [~~of this code~~] against a responsible third party relating to a loss that is covered under a private passenger automobile insurance policy issued by the insurer and for which the responsible third party is uninsured is entitled to recover, in addition to payments made by the insurer or insured, the costs of bringing the suit or taking the action, including reasonable attorney's fees and court costs.

(b) For organizational purposes, the heading to Subchapter E, Chapter 542, Insurance Code, is amended to read as follows:

SUBCHAPTER E. RECOVERY OF DEDUCTIBLE [~~COLLECTION~~] FROM THIRD PARTIES UNDER CERTAIN AUTOMOBILE INSURANCE POLICIES

SECTION 9.021. (a) Section 544.303, Insurance Code, is amended to conform to Section 1, Chapter 149, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 544.303. PROHIBITION OF CERTAIN UNDERWRITING DECISIONS BASED ON PREVIOUS MOLD CLAIM OR DAMAGE. An insurer may not make an underwriting decision regarding a residential property insurance policy based on previous mold damage or a claim for mold damage if:

(1) the applicant for insurance coverage has property eligible for coverage under a residential property policy;

(2) the property has had mold damage;

(3) mold remediation has been performed on the property; and

(4) the property was:

(A) remediated, as evidenced by a certificate of mold remediation issued to the property owner under Section

1958.154, Occupations Code, that establishes with reasonable certainty that the underlying cause of the mold at the property has been remediated; or

(B) inspected by an independent assessor or adjustor who determined, based on the inspection, that the property does not contain evidence of mold damage.

(b) Section 1, Chapter 149, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 3, Article 21.21-11, Insurance Code, is repealed.

SECTION 9.022. (a) Section 544.352, Insurance Code, is amended to conform to Section 1, Chapter 528, Acts of the 79th Legislature, Regular Session, 2005, and further amended to read as follows:

Sec. 544.352. DEFINITIONS. In this subchapter:

(1) "Appliance" means a household device operated by gas or electric current, including hoses directly attached to the device. The term includes air conditioning units, heating units, refrigerators, dishwashers, icemakers, clothes washers, water heaters, and disposals.

(2) "Insurer" means an insurance company, reciprocal or interinsurance exchange, mutual insurance company, capital stock company, county mutual insurance company, farm mutual insurance company, association, Lloyd's plan, or other entity writing residential property insurance in this state. The term includes an affiliate, as described by Section 823.003(a), if that affiliate is authorized to write and is writing residential property insurance in this state. The term does not include:

(A) the Texas Windstorm Insurance Association created and operated under Chapter 2210 [~~Article 21.49~~]; or

(B) the FAIR Plan created and operated under Chapter 2211 [~~Article 21.49A~~].

(3) [~~(2)~~] "Residential property insurance" means insurance against loss to residential real property at a fixed location or tangible personal property provided in a homeowners policy, which includes a tenant policy, a condominium owners policy, or a residential fire and allied lines policy.

(4) [~~(3)~~] "Underwriting guideline" means a rule, standard, guideline, or practice, whether written, oral, or electronic, that is used by an insurer or an agent of an insurer to:

(A) decide whether to accept or reject an application for a residential property insurance policy; or

(B) determine how to classify the risks that are accepted for the purpose of determining a rate.

(b) Section 1, Chapter 528, Acts of the 79th Legislature, Regular Session, 2005, which added Subdivision (4) to former Section 2, Article 5.35-4, Insurance Code, is repealed.

SECTION 9.023. (a) Chapter 544, Insurance Code, is amended to codify Article 21.53X, Insurance Code, as added by Section 8, Chapter 97, Acts of the 79th Legislature, Regular Session, 2005, by adding Subchapter J and is further amended to read as follows:

SUBCHAPTER J. PROHIBITED PRACTICES RELATING TO EXPOSURE TO ASBESTOS OR SILICA

Sec. 544.451. DEFINITION. In this subchapter, "health benefit plan" means a plan that provides benefits for medical,

surgical, or other treatment expenses incurred as a result of a health condition, a mental health condition, an accident, sickness, or substance abuse, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document. The term includes:

(1) a small employer health benefit plan or a health benefit plan written to provide coverage with a cooperative under Chapter 1501;

(2) a standard health benefit plan offered under Subchapter A or Subchapter B, Chapter 1507; and

(3) a health benefit plan offered under Chapter 1551, 1575, 1579, or 1601.

Sec. 544.452. APPLICABILITY OF SUBCHAPTER. This subchapter applies to any entity that offers a health benefit plan or an annuity or life insurance policy or contract in this state, including:

(1) a stock or mutual life, health, or accident insurance company;

(2) a group hospital service corporation operating under Chapter 842;

(3) a fraternal benefit society operating under Chapter 885;

(4) a stipulated premium insurance company operating under Chapter 884;

(5) a Lloyd's plan operating under Chapter 941;

(6) an exchange operating under Chapter 942;

(7) a health maintenance organization operating under Chapter 843;

(8) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846;

(9) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844;

(10) a statewide mutual assessment company operating under Chapter 881;

(11) a local mutual aid association operating under Chapter 886; and

(12) a local mutual burial association operating under Chapter 888.

Sec. 544.453. PROHIBITION. An entity that offers a health benefit plan or an annuity or life insurance policy or contract may not use the fact that a person has been exposed to asbestos fibers or silica or has filed a claim governed by Chapter 90, Civil Practice and Remedies Code, to reject, deny, limit, cancel, refuse to renew, increase the premiums for, or otherwise adversely affect the person's eligibility for or coverage under the policy or contract.

(b) Article 21.53X, Insurance Code, as added by Section 8, Chapter 97, Acts of the 79th Legislature, Regular Session, 2005, is repealed.

SECTION 9.024. Section 551.004, Insurance Code, is amended to correct references to read as follows:

Sec. 551.004. TRANSFER NOT CONSIDERED A REFUSAL TO RENEW. For purposes of this chapter and Subchapters C and D, Chapter 1952

[~~Articles 5.06-1 and 5.06-3 of this code~~], the transfer of a policyholder between admitted companies within the same insurance group is not considered a refusal to renew.

SECTION 9.0245. (a) Subchapter A, Chapter 551, Insurance Code, is amended to conform to the enactment of Article 21.49-2V, Insurance Code, by Section 8.02, Chapter 206, Acts of the 78th Legislature, Regular Session, 2003, by adding Section 551.005 to read as follows:

Sec. 551.005. MEMBERSHIP DUES. (a) In this section, "insurer" includes a county mutual insurance company, a Lloyd's plan, and a reciprocal or interinsurance exchange.

(b) Except as otherwise provided by law, an insurer may require that membership dues in its sponsoring organization be paid as a condition for issuance or renewal of a policy.

(b) Article 21.49-2V, Insurance Code, as added by Section 8.02, Chapter 206, Acts of the 78th Legislature, Regular Session, 2003, is repealed.

SECTION 9.025. Section 843.318(a), Insurance Code, is amended to conform more closely to the source law from which the section was derived to read as follows:

(a) This chapter and this code do not prohibit a physician or provider who is participating in a health maintenance organization delivery network, whether by contracting with a health maintenance organization under Section 843.101 or by subcontracting with a physician or provider in the health maintenance organization delivery network, from entering into a contractual arrangement [~~authorized by this section~~] within a

health maintenance organization delivery network described by Subsections (b)-(e).

SECTION 9.026. Section 941.003(b), Insurance Code, as amended by Chapters 631 and 1295, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and is amended to correct references to read as follows:

(b) A Lloyd's plan is subject to:

(1) Subchapter [~~Section 5, Article 1.10,~~

[~~(2) Article 1.15A,~~

[~~(3) Subchapters~~] A, [~~Q, T, and U,~~] Chapter 5, Chapter 254, Subchapters A and B, Chapter 1806, and Subtitle C, Title 10;

(2) [~~(4)~~] Articles [~~5.20,~~] 5.35, [~~5.38,~~] 5.39, and 5.40;

(3) [~~(5) Article 21.49-8,~~

[~~(6) Sections 822.203, 822.205, 822.210, and 822.212,~~

[~~(7)~~] Article 5.13-2, as provided by that article, Subchapters A-D, Chapter 2251, as provided by that chapter, and Chapter 2301, as provided by that chapter;

(4) [~~(8)~~] Chapters 251, 252, 402, [~~and~~] 541, and 2253;

(5) Subchapter A, Chapter 401;

(6) Subchapter B, Chapter 404;

(7) Subchapter C, Chapter 1806; and

(8) Sections [~~(9) Section~~] 38.001, 501.159, 822.203, 822.205, 822.210, 822.212, 2002.005, 2002.051, and 2002.052.

SECTION 9.027. Section 942.003(b), Insurance Code, as amended by Chapters 631 and 1295, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and is amended to correct

references to read as follows:

(b) An exchange is subject to:

(1) Subchapter [~~Section 5, Article 1.10,~~

[~~(2) Articles 1.15, 1.15A, and 1.16,~~

[~~(3) Subchapters~~] A, [~~Q, T, and U,~~] Chapter 5, Chapter 254, Subchapters A and B, Chapter 1806, and Subtitle C, Title 10;

(2) [~~(4)~~] Articles [~~5.20,~~] 5.35, [~~5.37, 5.38,~~] 5.39, and 5.40;

(3) [~~(5) Article 21.49-8,~~

[~~(6) Sections 822.203, 822.205, 822.210, 822.212, 861.254(a)-(f), 861.255, 862.001(b), and 862.003,~~

[~~(7)~~] Article 5.13-2, as provided by that article, Subchapters A-D, Chapter 2251, as provided by that chapter, and Chapter 2301, as provided by that chapter;

(4) Chapters 402, [~~(8) Chapter~~] 541, and 2253;

(5) Subchapter A, Chapter 401, and Sections 401.051, 401.052, 401.054, 401.055, 401.056, 401.057, 401.058, 401.059, 401.060, 401.061, 401.062, 401.151, 401.152, 401.155, and 401.156;

(6) Subchapter B, Chapter 404;

(7) Subchapter C, Chapter 1806; and

(8) Sections [~~(9) Section~~] 38.001, 501.159, 822.203, 822.205, 822.210, 822.212, 861.254(a)-(f), 861.255, 862.001(b), 862.003, 2002.002, 2002.005, 2002.051, and 2002.052.

SECTION 9.0271. (a) Section 1301.004, Insurance Code, to conform more closely to the source law from which it was derived, is transferred to Section 1301.061, Insurance Code, redesignated as Subsection (c) of that section, and amended to read as follows:

(c) [~~Sec. 1301.004. COMPLIANCE WITH CHAPTER REQUIRED.~~] Each preferred provider benefit plan offered in this state must comply with this chapter.

(b) Subchapter A, Chapter 1301, Insurance Code, is amended to conform more closely to the source law from which Chapter 1301 was derived by adding Section 1301.0041 to read as follows:

Sec. 1301.0041. APPLICABILITY. This chapter applies to any preferred provider benefit plan in which an insurer provides, through the insurer's health insurance policy, for the payment of a level of coverage that is different from the basic level of coverage provided by the health insurance policy if the insured uses a preferred provider.

SECTION 9.028. Section 1365.004, Insurance Code, is amended to conform more closely to the source law from which the section was derived to read as follows:

Sec. 1365.004. RIGHT TO REJECT COVERAGE OR SELECT ALTERNATIVE BENEFITS [~~COVERAGE~~]. An offer of coverage required under Section 1365.003 is subject to the right of the group contract holder to reject the coverage or to select an alternative level of benefits [~~coverage~~] that is offered by or negotiated with the group health benefit plan issuer.

SECTION 9.0281. Section 1367.053(c), Insurance Code, is amended to conform more closely to the source law from which the section was derived to read as follows:

(c) In addition to the immunizations required under Subsection (a), a health maintenance organization that issues a health benefit plan shall provide under the plan coverage for

immunization against rotovirus and any other immunization required for a child by law.

SECTION 9.029. (a) Section 1507.003(b), Insurance Code, is amended to conform to Section 2, Chapter 577, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) For purposes of this subchapter, "state-mandated health benefits" does not include benefits that are mandated by federal law or standard provisions or rights required under this code or other laws of this state to be provided in an individual, blanket, or group policy for accident and health insurance that are unrelated to a specific health illness, injury, or condition of an insured, including provisions related to:

(1) continuation of coverage under:

(A) Subchapters F and G, Chapter 1251;

(B) Section 1201.059; and

(C) Subchapter B, Chapter 1253;

(2) termination of coverage under Sections 1202.051 and 1501.108;

(3) preexisting conditions under Subchapter D, Chapter 1201, and Sections 1501.102-1501.105;

(4) coverage of children, including newborn or adopted children, under:

(A) Subchapter D, Chapter 1251;

(B) Sections 1201.053, 1201.061, 1201.063-1201.065, and Subchapter A, Chapter 1367;

(C) Chapter 1504;

(D) Chapter 1503;

(E) Section 1501.157;

(F) Section 1501.158; and

(G) Sections 1501.607-1501.609;

(5) services of practitioners under:

(A) Subchapters A, B, and C, Chapter 1451; or

(B) Section 1301.052;

(6) supplies and services associated with the treatment of diabetes under Subchapter B, Chapter 1358;

(7) coverage for serious mental illness under Subchapter A, Chapter 1355[~~, if the standard health benefit plan is issued to a large employer as defined by Section 1501.002~~];

(8) coverage for childhood immunizations and hearing screening as required by Subchapters B and C, Chapter 1367, other than Section 1367.053(c) and Chapter 1353;

(9) coverage for reconstructive surgery for certain craniofacial abnormalities of children as required by Subchapter D, Chapter 1367;

(10) coverage for the dietary treatment of phenylketonuria as required by Chapter 1359;

(11) coverage for referral to a non-network physician or provider when medically necessary covered services are not available through network physicians or providers, as required by Section 1271.055; and

(12) coverage for cancer screenings under:

(A) Chapter 1356;

(B) Chapter 1362; [~~and~~]

(C) Chapter 1363; and

(D) Chapter 1370.

(b) Section 2, Chapter 577, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (b), Section 3, Article 3.80, Insurance Code, is repealed.

SECTION 9.030. (a) Section 1507.053(b), Insurance Code, is amended to conform to Section 3, Chapter 577, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) For purposes of this subchapter, "state-mandated health benefits" does not include coverage that is mandated by federal law or standard provisions or rights required under this code or other laws of this state to be provided in an evidence of coverage that are unrelated to a specific health illness, injury, or condition of an enrollee, including provisions related to:

(1) continuation of coverage under Subchapter G, Chapter 1251;

(2) termination of coverage under Sections 1202.051 and 1501.108;

(3) preexisting conditions under Subchapter D, Chapter 1201, and Sections 1501.102-1501.105;

(4) coverage of children, including newborn or adopted children, under:

(A) Chapter 1504;

(B) Chapter 1503;

(C) Section 1501.157;

(D) Section 1501.158; and

(E) Sections 1501.607-1501.609;

(5) services of providers under Section 843.304;

(6) coverage for serious mental health illness under Subchapter A, Chapter 1355[~~, if the standard health benefit plan is issued to a large employer as defined by Section 1501.002~~]; and

(7) coverage for cancer screenings under:

(A) Chapter 1356;

(B) Chapter 1362; [~~and~~]

(C) Chapter 1363; and

(D) Chapter 1370.

(b) Section 3, Chapter 577, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (d), Article 20A.09N, Insurance Code, is repealed.

SECTION 9.031. Section 1801.002, Insurance Code, is repealed to conform to Section 5.01(4), Chapter 1227, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 9.032. (a) Section 1806.101, Insurance Code, is amended to conform to Section 2, Chapter 631, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 1806.101. DEFINITIONS. In this subchapter:

(1) "Insurance" includes a suretyship.

(2) "Insurer" means an insurance company or other legal entity described by Sections 1806.102(a) and (b).

(3) "Policy" includes a bond.

(b) Sections 1806.104(a) and (b), Insurance Code, are amended to conform to Section 2, Chapter 631, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) Except as otherwise provided by this subchapter, an insurer, an insurer's employee, or a broker or agent may not

knowingly:

(1) issue an insurance policy that is not in accordance with an applicable filing [~~that is filed and in effect under Chapter 2251 or 2301 or Article 5.13-2~~]; or

(2) charge, demand, or receive a premium on an insurance policy that is not in accordance with an applicable filing [~~that is filed and in effect under Chapter 2251 or 2301 or Article 5.13-2~~].

(b) Except as provided in an applicable filing [~~that is filed and in effect under Chapter 2251 or 2301 or Article 5.13-2~~], an insurer, an insurer's employee, or a broker or agent may not directly or indirectly pay, allow, or give, or offer to pay, allow, or give, as an inducement to insurance, or after insurance has been written, a rebate, discount, abatement, credit or reduction of the premium stated in an insurance policy, or a special favor or advantage in the dividends or other benefits to accrue on the policy, or any valuable consideration or inducement, not specified in the policy.

(c) Section 2, Chapter 631, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsections (a) and (d), Article 5.20, Insurance Code, is repealed.

SECTION 9.033. Section 1806.102, Insurance Code, is amended to conform to Section 1, Chapter 631, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 1806.102. APPLICABILITY OF SUBCHAPTER. (a) <u>This</u> [~~Except as provided by Subsections (b) and (c), this~~] subchapter applies to an insurer, including a corporation, reciprocal or

interinsurance exchange, mutual insurance company, association, Lloyd's plan, or other organization, writing casualty insurance or writing fidelity, surety, or guaranty bonds, on risks or operations in this state.

(b) This subchapter applies [~~does not apply~~] to:

(1) a farm mutual insurance company with respect to each line of insurance that a farm mutual insurance company is authorized to write under Section 911.151 [~~or association regulated under Chapter 911~~]; and [~~or~~]

(2) a county mutual insurance company with respect to each line of insurance that a county mutual insurance company is authorized to write under Section 912.151 [~~regulated under Chapter 912~~].

(c) Except as otherwise provided by this subchapter, this [~~This~~] subchapter does not apply to the writing of:

(1) automobile insurance;

(2) life, health, or accident insurance;

(3) professional liability insurance;

(4) reinsurance;

(5) aircraft insurance;

(6) fraternal benefit insurance;

(7) fire insurance;

(8) workers' compensation insurance;

(9) marine insurance, including noncommercial inland marine insurance and ocean marine insurance;

(10) title insurance;

(11) explosion insurance, except insurance against

loss from personal injury or property damage resulting accidentally from:

(A) a steam boiler;

(B) a heater or pressure vessel;

(C) an electrical device;

(D) an engine; or

(E) all machinery and appliances used in connection with or in the operation of a boiler, heater, vessel, electrical device, or engine described by Paragraphs (A)-(D); or

(12) insurance coverage for any of the following conditions or risks:

(A) weather or climatic conditions, including lightning, tornado, windstorm, hail, cyclone, rain, or frost and freeze;

(B) earthquake or volcanic eruption;

(C) smoke or smudge;

(D) excess or deficiency of moisture;

(E) flood;

(F) the rising water of an ocean or an ocean's tributary;

(G) bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, or any order of a civil authority made to prevent the spread of a conflagration, epidemic or catastrophe;

(H) vandalism or malicious mischief;

(I) strike or lockout;

(J) water or other fluid or substance resulting

from:

(i) the breakage or leakage of a sprinkler, pump, or other apparatus erected for extinguishing fire, or a water pipe or other conduit or container; or

(ii) casual water entering a building through a leak or opening in the building or by seepage through building walls; or

(K) accidental damage to a sprinkler, pump, fire apparatus, pipe, or other conduit or container described by Paragraph (J)(i).

SECTION 9.034. (a) Section 1901.054(b), Insurance Code, is amended to conform to Section 1, Chapter 1135, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) A rate is not excessive unless[~~:~~

[~~(1)~~] the rate is unreasonably high for the insurance coverage provided[~~; and~~

[~~(2) a reasonable degree of competition does not exist in the area with respect to the classification to which the rate applies~~].

(b) Section 1901.057, Insurance Code, is amended to conform to Section 1, Chapter 1135, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 1901.057. CONSIDERATIONS IN APPROVING RATES. In approving rates under this chapter, the department [~~commissioner~~] shall consider the impact of risk management courses taken by physicians and health care providers in this state.

(c) Section 1, Chapter 1135, Acts of the 79th Legislature,

Regular Session, 2005, which amended former Section 3, Article 5.15-1, Insurance Code, is repealed.

SECTION 9.035. (a) Subchapter B, Chapter 1901, Insurance Code, is amended by adding Section 1901.0541 to conform to Section 2, Chapter 1135, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 1901.0541. USE IN UNDERWRITING OF CERTAIN INFORMATION RELATED TO LAWSUITS; REFUND. (a) Notwithstanding any other provision of this code, an insurer may not consider for the purpose of setting premiums or reducing a claims-free discount for a particular insured physician's professional liability insurance a lawsuit filed against the physician if:

(1) before trial, the lawsuit was dismissed by the claimant or nonsuited; and

(2) no payment was made to the claimant under a settlement agreement.

(b) An insurer that, in setting premiums or reducing a claims-free discount for a physician's professional liability insurance, considers a lawsuit filed against the physician shall refund to the physician any increase in premiums paid by the physician that is attributable to that lawsuit or reinstate the claims-free discount if the lawsuit is dismissed by the claimant or nonsuited without payment to the claimant under a settlement agreement. The insurer shall issue the refund or reinstate the discount on or before the 30th day after the date the insurer receives written evidence that the lawsuit was dismissed or nonsuited without payment to the claimant under a settlement

agreement.

(c) This section does not prohibit an insurer from considering and using aggregate historical loss and expense experience applicable generally to a classification of physicians' professional liability insurance to set rates for that classification to the extent authorized by Chapter 2251 and Article 5.13-2. Notwithstanding Section 2251.052(c), an insurer may not assign a physician to a particular classification based on a factor described by Subsection (a).

(b) Subchapter F, Chapter 1901, Insurance Code, is amended by adding Section 1901.254 to conform to Section 2, Chapter 1135, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 1901.254. PROHIBITION OF USE OF CERTAIN INFORMATION FOR PHYSICIAN OR HEALTH CARE PROVIDER. (a) For the purpose of writing professional liability insurance for physicians and health care providers, an insurer may not consider whether, or the extent to which, a physician or health care provider provides services in this state to individuals who are recipients of Medicaid or covered by the state child health plan program established by Chapter 62, Health and Safety Code, including any consideration resulting in:

(1) denial of coverage;

(2) refusal to renew coverage;

(3) cancellation of coverage;

(4) limitation of the amount, extent, or kind of coverage available; or

(5) a determination of the rate or premium to be paid.

(b) The commissioner may adopt rules as necessary to implement this section.

(c) Section 2, Chapter 1135, Acts of the 79th Legislature, Regular Session, 2005, which added Sections 12 and 13 to former Article 5.15-1, Insurance Code, is repealed.

SECTION 9.036. (a) Subchapter F, Chapter 1901, Insurance Code, is amended by adding Section 1901.255 to conform to Section 1, Chapter 184, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 1901.255. COVERAGE FOR VOLUNTEER HEALTH CARE PROVIDERS. (a) In this section:

(1) "Charitable organization" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(2) "Volunteer health care provider" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(b) An insurer may make available professional liability insurance covering a volunteer health care provider for an act or omission resulting in death, damage, or injury to a patient while the person is acting in the course and scope of the person's duties as a volunteer health care provider as described by Chapter 84, Civil Practice and Remedies Code.

(c) This section does not affect the liability of a volunteer health care provider who is serving as a direct service volunteer of a charitable organization. Section 84.004(c), Civil Practice and Remedies Code, applies to the volunteer health care provider without regard to whether the volunteer health care provider obtains liability insurance under this section.

(d) An insurer may make professional liability insurance available under this section to a volunteer health care provider without regard to whether the volunteer health care provider is a "health care provider" as defined by Section 1901.001.

(b) Section 1, Chapter 184, Acts of the 79th Legislature, Regular Session, 2005, which added Section 12 to former Article 5.15-1, Insurance Code, is repealed.

SECTION 9.037. (a) Section 1952.101(c), Insurance Code, is amended to conform to Section 3, Chapter 1159, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(c) The coverage required by this subchapter does not apply if any insured named in the insurance policy rejects the coverage in writing. Unless the named insured requests in writing the coverage required by this subchapter, the insurer is not required to provide that coverage in or supplemental to a reinstated insurance policy or renewal insurance policy if the named insured rejected the coverage in connection with that insurance policy or an insurance policy previously issued to the insured by the same insurer or by an affiliated insurer.

(b) Section 3, Chapter 1159, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section (1), Article 5.06-1, Insurance Code, is repealed.

SECTION 9.038. (a) Section 1952.152(b), Insurance Code, is amended to conform to Section 4, Chapter 1159, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) The coverage required by this subchapter does not apply if any insured named in the insurance policy rejects the coverage in

writing. Unless the named insured requests in writing the coverage required by this subchapter, the insurer is not required to provide that coverage in or supplemental to a reinstated insurance policy or renewal insurance policy if the named insured rejected the coverage in connection with that insurance policy or an insurance policy previously issued to the insured by the same insurer or by an affiliated insurer.

(b) Section 4, Chapter 1159, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (a), Article 5.06-3, Insurance Code, is repealed.

SECTION 9.039. (a) Section 1952.155, Insurance Code, is amended by amending Subsection (b) and adding Subsection (c) to conform to Section 2, Chapter 1074, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) Except as provided by Subsection (c), an [~~An~~] insurer paying benefits under coverage required by this subchapter does not have a right of subrogation or claim against any other person or insurer to recover any benefits by reason of the alleged fault of the other person in causing or contributing to the accident.

(c) An insurer paying benefits pursuant to this subchapter, including a county mutual insurance company, shall have a right of subrogation and a claim against a person causing or contributing to the accident if, on the date of loss, financial responsibility as required by Chapter 601, Transportation Code, has not been established for a motor vehicle involved in the accident and operated by that person.

(b) Section 2, Chapter 1074, Acts of the 79th Legislature,

Regular Session, 2005, which amended former Article 5.06-3, Insurance Code, by amending Subsection (c) and adding Subsection (i), is repealed.

SECTION 9.040. (a) Section 2006.052, Insurance Code, is amended to conform to Sections 4 and 6, Chapter 291, Acts of the 79th Legislature, Regular Session, 2005, by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) This section applies to an insurer that uses a tier classification or discount program that has a premium consequence based in whole or in part on claims experience, regardless of whether any of the policies that continuously covered the policyholder was a different kind of residential property insurance policy from the policy eligible for the premium discount.

(c) A residential property insurance claim under this section does not include a claim:

(1) resulting from a loss caused by natural causes;

(2) that is filed but is not paid or payable under the policy; or

(3) that an insurer is prohibited from using under Section 544.353.

(b) Subchapter B, Chapter 2006, Insurance Code, is amended to conform to Section 4, Chapter 291, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2006.0521 to read as follows:

Sec. 2006.0521. COMPLIANCE WITH OTHER LAW REQUIRED. Any change in the amount of a premium discount provided under this subchapter must comply with the requirements of Section 551.107.

(c) Sections 4 and 6, Chapter 291, Acts of the 79th Legislature, Regular Session, 2005, which amended former Article 5.43, Insurance Code, by amending Subsection (d) and adding Subsections (a-1) and (f), are repealed.

SECTION 9.041. (a) Section 2051.151(a), Insurance Code, is amended to conform to Section 6.062, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) Except as otherwise provided by Subsection (b), an insurance company that writes workers' compensation insurance in this state shall notify a policyholder of a claim that is filed against the policyholder's policy and, after the initial notice, the company shall notify the policyholder of:

(1) any proposal to settle the claim; or

(2) on receipt of a written request from the policyholder, any administrative or judicial proceeding relating to the resolution of the claim[~~, including a benefit review conference conducted by the Texas Workers' Compensation Commission~~].

(b) Section 6.062, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section (a), Article 5.65A, Insurance Code, is repealed.

SECTION 9.042. (a) Section 2053.001, Insurance Code, is amended to conform to Section 5.01, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, by amending Subdivision (2) and adding Subdivision (2-a) to read as follows:

(2) "Insurance company" means a person authorized to engage in the business of workers' compensation insurance in this

state. The term includes:

(A) the Texas Mutual Insurance Company;

(B) a Lloyd's plan under Chapter 941; and

(C) a reciprocal and interinsurance exchange under Chapter 942.

(2-a) "Premium" means the amount charged for a workers' compensation insurance policy, including any endorsements, after the application of individual risk variations based on loss or expense considerations.

(b) Section 5.01, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 1, Article 5.55, Insurance Code, by amending Subdivision (2) and adding Subdivision (2-a), is repealed.

SECTION 9.043. (a) Sections 2053.002(a) and (b), Insurance Code, are amended to conform to Section 5.02, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) In setting rates, an insurance company shall consider:

(1) past and prospective loss cost experience;

(2) operation expenses;

(3) investment income;

(4) a reasonable margin for profit and contingencies; [~~and~~]

(5) the effect on premiums of individual risk variations based on loss or expense considerations; and

(6) any other relevant factor.

(b) A rate or premium established under this subchapter may not be excessive, inadequate, or unfairly discriminatory.

(b) Section 5.02, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsections (b) and (d), Section 2, Article 5.55, Insurance Code, is repealed.

SECTION 9.044. Section 2053.007(c), Insurance Code, is repealed to conform to Section 5.04, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 9.045. (a) Section 2053.010, Insurance Code, is amended to conform to Section 5.05, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2053.010. PENALTIES [~~ADMINISTRATIVE PENALTY~~]. If a workers' compensation insurance policy is issued and the commissioner subsequently disapproves the rate or filing on which the premium is based, the commissioner, after notice and the opportunity for a hearing, may:

(1) impose sanctions under Chapter 82;

(2) issue a cease and desist order under Chapter 83;

(3) impose administrative penalties under Chapter 84; or

(4) take any combination of these actions. [~~(a) The commissioner may assess an administrative penalty against an insurance company if the commissioner determines, based on a pattern of charges for premiums, that the company is consistently overcharging or undercharging the company's policyholders for workers' compensation insurance.~~

[~~(b) An administrative penalty under this section must be:~~

[~~(1) assessed in accordance with Section 415.021, Labor Code; and~~

[~~(2) set by the commissioner in an amount reasonable and necessary to deter overcharging or undercharging of policyholders.~~]

(b) Section 5.05, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 7, Article 5.55, Insurance Code, is repealed.

SECTION 9.046. (a) Subchapter A, Chapter 2053, Insurance Code, is amended to conform to Section 5.055, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2053.011 to read as follows:

Sec. 2053.011. EXCLUSIVE JURISDICTION. The department has exclusive jurisdiction over all rates and premiums subject to this subchapter.

(b) Section 5.055, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which added Section 8 to former Article 5.55, Insurance Code, is repealed.

SECTION 9.047. (a) Subchapter A, Chapter 2053, Insurance Code, is amended to conform to Section 5.03, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, by adding Sections 2053.012 and 2053.013 to read as follows:

Sec. 2053.012. REPORT ON LEGISLATIVE REFORMS REQUIRED. (a) Not later than December 1 of each even-numbered year, the commissioner shall report to the governor, lieutenant governor, and speaker of the house of representatives regarding the impact that legislation enacted during the regular session of the 79th Legislature reforming the workers' compensation system of this state has had on the affordability and availability of workers'

compensation insurance for the employers of this state. The report must include an analysis of:

(1) the projected workers' compensation premium savings realized by employers as a result of the reforms;

(2) the impact of the reforms on:

(A) the percentage of employers who provide workers' compensation insurance coverage for their employees; and

(B) to the extent possible, economic development and job creation;

(3) the effects of the reforms on market competition and carrier financial solvency, including an analysis of how carrier loss ratios, combined ratios, and use of individual risk variations have changed since implementation of the reforms; and

(4) the extent of participation in workers' compensation health care networks by small and medium-sized employers.

(b) If the commissioner determines that workers' compensation rate filings or premium levels analyzed by the department do not appropriately reflect the savings associated with the reforms described by Subsection (a), the commissioner shall include in the report required under Subsection (a) any recommendations, including any recommended legislative changes, necessary to identify the tools needed by the department to more effectively regulate workers' compensation rates.

(c) At the request of the department, each insurance company shall submit to the department all data and other information considered necessary by the commissioner to generate the report

required under Subsection (a). Failure by an insurance company to submit the data and information in a timely fashion, as determined by commissioner rule, constitutes grounds for sanctions under Chapter 82.

Sec. 2053.013. REVIEW OF RATES; CONSIDERATION OF OTHER LAW. In reviewing rates under this subchapter, the commissioner shall consider any state or federal legislation that has been enacted and that may impact rates and premiums for workers' compensation insurance coverage in this state.

(b) Section 5.03, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which added Subsections (e) through (h) to former Section 3, Article 5.55, Insurance Code, is repealed.

SECTION 9.048. (a) Chapter 2053, Insurance Code, is amended to conform to Section 5.06, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. UNDERWRITING GUIDELINES

Sec. 2053.031. DEFINITIONS. In this subchapter:

(1) "Insurance company" has the meaning assigned by Section 2053.001.

(2) "Underwriting guideline" means a rule, standard, guideline, or practice, whether written, oral, or electronic, that is used by an insurance company or its agent to decide whether to accept or reject an application for coverage under a workers' compensation insurance policy or to determine how to classify those risks that are accepted for the purpose of determining a rate.

Sec. 2053.032. UNDERWRITING GUIDELINES. Each underwriting

guideline used by an insurance company in writing workers' compensation insurance must be sound, actuarially justified, or otherwise substantially commensurate with the contemplated risk. An underwriting guideline may not be unfairly discriminatory.

Sec. 2053.033. ENFORCEMENT. This subchapter may be enforced in the manner provided by Section 38.003(g).

Sec. 2053.034. FILING REQUIREMENTS. Each insurance company shall file with the department a copy of the insurance company's underwriting guidelines. The insurance company shall update its filing each time the underwriting guidelines are changed. If a group of insurance companies files one set of underwriting guidelines for the group, the group shall identify which underwriting guidelines apply to each insurance company in the group.

Sec. 2053.035. APPLICABILITY OF SECTION 38.003. Section 38.003 applies to this subchapter to the extent consistent with this subchapter.

(b) Section 5.06, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which added Article 5.55A to former Subchapter D, Chapter 5, Insurance Code, is repealed.

SECTION 9.049. (a) Subchapter B, Chapter 2053, Insurance Code, is amended to conform to Section 5.08, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2053.056 to read as follows:

Sec. 2053.056. RATE HEARINGS. (a) The commissioner shall conduct a public hearing each biennium, beginning not later than December 1, 2008, to review rates to be charged for workers'

compensation insurance written in this state. A public hearing under this section is not a contested case as defined by Section 2001.003, Government Code.

(b) Not later than the 30th day before the date of the public hearing required under Subsection (a), each insurance company subject to this subtitle and Article 5.66 shall file the insurance company's rates, supporting information, and supplementary rating information with the commissioner.

(c) The commissioner shall review the information submitted under Subsection (b) to determine the positive or negative impact of the enactment of workers' compensation reform legislation enacted by the 79th Legislature, Regular Session, 2005, on workers' compensation rates and premiums. The commissioner may consider other factors, including relativities under Section 2053.051, in determining whether a change in rates has impacted the premium charged to policyholders.

(d) The commissioner shall implement rules as necessary to mandate rate reductions or to modify the use of individual risk variations if the commissioner determines that the rates or premiums charged by insurance companies do not meet the rating standards as defined in this code.

(e) The commissioner shall adopt rules as necessary to mandate rate or premium reductions by insurance companies for the use of cost-containment strategies that result in savings to the workers' compensation system, including use of a workers' compensation health care network health care delivery system, as described by Chapter 1305.

(b) Section 5.08, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Article 5.60A, Insurance Code, is repealed.

SECTION 9.050. (a) Section 2053.151(b), Insurance Code, is amended to conform to Section 5.07, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) For purposes of Subsection (a), the commissioner shall establish standards and procedures for categorizing insurance and medical benefits required to be reported on each workers' compensation claim. In establishing the standards, the commissioner shall consult with the commissioner of workers' compensation [~~Texas Workers' Compensation Commission~~] to ensure that the data collection methodology will yield data necessary for research and medical cost containment efforts.

(b) Section 5.07, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (b), Article 5.58, Insurance Code, is repealed.

SECTION 9.051. (a) Section 2054.008(d), Insurance Code, is amended to conform to Section 6.065, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(d) Except as provided by Subsection (e), a company investigation file:

(1) is confidential and not subject to required disclosure under Chapter 552, Government Code; and

(2) may be disclosed only:

(A) in a criminal proceeding;

(B) in a hearing conducted by the division of

Legislature, Regular Session, 2005, which amended former Subsection (b), Section 16, Article 5.76-3, Insurance Code, is repealed.

SECTION 9.0531. Section 2054.253(b), Insurance Code, is amended to conform more closely to the source law from which the section was derived to read as follows:

(b) The systems may provide for a higher or lower premium payment by an insured based on[~~:~~

[~~1~~] the company's evaluation of the underwriting characteristics of the individual risk[~~;~~] and

[~~2~~] the appropriate premium to be charged for the policy coverages.

SECTION 9.054. (a) Section 2054.451(b), Insurance Code, is amended to conform to Section 6.064, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) The company shall cooperate with the division of workers' compensation of the department [~~commission~~] to compile and maintain information necessary to detect practices or patterns of conduct that violate this code relating to workers' compensation insurance or that violate Subtitle A, Title 5, Labor Code.

(b) Section 2054.452, Insurance Code, is amended to conform to Section 6.064, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.452. INVESTIGATIONS; COORDINATION [~~WITH COMMISSION~~]. (a) The company may investigate cases of suspected fraud and violations of this code relating to workers' compensation insurance.

(b) The company may:

(1) coordinate the company's investigations with those conducted by the division of workers' compensation of the department [~~commission~~] to avoid duplication of efforts; and

(2) refer to the division of workers' compensation of the department [~~commission~~] a case that is not otherwise resolved by the company so that the division [~~commission~~] may:

(A) perform any further investigation necessary under the circumstances;

(B) conduct administrative violation proceedings; and

(C) assess and collect penalties and restitution.

(c) Section 2054.454, Insurance Code, is amended to conform to Section 6.064, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.454. DEPOSIT AND USE OF PENALTIES COLLECTED BY DIVISION [~~COMMISSION~~]. A penalty collected under Section 2054.452(b):

(1) must be deposited in the Texas Department of Insurance operating account [~~general revenue fund to the credit of the commission~~]; and

(2) may be appropriated only to the division of workers' compensation of the department [~~commission~~] to offset the costs of the program under Section 2054.451.

(d) Section 6.064, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former

Subsections (a), (b), and (e), Section 9, Article 5.76-3, Insurance Code, is repealed.

SECTION 9.055. (a) Section 2054.501, Insurance Code, is amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.501. DEFINITION. In this subchapter, "division" means the [~~commission's~~] division of workers' compensation of the department [~~health and safety~~].

(b) Section 2054.502, Insurance Code, is amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.502. REQUIREMENTS FOR PREVENTION OF INJURIES. The company may make and enforce requirements for the prevention of injuries to an employee of a policyholder or applicant for insurance under this chapter. On reasonable notice, a policyholder or applicant shall grant representatives of the company[~~, the commission,~~] or the department free access to the premises of the policyholder or applicant during regular working hours for purposes of this section.

(c) Section 2054.506, Insurance Code, is amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.506. SAFETY CONSULTANT REPORT. A safety consultant acting under this subchapter shall file a written report with the division [~~commission~~] and the policyholder specifying any hazardous condition or practice identified in the safety consultation.

(d) Section 2054.509, Insurance Code, is amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.509. FOLLOW-UP INSPECTION. (a) Not earlier than the 90th day after or later than the sixth month after the date an accident prevention plan is developed under Section 2054.507, the division shall conduct a follow-up inspection of the policyholder's premises in accordance with rules adopted by the commissioner of workers' compensation [~~commission~~].

(b) The division [~~commission~~] may require the participation of the safety consultant who performed the initial consultation and developed the accident prevention plan.

(c) If the commissioner of workers' compensation [~~division~~] determines that a policyholder has complied with the terms of the accident prevention plan or has implemented other accepted corrective measures, the commissioner of workers' compensation [~~division~~] shall certify that determination.

(d) If the commissioner of workers' compensation [~~division~~] determines that a policyholder has failed or refuses to implement the accident prevention plan or other suitable hazard abatement measures, the policyholder may elect to cancel coverage not later than the 30th day after the date of the determination.

(e) Sections 2054.510(a), (c), and (d), Insurance Code, are amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) If a policyholder described by Section 2054.509(d) does not elect to cancel coverage as provided by that section:

(1) the company may cancel the coverage; or

(2) the commissioner of workers' compensation [~~commission~~] may impose an administrative penalty on the policyholder.

(c) In imposing an administrative penalty, the commissioner of workers' compensation [~~commission~~] may consider any matter that justice may require and shall consider:

(1) the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the prohibited act;

(2) the history and extent of previous administrative violations;

(3) the demonstrated good faith of the violator, including actions taken to rectify the consequences of the prohibited act;

(4) any economic benefit resulting from the prohibited act; and

(5) the penalty necessary to deter future violations.

(d) A penalty collected under this section [~~must be~~]:

(1) must be deposited in the general revenue fund [~~to the credit of the commission~~]; and [~~or~~]

(2) may be appropriated [~~reappropriated~~] to the division [~~commission~~] to offset the costs of implementing and administering this subchapter.

(f) Section 2054.512, Insurance Code, is amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.512. FEES FOR SERVICES. The division [~~commission~~] shall:

(1) charge a policyholder for the reasonable cost of services provided to the policyholder under Sections 2054.505, 2054.506, 2054.507, 2054.509, and 2054.510(a); and

(2) set the fees for the services at a cost-reimbursement level, including a reasonable allocation of the division's [~~commission's~~] administrative costs.

(g) Section 2054.513, Insurance Code, is amended to conform to Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2054.513. ENFORCEMENT OF SUBCHAPTER. The [~~compliance and practices~~] division [~~of the commission~~] shall enforce compliance with this subchapter through the administrative violation proceedings under Chapter 415, Labor Code.

(h) Section 6.063, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsections (a), (e), (g), (h), (i), (k), and (l), Section 8, Article 5.76-3, Insurance Code, is repealed.

SECTION 9.056. Section 2054.001(2), Insurance Code, is repealed to conform to Section 7.01, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 9.057. Section 6.068, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsections (a) and (c), Section 10, Article 5.76-5, Insurance Code, is repealed.

SECTION 9.058. Section 2151.154, Insurance Code, is amended

to conform more closely to the source law from which the section was derived to read as follows:

Sec. 2151.154. ASSIGNMENT DISTRIBUTION PLAN. (a) The plan of operation must include a voluntary, competitive limited assignment distribution plan that allows an authorized insurer to contract directly with a servicing carrier [~~insurer~~] to accept assignments to the servicing carrier [~~insurer~~] by the association.

(b) A servicing carrier [~~insurer~~] must be authorized to write automobile insurance in this state and must:

(1) have written automobile liability insurance in this state for at least five years; or

(2) be currently engaged as a servicing carrier [~~insurer~~] for assigned risk automobile business in at least one other state.

(c) After notice and hearing, the commissioner may prohibit an insurer from acting as a servicing carrier [~~insurer~~].

(d) An authorized insurer and a servicing carrier [~~insurer~~] shall determine through negotiation the terms of a contract described by this section, including the buy-out fee.

(e) The governing committee may:

(1) adopt reasonable rules for the conduct of business under a contract described by this section; and

(2) establish reasonable standards of eligibility for servicing carriers [~~insurers~~].

SECTION 9.059. (a) Section 2154.005(a), Insurance Code, is amended to conform to Section 1, Chapter 217, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) The fund is an account in a depository selected by the board of regents of The Texas A&M University System in the manner provided by Section 51.003, Education Code, for funds subject to the control of institutions of higher education under Section 51.002, Education Code [~~the general revenue fund~~].

(b) Section 1, Chapter 217, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsections (a) and (c), Section 5, Article 21.61, Insurance Code, is repealed.

SECTION 9.0591. (a) The following changes are made to Subtitle A, Title 5, Labor Code, and Subtitle E, Title 10, Insurance Code, for organizational purposes:

(1) Chapter 406A, Labor Code, is redesignated as Chapter 2055, Subtitle E, Title 10, Insurance Code; and

(2) Sections 406A.001, 406A.002, 406A.003, 406A.004, 406A.005, 406A.006, 406A.007, and 406A.008 in the redesignated chapter are redesignated as Sections 2055.001, 2055.002, 2055.003, 2055.004, 2055.005, 2055.006, 2055.007, and 2055.008, Insurance Code, respectively.

(b) Section 406A.001, Labor Code, redesignated as Section 2055.001, Insurance Code, by Subsection (a)(2) of this section, is amended to conform to that redesignation to read as follows:

Sec. 2055.001 [~~406A.001~~]. DEFINITION [~~DEFINITIONS~~]. In this chapter, "business[~~:~~

[~~(1) "Business~~] entity" means a business enterprise owned by a single person or a corporation, organization, business trust, trust, partnership, joint venture, association, or other business entity.

[~~(2) "Commissioner" means the commissioner of insurance.~~

[~~(3) "Department" means the Texas Department of Insurance.~~]

(c) Section 406A.008, Labor Code, redesignated as Section 2055.008, Insurance Code, by Subsection (a)(2) of this section, is amended to conform to that redesignation to read as follows:

Sec. 2055.008 [~~406A.008~~]. APPLICABILITY OF OTHER LAW. (a) A group established under this chapter is entitled to any deviation applicable under Section 2052.004, 2053.051, or 2053.052(a) or (b)[~~, Insurance Code~~].

(b) A member of a group is not subject to the discounts and surcharges established under Subchapter F, Chapter 2053[~~, Insurance Code~~].

(d) Section 36.002, Insurance Code, is amended to conform to the redesignation of Chapter 406A, Labor Code, as Chapter 2055, Insurance Code, by Subsection (a)(1) of this section to read as follows:

Sec. 36.002. ADDITIONAL RULEMAKING AUTHORITY. The commissioner may adopt reasonable rules that are:

(1) necessary to effect the purposes of a provision of:

(A) Subchapter B, Chapter 5;

(B) Subchapter C, Chapter 1806;

(C) Subchapter A, Chapter 2301;

(D) Chapter 251, as that chapter relates to casualty insurance and fidelity, guaranty, and surety bond

insurance;

(E) Chapter 253;

(F) Chapter 2251 or 2252; or

(G) Subtitle B, Title 10; or

(2) appropriate to accomplish the purposes of a provision of:

(A) Section 37.051(a), 403.002, 492.051(b) or (c), 501.159, 941.003(b)(3) or (c), or 942.003(b)(3) or (c);

(B) Subchapter H, Chapter 544;

(C) Chapter 251, as that chapter relates to:

(i) automobile insurance;

(ii) casualty insurance and fidelity, guaranty, and surety bond insurance;

(iii) fire insurance and allied lines;

(iv) workers' compensation insurance; or

(v) aircraft insurance;

(D) Chapter 5, 252, 253, 254, 255, 256, 426, 493, 494, 1804, 1805, 1806, or 2171;

(E) Subtitle B, C, D, E, F, H, or I, Title 10;

(F) Section 417.008, Government Code; or

(G) [~~Chapter 406A, Labor Code; or~~

[~~(H)~~] Chapter 2154, Occupations Code.

(e) Section 1805.001, Insurance Code, is amended to conform to the redesignation of Chapter 406A, Labor Code, as Chapter 2055, Insurance Code, by Subsection (a)(1) of this section to read as follows:

Sec. 1805.001. APPLICABILITY OF CHAPTER. This chapter

applies to the kinds of insurance and insurers subject to:

(1) Section 403.002;

(2) Section 941.003 with respect to the application of a law described by Section 941.003(b)(3) or (c);

(3) Section 942.003 with respect to the application of a law described by Section 942.003(b)(3) or (c);

(4) Subchapter A, B, C, or D, Chapter 5;

(5) Subchapter H, Chapter 544;

(6) Subchapter A, Chapter 2301;

(7) Chapter 252, 253, 254, 255, 426, 1806, 1807, 2001, 2002, 2003, 2004, 2005, 2006, 2051, 2052, 2053, 2055, 2171, 2251, or 2252;

(8) Subtitle B or C, Title 10; or

(9) [~~Chapter 406A, Labor Code; or~~

[~~(10)~~] Chapter 2154, Occupations Code.

(f) Section 2051.002, Insurance Code, is amended to conform to the redesignation of Chapter 406A, Labor Code, as Chapter 2055, Insurance Code, by Subsection (a)(1) of this section to read as follows:

Sec. 2051.002. CONSTRUCTION OF CERTAIN LAWS. The following shall be construed and applied independently of any other law that relates to insurance rates and forms or prescribes the duties of the commissioner or the department:

(1) this chapter;

(2) Subchapter D, Chapter 5;

(3) Chapter 251, as that chapter relates to workers' compensation insurance; and

(4) Chapters 255, 426, 2052, [~~and~~] 2053, and 2055[~~; and~~

[~~(5) Chapter 406A, Labor Code~~].

SECTION 9.060. (a) Subchapter C, Chapter 2203, Insurance Code, is amended to conform to Section 1, Chapter 246, Acts of the 79th Legislature, Regular Session, 2005, and Section 2, Chapter 1136, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2203.1021 to read as follows:

Sec. 2203.1021. VOLUNTEER HEALTH CARE PROVIDERS. (a) In this section:

(1) "Charitable organization" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(2) "Volunteer health care provider" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(b) The association shall make available medical liability insurance or appropriate health care liability insurance covering a volunteer health care provider for the legal liability of the person against any loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence in rendering or the failure to render professional service while acting in the course and scope of the person's duties as a volunteer health care provider as described by Chapter 84, Civil Practice and Remedies Code.

(c) A volunteer health care provider who is serving as a direct service volunteer of a charitable organization is eligible to obtain from the association the liability insurance made available under this section. A volunteer health care provider who

obtains coverage under this section is subject to Section 2203.302 and the other provisions of this chapter in the same manner as physicians who are eligible to obtain medical liability insurance from the association.

(d) This section does not affect the liability of a volunteer health care provider who is serving as a direct service volunteer of a charitable organization. Section 84.004(c), Civil Practice and Remedies Code, applies to the volunteer health care provider without regard to whether the volunteer health care provider obtains liability insurance under this section.

(b) Section 1, Chapter 246, Acts of the 79th Legislature, Regular Session, 2005, and Section 2, Chapter 1136, Acts of the 79th Legislature, Regular Session, 2005, which added Section 3C to former Article 21.49-3, Insurance Code, are repealed.

SECTION 9.061. (a) Sections 2210.004(a) and (g), Insurance Code, are amended to conform to Section 1, Chapter 1153, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) For purposes of this chapter and subject to this section, "insurable property" means immovable property at a fixed location in a catastrophe area or corporeal movable property located in that immovable property, as designated in the plan of operation, that is determined by the association according to the criteria specified in the plan of operation to be in an insurable condition against windstorm and hail or fire and explosion, as appropriate, as determined by normal underwriting standards. The term includes property described by Section 2210.209.

(g) For purposes of this chapter, a residential structure is

insurable property if:

(1) the residential structure is not:

(A) a condominium, apartment, duplex, or other multifamily residence; or

(B) a hotel or resort facility;

(2) the residential structure is located within an area designated as a unit under the Coastal Barrier Resources Act (Pub. L. No. 97-348); and

(3) a building permit or plat for the residential structure was filed with the municipality, the county, or the United States Army Corps of Engineers before June 11, 2003 [~~January 1, 2004~~].

(b) Section 1, Chapter 1153, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (f), Section 3, Article 21.49, Insurance Code, is repealed.

SECTION 9.062. (a) Subchapter E, Chapter 2210, Insurance Code, is amended to conform to Section 2, Chapter 1153, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2210.209 to read as follows:

Sec. 2210.209. WINDSTORM AND HAIL INSURANCE: COVERAGE FOR CERTAIN PROPERTY LOCATED OVER WATER. (a) A windstorm and hail insurance policy issued by the association may include coverage for:

(1) a building or other structure located in the seacoast territory that is built wholly or partially over water; and

(2) the corporeal movable property contained in a

building or structure described by Subdivision (1).

(b) The association may impose appropriate limits of coverage and deductibles for coverage described by Subsection (a).

(c) The board of directors of the association shall submit any proposed changes to the plan of operation necessary to implement Subsections (a) and (b) to the commissioner in the manner provided by Section 2210.153.

(d) The commissioner shall adopt rules as necessary to implement this section, including any rules necessary to implement changes in the plan of operation proposed under Subsection (c).

(b) Section 2, Chapter 1153, Acts of the 79th Legislature, Regular Session, 2005, which added Section 3A to former Article 21.49, Insurance Code, is repealed.

SECTION 9.063. (a) Section 2210.006(b), Insurance Code, is amended to conform to Section 1, Chapter 1251, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) This chapter does not apply to:

(1) a farm mutual insurance company operating under Chapter 911;

(2) a nonaffiliated county mutual fire insurance company described by Section 912.310 that is writing exclusively industrial fire insurance policies as described by Section 912.310(a)(2); or

(3) a mutual insurance company or a statewide mutual assessment company engaged in business under Chapter 12 or 13, Title 78, Revised Statutes, respectively, before those chapters' repeal by Section 18, Chapter 40, Acts of the 41st Legislature, 1st

Called Session, 1929, as amended by Section 1, Chapter 60, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, that retains the rights and privileges under the repealed law to the extent provided by those sections.

(b) Section 1, Chapter 1251, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (k), Section 3, Article 21.49, Insurance Code, is repealed.

SECTION 9.0631. Section 2210.359(a), Insurance Code, is amended to conform more closely to the source law from which it was derived to read as follows:

(a) Except as otherwise provided by this subsection, a [~~A~~] rate approved by the commissioner under this subchapter may not reflect an average rate change that is more than 10 percent higher or lower than the rate for commercial windstorm and hail insurance or 10 percent higher or lower than the rate for noncommercial windstorm and hail insurance in effect on the date the filing is made. The rate may not reflect a rate change for an individual rating class that is 15 percent higher or lower than the rate for that individual rating class in effect on the date the filing is made. This subsection does not apply to a rate filed under Sections 2210.351(a)-(d).

SECTION 9.064. Subchapter I, Chapter 2210, Insurance Code, is repealed to conform to Section 1, Chapter 222, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 9.065. (a) Section 2211.051, Insurance Code, is amended to conform to Section 1, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2211.051. ESTABLISHMENT OF FAIR PLAN. The commissioner may establish a Fair Access to Insurance Requirements Plan to deliver residential property insurance to residents of this state in underserved areas if the commissioner determines, after a public hearing, that:

(1) in all or any part of the state, residential property insurance is not reasonably available in the voluntary market to a substantial number of insurable risks; or [~~and~~]

(2) at least 25 percent of the applicants to the residential property market assistance program who are qualified under that program's plan of operation have not been placed with an insurer in the preceding six months.

(b) Section 2211.052, Insurance Code, is amended to conform to Section 2, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, by amending Subsections (b) and (d) and adding Subsection (e) to read as follows:

(b) The governing committee is composed of 11 members appointed by the commissioner as follows:

(1) five members who represent the interests of insurers;

(2) four public members who reside in this state; and

(3) two members who are general property and casualty agents.

(d) Each member of the governing committee who represents the interests of insurers must be a full-time employee of an insurer that is a member of the association.

(e) The commissioner may remove a member of the governing

committee without cause and may replace the member in accordance with Subsection (b).

(c) Subchapter B, Chapter 2211, Insurance Code, is amended to conform to Section 2, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2211.0521 to read as follows:

Sec. 2211.0521. MEETINGS OF GOVERNING BODY. (a) Notwithstanding Chapter 551, Government Code, or any other law, members of the governing committee may meet by telephone conference call, video conference, or other similar telecommunication method. The governing committee may use telephone conference call, video conference, or other similar telecommunication method for purposes of establishing a quorum or voting or for any other meeting purpose in accordance with this subsection and Subsection (b). This subsection applies without regard to the subject matter discussed or considered by the members of the governing committee at the meeting.

(b) A meeting held by telephone conference call, video conference, or other similar telecommunication method:

(1) is subject to the notice requirements applicable to other meetings of the governing committee;

(2) may not be held unless notice of the meeting specifies the location of the meeting at which at least one member of the governing committee is physically present;

(3) must be audible to the public at the location specified in the notice under Subdivision (2); and

(4) must provide two-way audio communication between

all members of the governing committee attending the meeting during the entire meeting, and if the two-way audio communication link with members attending the meeting is disrupted so that a quorum of the governing committee is no longer participating in the meeting, the meeting may not continue until the two-way audio communication link is reestablished.

(d) Sections 2211.101(b) and (c), Insurance Code, are amended to conform to Sections 1, 2, and 3, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) Except as provided by this subsection, each [~~Each~~] insurer, as a condition of the insurer's authority to engage in the business of residential property insurance in this state, shall participate in the association in accordance with this chapter, including participating in the association's assessments [~~writings, expenses, and losses~~] in the proportion that the insurer's net direct premiums written in this state during the preceding calendar year bear to the aggregate net direct premiums written in this state by all participating insurers. The Texas Windstorm Insurance Association established by Chapter 2210 may not participate in the association for any purpose.

(c) An insurer's participation under Subsection (b) in the association's assessments [~~writings, expenses, and losses~~] must be determined in accordance with the residential property statistical plan adopted by the commissioner.

(e) The following are repealed:

(1) Section 1, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, which amended former

Subsections (a) and (b), Section 1, Article 21.49A, Insurance Code;

(2) Section 2, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 3, Article 21.49A, Insurance Code, by amending Subsections (b), (d), and (e) and adding Subsections (f) and (g); and

(3) Section 3, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (d), Section 5, Article 21.49A, Insurance Code.

SECTION 9.066. (a) Section 2211.104, Insurance Code, is amended to conform to Section 4, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, by amending Subsections (b), (c), and (d) and adding Subsection (e) to read as follows:

(b) As reimbursement for assessments paid under this section or service fees paid under Section 2211.209, each [~~If the association assesses participating insurers under this section, each~~] insurer may charge a premium surcharge on every property insurance policy insuring property in this state that the insurer issues, the effective date of which is within the three-year period beginning on the 90th day after the date of the assessment or the 90th day after the date the service fee under Section 2211.209 is paid, as applicable.

(c) The insurer shall compute the amount of the surcharge under Subsection (b) as a uniform percentage of the premium on each policy described by Subsection (b). The percentage must be equal to one-third of the ratio of the amount of the participating insurer's assessment or service fee payment to the amount of the insurer's direct earned premiums, as reported to the department in the

insurer's financial statement for the calendar year preceding the year in which the assessment or service fee payment is made so that, over the three-year period, the aggregate of all surcharges by the insurer under this section is at least equal to [~~equals~~] the amount of the assessment or service fee payment.

(d) The amount of any assessment paid and surcharged under this section may be carried by the insurer as an admitted asset of the insurer for all purposes, including exhibition in annual statements under Section 862.001, until collected [~~The minimum surcharge on a policy may be $1. A surcharge may be rounded to the nearest dollar~~].

(e) The commissioner shall adopt rules and procedures as necessary to implement this section.

(b) Section 4, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, which amended former Section 11, Article 21.49A, Insurance Code, is repealed.

SECTION 9.067. (a) Subchapter B, Chapter 2211, Insurance Code, is amended to conform to Section 5, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2211.059 to read as follows:

Sec. 2211.059. ASSETS OF ASSOCIATION. On dissolution of the association, all assets of the association shall be deposited in the general revenue fund.

(b) Section 5, Chapter 1082, Acts of the 79th Legislature, Regular Session, 2005, which added Section 16 to former Article 21.49A, Insurance Code, is repealed.

SECTION 9.068. (a) Subchapter D, Chapter 2211, Insurance

Code, is amended to conform to Section 3, Chapter 1153, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2211.157 to read as follows:

Sec. 2211.157. COVERAGE FOR CERTAIN WINDSTORM AND HAIL DAMAGE; COVERAGE FOR CERTAIN PROPERTY LOCATED OVER WATER. (a) A policy issued by the association may include coverage against loss or damage by windstorm or hail for:

(1) a building or other structure that is built wholly or partially over water; and

(2) the corporeal movable property contained in a building or structure described by Subdivision (1).

(b) The association may impose appropriate limits of coverage and deductibles for coverage described by Subsection (a).

(c) The governing committee of the association shall submit any proposed changes to the plan of operation necessary to implement Subsections (a) and (b) to the commissioner for the approval of the commissioner in the manner provided by Section 2211.053.

(d) The commissioner shall adopt rules as necessary to implement this section, including any rules necessary to implement changes in the plan of operation proposed under Subsections (a) and (b).

(b) Section 3, Chapter 1153, Acts of the 79th Legislature, Regular Session, 2005, which added Section 5A to former Article 21.49A, Insurance Code, is repealed.

SECTION 9.069. (a) Section 2212.001, Insurance Code, is amended to conform to Section 2, Chapter 184, Acts of the 79th

Legislature, Regular Session, 2005; Section 2, Chapter 246, Acts of the 79th Legislature, Regular Session, 2005; and Section 3, Chapter 1136, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2212.001. DEFINITIONS. In this chapter:

(1) "Charitable organization" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(2) "Dentist" means a person licensed to practice dentistry in this state.

(3) [~~(2)~~] "Health care liability claim" means a cause of action against a physician or dentist for treatment, lack of treatment, or other claimed departure from accepted standards of health care or safety that proximately results in injury to or death of the patient, whether the patient's claim or cause of action sounds in tort or contract.

(4) [~~(3)~~] "Physician" means a person licensed to practice medicine in this state.

(5) [~~(4)~~] "Trust" means a self-insurance trust organized and operated under this chapter.

(6) "Volunteer health care provider" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(b) Section 2, Chapter 184, Acts of the 79th Legislature, Regular Session, 2005; Section 2, Chapter 246, Acts of the 79th Legislature, Regular Session, 2005; and Section 3, Chapter 1136, Acts of the 79th Legislature, Regular Session, 2005, all of which added Subdivisions (4) and (5) to former Subsection (a), Article 21.49-4, Insurance Code, are repealed.

SECTION 9.070. (a) Subchapter C, Chapter 2212, Insurance Code, is amended to conform to Section 3, Chapter 184, Acts of the 79th Legislature, Regular Session, 2005; Section 3, Chapter 246, Acts of the 79th Legislature, Regular Session, 2005; and Section 4, Chapter 1136, Acts of the 79th Legislature, Regular Session, 2005, by adding Section 2212.102 to read as follows:

Sec. 2212.102. COVERAGE FOR VOLUNTEER HEALTH CARE PROVIDERS. (a) The trust, in accordance with Section 2212.054, may make available professional liability insurance covering a volunteer health care provider for an act or omission resulting in death, damage, or injury to a patient while the person is acting in the course and scope of the person's duties as a volunteer health care provider as described by Chapter 84, Civil Practice and Remedies Code.

(b) This section does not affect the liability of a volunteer health care provider who is serving as a direct service volunteer of a charitable organization. Section 84.004(c), Civil Practice and Remedies Code, applies to the volunteer health care provider without regard to whether the volunteer health care provider obtains liability insurance under this section.

(c) The trust may make professional liability insurance available under this section to a volunteer health care provider without regard to whether the volunteer health care provider is a physician or dentist.

(b) Section 3, Chapter 184, Acts of the 79th Legislature, Regular Session, 2005; Section 3, Chapter 246, Acts of the 79th Legislature, Regular Session, 2005; and Section 4, Chapter 1136,

Acts of the 79th Legislature, Regular Session, 2005, all of which added Subsection (c-1) to former Article 21.49-4, Insurance Code, are repealed.

SECTION 9.071. (a) Section 2251.003(b), Insurance Code, is amended to conform to Section 1, Chapter 70, Acts of the 79th Legislature, Regular Session, 2005; Section 1, Chapter 71, Acts of the 79th Legislature, Regular Session, 2005; and Section 4, Chapter 102, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) This subchapter and Subchapters B, C, D, and E apply to all lines of the following kinds of insurance written under an insurance policy or contract issued by an insurer authorized to engage in the business of insurance in this state:

(1) general liability insurance;

(2) residential and commercial property insurance, including farm and ranch insurance and farm and ranch owners insurance;

(3) personal and commercial casualty insurance, except as provided by Section 2251.004;

(4) medical professional liability insurance;

(5) fidelity, guaranty, and surety bonds other than criminal court appearance bonds;

(6) personal umbrella insurance;

(7) personal liability insurance;

(8) guaranteed auto protection (GAP) insurance;

(9) involuntary unemployment insurance;

(10) financial guaranty insurance;

(11) inland marine insurance;

(12) rain insurance;

(13) hail insurance on farm crops; [~~and~~]

(14) personal and commercial automobile insurance;

(15) multi-peril insurance; and

(16) identity theft insurance issued under Chapter 706.

(b) Section 2301.003(b), Insurance Code, is amended to conform to Section 1, Chapter 70, Acts of the 79th Legislature, Regular Session, 2005; Section 1, Chapter 71, Acts of the 79th Legislature, Regular Session, 2005; and Section 4, Chapter 102, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) This subchapter applies to all lines of the following kinds of insurance written under an insurance policy or contract issued by an insurer authorized to engage in the business of insurance in this state:

(1) general liability insurance;

(2) residential and commercial property insurance, including farm and ranch insurance and farm and ranch owners insurance;

(3) personal and commercial casualty insurance, except as provided by Section 2301.005;

(4) medical professional liability insurance;

(5) fidelity, guaranty, and surety bonds other than criminal court appearance bonds;

(6) personal umbrella insurance;

(7) personal liability insurance;

(8) guaranteed auto protection (GAP) insurance;

(9) involuntary unemployment insurance;

(10) financial guaranty insurance;

(11) inland marine insurance;

(12) rain insurance;

(13) hail insurance on farm crops; [~~and~~]

(14) personal and commercial automobile insurance;

(15) multi-peril insurance; and

(16) identity theft insurance issued under Chapter 706.

(c) Section 1, Chapter 70, Acts of the 79th Legislature, Regular Session, 2005; Section 1, Chapter 71, Acts of the 79th Legislature, Regular Session, 2005; and Section 4, Chapter 102, Acts of the 79th Legislature, Regular Session, 2005, all of which amended former Subsection (a), Section 2, Article 5.13-2, Insurance Code, are repealed.

SECTION 9.072. (a) Subchapter E, Chapter 2251, Insurance Code, is amended by adding Section 2251.205 to conform to Section 1, Chapter 1118, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2251.205. APPLICATION OF FILING REQUIREMENTS TO OTHER INSURERS. An insurer is subject to the filing requirements determined by the commissioner by rule under Section 2251.204 if:

(1) the insurer, along with the insurer's affiliated companies or group, issues personal automobile liability insurance policies only below 101 percent of the minimum limits required by

Chapter 601, Transportation Code; and

(2) the insurer, along with the insurer's affiliated companies or group, has a market share of less than 3.5 percent of the personal automobile insurance market in this state.

(b) Section 1, Chapter 1118, Acts of the 79th Legislature, Regular Session, 2005, which added Subsection (h) to former Section 13, Article 5.13-2, Insurance Code, is repealed.

SECTION 9.073. (a) Section 2253.001, Insurance Code, is amended to conform to Section 2, Chapter 291, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

Sec. 2253.001. RATING TERRITORIES. (a) Notwithstanding any other provision of this code, an insurer, in writing residential property or personal automobile insurance, may use rating territories that subdivide a county only if:

(1) the county is subdivided; and

(2) the rate for any subdivision in the county is not greater than 15 percent higher than the rate used in any other subdivision in the county by that insurer.

(b) The [~~For residential property insurance or personal automobile insurance, the~~] commissioner by rule may allow a greater rate difference than the rate difference specified by Subsection (a).

(b) Section 2, Chapter 291, Acts of the 79th Legislature, Regular Session, 2005, which amended former Article 5.171, Insurance Code, is repealed.

SECTION 9.074. Section 4151.206(a), Insurance Code, is amended to conform more closely to the source law from which the

section was derived to read as follows:

(a) The commissioner shall collect and an applicant or administrator shall pay to the commissioner fees in an amount to be determined by the commissioner as follows:

(1) a filing fee not to exceed $1,000 for processing an original application for a certificate of authority for an administrator;

(2) a fee not to exceed $500 for an examination under Section 4151.201 [~~4201.201~~]; and

(3) a filing fee not to exceed $200 for an annual report.

SECTION 9.075. (a) Sections 4201.054(a) and (d), Insurance Code, are amended to conform to Section 6.072, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(a) Except as provided by this section, this chapter applies to utilization review of a health care service provided to a person eligible for workers' compensation medical benefits under Title 5, Labor Code. The commissioner of workers' compensation shall regulate as provided by this chapter a person who performs utilization review of a medical benefit provided under Title 5 [~~Chapter 408~~], Labor Code.

(d) The commissioner of workers' compensation [~~and the Texas Workers' Compensation Commission~~] may adopt rules [~~and enter into memoranda of understanding~~] as necessary to implement this section.

(b) Section 4201.054(b), Insurance Code, is repealed to conform to Section 6.072, Chapter 265, Acts of the 79th

Legislature, Regular Session, 2005.

(c) Section 6.072, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (c), Section 14, Article 21.58A, Insurance Code, is repealed.

SECTION 9.076. (a) Section 4201.207(b), Insurance Code, is amended to conform to Section 6.071, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, to read as follows:

(b) A health care provider's charges for providing medical information to a utilization review agent may not:

(1) exceed the cost of copying records regarding a workers' compensation claim as set by rules adopted by the commissioner of workers' compensation [~~Texas Workers' Compensation Commission~~]; or

(2) include any costs otherwise recouped as part of the charges for health care.

(b) Section 6.071, Chapter 265, Acts of the 79th Legislature, Regular Session, 2005, which amended former Subsection (l), Section 4, Article 21.58A, Insurance Code, is repealed.

ARTICLE 10. CHANGES RELATING TO LABOR CODE

SECTION 10.001. Section 204.022(a), Labor Code, as amended by Chapters 39, 493, and 728, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(a) Benefits computed on benefit wage credits of an employee or former employee may not be charged to the account of an employer if the employee's last separation from the employer's employment

before the employee's benefit year:

(1) was required by a federal statute;

(2) was required by a statute of this state or an ordinance of a municipality of this state;

(3) would have disqualified the employee under Section 207.044, 207.045, 207.051, or 207.053 if the employment had been the employee's last work;

(4) imposes a disqualification under Section 207.044, 207.045, 207.051, or 207.053;

(5) was caused by a medically verifiable illness of the employee or the employee's minor child;

(6) was based on a natural disaster that results in a disaster declaration by the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.), if the employee would have been entitled to unemployment assistance benefits under Section 410 of that act (42 U.S.C. Section 5177) had the employee not received state unemployment compensation benefits;

(7) was caused by a natural disaster, fire, flood, or explosion that causes employees to be separated from one employer's employment;

(8) was based on a disaster that results in a disaster declaration by the governor under Section 418.014, Government Code;

(9) resulted from the employee's resigning from partial employment to accept other employment that the employee reasonably believed would increase the employee's weekly wage;

(10) was caused by the employer being called to active

military service in any branch of the United States armed forces on or after January 1, 2003;

(11) resulted from the employee leaving the employee's workplace to protect the employee from family violence or stalking as evidenced by:

(A) an active or recently issued protective order documenting family violence against, or the stalking of, the employee or the potential for family violence against, or the stalking of, the employee;

(B) a police record documenting family violence against, or the stalking of, the employee; and

(C) a physician's statement or other medical documentation of family violence against the employee; [~~or~~]

(12) resulted from a move from the area of the employee's employment that:

(A) was made with the employee's spouse who is a member of the armed forces of the United States; and

(B) resulted from the spouse's permanent change of station of longer than 120 days or a tour of duty of longer than one year; or

(13) [~~(12)~~] was caused by the employee being unable to perform the work as a result of a disability for which the employee is receiving disability insurance benefits under 42 U.S.C. Section 423.

SECTION 10.002. Section 204.022(c), Labor Code, is amended to correct a reference to read as follows:

(c) Except as provided by law, evidence regarding an

employee described by Subsection (a)(11) [~~(a)(9)~~] may not be disclosed to any person without the consent of the employee.

SECTION 10.003. Section 402.081(d), Labor Code, as amended by Chapters 265, 329, and 716, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(d) The division [~~commission~~] may charge a reasonable fee for making available for inspection any of its information that contains confidential information that must be redacted before the information is made available. However, when a request for information is for the inspection of 10 or fewer pages, and a copy of the information is not requested, the division [~~commission~~] may charge only the cost of making a copy of the page from which confidential information must be redacted. The fee for access to information under Chapter 552, Government Code, shall be in accord with the rules of the attorney general [~~Texas Building and Procurement Commission~~] that prescribe the method for computing the charge for copies under that chapter.

ARTICLE 11. CHANGES RELATING TO LOCAL GOVERNMENT CODE

SECTION 11.001. Section 143.027(a), Local Government Code, as amended by Chapters 869 and 909, Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

(a) A person appointed to a beginning position in the fire or police department must serve a probationary period of one year beginning on that person's date of employment as a fire fighter, police officer, or academy trainee. In a municipality with a population of less than 1.9 million, the commission by rule may extend the probationary period by not more than six months for a

person who:

(1) is not employed by a department in which a collective bargaining agreement or a meet-and-confer agreement currently exists or previously existed; and

(2) is required to attend a basic training academy for initial certification by the Texas Commission on Fire Protection or the Commission on Law Enforcement Officer Standards and Education.

ARTICLE 12. CHANGES RELATING TO OCCUPATIONS CODE

SECTION 12.001. Section 1701.354, Occupations Code, as amended by Chapters 735 and 954, Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

Sec. 1701.354. CONTINUING EDUCATION FOR DEPUTY CONSTABLES. (a) If the commission requires a state, county, special district, or municipal agency that employs a deputy constable to provide the deputy constable with a training program under Section 1701.352, the commission shall require the deputy constable to attend at least 20 hours of instruction in civil process.

(b) The commission shall adopt rules and procedures concerning a civil process course, including rules providing for:

(1) approval of course content and standards; and

(2) issuance of course credit.

(c) The commission may waive the instruction requirements for a deputy constable under this section:

(1) if a constable requests a waiver for the deputy constable based on a representation that the deputy constable's duty assignment does not involve civil process responsibilities; or

(2) if the deputy constable requests a waiver because

of hardship and the commission determines that a hardship exists.

SECTION 12.002. Section 1702.324(b), Occupations Code, as amended by Chapters 518, 728, 1102, and 1155, Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

(b) This chapter does not apply to:

(1) a manufacturer or a manufacturer's authorized distributor who sells equipment intended for resale and does not perform any other service that requires a license under this chapter;

(2) a person engaged exclusively in the business of obtaining and providing information to:

(A) determine creditworthiness;

(B) collect debts; or

(C) ascertain the reliability of information provided by an applicant for property, life, or disability insurance or an indemnity or surety bond;

(3) a person engaged exclusively in the business of repossessing property that is secured by a mortgage or other security interest;

(4) a person who:

(A) is engaged in the business of psychological testing or other testing and interviewing services, including services to determine attitudes, honesty, intelligence, personality, and skills, for preemployment purposes; and

(B) does not perform any other service that requires a license under this chapter;

(5) a person who:

(A) is engaged in obtaining information that is a public record under Chapter 552, Government Code, regardless of whether the person receives compensation;

(B) is not a full-time employee, as defined by Section 61.001, Labor Code, of a person licensed under this chapter; and

(C) does not perform any other act that requires a license under this chapter;

(6) a licensed engineer practicing engineering or directly supervising engineering practice under Chapter 1001, including forensic analysis, burglar alarm system engineering, and necessary data collection;

(7) an employee of a cattle association who inspects livestock brands under the authority granted to the cattle association by the Grain Inspection, Packers and Stockyards Administration of the United States Department of Agriculture;

(8) a landman performing activities in the course and scope of the landman's business;

(9) an attorney while engaged in the practice of law;

(10) a person who obtains a document for use in litigation under an authorization or subpoena issued for a written or oral deposition;

(11) an admitted insurer, insurance adjuster, agent, or insurance broker licensed by the state, performing duties in connection with insurance transacted by that person;

(12) a person who on the person's own property or on

property owned or managed by the person's employer:

(A) installs, changes, or repairs a mechanical security device;

(B) repairs an electronic security device; or

(C) cuts or makes a key for a security device;

(13) security personnel, including security contract personnel, working at a commercial nuclear power plant licensed by the United States Nuclear Regulatory Commission;

(14) a person or firm licensed as an accountant or accounting firm under Chapter 901, an owner of an accounting firm, or an employee of an accountant or accounting firm; or

(15) a retailer, wholesaler, or other person who sells mechanical security devices, including locks and deadbolts, but who does not:

(A) service mechanical security devices for the public outside of the person's premises; or

(B) claim to act as a locksmith.

SECTION 12.003. Section 2002.054(c), Occupations Code, as amended by Chapters 929 and 1006, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(c) Except as provided by Section 2002.0541, the organization may not permit a person who is not [~~a member of the organization or who is not~~] authorized by the organization to sell or offer to sell raffle tickets.

SECTION 12.004. Section 2303.158, Occupations Code, as added by Chapters 737 and 953, Acts of the 79th Legislature, Regular Session, 2005, is repealed to conform to Chapter 1197, Acts of the

79th Legislature, Regular Session, 2005.

ARTICLE 12A. CHANGES RELATING TO PENAL CODE

SECTION 12A.001. Section 46.01(6), Penal Code, is amended to read as follows:

(6) "Illegal knife" means a:

(A) knife with a blade over five and one-half inches;

(B) hand instrument designed to cut or stab another by being thrown;

(C) dagger, including but not limited to a dirk, stiletto [~~stilletto~~], and poniard;

(D) bowie knife;

(E) sword; or

(F) spear.

ARTICLE 13. CHANGES RELATING TO SPECIAL DISTRICT LOCAL LAWS CODE

SECTION 13.001. Section 1006.151(a), Special District Local Laws Code, as added by Section 1.01, Chapter 729, Acts of the 79th Legislature, Regular Session, 2005, is amended to correct a reference to read as follows:

(a) The district administrator shall prepare an annual budget for approval by the board. The budget must be for the fiscal year prescribed by Section 1006.152 [~~1007.152~~].

SECTION 13.002. Section 1006.202(a), Special District Local Laws Code, as added by Section 1.01, Chapter 729, Acts of the 79th Legislature, Regular Session, 2005, is amended to correct a reference to read as follows:

(a) At the time general obligation bonds are issued under

Section 1006.201 [~~1007.201~~], the board shall impose an ad valorem tax at a rate sufficient to:

(1) create an interest and sinking fund; and

(2) pay the principal of and interest on the bonds as the bonds mature.

SECTION 13.003. Section 1008.253(b), Special District Local Laws Code, is amended to conform more closely to the source law from which the section was derived to read as follows:

(b) The board must specify in the order calling the election:

(1) the date of the election;

(2) [~~the hours during which the polls must be open;~~

[~~(3)~~] the location of the polling places;

(3) [~~(4)~~] the presiding and alternate election judges for each polling place;

(4) [~~(5)~~] the amount of the bonds to be authorized; and

(5) [~~(6)~~] the maximum maturity of the bonds.

SECTION 13.0035. (a) Section 5001.001, Special District Local Laws Code, is amended to conform to Section 1, Chapter 81, Acts of the 62nd Legislature, Regular Session, 1971, to read as follows:

Sec. 5001.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

(1) "Commission" means the navigation and canal commission of the district.

(2) "Commissioner" means a member of the commission.

(3) "District"[~~, "district"~~] means the Aransas County

Navigation District No. 1.

(b) Chapter 5001, Special District Local Laws Code, is amended to conform to Chapter 81, Acts of the 62nd Legislature, Regular Session, 1971, by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. COMMISSION

Sec. 5001.021. GOVERNING BODY; TERMS. (a) The district is governed by a commission consisting of five commissioners, each elected to a navigation and canal commissioner's office by number.

(b) Commissioners serve two-year terms.

Sec. 5001.022. QUALIFICATIONS. To be eligible for election to any of the following offices, a person must have the following qualifications:

(1) for the office of Navigation and Canal Commissioner No. 1, a person must reside in and be a freehold property taxpaying voter of Aransas County Commissioners' Precinct No. 1;

(2) for the office of Navigation and Canal Commissioner No. 2, a person must reside in and be a freehold property taxpaying voter of Aransas County Commissioners' Precinct No. 2;

(3) for the office of Navigation and Canal Commissioner No. 3, a person must reside in and be a freehold property taxpaying voter of Aransas County Commissioners' Precinct No. 3;

(4) for the office of Navigation and Canal Commissioner No. 4, a person must reside in and be a freehold property taxpaying voter of Aransas County Commissioners' Precinct

No. 4; and

(5) for the office of Navigation and Canal Commissioner No. 5, a person must reside in and be a freehold property taxpaying voter of Aransas County.

Sec. 5001.023. ELECTION OF COMMISSIONERS. On a uniform election date in each odd-numbered year, five commissioners shall be elected.

Sec. 5001.024. NOTICE OF ELECTION. The secretary of the commission shall give notice of an election by posting or publishing the notice for at least 20 days before the date of the election.

Sec. 5001.025. VACANCIES. (a) A vacancy in the office of a commissioner that occurs for any reason shall be filled by the remaining members of the commission except as provided by this section.

(b) If three or more vacancies in commissioners' offices occur at the same time, a special election may be called as provided by Section 62.066, Water Code.

Sec. 5001.026. REMOVAL FROM OFFICE. (a) A commissioner may be removed from office for malfeasance or nonfeasance in office by unanimous vote of the commissioners court of Aransas County after a hearing.

(b) Appeal from a judgment of removal may be taken to a district court in Aransas County. The court shall try the case de novo.

(c) Section 5001.051, Special District Local Laws Code, is amended to read as follows:

Sec. 5001.051. DEFINITION [~~DEFINITIONS~~]. In this subchapter, "fund" [~~:~~

[~~(1) "Commission" means the navigation and canal commission of the district.~~

[~~(2) "Fund"~~] means a promotion and development fund created by the district.

SECTION 13.004. Section 7202.005, Special District Local Laws Code, as added by Chapter 895, Acts of the 79th Legislature, Regular Session, 2005, is repealed as duplicative of Section 7202.006, Special District Local Laws Code, as added by Chapter 770, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 13.005. (a) Section 8101.003(a), Special District Local Laws Code, is amended to conform to Section 1, Chapter 993, Acts of the 78th Legislature, Regular Session, 2003, to read as follows:

(a) The legislature finds that[~~:~~

[~~(1) all of the lands and other property included in the boundaries of the authority will benefit from the improvements and facilities to be constructed, acquired, or otherwise provided under this chapter; and~~

[~~(2)~~] the authority is created to serve a public use and benefit.

(b) Section 8101.051, Special District Local Laws Code, is amended to conform to Section 1, Chapter 993, Acts of the 78th Legislature, Regular Session, 2003, to read as follows:

Sec. 8101.051. BOUNDARIES. [~~(a)~~] The authority is in Henderson County and, unless modified as provided by Section

8101.052, [~~or~~] by Subchapter J, Chapter 49, Water Code, or by Subchapter O, Chapter 51, Water Code, the boundaries of the authority are coextensive with the corporate limits of the city of Athens, Henderson County, Texas, as those corporate limits existed on September 1, 2003 [~~May 2, 1957~~].

[~~(b) Territory annexed by the City of Athens after May 2, 1957, does not become a part of the authority solely because of its annexation to the city.~~

[~~(c) A defect or irregularity in the boundaries of the city of Athens as they existed on May 2, 1957, or in a proceeding related to the territory of or an annexation by the city before that date does not affect the validity of the authority or any of its rights, powers, privileges, or functions.~~]

(c) Section 8101.052(a), Special District Local Laws Code, is amended to conform to Section 1, Chapter 993, Acts of the 78th Legislature, Regular Session, 2003, to read as follows:

(a) The board, as provided by this section, may annex territory the City of Athens annexes [~~after May 2, 1957~~]. The authority may not annex territory under this section if bonds supported by ad valorem taxes previously voted on remain unissued and unsold.

(d) Section 1, Chapter 993, Acts of the 78th Legislature, 2003, which amended former Subsections (a) and (b), Section 2, Chapter 142, Acts of the 55th Legislature, Regular Session, 1957, is repealed.

SECTION 13.006. (a) Chapter 221, Water Code, is renumbered as Chapter 8502, Special District Local Laws Code, and Sections

221.001, 221.002, 221.003, 221.004, 221.005, 221.006, 221.007, 221.008, 221.009, 221.010, 221.011, 221.012, 221.013, 221.014, 221.015, 221.016, 221.017, 221.018, and 221.019, Water Code, are renumbered as Sections 8502.001, 8502.002, 8502.003, 8502.004, 8502.005, 8502.006, 8502.007, 8502.008, 8502.009, 8502.010, 8502.011, 8502.012, 8502.013, 8502.014, 8502.015, 8502.016, 8502.017, 8502.018, and 8502.019, Special District Local Laws Code, respectively.

(b) Chapter 222, Water Code, is renumbered as Chapter 8503, Special District Local Laws Code, and Sections 222.001, 222.002, 222.003, 222.004, 222.005, 222.006, 222.007, 222.008, 222.009, 222.010, 222.011, 222.012, 222.013, 222.014, 222.015, 222.016, 222.017, 222.018, 222.019, 222.020, 222.021, 222.022, 222.023, 222.024, 222.025, 222.026, 222.027, 222.028, 222.029, 222.030, and 222.031, Water Code, are renumbered as Sections 8503.001, 8503.002, 8503.003, 8503.004, 8503.005, 8503.006, 8503.007, 8503.008, 8503.009, 8503.010, 8503.011, 8503.012, 8503.013, 8503.014, 8503.015, 8503.016, 8503.017, 8503.018, 8503.019, 8503.020, 8503.021, 8503.022, 8503.023, 8503.024, 8503.025, 8503.026, 8503.027, 8503.028, 8503.029, 8503.030, and 8503.031, Special District Local Laws Code, respectively.

(c) Subsection (m), Section 8502.004, Special District Local Laws Code, as renumbered from Section 221.004, Water Code, by this section, is amended to read as follows:

(m) This chapter does not confer on the authority any power under Chapter 36<u>, Water Code,</u> to regulate the groundwater of other landowners.

(d) Section 8502.010, Special District Local Laws Code, as renumbered from Section 221.010, Water Code, by this section, is amended to read as follows:

Sec. 8502.010 [~~221.010~~]. CREATION OF MASTER DISTRICT; WATER CONTROL AND IMPROVEMENT DISTRICT. A master district is created having all the powers, duties, and functions, and subject to applicable and practicable procedures for those districts, to accomplish the purposes of this chapter, as provided by Chapter 49, Water Code, and the provisions of the Water Code [~~this code~~] applicable to water control and improvement districts.

(e) Subsection (a), Section 8502.012, Special District Local Laws Code, as renumbered from Section 221.012, Water Code, by this section, is amended to read as follows:

(a) The authority is a district and a river authority as defined by Chapter 30, Water Code. All the provisions of Chapter 30, Water Code, are applicable to the authority.

(f) Section 8503.002, Special District Local Laws Code, as renumbered from Section 222.002, Water Code, by this section, is amended by adding Subdivision (2-a) to read as follows:

(2-a) "Commission" means the Texas Commission on Environmental Quality.

(g) Subsections (p) and (q), Section 8503.004, Special District Local Laws Code, as renumbered from Section 222.004, Water Code, by this section, are amended to read as follows:

(p) The authority may borrow money for its corporate purposes on notes or other written evidence of indebtedness for a period not to exceed five years as may be authorized from time to

time by an affirmative vote of 12 members of the board and repay the loans or indebtedness from the proceeds of bonds of the authority at the next bond offering. The authority may borrow money and accept grants from the United States, this state, or any corporation or agency created or designated by the United States or this state and, in connection with the loan or grant, may enter into an agreement that the United States, this state, or the corporation or agency requires. The authority may make and issue negotiable bonds for money borrowed in the manner provided by Sections 8503.013 [~~222.013~~] and 8503.014 [~~222.014~~] or other general law. This chapter does not authorize the issuance of any bonds, notes, or other evidences of indebtedness of the authority except as specifically provided by this chapter or other general law.

(q) The authority may provide for the study, correcting, and control of both artificial and natural pollution, including organic, inorganic, and thermal, of all groundwater or surface water of the Colorado River and its tributaries within the boundaries of the authority. The authority may adopt by ordinance rules with regard to the pollution, both artificial and natural, and possesses police power to enforce its rules. The authority may provide a reasonable penalty for the violation of any rule. The penalty is cumulative of any penalties fixed by the general law of this state. A penalty under this subsection may not exceed the limit for penalties provided by Section 49.004, Water Code. An ordinance enacted under this section may not be adopted in any county or counties outside the existing boundaries of the authority.

(h) Subsections (a), (b), (j), and (k), Section 8503.006, Special District Local Laws Code, as renumbered from Section 222.006, Water Code, by this section, are amended to read as follows:

(a) The powers, rights, privileges, and functions of the authority shall be exercised by the board. The board shall consist of 15 directors and shall include at least one director from each of the counties named in Section 8503.003 [~~222.003~~] except Travis County, which shall have two directors. Three directors shall be appointed at large from the counties served with electric power, other than the counties included in Section 8503.003 [~~222.003~~].

(b) A director appointed at large may not serve for a period of more than six consecutive years. A county other than a county included in Section 8503.003 [~~222.003~~] may not be represented on the board for more than six consecutive years. A county other than Travis County may not have two directors for a period greater than six consecutive years.

(j) Each director is entitled to receive fees of office of not more than $150 per day and reimbursement of actual expenses incurred in accordance with Chapter 49, Water Code. However, no director may be paid per diem in excess of 150 days in any one calendar year.

(k) Eight directors constitute a quorum at any meeting and, except as otherwise provided by this chapter or in the bylaws, all action may be taken by the affirmative vote of a majority of the directors present at any meeting, except that bonds, notes, or other evidence of indebtedness are subject to the requirements of

Sections 8503.004(p) [~~222.004(p)~~] and 8503.013(f) [~~222.013(f)~~], and no amendment of the bylaws shall be valid unless authorized or ratified by the affirmative vote of at least eight directors, unless otherwise specifically provided by this chapter.

(i) Subsections (c) and (h), Section 8503.013, Special District Local Laws Code, as renumbered from Section 222.013, Water Code, by this section, are amended to read as follows:

(c) The proceeds of the bonds and any net operating revenues derived from the sale of electric power or water that may be available after paying the interest on outstanding bonds and the principal amount of the bonds and after setting aside sufficient funds for working capital, including a reasonable amount for contingencies, and setting aside funds for reserves to secure payment of principal of and interest on outstanding bonds, shall be used:

(1) to build and construct dams or other structures within the authority, on the Colorado River and its tributaries, for the impounding and storage of floodwater and surface water;

(2) to purchase and install in the dams on the Colorado River hydroelectric generators and other related facilities for the generation of hydroelectric power;

(3) for the construction of additional lines and the purchase and installation of additional equipment the board considers necessary or expedient to enable the authority to continue to meet the demand for electric power in the areas within the authority directly served by its transmission lines and distribution systems on January 1, 1975, and other areas within the

service area served by the authority on January 1, 1975, that cannot receive comparable service from any other power source and to provide electric power to this state as provided by Section 8503.004 [~~222.004~~]; provided, however, that no steam generating capacity shall be installed by the authority, except that the authority may acquire, install, construct, enlarge and make additions to, and operate one or more steam generating plants, the sum of whose aggregate capacity may not be more than 5,000 megawatts, to be located within the boundaries of either one or more of Colorado, Fayette, Bastrop, Travis, Blanco, Burnet, Llano, or San Saba counties and to be utilized for the purpose of serving the area directly served by the authority's transmission lines and distribution systems on January 1, 1975, and to provide electric power to this state as provided by Section 8503.004 [~~222.004~~];

(4) to own or acquire an interest in one or more steam generating plants at any location within or outside the authority, if the plant or plants are owned in conjunction with one or more other utilities, public, private, or municipal, provided that an interest owned or acquired by the authority shall be utilized for the sole purpose of providing electric power and energy only in the areas within the authority directly served by its transmission lines and distribution systems as they existed on January 1, 1975;

(5) for the purpose of building dams, levees, or other flood control structures between the city of Austin and the mouth of the Colorado River that are considered necessary and desirable by the board and for acquiring or installing facilities necessary to supply water for irrigation and other useful purposes within the

counties composing the authority; and

(6) in aid of any soil conservation or soil reclamation projects within the authority that the board determines to be in the public interest.

(h) A resolution authorizing bonds may contain provisions that are part of the contract between the authority and the holder of the bonds from time to time:

(1) reserving the right to redeem the bonds at the time or times, in the amounts, and at the prices, not exceeding 105 percent of the principal amount of the bonds, plus accrued interest, as may be provided;

(2) providing for the setting aside of interest and sinking funds or reserve funds and the regulation and disposition of those funds;

(3) pledging, to secure the payment of the principal of and interest on the bonds and of the sinking fund or reserve fund payments agreed to be made with respect to the bonds, all or any part of the gross or net revenues received by the authority with respect to the property, real, personal, or mixed, acquired or constructed or to be acquired or constructed with the bonds or the proceeds of the bonds, or all or any part of the gross or net revenues previously or thereafter received by the authority from any source;

(4) prescribing the purposes to which the bonds or any bonds issued later are to be applied;

(5) agreeing to set and collect rates and charges sufficient to produce revenues adequate to pay the items specified

in Section 8503.011(a) [~~222.011(a)~~] and prescribing the use and disposition of all revenues;

(6) prescribing limitations on the issuance of additional bonds and on the agreements that may be made with the purchasers and successive holders of the bonds;

(7) relating to the construction, extension, improvement, reconstruction, operation, maintenance, and repair of the properties of the authority and the carrying of insurance on all or any part of the properties covering loss or damage or loss of use and occupancy resulting from specified risks;

(8) setting the procedure, if any, by which, if the authority so desires, the terms of a contract with the bondholders may be amended or abrogated, the amount of bonds whose holders must consent to that amendment or abrogation, and the manner in which the consent may be given;

(9) providing for the execution and delivery by the authority, to a bank or trust company authorized by law to accept trusts, of indentures and agreements for the benefit of the bondholders setting forth all of the agreements authorized by this chapter to be made with or for the benefit of the bondholders and other provisions that are customary in those kinds of indentures or agreements; and

(10) making other provisions, not inconsistent with this chapter or other general law, that the board approves, provided that an agreement, contract, or commitment may not be made that, under any contingency, could or would result in the United States government or any of its agencies or bureaus claiming the

right or privilege of controlling or managing the properties and facilities of the authority or the control or disposition of the water of the Colorado River or its tributaries; provided, however, that nothing in this chapter shall be construed as limiting or restricting the rights or powers as set out in Section 8503.014 [~~222.014~~] in the event of a default on the part of the authority; and provided further that nothing in this chapter is intended to prohibit compliance with existing federal regulations, if compliance with those regulations is done on the advice and approval of the attorney general.

(j) Subsections (b) and (c), Section 8503.014, Special District Local Laws Code, as renumbered from Section 222.014, Water Code, by this section, are amended to read as follows:

(b) If a default described by Subsection (a) has occurred and has continued for a period, if any, prescribed by the resolution authorizing the issuance of the bonds, the trustee under an indenture entered into with respect to the bonds authorized by the resolution, or, if there is no indenture, a trustee appointed in the manner provided in the resolution by the holders of 25 percent in aggregate principal amount of the bonds authorized by the resolution and then outstanding, shall, in the trustee's own name but for the equal and proportionate benefit of all of the bondholders, and with or without having possession of the bonds:

(1) by mandamus or other suit, action, or proceeding at law or in equity, enforce all rights of the bondholders, including the requirements of Section 8503.011 [~~222.011~~];

(2) bring suit on the bonds or the appurtenant

coupons;

(3) by action or suit in equity, require the authority to act as if it were the trustee of an express trust for the bondholders;

(4) by action or suit in equity, enjoin any acts or things that may be unlawful or in violation of the rights of the bondholders; or

(5) after such notice to the authority as the resolution may provide, declare the principal of all of the bonds due and payable, and if all defaults have been made good, then with the written consent of the holders of 25 percent in aggregate principal amount of the bonds then outstanding, annul the declaration and its consequences; provided, however, that the holders of more than a majority in principal amount of the bonds authorized by the resolution and then outstanding shall, by written instrument delivered to the trustee, have the right to direct and control any and all action taken or to be taken by the trustee under this section.

(c) A resolution, indenture, or agreement relating to bonds may provide that in a suit, action, or proceeding under this section, the trustee, whether or not all of the bonds have been declared due and payable and with or without possession of any of the bonds, is entitled as of right to the appointment of a receiver who may enter and take possession of all or any part of the properties of the authority, operate and maintain the properties, and set, collect, and receive rates and charges sufficient to provide revenues adequate to pay the items set forth in Section

8503.011(a) [~~222.011(a)~~] and the costs and disbursements of the suit, action, or proceeding and apply the revenues in conformity with this chapter and the resolution authorizing the bonds.

(k) Section 8503.015, Special District Local Laws Code, as renumbered from Section 222.015, Water Code, by this section, is amended to read as follows:

Sec. 8503.015 [~~222.015~~]. AUDIT. The authority is subject to the audit provisions of Subchapter G, Chapter 49, Water Code.

(l) Subsections (b) and (c), Section 8503.020, Special District Local Laws Code, as renumbered from Section 222.020, Water Code, by this section, are amended to read as follows:

(b) Nothing in this chapter shall be construed as authorizing the sale of any property or interest by the authority or by any receiver of any of its properties or through any court proceeding or otherwise, unless, by the affirmative vote of three-fourths of its statutory membership, the board has determined that the property or interest is not necessary or convenient or of beneficial use to the business of the authority and has approved the terms of the sale. Except by sale as expressly authorized in this section, authority property or interest may not come into the ownership or control, directly or indirectly, of any person, firm, or corporation other than a public authority created under the laws of this state or a nonprofit corporation created by the authority under Chapter 152, Water Code.

(c) The limitations on the sale of property of the authority in this section do not and are not intended to preclude the authority from selling any interest owned or held by the authority

in any jointly owned electric power and generating facilities constructed, or to be constructed, under Section 8503.004(t) [~~222.004(t)~~], provided that the sale of an ownership interest in a joint project is provided for and in conformance with any contract with other owners regarding the electric power and energy generating facilities.

(m) Section 8503.022, Special District Local Laws Code, as renumbered from Section 222.022, Water Code, by this section, is amended to read as follows:

Sec. 8503.022 [~~222.022~~]. PROPERTY USEFUL IN THE PRODUCTION OR UTILIZATION OF ELECTRIC ENERGY. This chapter does not prohibit or restrict the sale, lease, or other disposition, to an electric cooperative, municipality, nonprofit corporation created by the authority under Chapter 152, Water Code, or other governmental agency or body politic and corporate of this state, of any property acquired or constructed by the authority and incidental to or used or useful in the generation, production, transmission, distribution, or sale of electric energy. The authority may pledge the proceeds of a sale under this section to the same extent and in the same manner in which it is authorized to pledge its revenues.

(n) Subsection (a), Section 8503.023, Special District Local Laws Code, as renumbered from Section 222.023, Water Code, by this section, is amended to read as follows:

(a) The authority may not prevent the public use of its lands for recreational purposes and fishing except at such points where, in the opinion of the board, the use would interfere with the proper conduct of the business of the authority or would interfere

with the lawful use of the property. A lease of authority lands, except one expressly permitted by Section 8503.022 [~~222.022~~], is not lawful unless it provides for free public use of the lands for recreational purposes and fishing.

(o) Subsection (b), Section 8503.025, Special District Local Laws Code, as renumbered from Section 222.025, Water Code, by this section, is amended to read as follows:

(b) Nothing in this chapter shall prevent the authority from issuing bonds under any applicable general law of this state, provided, however, that no bonds are issued that would be in conflict with Section 8503.024 [~~222.024~~].

(p) Subsection (b), Section 8503.027, Special District Local Laws Code, as renumbered from Section 222.027, Water Code, by this section, is amended to read as follows:

(b) Nothing in this chapter affects the meaning of Section 8503.011 [~~222.011~~], formerly Section 222.011, Water Code, and Section 9, Chapter 74, Acts of the 64th Legislature, Regular Session, 1975, as it existed prior to the adoption of the former Chapter 222, Water Code [~~this chapter~~], except where specifically amended.

(q) Section 8503.028, Special District Local Laws Code, as renumbered from Section 222.028, Water Code, by this section, is amended to read as follows:

Sec. 8503.028 [~~222.028~~]. AUTHORITY POWERS IN LAMPASAS COUNTY. Notwithstanding any other provision of this chapter, the authority may exercise all powers within Lampasas County that it may otherwise exercise within the 10 counties specified in Section

8503.003 [~~222.003~~], except that the authority may not provide water or wastewater services in the portion of Lampasas County outside the Colorado River watershed without the consent of the Brazos River Authority.

(r) Subsection (b), Section 8503.030, Special District Local Laws Code, as renumbered from Section 222.030, Water Code, by this section, is amended to read as follows:

(b) In this section and Section 8503.031 [~~222.031~~]:

(1) "Municipality" includes a municipally owned utility.

(2) "Water service area" means the area in which the authority is authorized to use, distribute, and sell water on January 1, 2001.

(s) Section 8503.031, Special District Local Laws Code, as renumbered from Section 222.031, Water Code, by this section, is amended to read as follows:

Sec. 8503.031 [~~222.031~~]. AUTHORITY OF MUNICIPALITY TO CONTRACT FOR WATER. Section 8503.030 [~~222.030~~] constitutes full authority for a municipality or municipally owned utility to enter into a contract with the authority under that section. The payments made under a contract authorized by that section are operation and maintenance expenses of the municipality's utility system. A municipality or municipally owned utility that enters into a contract under that section may use proceeds from the sale of its revenue bonds to make any such payments.

(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

79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(a) To be designated as a reinvestment zone, an area must:

(1) substantially arrest or impair the sound growth of the municipality or county creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate sidewalk or street layout;

(C) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the fair value of the land;

(G) defective or unusual conditions of title;

(H) conditions that endanger life or property by fire or other cause; or

(I) structures, other than single-family residential structures, less than 10 percent of the square footage of which has been used for commercial, industrial, or residential purposes during the preceding 12 years, if the municipality has a population of 100,000 or more;

(2) be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality or county;

(3) be in a federally assisted new community located in the municipality or county or in an area immediately adjacent to a federally assisted new community; or

(4) [~~(5)~~] be an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the municipality or county by the owners of property constituting at least 50 percent of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located.

SECTION 14.004. Section 311.006(e), Tax Code, is amended to correct a reference to read as follows:

(e) Subsection (a)(1) does not apply to a reinvestment zone designated under Section 311.005(a)(4) [~~311.005(a)(5)~~].

SECTION 14.005. Section 311.0087(a), Tax Code, is amended to correct a reference to read as follows:

(a) This section applies only to a proposed reinvestment zone:

(1) the designation of which is requested in a petition submitted under Section 311.005(a)(4) [~~311.005(a)(5)~~] before July 31, 2004, to the governing body of a home-rule municipality that:

(A) has a population of more than 1.1 million;

(B) is located primarily in a county with a population of 1.5 million or less; and

(C) has created at least 20 reinvestment zones under this chapter; and

(2) that is the subject of a resolution of intent that was adopted before October 31, 2004, by the governing body of the municipality.

SECTION 14.006. Section 311.009(b), Tax Code, is amended to correct a reference to read as follows:

(b) If the zone was designated under Section 311.005(a)(4) [~~311.005(a)(5)~~], the board of directors of the zone consists of nine members. Each school district, county, or municipality, other than the municipality or county that created the zone, that levies taxes on real property in the zone may appoint one member of the board if the school district, county, or municipality has approved the payment of all or part of the tax increment produced by the unit. The member of the state senate in whose district the zone is located is a member of the board, and the member of the state house of representatives in whose district the zone is located is a member of the board, except that either may designate another individual to serve in the member's place at the pleasure of the member. If the zone is located in more than one senate or house district, this subsection applies only to the senator or representative in whose district a larger portion of the zone is located than any other senate or house district, as applicable. The remaining members of the board are appointed by the governing body of the municipality or county that created the zone.

SECTION 14.007. Section 311.0091(c), Tax Code, is amended to correct a reference to read as follows:

(c) If the zone was designated under Section 311.005(a)(4) [~~311.005(a)(5)~~], the board of directors of the zone consists of nine members, unless a greater number of members is necessary to comply with this subsection. Each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint a number of members to the board in proportion to the taxing unit's pro rata share of the total anticipated tax increment to be deposited into the tax increment fund during the term of the zone. In determining the number of members a taxing unit may appoint to the board, the taxing unit's percentage of anticipated pro rata contributions to the tax increment fund is multiplied by nine, and a number containing a fraction that is one-half or greater shall be rounded up to the next whole number. Notwithstanding any other provision of this subsection, each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint at least one member of the board, and the municipality that designated the zone is entitled to appoint at least as many members of the board as any other participating taxing unit. A taxing unit may waive its right to appoint a director. The member of the state senate in whose district the zone is located is a member of the board, and the member of the state house of representatives in whose district the zone is located is a member of the board, except that either may designate another individual to serve in the member's place at the pleasure of the member. If the zone is located in more

than one senate or house district, this subsection applies only to the senator or representative in whose district a larger portion of the zone is located than any other senate or house district, as applicable.

SECTION 14.008. Section 311.010(c), Tax Code, is amended to correct a reference to read as follows:

(c) Subject to the approval of the governing body of the municipality that created the zone, the board of a zone designated by the governing body of a municipality under Section 311.005(a)(4) [~~311.005(a)(5)~~] may exercise the power granted by Chapter 211, Local Government Code, to the governing body of the municipality that created the zone to restrict the use or uses of property in the zone. The board may provide that a restriction adopted by the board continues in effect after the termination of the zone. In that event, after termination of the zone the restriction is treated as if it had been adopted by the governing body of the municipality.

SECTION 14.009. Section 311.0101(a), Tax Code, is amended to correct a reference to read as follows:

(a) It is the goal of the legislature, subject to the constitutional requirements spelled out by the United States Supreme Court in J. A. Croson Company v. City of Richmond (822 F.2d 1355) and as hereafter further elaborated by federal and state courts, that all disadvantaged businesses in the zone designated under Section 311.005(a)(4) [~~311.005(a)(5)~~] be given full and complete access to the procurement process whereby supplies, materials, services, and equipment are acquired by the board. It is also the intent of the legislature that to the extent

constitutionally permissible, a preference be given to disadvantaged businesses. The board and general contractor shall give preference, among bids or other proposals that are otherwise comparable, to a bid or other proposal by a disadvantaged business having its home office located in this state.

SECTION 14.010. Section 311.011(f), Tax Code, is amended to correct a reference to read as follows:

(f) In a zone designated under Section 311.005(a)(4) [~~311.005(a)(5)~~] that is located in a county with a population of 3.3 million or more, the project plan must provide that at least one-third of the tax increment of the zone be used to provide affordable housing during the term of the zone.

ARTICLE 15. CHANGES RELATING TO TRANSPORTATION CODE

SECTION 15.001. Section 22.0815, Transportation Code, is amended to add a heading to read as follows:

Sec. 22.0815. OFFENSE: UNAUTHORIZED GROUND TRANSPORTATION. (a) In this section, "ground transportation business" means the transportation by motor vehicle of persons or baggage for compensation.

(b) A person commits an offense if, within the boundaries of an airport operated or controlled by a joint board for which the constituent agencies are populous home-rule municipalities, the person:

(1) solicits ground transportation business without the permission of the joint board, if required; or

(2) engages in ground transportation business without the permission of the joint board, if required.

(c) An offense under this section is a Class B misdemeanor.

SECTION 15.002. Sections 222.104(f) and (g), Transportation Code, as added by Chapter 994, Acts of the 79th Legislature, Regular Session, 2005, are repealed as duplicative of Sections 222.104(i) and (j), Transportation Code.

ARTICLE 16. CHANGES RELATING TO WATER CODE

SECTION 16.001. Section 5.131, Water Code, as added by Chapter 965, Acts of the 77th Legislature, Regular Session, 2001, is repealed as duplicative of Section 5.127, Water Code.

SECTION 16.002. The heading to Chapter 29, Water Code, is amended to conform to Section 21, Chapter 603, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

CHAPTER 29. OIL AND GAS WASTE [~~SALT WATER~~] HAULERS

ARTICLE 17. RENUMBERING

SECTION 17.001. The following provisions of enacted codes are renumbered or relettered and appropriate cross-references are changed to eliminate duplicate citations or to relocate misplaced provisions:

(1) Section 12.039, Agriculture Code, as added by Chapter 214, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 12.040, Agriculture Code.

(2) Subsection (i), Section 11.61, Alcoholic Beverage Code, as added by Chapter 452, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (j), Section 11.61, Alcoholic Beverage Code.

(3) Chapter 54, Alcoholic Beverage Code, as added by Chapter 1289, Acts of the 79th Legislature, Regular Session, 2005,

is renumbered as Chapter 50, Alcoholic Beverage Code, and Sections 54.001, 54.002, and 54.003, Alcoholic Beverage Code, as added by that Act, are renumbered as Sections 50.001, 50.002, and 50.003, Alcoholic Beverage Code, respectively.

(4) Subsection (j), Section 61.71, Alcoholic Beverage Code, as added by Chapter 452, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (l), Section 61.71, Alcoholic Beverage Code.

(5) Section 105.08, Alcoholic Beverage Code, as added by Chapter 239, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 105.09, Alcoholic Beverage Code.

(6) Section 35.58, Business & Commerce Code, as added by Chapter 649, Acts of the 78th Legislature, Regular Session, 2003, is renumbered as Section 35.60, Business & Commerce Code.

(7) Section 35.60, Business & Commerce Code, as added by Chapter 195, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 35.63, Business & Commerce Code.

(8) Article 13.30, Code of Criminal Procedure, as added by Chapter 1008, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Article 13.31, Code of Criminal Procedure.

(9) Article 13.30, Code of Criminal Procedure, as added by Chapter 1275, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Article 13.32, Code of Criminal Procedure.

(10) Subsection (p), Article 42.037, Code of Criminal Procedure, as added by Chapter 543, Acts of the 79th Legislature,

Regular Session, 2005, is relettered as Subsection (q), Article 42.037, Code of Criminal Procedure.

(11) Section 11.168, Education Code, as added by Chapter 1109, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 11.169, Education Code.

(12) Section 25.0341, Education Code, as added by Chapter 920, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 25.0342, Education Code.

(13) Subchapter D, Chapter 32, Education Code, as added by Chapter 1216, Acts of the 78th Legislature, Regular Session, 2003, is relettered as Subchapter F, Chapter 32, Education Code, and Sections 32.151, 32.152, 32.153, 32.154, 32.155, 32.156, 32.157, 32.158, 32.159, 32.160, 32.161, 32.162, and 32.163, Education Code, as added by that Act, are renumbered as Sections 32.251, 32.252, 32.253, 32.254, 32.255, 32.256, 32.257, 32.258, 32.259, 32.260, 32.261, 32.262, and 32.263, Education Code, respectively.

(13-a) Section 51.355, Education Code, as added by Chapter 303, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 51.357, Education Code.

(14) Section 51.4032, Education Code, as added by Chapter 1230, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 51.4033, Education Code.

(15) Subsection (f), Section 54.007, Education Code, as added by Chapter 888, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (g), Section 54.007, Education Code.

(16) Subsection (f), Section 54.007, Education Code, as added by Chapter 536, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (h), Section 54.007, Education Code.

(17) Section 54.073, Education Code, as added by Chapter 888, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 54.066, Education Code.

(18) Subsection (h), Section 54.203, Education Code, as added by Chapter 888, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (j), Section 54.203, Education Code.

(19) Subchapter I, Chapter 88, Education Code, as added by Chapter 388, Acts of the 76th Legislature, Regular Session, 1999, is relettered as Subchapter I-1, Chapter 88, Education Code.

(20) Subsection (d), Section 31.092, Election Code, as added by Chapter 1091, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (e), Section 31.092, Election Code.

(21) Subchapter J, Chapter 153, Family Code, as added by Chapter 482, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subchapter K, Chapter 153, Family Code.

(22) Section 231.122, Family Code, as added by Chapter 925, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 231.123, Family Code.

(23) Subsection (i), Section 156.208, Finance Code, as added by Chapter 1018, Acts of the 79th Legislature, Regular

Session, 2005, is relettered as Subsection (j), Section 156.208, Finance Code.

(24) Subchapter BB, Chapter 54, Government Code, as added by Chapter 663, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subchapter A, Chapter 54, Government Code, and Sections 54.1351, 54.1352, 54.1353, 54.1354, 54.1355, and 54.1356, Government Code, as added by that Act, are renumbered as Sections 54.001, 54.002, 54.003, 54.004, 54.005, and 54.006, Government Code, respectively.

(25) Subchapter BB, Chapter 54, Government Code, as added by Chapter 109, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subchapter B, Chapter 54, Government Code, and Sections 54.1701, 54.1702, 54.1703, 54.1704, and 54.1705, Government Code, as added by that Act, are renumbered as Sections 54.101, 54.102, 54.103, 54.104, and 54.105, Government Code, respectively.

(26) Section 62.0142, Government Code, as added by Chapter 1360, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 62.0143, Government Code.

(27) Section 405.021, Government Code, as added by Chapter 407, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 405.022, Government Code.

(28) Section 442.019, Government Code, as added by Chapter 850, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 442.020, Government Code.

(29) Section 487.060, Government Code, as added by Chapter 634, Acts of the 79th Legislature, Regular Session, 2005,

is renumbered as Section 487.061, Government Code.

(30) Chapter 490, Government Code, as added by Chapter 593, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Chapter 490A, Government Code, and Sections 490.001, 490.002, 490.003, 490.004, 490.005, 490.006, 490.007, 490.008, and 490.009, Government Code, as added by that Act, are renumbered as Sections 490A.001, 490A.002, 490A.003, 490A.004, 490A.005, 490A.006, 490A.007, 490A.008, and 490A.009, Government Code, respectively.

(31) Chapter 490, Government Code, as added by Chapter 1215, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Chapter 490B, Government Code, and Sections 490.001, 490.002, 490.003, 490.004, and 490.005, Government Code, as added by that Act, are renumbered as Sections 490B.001, 490B.002, 490B.003, 490B.004, and 490B.005, Government Code, respectively.

(32) Section 531.078, Government Code, as added by Chapter 268, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 531.088, Government Code.

(33) Section 531.078, Government Code, as added by Chapter 1008, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 531.089, Government Code.

(34) Section 531.080, Government Code, as added by Chapter 899, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 531.090, Government Code.

(35) Section 531.080, Government Code, as added by Chapter 666, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 531.091, Government Code.

(36) Section 531.082, Government Code, as added by Chapter 985, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 531.092, Government Code.

(37) Section 531.1532, Government Code, as added by Chapter 1131, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 531.1533, Government Code.

(38) Subsection (f), Section 533.009, Government Code, as added by Chapter 349, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (c), Section 533.009, Government Code.

(39) Section 552.141, Government Code, as added by Chapter 401, Acts of the 78th Legislature, Regular Session, 2003, is renumbered as Section 552.145, Government Code.

(40) Section 662.051, Government Code, as added by Chapter 697, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 662.052, Government Code.

(41) Section 775.004, Government Code, as added by Chapter 351, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 775.005, Government Code.

(42) Section 2155.149, Government Code, as added by Chapter 514, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 2155.150, Government Code.

(43) Subchapter C, Chapter 44, Health and Safety Code, as added by Chapter 775, Acts of the 75th Legislature, Regular Session, 1997, is transferred to the Government Code and redesignated as Subchapter C, Chapter 420, Government Code, and Section 44.051, Health and Safety Code, as added by that Act, is

renumbered as Section 420.051, Government Code.

(44) Subchapter D, Chapter 44, Health and Safety Code, as added by Chapter 775, Acts of the 75th Legislature, Regular Session, 1997, is transferred to the Government Code and redesignated as Subchapter D, Chapter 420, Government Code, and Sections 44.071, 44.072, 44.073, 44.074, and 44.075, Health and Safety Code, as added by that Act, are renumbered as Sections 420.071, 420.072, 420.073, 420.074, and 420.075, Government Code, respectively.

(45) Chapter 96, Health and Safety Code, as added by Chapter 326, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Chapter 97, Health and Safety Code, and Sections 96.001, 96.002, 96.003, 96.004, 96.005, 96.006, and 96.007, Health and Safety Code, as added by that Act, are renumbered as Sections 97.001, 97.002, 97.003, 97.004, 97.005, 97.006, and 97.007, Health and Safety Code, respectively.

(46) Chapter 113, Health and Safety Code, as added by Chapter 1016, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Chapter 109, Health and Safety Code, and Sections 113.001, 113.002, 113.003, 113.004, 113.005, 113.006, 113.007, 113.008, 113.009, 113.010, 113.011, 113.012, 113.013, and 113.014, Health and Safety Code, as added by that Act, are renumbered as Sections 109.001, 109.002, 109.003, 109.004, 109.005, 109.006, 109.007, 109.008, 109.009, 109.010, 109.011, 109.012, 109.013, and 109.014, Health and Safety Code, respectively.

(47) Chapter 322, Health and Safety Code, as added by Chapter 934, Acts of the 79th Legislature, Regular Session, 2005,

is renumbered as Chapter 323, Health and Safety Code, and Sections 322.001, 322.002, 322.003, 322.004, 322.005, and 322.006, Health and Safety Code, as added by that Act, are renumbered as Sections 323.001, 323.002, 323.003, 323.004, 323.005, and 323.006, Health and Safety Code, respectively.

(48) Section 361.123, Health and Safety Code, as added by Chapter 582, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 361.124, Health and Safety Code.

(49) Section 756.106, Health and Safety Code, as added by Chapter 1337, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 756.126, Health and Safety Code.

(50) Subsection (bb), Section 32.024, Human Resources Code, as added by Chapter 1314, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (cc), Section 32.024, Human Resources Code.

(51) Subchapter G, Chapter 544, Insurance Code, as added by Chapter 748, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subchapter J, Chapter 544, Insurance Code, and Sections 544.301, 544.302, and 544.303, Insurance Code, as added by that Act, are renumbered as Sections 544.451, 544.452, and 544.453, Insurance Code, respectively.

(52) Section 1551.219, Insurance Code, as added by Chapter 213, Acts of the 78th Legislature, Regular Session, 2003, is renumbered as Section 1551.224, Insurance Code.

(53) Section 212.1335, Local Government Code, as added by Chapter 1044, Acts of the 78th Legislature, Regular Session, 2003, is renumbered as Section 212.1535, Local Government Code.

(54) Section 212.138, Local Government Code, as added by Chapter 1044, Acts of the 78th Legislature, Regular Session, 2003, is renumbered as Section 212.158, Local Government Code.

(55) Section 214.904, Local Government Code, as added by Chapter 1103, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 214.905, Local Government Code.

(56) Section 230.007, Local Government Code, as added by Chapter 1399, Acts of the 77th Legislature, Regular Session, 2001, is renumbered as Section 212.157, Local Government Code.

(57) Section 301.353, Occupations Code, as added by Chapter 966, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 301.354, Occupations Code.

(58) Section 562.111, Occupations Code, as added by Section 22, Chapter 1345, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 562.112, Occupations Code.

(58-a) Subdivision (1-a), Section 1702.002, Occupations Code, as added by Chapter 10, Acts of the 78th Legislature, 3rd Called Session, 2003, is renumbered as Subdivision (1-b), Section 1702.002, Occupations Code.

(59) Section 1702.331, Occupations Code, as added by Chapter 207, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 1702.332, Occupations Code.

(60) Section 62.002, Parks and Wildlife Code, as added by Chapter 1002, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 62.0061, Parks and Wildlife Code.

(61) Subsections (g) and (h), Section 30.05, Penal Code, as added by Chapter 1093, Acts of the 79th Legislature,

Regular Session, 2005, are relettered as Subsections (i) and (j), Section 30.05, Penal Code, respectively.

(62) Subsection (i), Section 46.15, Penal Code, as added by Chapter 976, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (j), Section 46.15, Penal Code.

(63) Section 5.014, Property Code, as added by Chapter 825, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 5.015, Property Code.

(64) Section 92.016, Property Code, as added by Chapter 1344, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 92.018, Property Code.

(65) Chapter 9004, Special District Local Laws Code, as added by Chapter 729, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Chapter 9010, Special District Local Laws Code, and Sections 9004.001, 9004.002, 9004.003, 9004.004, 9004.051, 9004.052, 9004.053, 9004.054, and 9004.055, Special District Local Laws Code, as added by that Act, are renumbered as Sections 9010.001, 9010.002, 9010.003, 9010.004, 9010.051, 9010.052, 9010.053, 9010.054, and 9010.055, Special District Local Laws Code, respectively.

(66) Subsection (g), Section 32.065, Tax Code, as added by Chapter 1126, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (h), Section 32.065, Tax Code.

(67) Section 201.617, Transportation Code, as added by Chapter 474, Acts of the 79th Legislature, Regular Session, 2005,

is renumbered as Section 201.619, Transportation Code.

(68) Subsection (a), Section 225.059, Transportation Code, as added by Chapter 286, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (a-1), Section 225.059, Transportation Code.

(69) Section 225.059, Transportation Code, as added by Chapter 851, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 225.060, Transportation Code.

(70) Section 225.059, Transportation Code, as added by Chapter 1263, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 225.062, Transportation Code.

(71) Section 225.059, Transportation Code, as added by Chapter 1283, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 225.063, Transportation Code.

(72) Section 225.059, Transportation Code, as added by Chapter 651, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 225.064, Transportation Code.

(73) Section 225.059, Transportation Code, as added by Chapter 546, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 225.065, Transportation Code.

(74) Section 284.011, Transportation Code, as added by Chapter 877, Acts of the 79th Legislature, Regular Session, 2005, is renumbered as Section 284.013, Transportation Code.

(75) Subsection (c), Section 472.032, Transportation Code, as added by Chapter 565, Acts of the 79th Legislature, Regular Session, 2005, is relettered as Subsection (d), Section 472.032, Transportation Code.

SECTION 17.002. The following reference changes are made to conform the provisions amended to the renumbering changes made by Section 17.001 of this Act:

(1) Subsection (g), Article 18.18, Code of Criminal Procedure, is amended to read as follows:

(g) For purposes of this article:

(1) "criminal instrument" has the meaning defined in the Penal Code;

(2) "gambling device or equipment, altered gambling equipment or gambling paraphernalia" has the meaning defined in the Penal Code;

(3) "prohibited weapon" has the meaning defined in the Penal Code;

(4) "dog-fighting equipment" means:

(A) equipment used for training or handling a fighting dog, including a harness, treadmill, cage, decoy, pen, house for keeping a fighting dog, feeding apparatus, or training pen;

(B) equipment used for transporting a fighting dog, including any automobile, or other vehicle, and its appurtenances which are intended to be used as a vehicle for transporting a fighting dog;

(C) equipment used to promote or advertise an exhibition of dog fighting, including a printing press or similar equipment, paper, ink, or photography equipment; or

(D) a dog trained, being trained, or intended to be used to fight with another dog;

(5) "obscene device" and "obscene" have the meanings assigned by Section 43.21, Penal Code;

(6) "re-encoder" has the meaning assigned by Section 35.60 [~~35.58~~], Business & Commerce Code;

(7) "scanning device" has the meaning assigned by Section 35.60 [~~35.58~~], Business & Commerce Code; and

(8) "obscene material" and "child pornography" include digital images and the media and equipment on which those images are stored.

(2) Subsection (a), Section 32.261, Education Code, as renumbered from Section 32.161, Education Code, by this article, is amended to read as follows:

(a) The agency may not use general revenue funds to pay the costs of developing, administering, and maintaining the portal. The agency may use amounts available to the agency from:

(1) gifts, grants, or donations;

(2) vendor payments described by Section 32.260(b) [~~32.160(b)~~]; or

(3) arrangements with nonprofit or private entities approved by the agency.

(3) Subsections (a) and (b), Section 420.072, Government Code, as renumbered from Section 44.072, Health and Safety Code, by this article, are amended to read as follows:

(a) A communication or record that is confidential under this subchapter may be disclosed in court or in an administrative proceeding if:

(1) the proceeding is brought by the survivor against

an advocate or a sexual assault program or is a criminal proceeding or a certification revocation proceeding in which disclosure is relevant to the claims or defense of the advocate or sexual assault program; or

(2) the survivor or a person authorized to act on behalf of the survivor consents in writing to the release of the confidential information as provided by Section 420.073 [~~44.073~~].

(b) A communication or record that is confidential under this subchapter may be disclosed only to:

(1) medical or law enforcement personnel if the advocate determines that there is a probability of imminent physical danger to any person for whom the communication or record is relevant or if there is a probability of immediate mental or emotional injury to the survivor;

(2) a governmental agency if the disclosure is required or authorized by law;

(3) a qualified person to the extent necessary for a management audit, financial audit, program evaluation, or research, except that a report of the research, audit, or evaluation may not directly or indirectly identify a survivor;

(4) a person who has the written consent of the survivor or of a person authorized to act on the survivor's behalf as provided by Section 420.073 [~~44.073~~]; or

(5) an advocate or a person under the supervision of a counseling supervisor who is participating in the evaluation or counseling of or advocacy for the survivor.

(4) Subsection (b), Section 490A.004, Government

Code, as renumbered from Section 490.004, Government Code, by this article, is amended to read as follows:

(b) The advisory board consists of one representative from each of the founding members of the network under Section 490A.003(a) [~~490.003(a)~~] and at least one member from the private sector. An organization other than a founding member of the network under Section 490A.003(a) [~~490.003(a)~~] may have a representative on the advisory board only if the creation of an additional seat on the board is authorized by a two-thirds majority vote of the existing board.

(5) Subsection (a), Section 490A.005, Government Code, as renumbered from Section 490.005, Government Code, by this article, is amended to read as follows:

(a) The network shall train and refocus existing state and local resources to build a more prosperous, dynamic, and sustainable economy throughout this state by:

(1) providing coordinated training and services that enhance the value of the state's existing infrastructure investments and make the investments available to entrepreneur participants;

(2) developing a statewide network of entrepreneurship developers and entrepreneurship centers as provided by Section 490A.006 [~~490.006~~];

(3) developing a comprehensive network of knowledge, leadership, and financial capital resources accessible through the network's entrepreneurship developers and entrepreneurship centers;

(4) educating entrepreneur participants and generating awareness of the network and its programs;

(5) identifying the most promising ventures through activities, including business-plan competitions, and assisting the ventures' potential for job and wealth creation;

(6) developing evaluation methods to measure the effectiveness of the network and the impact of entrepreneurship on local and regional economies;

(7) developing best practices for successful entrepreneurship and applied research regarding critical success factors for entrepreneurial businesses to provide a strategic competitive advantage for businesses in this state; and

(8) collaborating with existing local, state, and federal agencies and economic development professionals to use the strengths and assets of the agencies and professionals.

(6) Subsection (c), Section 490A.008, Government Code, as renumbered from Section 490.008, Government Code, by this article, is amended to read as follows:

(c) The fund may be used only for network purposes, subject to Section 490A.009 [~~490.009~~].

(7) Subsection (g), Section 531.164, Government Code, is amended to read as follows:

(g) If a child's parent or guardian does not respond to a notice under Subsection (e) or (f), the ICF-MR or nursing facility, as applicable, must attempt to locate the parent or guardian by contacting another person whose information was provided by the parent or guardian under Section 531.1533(1)(B) [~~531.1532(1)(B)~~].

(8) Subsection (c), Section 2306.585, Government Code, is amended to read as follows:

(c) The advisory committee shall advise the colonia initiatives coordinator as provided by Section 775.005 [~~775.004~~].

(9) Subsection (e), Section 109.010, Health and Safety Code, as renumbered from Section 113.010, Health and Safety Code, by this article, is amended to read as follows:

(e) The report submitted under Subsection (d) must include recommendations from the partnership and any other advisory body formed under Section 109.003 [~~113.003~~].

(10) Subsection (a), Section 323.002, Health and Safety Code, as renumbered from Section 322.002, Health and Safety Code, by this article, is amended to read as follows:

(a) At the request of the department, a health care facility shall submit to the department for approval a plan for providing the services required by Section 323.004 [~~322.004~~] to sexual assault survivors who arrive for treatment at the emergency department of the health care facility.

(11) Subsection (a), Section 323.003, Health and Safety Code, as renumbered from Section 322.003, Health and Safety Code, by this article, is amended to read as follows:

(a) If a plan required under Section 323.002 [~~322.002~~] is not approved, the department shall:

(1) return the plan to the health care facility; and

(2) identify the specific provisions under Section 323.004 [~~322.004~~] with which the plan conflicts or does not comply.

(12) Subsection (b), Section 323.004, Health and

Safety Code, as renumbered from Section 322.004, Health and Safety Code, by this article, is amended to read as follows:

(b) A health care facility providing care to a sexual assault survivor shall provide the survivor with:

(1) a forensic medical examination in accordance with Subchapter B, Chapter 420, Government Code, if the examination has been approved by a law enforcement agency;

(2) a private area, if available, to wait or speak with the appropriate medical, legal, or sexual assault crisis center staff or volunteer until a physician, nurse, or physician assistant is able to treat the survivor;

(3) access to a sexual assault program advocate, if available, as provided by Article 56.045, Code of Criminal Procedure;

(4) the information form required by Section 323.005 [~~322.005~~];

(5) a private treatment room, if available;

(6) if indicated by the history of contact, access to appropriate prophylaxis for exposure to sexually transmitted infections; and

(7) the name and telephone number of the nearest sexual assault crisis center.

(13) Subsection (j), Section 30.05, Penal Code, as relettered from Subsection (h), Section 30.05, Penal Code, by this article, is amended to read as follows:

(h) For purposes of Subsection (i) [~~(g)~~], "recognized state" means another state with which the attorney general of this

state, with the approval of the governor of this state, negotiated an agreement after determining that the other state:

(1) has firearm proficiency requirements for peace officers; and

(2) fully recognizes the right of peace officers commissioned in this state to carry weapons in the other state.

SECTION 17.003. If the number, letter, or designation assigned by Section 17.001 of this Act conflicts with a number, letter, or designation assigned by another Act of the 80th Legislature:

(1) the other Act controls, and the change made by Section 17.001 of this Act has no effect; and

(2) any cross-reference change made by Section 17.002 of this Act to conform to that change made by Section 17.001 of this Act has no effect.

ARTICLE 18. EFFECTIVE DATE

SECTION 18.001. This Act takes effect September 1, 2007.

President of the Senate

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.

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.

Secretary of the Senate

APPROVED: _____

Date

_____

Governor

President of the Senate

Speaker of the House

I certify that H.B. No. 3167 (1) was passed by the House on April 12 (2), 2007, by the following vote: Yeas 143 (3), Nays 0, 1 present, not voting (4).

Chief Clerk of the House

I certify that H.B. No. 3167 was passed by the Senate on May 15 (5), 2007, by the following vote: Yeas 31 (6), Nays 0 (7).

Secretary of the Senate

APPROVED:

Date

Governor

**** Preparation: CT24

H.B. No. 3167 By [signature]

A BILL TO BE ENTITLED
AN ACT

relating to nonsubstantive additions to and corrections in enacted codes, to the nonsubstantive codification or disposition of various laws omitted from enacted codes, and to conforming codifications enacted by the 79th Legislature to other Acts of that legislature.

MAR - 8 2007 Filed with the Chief Clerk

MAR 19 2007 Read first time and referred to Committee on State Affairs

MAR 26 2007 Reported ____ favorably (as amended)
([redacted])

MAR 30 2007 Sent to Committee on (Calendars)
([redacted])

APR 11 2007 Read second time ([redacted].) (amended); passed to third reading ([redacted]) by a (non-record vote)
([redacted])

_____ Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of _____ yeas, _____ nays, _____ present, not voting

APR 12 2007 Read third time (amended); finally passed ([redacted]) by a ([redacted])
(record vote of 143 yeas, 0 nays, 1 present, not voting)

APR 12 2007 Engrossed
APR 16 2007

_____ Sent to Senate

[signature]
CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

APR 16 2007 Received from the House

APR 17 2007 Read and referred to Committee on ADMINISTRATION

MAY 08 2007 Reported favorably

_____ Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

_____ Ordered not printed

_____ Laid before the Senate

MAY 15 2007 Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(~~_____ yeas, _____ nays~~)

MAY 15 2007 Read second time, _____, and passed to third reading by (unanimous consent)
~~(a viva voce vote)~~
(~~_____ yeas, _____ nays~~)

MAY 15 2007 Senate and Constitutional 3 Day Rules suspended by a vote of 31 yeas, 0 nays

MAY 15 2007 Read third time, _____, and passed by a ~~(viva voce vote)~~
(31 yeas, 0 nays)

_____ Returned to the House

[signature]
SECRETARY OF THE SENATE

OTHER SENATE ACTION:

MAY 15 2007 _____ Returned from the Senate (a[redacted]
([redacted])

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,

_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;

_____, _____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)

07 MAR 30 AM 12: 27
HOUSE OF REPRESENTATIVES