

AN ACT

relating to the continuation and functions of the Department of Agriculture and the Prescribed Burning Board, the creation of the Texas Bioenergy Policy Council and Texas Bioenergy Research Committee, and the abolition of the Texas-Israel Exchange Fund Board; providing penalties.

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

ARTICLE 1. TEXAS AGRICULTURAL FINANCE AUTHORITY

SECTION 1.01. Subdivisions (1) and (2), Section 44.001, Agriculture Code, are amended to read as follows:

(1) "Eligible lending institution" means a financial institution that makes commercial loans, is either a depository of state funds or an institution of the Farm Credit System headquartered in this state, and agrees to participate in the interest rate reduction [~~linked deposit~~] program and to provide collateral equal to the amount of linked deposits placed with it.

(2) "Eligible borrower" means a person who proposes to use the proceeds of a loan under this chapter in a manner that will help accomplish the state's goal of fostering the creation and expansion of enterprises based on agriculture in this state [~~is in the business or entering the business of:~~

~~(A) processing and marketing agricultural crops in this state,~~

~~(B) producing alternative agricultural crops in~~

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1 ~~this state,~~

2 [~~(C) producing agricultural crops in this state~~  
3 ~~the production of which has declined because of natural disasters,~~

4 [~~(D) producing agricultural crops in this state~~  
5 ~~using water conservation equipment for agricultural production~~  
6 ~~purposes, or~~

7 [~~(E) providing nonagricultural goods or services~~  
8 ~~that provide an economic benefit to a municipality or county in a~~  
9 ~~rural area].~~

10 SECTION 1.02. The heading to Section 44.007, Agriculture  
11 Code, is amended to read as follows:

12 Sec. 44.007. INTEREST RATE REDUCTION [~~LINKED DEPOSIT~~]  
13 PROGRAM.

14 SECTION 1.03. Subsections (a), (c), (d), (k), and (l),  
15 Section 44.007, Agriculture Code, are amended to read as follows:

16 (a) The board shall establish an interest rate reduction [~~a~~  
17 ~~linked deposit]~~ program to foster the creation and expansion of  
18 enterprises based on agriculture in this state [+

19 [~~(1) encourage commercial lending for the enhanced~~  
20 ~~production, processing, and marketing of certain agricultural~~  
21 ~~crops,~~

22 [~~(2) encourage the development or expansion of~~  
23 ~~businesses in rural areas of this state, and~~

24 [~~(3) finance water conservation projects or equipment~~  
25 ~~for agricultural production purposes].~~

26 (c) The board shall promulgate rules for the loan portion of  
27 the interest rate reduction [~~linked deposit]~~ program. [~~The rules~~

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1 ~~must include:~~

2           ~~[(1) a list of the categories of crops customarily~~  
3 ~~grown in Texas, with consideration given to the Texas Agricultural~~  
4 ~~Statistics Service information available and relevant to this~~  
5 ~~determination;~~

6           ~~[(2) a list of crops that are alternative agricultural~~  
7 ~~crops, with consideration given to the Texas Agricultural~~  
8 ~~Statistics Service information available and relevant to this~~  
9 ~~determination;~~

10           ~~[(3) identification of criteria for a project eligible~~  
11 ~~for natural disaster assistance; and~~

12           ~~[(4) identification of projects and types of equipment~~  
13 ~~considered as water conservation projects or equipment for~~  
14 ~~agricultural production purposes.]~~

15           (d) In order to participate in the interest rate reduction  
16 ~~[linked deposit]~~ program, an eligible lending institution may  
17 solicit loan applications from eligible borrowers.

18           (k) The board may adopt rules that create a procedure for  
19 determining priorities for loans granted under this chapter. Each  
20 rule adopted must state the policy objective of the rule. ~~[The~~  
21 ~~policy objectives of the rules may include preferences to:~~

22           ~~[(1) achieve adequate geographic distribution of~~  
23 ~~loans;~~

24           ~~[(2) assist certain industries;~~

25           ~~[(3) encourage certain practices including water~~  
26 ~~conservation; and~~

27           ~~[(4) encourage value-added processing of agricultural~~

1 ~~products.]~~

2 (1) A lending institution is not ineligible to participate  
3 in the interest rate reduction [~~linked deposit~~] program solely  
4 because a member of the board is also an officer, director, or  
5 employee of the lending institution, provided that a board member  
6 shall recuse himself or herself from any action taken by the board  
7 on an application involving a lending institution by which the  
8 board member is employed or for which the board member serves as an  
9 officer or director.

10 SECTION 1.04. Subsections (a) and (b), Section 44.010,  
11 Agriculture Code, are amended to read as follows:

12 (a) At any one time, not more than \$30 million [~~7, \$10 million~~  
13 ~~of which may be used only to finance water conservation projects and~~  
14 ~~\$5 million of which may be used only to finance the economic~~  
15 ~~development of businesses in rural areas,~~] may be placed in linked  
16 deposits under this chapter.

17 (b) The maximum amount of a loan under this chapter [~~to~~  
18 ~~process and market Texas agricultural crops~~] is \$500,000. [~~The~~  
19 ~~maximum amount of a loan under this chapter to produce alternative~~  
20 ~~agricultural crops in this state is \$250,000. The maximum amount of~~  
21 ~~a loan under this chapter to finance water conservation projects or~~  
22 ~~equipment for agricultural production purposes is \$250,000. The~~  
23 ~~maximum amount of a loan under this chapter to finance production of~~  
24 ~~a crop declared eligible for natural disaster relief, as defined by~~  
25 ~~board rule, is \$250,000. The maximum amount of a loan under this~~  
26 ~~chapter to finance a business in a rural area is \$250,000.]~~

27 SECTION 1.05. Section 58.012, Agriculture Code, is amended

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1 by amending Subsections (a), (b), and (c) and adding Subsection (g)  
2 to read as follows:

3 (a) The authority is governed by a board of directors  
4 composed of the commissioner of agriculture, the director of the  
5 Institute for International Agribusiness Studies at Prairie View  
6 A&M University, and nine [~~seven~~] members appointed by the  
7 commissioner [~~governor with the advice and consent of the senate~~].  
8 Members of the board must be appointed in the numbers specified and  
9 from the following categories:

10 (1) one person who is an elected or appointed official  
11 of a municipality or county;

12 (2) four persons who are knowledgeable about  
13 agricultural lending practices;

14 (3) one person who is a representative of agricultural  
15 businesses; [~~and~~]

16 (4) one person who is a representative of agriculture  
17 related entities, including rural chambers of commerce,  
18 foundations, trade associations, institutions of higher education,  
19 or other entities involved in agricultural matters; and

20 (5) two persons who represent young farmers and the  
21 interests of young farmers.

22 (b) The appointed members of the board serve staggered terms  
23 of two years, with the terms of four [~~three~~] members expiring on  
24 January 1 of each even-numbered year and the terms of five [~~four~~]  
25 members expiring on January 1 of each odd-numbered year.

26 (c) Any vacancy occurring in an appointed position on the  
27 board shall be filled by the commissioner [~~governor~~] for the

1 unexpired term.

2 (g) Notwithstanding Subsection (f), age may be considered  
3 by the commissioner in making appointments under Subsection (a)(5).

4 SECTION 1.06. Subsection (a), Section 58.013, Agriculture  
5 Code, is amended to read as follows:

6 (a) The commissioner [~~governor~~] shall designate a member of  
7 the board as the chairman of the board to serve in that capacity at  
8 the pleasure of the commissioner [~~governor~~]. The board shall elect  
9 a vice-chairman biennially from its members and shall elect a  
10 secretary, a treasurer, and other officers it considers necessary.

11 SECTION 1.07. Subsection (a), Section 58.0176, Agriculture  
12 Code, is amended to read as follows:

13 (a) Before a member of the board may assume the member's  
14 duties [~~and before the member may be confirmed by the senate~~], the  
15 member must complete at least one course of the training program  
16 established under this section.

17 SECTION 1.08. Subsections (c) and (d), Section 58.023,  
18 Agriculture Code, are amended to read as follows:

19 (c) Eligible agricultural businesses or lenders  
20 participating in the authority's programs shall pay the costs of  
21 applying for, participating in, and administering and servicing the  
22 program, in amounts the board considers reasonable and necessary.  
23 The board shall charge an administrative fee for guaranteeing a  
24 loan under Subchapter E that may not be less than one percent of the  
25 amount of the guaranteed loan. Any costs not paid by the eligible  
26 agricultural businesses or lenders shall be paid from the funds of  
27 the authority, including those funds established from bond

1 proceeds.

2 (d) The board by rule shall adopt an agreement to be used  
3 between a lender and an approved applicant under which the  
4 authority makes a payment from the Texas agricultural fund for the  
5 purpose of providing a reduced interest rate on a loan guaranteed to  
6 a borrower [~~under this subchapter~~]. The agreement must require the  
7 borrower to use the proceeds of the loan for the purposes of the  
8 program under which the payment is made. The board shall adopt  
9 rules to implement this subsection.

10 SECTION 1.09. Subchapter D, Chapter 58, Agriculture Code,  
11 is amended by adding Section 58.041 to read as follows:

12 Sec. 58.041. ISSUANCE OF DEBT BY TEXAS PUBLIC FINANCE  
13 AUTHORITY. (a) In this section, "debt instrument" means a note,  
14 debenture, bond, or other evidence of indebtedness.

15 (b) The Texas Public Finance Authority has the exclusive  
16 authority to act on behalf of the authority in issuing debt  
17 instruments authorized to be issued by the authority. A reference  
18 in law to a debt instrument issued by the authority, in the context  
19 of a debt instrument issued on or after September 1, 2009, means a  
20 debt instrument issued by the Texas Public Finance Authority on  
21 behalf of the authority.

22 (c) Notwithstanding Section 58.034(e), the authority shall  
23 pay all costs incurred by the Texas Public Finance Authority for  
24 issuing debt instruments on behalf of the authority and associated  
25 fees and expenses.

26 (d) When the board authorizes the issuance of debt  
27 instruments to fund a loan, the authority shall notify the Texas

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1 Public Finance Authority of the amount of the loan and the recipient  
2 of the loan and request the Texas Public Finance Authority to issue  
3 debt instruments in an amount necessary to fund the loan. The  
4 authority and the Texas Public Finance Authority shall determine  
5 the amount and time of a debt instrument issue to best provide funds  
6 for one or multiple loans.

7 (e) The Texas Public Finance Authority, at the request of  
8 the authority, may issue debt instruments to provide money to the  
9 Texas agricultural fund.

10 (f) The Texas Public Finance Authority may sell debt  
11 instruments in any manner it determines to be in the best interest  
12 of the authority, except that it may not sell a debt instrument that  
13 has not been approved by the attorney general and registered with  
14 the comptroller.

15 (g) The board, in consultation with the Texas Public Finance  
16 Authority, shall adopt rules containing criteria for evaluating the  
17 creditworthiness of loan applicants and the financial feasibility  
18 of projects to be funded with debt instruments issued by the Texas  
19 Public Finance Authority on behalf of the authority.

20 (h) The Texas Public Finance Authority may enter into a  
21 credit agreement for a debt instrument issued by the Texas Public  
22 Finance Authority on behalf of the authority for a period and on  
23 conditions approved by the Texas Public Finance Authority.

24 (i) This subsection applies only in relation to general  
25 obligation debt instruments. To the extent other sources of  
26 revenue available for payment of the authority's debts are  
27 insufficient and in accordance with the Texas Constitution, general



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1 revenue is to be appropriated to the Texas Public Finance Authority  
2 in an amount determined by the Texas Public Finance Authority to be  
3 necessary to pay the principal, premium if any, and interest on  
4 general obligation debt instruments issued by the Texas Public  
5 Finance Authority on behalf of the authority, and that amount shall  
6 be specified in the biennial appropriations acts.

7 SECTION 1.10. The heading to Subchapter E, Chapter 58,  
8 Agriculture Code, is amended to read as follows:

9 SUBCHAPTER E. AGRICULTURAL [~~YOUNG FARMER~~] LOAN GUARANTEE PROGRAM

10 SECTION 1.11. Subdivision (2), Section 58.051, Agriculture  
11 Code, is amended to read as follows:

12 (2) "Eligible applicant" means a person applying for a  
13 loan guarantee under this subchapter who[+

14 [~~(A) is at least 18 years of age but younger than~~  
15 ~~40 years of age, and~~

16 [~~(B)~~] complies with the application procedures  
17 prescribed by this subchapter.

18 SECTION 1.12. The heading to Section 58.052, Agriculture  
19 Code, is amended to read as follows:

20 Sec. 58.052. AGRICULTURAL [~~YOUNG FARMER~~] LOAN GUARANTEE  
21 PROGRAM.

22 SECTION 1.13. Section 58.052, Agriculture Code, is amended  
23 by amending Subsections (b), (c), and (e) and adding Subsection (f)  
24 to read as follows:

25 (b) The board, either directly or through authority  
26 delegated to the commissioner, may grant to an eligible applicant a  
27 guarantee of a loan made by a commercial lender for the purposes

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1 prescribed by this subchapter. The board by rule shall establish  
2 tiered loan guarantee limits. To be eligible to be guaranteed under  
3 this subchapter, a loan with a term of more than one year must have a  
4 fixed interest rate [~~guarantee amount may not exceed the lesser of~~  
5 ~~\$250,000 or 90 percent of the loan amount~~].

6 (c) The [~~aggregate~~] amount that may be used to guarantee  
7 loans [~~guaranteed~~] under this subchapter may not exceed  
8 three-fourths of [~~twice~~] the amount contained in the [~~young farmer~~  
9 ~~loan guarantee account within the~~] Texas agricultural fund.

10 (e) The board shall adopt an agreement, to be used between a  
11 commercial lender and an approved eligible applicant, under which  
12 the program provides a payment from money in the Texas agricultural  
13 fund [~~young farmer loan guarantee account~~] for the purpose of  
14 providing a reduced interest rate on a loan guaranteed to a borrower  
15 under this subchapter. The board shall adopt rules to implement  
16 this subsection. The maximum rate reduction under this subsection  
17 per year for each borrower may [~~shall~~] not exceed three percentage  
18 points or an amount that results in \$10,000 in interest savings for  
19 the borrower for the year.

20 (f) The board by rule shall establish a certified lender  
21 program under which the board may certify commercial lenders to  
22 participate in the agricultural loan guarantee program in order to  
23 expedite the processing of loan guarantee applications by the  
24 board.

25 SECTION 1.14. Section 58.056, Agriculture Code, is amended  
26 to read as follows:

27 Sec. 58.056. MONEY FOR LOAN GUARANTEE PROGRAM. The

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1 authority may accept gifts and grants of money from the federal  
2 government, local governments, private corporations, or other  
3 persons for use in the agricultural [~~young farmer~~] loan guarantee  
4 program. The legislature may appropriate money for the program.

5 SECTION 1.15. Subsections (b) and (d), Section 58.057,  
6 Agriculture Code, are transferred to Section 58.032, Agriculture  
7 Code, relettered as Subsections (g) and (h) of that section, and  
8 amended to read as follows:

9 (g) [~~(b)~~] The fund includes [~~account consists of funds and~~  
10 ~~transfers made to the account,~~] grants and donations made for the  
11 purposes of the programs administered by the Texas Agricultural  
12 Finance Authority [~~the young farmer loan guarantee program, income~~  
13 ~~earned on money in the account,~~] and any other money received under  
14 this chapter [~~subchapter~~]. Notwithstanding Section 404.071,  
15 Government Code, income and interest earned on money in the fund  
16 [~~account~~] shall be deposited to the credit of the fund [~~account~~].  
17 [~~At the end of each state fiscal year the authority shall transfer~~  
18 ~~to the general credit of the Texas agricultural fund any interest~~  
19 ~~earned on the account that remains after payment of any~~  
20 ~~administrative expenses of the program.~~] The fund [~~account~~] is  
21 exempt from the application of Section 403.095, Government Code.

22 (h) [~~(d)~~] The board shall attempt to administer the fund in  
23 a manner that makes private donations to the fund an eligible  
24 itemized deduction for federal income taxation purposes.

25 SECTION 1.16. Chapter 58, Agriculture Code, is amended by  
26 adding Subchapter F to read as follows:

1 SUBCHAPTER F. YOUNG FARMER INTEREST RATE REDUCTION PROGRAM

2 Sec. 58.071. DEFINITIONS. In this subchapter:

3 (1) "Eligible lending institution" means a financial  
4 institution that makes commercial loans, is either a depository of  
5 state funds or an institution of the Farm Credit System  
6 headquartered in this state, and agrees to participate in the young  
7 farmer interest rate reduction program and to provide collateral  
8 equal to the amount of linked deposits placed with it.

9 (2) "Linked deposit" means a time deposit governed by  
10 a written deposit agreement between the state and an eligible  
11 lending institution that provides:

12 (A) that the eligible lending institution pay  
13 interest on the deposit at a rate that is not less than the greater  
14 of:

15 (i) the current market rate of a United  
16 States treasury bill or note of comparable maturity minus three  
17 percent; or

18 (ii) 0.5 percent;

19 (B) that the state not withdraw any part of the  
20 deposit before the expiration of a period set by a written advance  
21 notice of the intention to withdraw; and

22 (C) that the eligible lending institution agree  
23 to lend the value of the deposit to an eligible borrower at a  
24 maximum rate that is the linked deposit rate plus a maximum of four  
25 percent.

26 Sec. 58.072. YOUNG FARMER INTEREST RATE REDUCTION PROGRAM.

27 (a) The board shall establish a young farmer interest rate

1 reduction program to promote the creation and expansion of  
2 agricultural businesses by young people in this state.

3 (b) To be eligible to participate in the young farmer  
4 interest rate reduction program, an applicant must be at least 18  
5 years of age but younger than 46 years of age.

6 (c) The board shall approve or disapprove any and all  
7 applications under this subchapter, provided that the board may  
8 delegate this authority to the commissioner.

9 (d) The board shall adopt rules for the loan portion of the  
10 young farmer interest rate reduction program.

11 (e) In order to participate in the young farmer interest  
12 rate reduction program, an eligible lending institution may solicit  
13 loan applications from eligible applicants.

14 (f) After reviewing an application and determining that the  
15 applicant is eligible and creditworthy, the eligible lending  
16 institution shall send the application for a linked deposit loan to  
17 the administrator of the authority.

18 (g) The eligible lending institution shall certify the  
19 interest rate applicable to the specific eligible applicant and  
20 attach it to the application sent to the administrator of the  
21 authority.

22 (h) After reviewing each loan application under this  
23 subchapter, the board or the commissioner shall recommend to the  
24 comptroller the acceptance or rejection of the application.

25 (i) After acceptance of the application, the comptroller  
26 shall place a linked deposit with the applicable eligible lending  
27 institution for the period the comptroller considers appropriate.

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1 The comptroller may not place a deposit for a period extending  
2 beyond the state fiscal biennium in which it is placed. Subject to  
3 the limitation described by Section 58.075, the comptroller may  
4 place time deposits at an interest rate described by Section  
5 58.071(2).

6 (j) Before the placing of a linked deposit, the eligible  
7 lending institution and the state, represented by the comptroller,  
8 shall enter into a written deposit agreement containing the  
9 conditions on which the linked deposit is made.

10 (k) If a lending institution holding linked deposits ceases  
11 to be either a state depository or a Farm Credit System institution  
12 headquartered in this state, the comptroller may withdraw the  
13 linked deposits.

14 (l) The board may adopt rules that create a procedure for  
15 determining priorities for loans granted under this subchapter.  
16 Each rule adopted must state the policy objective of the rule.

17 (m) A lending institution is not ineligible to participate  
18 in the young farmer interest rate reduction program solely because  
19 a member of the board is also an officer, director, or employee of  
20 the lending institution, provided that a board member shall recuse  
21 himself or herself from any action taken by the board on an  
22 application involving a lending institution by which the board  
23 member is employed or for which the board member serves as an  
24 officer or director.

25 (n) Linked deposits under the young farmer interest rate  
26 reduction program shall be funded from the Texas agricultural fund.

27 Sec. 58.073. COMPLIANCE. (a) On accepting a linked

1 deposit, an eligible lending institution must loan money to  
2 eligible applicants in accordance with the deposit agreement and  
3 this subchapter. The eligible lending institution shall forward a  
4 compliance report to the board.

5 (b) The board shall monitor compliance with this subchapter  
6 and inform the comptroller of noncompliance on the part of an  
7 eligible lending institution.

8 Sec. 58.074. STATE LIABILITY PROHIBITED. The state is not  
9 liable to an eligible lending institution for payment of the  
10 principal, interest, or any late charges on a loan made under this  
11 subchapter. A delay in payment or default on a loan by a borrower  
12 does not affect the validity of the deposit agreement. Linked  
13 deposits are not an extension of the state's credit within the  
14 meaning of any state constitutional prohibition.

15 Sec. 58.075. LIMITATIONS IN PROGRAM. (a) The maximum  
16 amount of a loan under this subchapter is \$500,000.

17 (b) A loan granted under this subchapter may be used for any  
18 agriculture-related operating expense, including the purchase or  
19 lease of land or fixed assets acquisition or improvement, as  
20 identified in the application.

21 SECTION 1.17. Chapter 58, Agriculture Code, is amended by  
22 adding Subchapter G to read as follows:

23 SUBCHAPTER G. YOUNG FARMER GRANT PROGRAM

24 Sec. 58.091. GRANT PROGRAM. (a) The authority shall  
25 administer a young farmer grant program. A grant must be for the  
26 purpose of fostering the creation and expansion of agricultural  
27 businesses by young people in this state.

1        (b) The board shall adopt rules governing the operation of  
2 the program and selection criteria for grant recipients.

3        (c) The board shall select grant recipients.

4        Sec. 58.092. ELIGIBILITY. To be eligible to receive a grant  
5 under this subchapter, a person must:

6            (1) be an agricultural producer who is at least 18  
7 years of age but younger than 46 years of age; and

8            (2) provide matching funds in the amount of not less  
9 than one dollar for each dollar of grant money received.

10        Sec. 58.093. AMOUNT OF GRANTS. A grant under the young  
11 farmer grant program may not be less than \$5,000 or more than  
12 \$20,000.

13        Sec. 58.094. APPLICATIONS. (a) The authority shall accept  
14 grant applications during two application periods each year.

15            (b) Applicants shall submit an application on a form  
16 approved by the board or the board's designee.

17        Sec. 58.095. FUNDING. The source of funds for the young  
18 farmer grant program is the Texas agricultural fund.

19        SECTION 1.18. Section 1232.101, Government Code, is amended  
20 to read as follows:

21        Sec. 1232.101. ISSUANCE OF BONDS FOR CERTAIN STATE  
22 AGENCIES. With respect to all bonds authorized to be issued by or  
23 on behalf of the adjutant general's department, Parks and Wildlife  
24 Department, Texas Agricultural Finance Authority, Texas Low-Level  
25 Radioactive Waste Disposal Authority, Stephen F. Austin State  
26 University, Midwestern State University, and Texas Southern  
27 University, the authority has the exclusive authority to act on



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1 behalf of those entities in issuing bonds on their behalf. In  
2 connection with those issuances and with the issuance of refunding  
3 bonds on behalf of those entities, the authority is subject to all  
4 rights, duties, and conditions surrounding issuance previously  
5 applicable to the issuing entity under the statute authorizing the  
6 issuance. A reference in an authorizing statute to the entity on  
7 whose behalf the bonds are being issued applies equally to the  
8 authority in its capacity as issuer on behalf of the entity.

9 SECTION 1.19. Subsection (d), Section 1372.028, Government  
10 Code, is amended to read as follows:

11 (d) An issuer is not required to provide the statement  
12 required by Subsection (c)(3)(F) if the issuer:

- 13 (1) is an issuer of a state-voted issue;
- 14 (2) is the Texas Department of Housing and Community  
15 Affairs [~~, the Texas Agricultural Finance Authority,~~] or the Texas  
16 State Affordable Housing Corporation; or

17 (3) provides evidence that one or more binding  
18 contracts have been entered into, or other evidence acceptable to  
19 the board as described by program rule, to spend the unexpended  
20 proceeds by the later of:

- 21 (A) 12 months after the date the board receives  
22 the application; or
- 23 (B) December 31 of the program year for which the  
24 application is filed.

25 SECTION 1.20. Subsection (b), Section 502.174,  
26 Transportation Code, is amended to read as follows:

27 (b) The county assessor-collector shall send an assessment

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1 collected under this section to the comptroller, at the time and in  
2 the manner prescribed by the Texas Agricultural Finance Authority,  
3 for deposit in the Texas agricultural fund [~~to the credit of the~~  
4 ~~young farmer loan guarantee account~~].

5 SECTION 1.21. The following provisions are repealed:

6 (1) Subdivision (3), Section 44.001, Agriculture  
7 Code;

8 (2) Subsection (c), Section 58.0173, Agriculture  
9 Code;

10 (3) Subsection (b), Section 58.0211, Agriculture  
11 Code;

12 (4) Subsections (a), (c), and (e), Section 58.057,  
13 Agriculture Code; and

14 (5) Section 1372.0235, Government Code.

15 SECTION 1.22. On the effective date of this Act:

16 (1) the young farmer loan guarantee program under  
17 Subchapter E, Chapter 58, Agriculture Code, as that subchapter  
18 existed before amendment by this Act, is abolished; and

19 (2) the agricultural loan guarantee program under  
20 Subchapter E, Chapter 58, Agriculture Code, as amended by this Act,  
21 is established.

22 SECTION 1.23. On the effective date of this Act, the young  
23 farmer loan guarantee account is abolished. All money in the  
24 account on that date remains in the Texas agricultural fund. All  
25 deposits purportedly made to the account on or after that date shall  
26 be deposited in the Texas agricultural fund. All references in law  
27 or rule to the young farmer loan guarantee account mean the Texas

1 agricultural fund.

2 SECTION 1.24. (a) As soon as practicable on or after the  
3 effective date of this Act, the commissioner of agriculture shall  
4 appoint two members to the board of directors of the Texas  
5 Agricultural Finance Authority who represent young farmers and the  
6 interests of young farmers. In appointing those members, the  
7 commissioner shall appoint one person to a term expiring January 1,  
8 2010, and one to a term expiring January 1, 2011.

9 (b) The changes in law made by this Act by the amendment of  
10 Section 58.012, Agriculture Code, do not affect the entitlement of  
11 a member of the board of directors of the Texas Agricultural Finance  
12 Authority serving on the board immediately before the effective  
13 date of this Act to continue to serve on the board and carry out the  
14 board's functions for the remainder of the member's term. The  
15 changes in law apply only to a member appointed on or after the  
16 effective date of this Act. This Act does not prohibit a person who  
17 is a member of the board on the effective date of this Act from being  
18 reappointed to the board if the person has the qualifications  
19 required for a member under Section 58.012, Agriculture Code, as  
20 amended by this Act.

21 SECTION 1.25. Subsection (b), Section 58.041, Agriculture  
22 Code, as added by this Act, does not apply to the extension,  
23 renewal, or renegotiation of debt issued by the Texas Agricultural  
24 Finance Authority before the effective date of this Act. The  
25 extension, renewal, or renegotiation of debt issued by the Texas  
26 Agricultural Finance Authority before the effective date of this  
27 Act is governed by the law in effect immediately before that date,

1 and the former law is continued in effect for that purpose.

2 ARTICLE 2. PRESCRIBED BURNING BOARD

3 SECTION 2.01. Section 153.001, Natural Resources Code, is  
4 amended to read as follows:

5 Sec. 153.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

6 (1) "Board" [~~"board"~~] means the Prescribed Burning  
7 Board.

8 (2) "Department" means the Department of Agriculture.

9 SECTION 2.02. Subchapter A, Chapter 153, Natural Resources  
10 Code, is amended by adding Section 153.004 to read as follows:

11 Sec. 153.004. PRESCRIBED BURNING IN STATE OF EMERGENCY OR  
12 DISASTER. A certified and insured prescribed burn manager may  
13 conduct a burn in a county in which a state of emergency or state of  
14 disaster has been declared by the governor or the president of the  
15 United States, unless the declaration expressly prohibits all  
16 outdoor burning.

17 SECTION 2.03. Subsection (a), Section 153.041, Natural  
18 Resources Code, is amended to read as follows:

19 (a) The Prescribed Burning Board is established within the  
20 department [~~Department of Agriculture~~] and is composed of:

21 (1) an employee of the Texas Forest Service designated  
22 by the director of the Texas Forest Service;

23 (2) an employee of the Parks and Wildlife Department  
24 appointed by the executive director of the Parks and Wildlife  
25 Department;

26 (3) an employee of the Texas Commission on  
27 Environmental Quality [~~Natural Resource Conservation Commission~~]

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1 appointed by the executive director of the Texas Commission on  
2 Environmental Quality [~~Natural Resource Conservation Commission~~];

3 (4) an employee of the Texas AgriLife [~~Agricultural~~]  
4 Extension Service appointed by the executive director of the Texas  
5 AgriLife [~~Agricultural~~] Extension Service;

6 (5) an employee of [~~the~~] Texas AgriLife Research  
7 [~~Agricultural Experiment Station~~] appointed by the director of  
8 [~~the~~] Texas AgriLife Research [~~Agricultural Experiment Station~~];

9 (6) an employee of the Texas Tech University Range and  
10 Wildlife Department appointed by the dean of the Texas Tech  
11 University College of Agricultural Sciences and Natural Resources;

12 (7) an employee of the department [~~Department of~~  
13 ~~Agriculture~~] appointed by the commissioner of agriculture;

14 (8) an employee of the State Soil and Water  
15 Conservation Board appointed by the executive director of the State  
16 Soil and Water Conservation Board; and

17 (9) five persons who are:

18 (A) owners of agricultural land, as that term is  
19 defined by Section 153.081;

20 (B) self-employed or employed by a person other  
21 than a governmental entity; and

22 (C) appointed by the commissioner of  
23 agriculture.

24 SECTION 2.04. Section 153.044, Natural Resources Code, is  
25 amended to read as follows:

26 Sec. 153.044. SUNSET PROVISION. The Prescribed Burning  
27 Board is subject to Chapter 325, Government Code (Texas Sunset

1 Act). The board shall be reviewed during the period in which the  
2 Department of Agriculture is reviewed [~~Unless continued in~~  
3 ~~existence as provided by that chapter, the board is abolished and~~  
4 ~~this chapter expires September 1, 2009~~].

5 SECTION 2.05. Section 153.046, Natural Resources Code, is  
6 amended to read as follows:

- 7 Sec. 153.046. DUTIES. The board shall:
- 8 (1) establish standards for prescribed burning;
- 9 (2) develop a comprehensive training curriculum for  
10 certified and insured prescribed burn managers;
- 11 (3) establish standards for certification,  
12 recertification, and training for certified and insured prescribed  
13 burn managers;
- 14 (4) establish minimum education and professional  
15 requirements for instructors for the approved curriculum; and
- 16 (5) establish minimum insurance requirements for  
17 certified and insured prescribed burn managers.

18 SECTION 2.06. Section 153.047, Natural Resources Code, is  
19 amended to read as follows:

20 Sec. 153.047. PRESCRIBED BURNING STANDARDS. Minimum  
21 standards established by the board for prescribed burning must:

- 22 (1) ensure that prescribed burning is the controlled  
23 application of fire to naturally occurring or naturalized  
24 vegetative fuels under specified environmental conditions in  
25 accordance with a written prescription plan:
- 26 (A) designed to confine the fire to a  
27 predetermined area and to accomplish planned land management

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1 objectives; and

2 (B) that conforms to the standards established  
3 under this section;

4 (2) require that at least one certified and insured  
5 prescribed burn manager is present on site during the conduct of the  
6 prescribed burn;

7 (3) establish appropriate guidelines for size of  
8 burning crews sufficient to:

9 (A) conduct the burn in accordance with the  
10 prescription plan; and

11 (B) provide adequate protection for the safety of  
12 persons and of adjacent property;

13 (4) include standards for notification to adjacent  
14 land owners, the Texas Commission on Environmental Quality [~~Natural~~  
15 ~~Resource Conservation Commission~~], and local fire authorities; and

16 (5) include minimum insurance requirements for  
17 certified and insured prescribed burn managers.

18 SECTION 2.07. Subsections (c) and (e), Section 153.048,  
19 Natural Resources Code, are amended to read as follows:

20 (c) The certification is for two [~~five~~] years.

21 (e) The board shall maintain a register of certified and  
22 insured prescribed burn managers and dates of completion of initial  
23 and continuing training.

24 SECTION 2.08. Subsections (a) and (b), Section 153.081,  
25 Natural Resources Code, are amended to read as follows:

26 (a) Subject to Section 153.082, an owner, lessee, or  
27 occupant of agricultural land is not liable for property damage or

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1 for injury or death to persons caused by or resulting from  
2 prescribed burning conducted on the land owned by, leased by, or  
3 occupied by the person if the prescribed burning is conducted under  
4 the supervision of a certified and insured prescribed burn manager.

5 (b) This section does not apply to an owner, lessee, or  
6 occupant of agricultural land who is a certified and insured  
7 prescribed burn manager and conducts a burn on that land.

8 SECTION 2.09. Section 153.082, Natural Resources Code, is  
9 amended to read as follows:

10 Sec. 153.082. INSURANCE. The limitation on liability under  
11 Section 153.081 does not apply to an owner, lessee, or occupant of  
12 agricultural land unless the certified and insured prescribed burn  
13 manager conducting a burn on the land has liability insurance  
14 coverage:

15 (1) of at least \$1 million for each single occurrence  
16 of bodily injury or death, or injury to or destruction of property;  
17 and

18 (2) with a policy period minimum aggregate limit of at  
19 least \$2 million.

20 SECTION 2.10. Chapter 153, Natural Resources Code, is  
21 amended by adding Subchapter D to read as follows:

SUBCHAPTER D. COMPLAINTS, ENFORCEMENT, AND PENALTIES

22 Sec. 153.101. COMPLAINTS. The department shall receive and  
23 process complaints concerning certified and insured prescribed  
24 burn managers in the manner described by Section 12.026,  
25 Agriculture Code, and rules adopted under that section.

26 Sec. 153.102. DISCIPLINARY ACTION; SCHEDULE OF SANCTIONS.  
27



1 (a) The department may impose an administrative sanction,  
2 including an administrative penalty, as provided by Sections  
3 12.020, 12.0201, 12.0202, and 12.0261, Agriculture Code, for a  
4 violation of this chapter.

5 (b) The department by rule shall adopt a schedule of the  
6 disciplinary sanctions that the department may impose under this  
7 chapter. In adopting the schedule of sanctions, the department  
8 shall ensure that the severity of the sanction imposed is  
9 appropriate to the type of violation or conduct that is the basis  
10 for disciplinary action.

11 (c) In determining the appropriate disciplinary action,  
12 including the amount of any administrative penalty to assess, the  
13 department shall consider:

14 (1) whether the person:

15 (A) is being disciplined for multiple violations  
16 of either this chapter or a rule or order adopted under this  
17 chapter; or

18 (B) has previously been the subject of  
19 disciplinary action by the department under this chapter and has  
20 previously complied with department rules and this chapter;

21 (2) the seriousness of the violation;

22 (3) the threat to public safety; and

23 (4) any mitigating factors.

24 Sec. 153.103. INJUNCTION. (a) The department may apply to  
25 a district court in any county for an injunction to restrain a  
26 person who is not a certified and insured prescribed burn manager  
27 from representing that the person is a certified and insured

1 prescribed burn manager.

2 (b) At the request of the department, the attorney general  
3 shall initiate and conduct an action in a district court in the  
4 state's name to obtain an injunction under this section.

5 Sec. 153.104. EMERGENCY SUSPENSION. (a) On determining  
6 that a certification holder is engaged in or about to engage in a  
7 violation of this chapter and that the certification holder's  
8 continued practice constitutes an immediate threat to the public  
9 welfare, the department may issue an order suspending the  
10 certification holder's certification without notice or a hearing.  
11 The department shall immediately serve notice of the suspension on  
12 the certification holder.

13 (b) The notice required by Subsection (a) must:

14 (1) be personally served on the certification holder  
15 or be sent by registered or certified mail, return receipt  
16 requested, to the certification holder's last known address  
17 according to the department's records;

18 (2) state the grounds for the suspension; and

19 (3) inform the certification holder of the right to a  
20 hearing on the suspension order.

21 (c) A certification holder whose certification is suspended  
22 under this section is entitled to request a hearing on the  
23 suspension not later than the 30th day after the date of receipt of  
24 notice of the suspension. Not later than the fifth day after the  
25 date a hearing is requested, the department shall issue a notice of  
26 hearing.

27 (d) A hearing on a suspension order under this section is

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1 subject to Chapter 2001, Government Code. If the hearing is before  
2 an administrative law judge, after the hearing, the administrative  
3 law judge shall recommend to the department whether to uphold,  
4 vacate, or modify the suspension order.

5 (e) A suspension order issued under this section remains in  
6 effect until further action is taken by the department. If the  
7 administrative law judge's recommendation under Subsection (d) is  
8 to vacate the order, the department shall determine whether to  
9 vacate the order not later than the second day after the date of the  
10 recommendation.

11 SECTION 2.11. (a) Subsection (c), Section 153.048,  
12 Natural Resources Code, as amended by this Act, applies to a  
13 certification issued or renewed after the effective date of this  
14 Act. A certification issued or renewed before the effective date of  
15 this Act is governed by the law in effect on the date the  
16 certification was issued or renewed, and the former law is  
17 continued in effect for that purpose.

18 (b) Sections 153.102, 153.103, and 153.104, Natural  
19 Resources Code, as added by this Act, apply only to conduct that  
20 occurs on or after the effective date of this Act. Conduct that  
21 occurs before the effective date of this Act is governed by the law  
22 in effect when the conduct occurred, and the former law is continued  
23 in effect for that purpose.

24 ARTICLE 3. TEXAS-ISRAEL EXCHANGE FUND BOARD

25 SECTION 3.01. The heading to Chapter 45, Agriculture Code,  
26 is amended to read as follows:

27 CHAPTER 45. TEXAS-ISRAEL EXCHANGE RESEARCH PROGRAM [FUND]

1 SECTION 3.02. Section 45.001, Agriculture Code, is amended  
2 to read as follows:

3 Sec. 45.001. LEGISLATIVE FINDINGS; PURPOSE. (a) The  
4 legislature finds that Texas and Israel have many interests in  
5 common. They face many of the same difficulties in agriculture; the  
6 geography of both areas produces semiarid climatic conditions;  
7 there is present in both areas a rising demand for a limited supply  
8 of water coupled with increasing pressures to minimize the use of  
9 energy in all aspects of agriculture. Scientific and technological  
10 cooperatives already produce close ties between the two areas while  
11 engaging in binational projects for scientific and industrial  
12 research and development.

13 A program [~~fund~~] to support joint agricultural research and  
14 development by, and the development of trade and business relations  
15 between, Texas and Israel will address common problems and make  
16 substantial contributions to the development of agriculture,  
17 trade, and business in both areas. Since Texas has long emphasized  
18 broad-based agricultural research and Israel has originated and  
19 developed agricultural technologies designed to maximize  
20 production with minimal use of resources such as water and labor,  
21 each of the two areas will benefit by sharing information and  
22 expertise.

23 (b) The purpose of this chapter is to:

24 (1) establish a program [~~fund~~] to promote and support  
25 practical and applied agricultural research and development that  
26 will result in mutual benefit to Texas and Israel and will help to  
27 provide solutions to food and fiber production problems wherever

1 they exist, particularly those relating to water conservation; and

2 (2) establish a program of mutual cooperation that  
3 will foster the development of trade, mutual assistance, and  
4 business relations between Texas and Israel.

5 SECTION 3.03. Section 45.002, Agriculture Code, is amended  
6 to read as follows:

7 Sec. 45.002. DEFINITION [~~DEFINITIONS~~]. In this chapter, [+

8 [~~1~~] "applied [~~Applied~~] research" means the process  
9 of assembling knowledge gained by careful and diligent search and  
10 studious inquiry and examination and using that knowledge to solve  
11 practical, real-world problems.

12 [~~2~~] "~~Board~~" ~~means the Texas-Israel Exchange Fund~~  
13 ~~Board.~~

14 [~~3~~] "~~Fund~~" ~~means the Texas-Israel Exchange Fund.~~

15 SECTION 3.04. Section 45.005, Agriculture Code, is amended  
16 to read as follows:

17 Sec. 45.005. GENERAL FUNCTIONS, POWERS, AND DUTIES.

18 (a) The department may establish a binational program to support  
19 joint agricultural research and development with Israel. The scope  
20 of agricultural research and development which the program [~~fund~~]  
21 may promote and support encompasses all scientific activities  
22 related to agriculture, including production, processing,  
23 marketing, and agricultural services, with emphasis on the support  
24 of applied research to improve water, labor, and energy utilization  
25 in agriculture.

26 (b) The program [~~fund~~] shall support applied research in  
27 areas of potential mutual interest, including:

- 1 (1) water conservation;
- 2 (2) water management and use;
- 3 (3) soil management and conservation;
- 4 (4) innovative sources of energy for agricultural  
5 production;
- 6 (5) environmental aspects of agricultural technology;
- 7 (6) intensive crop production; and
- 8 (7) agricultural engineering and processing.

9 (c) The program [~~fund~~] may undertake agricultural research  
10 and development projects of mutual benefit that are located in  
11 Texas, Israel, or any other location considered advisable by the  
12 department or suggested by the advisory committee [~~boards~~].

13 (d) The department [~~fund~~] may make research or development  
14 grants or loans to public or private entities who intend to carry  
15 out the stated objectives of the program [~~fund~~].

16 (e) The program [~~fund~~] shall encourage or support the  
17 exchange of agricultural producers, scientists, teachers,  
18 students, or other types of agricultural experts between the two  
19 cooperating areas of Texas and Israel.

20 (f) The program [~~fund~~] shall encourage and support [~~a~~  
21 ~~program of~~] mutual cooperation that will foster the development of  
22 trade, mutual assistance, and business relations between Texas and  
23 Israel.

24 SECTION 3.05. Subsections (b) and (d), Section 45.007,  
25 Agriculture Code, are amended to read as follows:

26 (b) The department [~~board~~] may accept gifts and grants from  
27 the federal government, state government, and private sources, as

1 well as legislative appropriations to carry out the purposes of  
2 this chapter. The use of gifts and grants other than legislative  
3 appropriation is subject only to limitations contained in the gift  
4 or grant.

5 (d) The department [~~board~~] shall make an annual accounting  
6 of all money received, awarded, and expended during the year under  
7 this chapter to the legislative committees responsible for  
8 agricultural issues.

9 SECTION 3.06. Chapter 45, Agriculture Code, is amended by  
10 adding Section 45.009 to read as follows:

11 Sec. 45.009. TEXAS-ISRAEL EXCHANGE ADVISORY COMMITTEE. The  
12 department may establish a binational agricultural research  
13 advisory committee to provide guidance and direction on activities  
14 conducted under this chapter and the expenditure of money  
15 appropriated for the purposes of this chapter.

16 SECTION 3.07. (a) The Texas-Israel Exchange Fund Board and  
17 the Texas-Israel Exchange Fund are abolished.

18 (b) The following provisions of the Agriculture Code are  
19 repealed:

- 20 (1) Section 45.003;  
21 (2) Section 45.004;  
22 (3) Section 45.006;  
23 (4) Subsections (a) and (c), Section 45.007; and  
24 (5) Section 45.008.

25 ARTICLE 4. STRUCTURE OF CERTAIN BOARDS AND ADVISORY COMMITTEES

26 SECTION 4.01. Chapter 50B, Agriculture Code, is amended by  
27 adding Section 50B.0015 to read as follows:

1        Sec. 50B.0015. DEFINITION. In this chapter, "committee"  
2 means the wine industry development and marketing advisory  
3 committee.

4        SECTION 4.02. Section 50B.002, Agriculture Code, is amended  
5 to read as follows:

6        Sec. 50B.002. WINE INDUSTRY DEVELOPMENT AND MARKETING~~[+]~~  
7 ADVISORY COMMITTEE. (a) The commissioner shall ~~[may]~~ appoint a  
8 wine industry development and marketing advisory committee to:

9            (1) develop a long-term vision and marketable identity  
10 for the wine industry in the state that take into consideration  
11 future industry development, funding, research, educational  
12 programming, risk management, and marketing; and

13            (2) assist the commissioner in establishing and  
14 implementing the Texas Wine Marketing Assistance Program under  
15 Chapter 110, Alcoholic Beverage Code.

16        (b) The committee consists of members appointed by the  
17 commissioner who represent a diverse cross-section of the wine  
18 industry, including representatives of:

- 19            (1) grape growers;
- 20            (2) wineries;
- 21            (3) wholesalers;
- 22            (4) package stores;
- 23            (5) retailers;
- 24            (6) researchers;
- 25            (7) consumers;
- 26            (8) the department; and
- 27            (9) the Texas Alcoholic Beverage Commission.





1           (3) "Research committee" means the Texas Bioenergy  
2 Research Committee.

3           Sec. 50D.003. ADMINISTRATIVE SUPPORT. The department:

4           (1) shall provide administrative support, including  
5 staff, to the policy council; and

6           (2) may allocate appropriate administrative support  
7 to the research committee.

8           [Sections 50D.004-50D.010 reserved for expansion]

9           SUBCHAPTER B. TEXAS BIOENERGY POLICY COUNCIL

10          Sec. 50D.011. COMPOSITION. (a) The policy council is  
11 composed of the following 18 members:

12          (1) the commissioner, who serves as chair of the  
13 policy council;

14          (2) one representative of the Railroad Commission of  
15 Texas designated by the commission;

16          (3) one representative of the Texas Commission on  
17 Environmental Quality designated by the commission;

18          (4) one representative of the Public Utility  
19 Commission of Texas designated by the commission;

20          (5) one representative of the Texas Water Development  
21 Board designated by the board;

22          (6) the chancellor of The Texas A&M University System,  
23 or the person designated by the chancellor;

24          (7) the chancellor of the Texas Tech University  
25 System, or the person designated by the chancellor;

26          (8) the chancellor of The University of Texas System,  
27 or the person designated by the chancellor;

1           (9) one member of the senate appointed by the  
2 lieutenant governor;

3           (10) one member of the house of representatives  
4 appointed by the speaker of the house of representatives; and

5           (11) eight members appointed by the governor, with  
6 each of the following industries or groups represented by one  
7 member:

8                   (A) research and development of feedstock and  
9 feedstock production;

10                   (B) retail distribution of energy;

11                   (C) transportation of biomass feedstock;

12                   (D) agricultural production for bioenergy  
13 production or agricultural waste used for production of bioenergy;

14                   (E) production of biodiesel from nonfood  
15 feedstocks;

16                   (F) production of ethanol from nonfood  
17 feedstocks;

18                   (G) bio-based electricity generation; and

19                   (H) chemical manufacturing.

20           (b) The eight members of the policy council appointed by the  
21 governor serve at the governor's pleasure and have two-year  
22 staggered terms, with the terms of either three or four members  
23 expiring on January 1 of each year.

24           (c) The governor shall fill any vacancy in a position  
25 appointed by the governor for the remainder of the unexpired term.

26           (d) Appointments to the policy council must be made without  
27 regard to the race, color, disability, sex, religion, age, or

1 national origin of the appointees.

2 (e) The policy council is subject to Chapters 551 and 2001,  
3 Government Code.

4 Sec. 50D.012. REMOVAL OF POLICY COUNCIL MEMBERS. (a) A  
5 member of the policy council may be removed from the policy council  
6 if the member:

7 (1) is not able to devote the time necessary to perform  
8 the member's duties as a member;

9 (2) cannot because of illness or disability discharge  
10 the member's duties or cannot discharge those duties for a  
11 substantial part of the term for which the member is appointed; or

12 (3) is absent from more than half of the regularly  
13 scheduled policy council meetings that the member is eligible to  
14 attend during a calendar year, unless the absence is excused by a  
15 majority vote of the policy council.

16 (b) An action of the policy council is not invalid because a  
17 ground for removal of a policy council member exists at the time the  
18 action is taken.

19 (c) If the commissioner has knowledge that a potential  
20 ground for removal of a policy council member exists, the  
21 commissioner shall notify the governor and attorney general of the  
22 potential ground for removal.

23 Sec. 50D.013. DUTIES OF POLICY COUNCIL. (a) The policy  
24 council shall:

25 (1) provide a vision for unifying this state's  
26 agricultural, energy, and research strengths in a successful launch  
27 of a cellulosic biofuel and bioenergy industry;

1           (2) foster development of cellulosic-based and  
2 bio-based fuels and build on the Texas emerging technology fund's  
3 investments in leading-edge energy research and efforts to  
4 commercialize the production of bioenergy;

5           (3) pursue the creation of a next-generation biofuels  
6 energy research program at a university in this state;

7           (4) work to procure federal and other funding to aid  
8 this state in becoming a bioenergy leader;

9           (5) study the feasibility and economic development  
10 effect of a blending requirement for biodiesel or cellulosic fuels;

11           (6) pursue the development and use of thermochemical  
12 process technologies to produce alternative chemical feedstocks;

13           (7) study the feasibility and economic development of  
14 the requirements for pipeline-quality, renewable natural gas; and

15           (8) perform other advisory duties as requested by the  
16 commissioner regarding the responsible development of bioenergy  
17 resources in this state.

18           (b) The policy council shall meet regularly as necessary at  
19 the call of the commissioner.

20           Sec. 50D.014. REIMBURSEMENT OF EXPENSES. A member of the  
21 policy council may not receive compensation for service on the  
22 council. Subject to availability of funds, a policy council member  
23 may receive reimbursement for the actual and necessary expenses  
24 incurred while conducting policy council business.

25           Sec. 50D.015. COORDINATION WITH FEDERAL GOVERNMENT ON  
26 BIOENERGY POLICY. (a) In this section, "state agency" has the  
27 meaning assigned by Section 315.002, Government Code.

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1           **(b) The policy council shall take reasonable steps to track**  
2 **the development of federal bioenergy policy and provide information**  
3 **relating to federal regulatory developments to each affected state**  
4 **agency.**

5           **(c) Not later than October 1, 2009, the Texas Commission on**  
6 **Environmental Quality shall request a determination by the United**  
7 **States Environmental Protection Agency that this state will not**  
8 **lose nitrogen oxide emission reduction credits currently**  
9 **recognized as part of the state implementation plan if:**

10                   **(1) this state allows the use of biodiesel and**  
11 **biodiesel blends with no additives; and**

12                   **(2) the final blend of fuel complies with state and**  
13 **federal standards for cetane and aromatic hydrocarbon content.**

14           **(d) If the Texas Commission on Environmental Quality**  
15 **receives a determination from the United States Environmental**  
16 **Protection Agency that this state will not lose nitrogen oxide**  
17 **emission reduction credits as a result of the use of biodiesel or**  
18 **biodiesel blends with no additives, or if the commission**  
19 **independently makes that determination, the commission may not**  
20 **adopt or implement rules that restrict the production or**  
21 **distribution of biodiesel or biodiesel blends in a manner more**  
22 **stringent than provided by federal law.**

23                   **[Sections 50D.016-50D.020 reserved for expansion]**

24                   **SUBCHAPTER C. TEXAS BIOENERGY RESEARCH COMMITTEE**

25           **Sec. 50D.021. COMPOSITION. (a) The research committee is**  
26 **composed of the following 16 members:**

27                   **(1) the commissioner or the person designated by the**

- 1 commissioner, who serves as the chair of the research committee;  
2           (2) one representative of the Railroad Commission of  
3 Texas designated by the commission;  
4           (3) one representative of the Texas Commission on  
5 Environmental Quality designated by the commission;  
6           (4) one representative of the Public Utility  
7 Commission of Texas designated by the commission;  
8           (5) one representative of the Texas Water Development  
9 Board designated by the board;  
10           (6) one researcher or specialist in the bioenergy  
11 field from each of the following university systems, appointed by  
12 the chancellor of the system:  
13                   (A) The Texas A&M University System;  
14                   (B) the Texas Tech University System; and  
15                   (C) The University of Texas System; and  
16           (7) eight members, with a member appointed by each  
17 policy council member appointed by the governor under Section  
18 50D.011(a)(11).  
19           (b) The eight members of the research committee appointed  
20 under Subsection (a)(7) serve at the governor's pleasure and have  
21 two-year staggered terms, with the terms of either three or four  
22 members expiring on January 1 of each year.  
23           (c) The governor shall fill any vacancy in a position  
24 appointed under Subsection (a)(7) for the remainder of the  
25 unexpired term.  
26           (d) Appointments to the research committee must be made  
27 without regard to the race, color, disability, sex, religion, age,

1 or national origin of the appointees.

2 (e) The research committee is subject to Chapters 551 and  
3 2001, Government Code.

4 Sec. 50D.022. REMOVAL OF RESEARCH COMMITTEE MEMBERS.

5 (a) A member of the research committee may be removed from the  
6 research committee if the member:

7 (1) is not able to devote the time necessary to perform  
8 the member's duties as a member;

9 (2) cannot because of illness or disability discharge  
10 the member's duties or cannot discharge those duties for a  
11 substantial part of the term for which the member is appointed; or

12 (3) is absent from more than half of the regularly  
13 scheduled committee meetings that the member is eligible to attend  
14 during a calendar year, unless the absence is excused by a majority  
15 vote of the committee.

16 (b) An action of the research committee is not invalid  
17 because a ground for removal of a committee member exists at the  
18 time the action is taken.

19 (c) If the commissioner has knowledge that a potential  
20 ground for removal of a committee member exists, the commissioner  
21 shall notify the governor and attorney general of the potential  
22 ground for removal.

23 Sec. 50D.023. PURPOSES AND DUTY OF RESEARCH COMMITTEE.

24 (a) The research committee is a research consortium among academic  
25 and technical research leadership, with active involvement by all  
26 sectors of the economy interested in bioenergy development.

27 (b) The research committee shall:



1           (1) identify and research appropriate and desirable  
2 biomass feedstock for each geographic region of this state;

3           (2) investigate logistical challenges to the  
4 planting, harvesting, and transporting of large volumes of biomass  
5 and provide recommendations to the policy council that will aid in  
6 overcoming barriers to the transportation, distribution, and  
7 marketing of bioenergy;

8           (3) identify strategies for and obstacles to the  
9 potential transition of the agriculture industry in western regions  
10 of this state to dryland bioenergy crops that are not dependent on  
11 groundwater resources;

12           (4) explore regions of this state, including coastal  
13 areas, that may contain available marginal land for use in growing  
14 bioenergy feedstocks;

15           (5) study the potential for producing oil from algae;

16           (6) study the potential for the advancement of  
17 thermochemical process technologies to produce alternative  
18 chemical feedstocks;

19           (7) study the potential for producing  
20 pipeline-quality natural gas from renewable sources; and

21           (8) perform other research duties as requested by the  
22 commissioner relating to the responsible development of bioenergy  
23 resources in this state.

24           (c) The research committee shall meet at the call of the  
25 commissioner.

26           Sec. 50D.024. REIMBURSEMENT OF EXPENSES. A member of the  
27 research committee may not receive compensation for service on the

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1 committee. Subject to availability of funds, a research committee  
2 member may receive reimbursement for the actual and necessary  
3 expenses incurred while conducting research committee business.

4 SECTION 4.04. Subsections (a) and (d), Section 62.002,  
5 Agriculture Code, are amended to read as follows:

6 (a) The State Seed and Plant Board is an agency of the state.  
7 The board is composed of [~~six members appointed by the governor with~~  
8 ~~the advice and consent of the senate. Membership must include~~]:

9 (1) one individual, appointed by the president of  
10 Texas A&M University, from the Soils and Crop Sciences Department,  
11 Texas Agricultural Experiment Station, Texas A&M [~~A & M~~]  
12 University;

13 (2) one individual, appointed by the president of  
14 Texas Tech University, from the Department of Plant and Soil  
15 Sciences, Texas Tech University;

16 (3) one individual, appointed by the commissioner,  
17 licensed as a Texas Foundation, Registered, or Certified seed or  
18 plant producer who is not employed by a public institution;

19 (4) one individual, appointed by the commissioner, who  
20 sells Texas Foundation, Registered, or Certified seed or plants;

21 (5) one individual, appointed by the commissioner,  
22 actively engaged in farming but not a producer or seller of Texas  
23 Foundation, Registered, or Certified seed or plants; and

24 (6) the head of the seed division of the department.

25 (d) The commissioner [~~governor~~] shall designate a member of  
26 the board as the chairman to serve in that capacity at the pleasure  
27 of the commissioner [~~governor~~]. The board annually shall elect a

1 vice-chairman and secretary. The board shall meet at times and  
2 places determined by the chairman.

3 SECTION 4.05. Subsection (a), Section 62.0027, Agriculture  
4 Code, is amended to read as follows:

5 (a) Before a member of the board may assume the member's  
6 duties [~~and before the member may be confirmed by the senate~~], the  
7 member must complete at least one course of the training program  
8 established under this section.

9 SECTION 4.06. Subsections (a) and (f), Section 103.003,  
10 Agriculture Code, are amended to read as follows:

11 (a) The Produce Recovery Fund Board is composed of five  
12 members appointed by the commissioner [~~governor with the advice and~~  
13 ~~consent of the senate~~]. Two members must be producers, one must be  
14 a license holder licensed under Chapter 101, and two must be members  
15 of the general public.

16 (f) The commissioner [~~governor~~] shall designate a member of  
17 the board as the chairman of the board to serve in that capacity at  
18 the pleasure of the commissioner [~~governor~~].

19 SECTION 4.07. Subsection (a), Section 103.019, Agriculture  
20 Code, is amended to read as follows:

21 (a) Before a member of the board may assume the member's  
22 duties [~~and before the member may be confirmed by the senate~~], the  
23 member must complete at least one course of the training program  
24 established under this section.

25 SECTION 4.08. Subsection (b), Section 110.002, Alcoholic  
26 Beverage Code, is amended to read as follows:

27 (b) The commissioner, in consultation with the advisory

1 committee established under Section 50B.002, Agriculture Code  
2 [~~110.003~~], shall adopt rules as necessary to implement the program.

3 SECTION 4.09. The following statutes are repealed:

4 (1) Subsection (c), Section 62.0023, Agriculture  
5 Code;

6 (2) Subsection (b), Section 103.003 and Subsection  
7 (c), Section 103.017, Agriculture Code; and

8 (3) Section 110.003, Alcoholic Beverage Code.

9 SECTION 4.10. On the effective date of this Act, the Texas  
10 Wine Marketing Assistance Program advisory committee and the wine  
11 industry development advisory committee are abolished. The  
12 commissioner of agriculture may appoint a person who previously  
13 served on either of those committees to the wine industry  
14 development and marketing advisory committee established under  
15 Section 50B.002, Agriculture Code, as amended by this Act.

16 SECTION 4.11. (a) As soon as practicable after the  
17 effective date of this Act, the appropriate persons shall appoint  
18 the members of the Texas Bioenergy Policy Council and the Texas  
19 Bioenergy Research Committee established by Sections 50D.011 and  
20 50D.021, Agriculture Code, as added by this Act.

21 (b) Not later than the 30th day after the date the final  
22 member is appointed to the Texas Bioenergy Policy Council, the  
23 commissioner of agriculture shall call the first meeting of the  
24 policy council.

25 SECTION 4.12. The changes in law made by this Act by the  
26 amendment of Sections 62.002 and 103.003, Agriculture Code, do not  
27 affect the entitlement of a member serving on the State Seed and

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1 Plant Board or Produce Recovery Fund Board immediately before the  
2 effective date of this Act to continue to serve as a board member  
3 for the remainder of the member's term. The changes in law apply  
4 only to a member appointed on or after the effective date of this  
5 Act.

6 ARTICLE 5. CERTAIN AGRICULTURAL REGULATORY PROGRAMS

7 SECTION 5.01. Section 13.251, Agriculture Code, is amended  
8 to read as follows:

9 Sec. 13.251. DEFINITION. In this subchapter, "public  
10 weigher" means a business certified under this subchapter [~~person~~  
11 ~~who is elected or appointed~~] to issue an official certificate  
12 declaring the accurate weight or measure of a commodity that the  
13 business [~~person~~] is requested to weigh.

14 SECTION 5.02. Section 13.255, Agriculture Code, is amended  
15 to read as follows:

16 Sec. 13.255. CERTIFICATE. (a) A public weigher [~~, whether~~  
17 ~~elected or appointed, or deputy public weigher~~] may not officially  
18 weigh a commodity unless the weigher has obtained from the  
19 department a certificate of authority.

20 (b) A [~~state public weigher must submit a nonrefundable fee,~~  
21 ~~as provided by department rule, with the application for a~~  
22 ~~certificate of authority. A county public weigher or a deputy~~]  
23 public weigher must submit a fee, as provided by department rule,  
24 with the application for a certificate of authority.

25 SECTION 5.03. Section 13.2555, Agriculture Code, is amended  
26 to read as follows:

27 Sec. 13.2555. REVOCATION, MODIFICATION, OR SUSPENSION OF

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1 CERTIFICATE. (a) The department shall revoke, modify, or suspend  
2 the certificate of authority of a [~~an appointed public weigher or a~~  
3 ~~deputy of an appointed county~~] public weigher, assess an  
4 administrative penalty, place on probation the public weigher  
5 [~~person~~] whose certificate has been suspended, or reprimand a [~~an~~  
6 ~~appointed public weigher or a deputy of an appointed county~~] public  
7 weigher for a violation of this subchapter or a rule adopted by the  
8 department under this subchapter.

9 (b) If a certificate suspension is probated, the department  
10 may require the public weigher [~~person~~] to:

11 (1) report regularly to the department on matters that  
12 are the basis of the probation;

13 (2) limit practice to the areas prescribed by the  
14 department; or

15 (3) continue or renew professional education until the  
16 public weigher [~~person~~] attains a degree of skill satisfactory to  
17 the department in those areas that are the basis of the probation.

18 (c) If the department proposes to revoke, modify, or suspend  
19 a public weigher's [~~person's~~] certificate, the public weigher  
20 [~~person~~] is entitled to a hearing conducted under Section 12.032.  
21 The decision of the department is appealable in the same manner as  
22 provided for contested cases under Chapter 2001, Government Code.

23 SECTION 5.04. Section 13.256, Agriculture Code, is amended  
24 to read as follows:

25 Sec. 13.256. BOND. [~~(a)~~] Each [~~county public weigher,~~  
26 ~~whether elected or appointed, and each deputy~~] public weigher shall  
27 execute [~~for the full term of office~~] a bond in accordance with

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1 rules adopted [~~that is in the amount of \$2,500, approved~~] by the  
 2 department [~~, and made payable to the county judge of the county for~~  
 3 ~~which the weigher is elected or appointed~~]. The bond must be  
 4 conditioned on the accurate weight or measure of a commodity being  
 5 reflected on the certificate issued by the public weigher [~~or~~  
 6 ~~deputy~~], on the protection of a commodity that the public weigher  
 7 [~~or deputy~~] is requested to weigh or measure, and on compliance with  
 8 all laws and rules governing public weighers. [~~The bond shall be~~  
 9 ~~filed with the county clerk's office in the county for which the~~  
 10 ~~public weigher or deputy is appointed or elected.~~] The bond is not  
 11 void on first recovery. A person injured by the public weigher may  
 12 sue on the bond.

13 [~~(b) Each state public weigher shall execute a bond similar~~  
 14 ~~to the bond required under Subsection (a) of this section, except~~  
 15 ~~that the bond is for \$10,000, made payable to the State of Texas,~~  
 16 ~~and filed with the department.~~]

17 SECTION 5.05. Subsection (a), Section 13.257, Agriculture  
 18 Code, is amended to read as follows:

19 (a) On each certificate of weight or measure that a public  
 20 weigher [~~or deputy public weigher~~] issues, the public weigher [~~or~~  
 21 ~~deputy public weigher~~] shall include the:

- 22 (1) time and date that the weight or measurement was
- 23 taken;
- 24 (2) signature and license number of the public weigher
- 25 [~~or deputy public weigher~~]; and
- 26 (3) seal of the department.

27 SECTION 5.06. Subsection (a), Section 13.259, Agriculture

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1 Code, is amended to read as follows:

2 (a) A public weigher [~~or deputy public weigher~~] who  
3 intentionally or knowingly issues a certificate of weight or  
4 measure giving a false weight or measure for a commodity weighed or  
5 measured commits an offense.

6 SECTION 5.07. Section 13.261, Agriculture Code, is amended  
7 to read as follows:

8 Sec. 13.261. [~~POWER OF DEPARTMENT,~~] RULES. The department  
9 shall [~~may~~] adopt rules governing the bond requirements and  
10 [~~procedures to be followed in administering the~~] fees imposed under  
11 this subchapter.

12 SECTION 5.08. Section 52.038, Agriculture Code, is amended  
13 to read as follows:

14 Sec. 52.038. EXISTING CORPORATIONS AND ASSOCIATIONS.

15 [~~(a)~~] Any corporation or association organized under prior law  
16 before March 1, 1921, may elect, by a majority vote of its members  
17 or stockholders, to adopt this chapter and become subject to it by:

18 (1) adopting the restrictions provided by this  
19 chapter; and

20 (2) executing, in duplicate on forms supplied by the  
21 secretary of state, an instrument, signed and acknowledged by its  
22 directors, stating that the entity, by a majority vote of its  
23 members or stockholders, has decided to accept the benefits of and  
24 be bound by this chapter [~~, and~~

25 [~~(3) filing articles of incorporation in accordance~~  
26 ~~with the requirements of Section 52.035 of this code except that the~~  
27 ~~entity's directors shall sign the articles]~~.



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1       ~~[(b) The filing fee for the articles filed under Subsection~~  
2 ~~(a) of this section is equal to the filing fee for an amendment to~~  
3 ~~the articles of incorporation as provided by Section 52.151 of this~~  
4 ~~code.]~~

5       SECTION 5.09. Section 52.151, Agriculture Code, is amended  
6 to read as follows:

7       Sec. 52.151. TAX EXEMPTIONS [FEES]. ~~[(a) The fee for~~  
8 ~~filing articles of incorporation under this chapter is \$10.~~

9       ~~[(b) The fee for filing an amendment to the articles of~~  
10 ~~incorporation under this chapter is \$2.50.~~

11       ~~[(c) Each marketing association shall pay to the department~~  
12 ~~an annual license fee, as provided by department rule.]~~ A marketing  
13 association is exempt from all [other] franchise or license taxes,  
14 except that a marketing association is exempt from the franchise  
15 tax imposed by Chapter 171, Tax Code, only if exempted by that  
16 chapter.

17       SECTION 5.10. Section 101.003, Agriculture Code, is amended  
18 by amending Subsection (b) and adding Subsection (c) to read as  
19 follows:

20       (b) This section does not apply to:

21           (1) a retailer, unless the retailer:

22                   (A) has annual sales of perishable commodities  
23 that comprise 50 percent or more of the retailer's total sales; or

24                   (B) employs a buying agent who buys directly from  
25 a producer;

26           (2) a producer who handles or deals exclusively in the  
27 producer's own products;

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1 (3) a person shipping less than six standard boxes of  
2 citrus fruit in any one separate shipment; ~~or~~

3 (4) a person who ships a noncommercial shipment of  
4 perishable commodities; or

5 (5) a person who purchases perishable commodities and  
6 pays for the perishable commodities in United States currency  
7 before or at the time of delivery or taking possession.

8 (c) A person who purchases perishable commodities without a  
9 license, as owner, agent, or otherwise, does not violate this  
10 section if the person obtains a license not later than the 30th day  
11 after the date the person first purchases perishable commodities.

12 SECTION 5.11. Section 101.004, Agriculture Code, is amended  
13 to read as follows:

14 Sec. 101.004. LICENSE OR REGISTRATION CATEGORIES. ~~[(a)]~~ A  
15 person shall apply for a license if the person:

16 (1) purchases perishable commodities on credit;

17 (2) takes possession of perishable commodities for  
18 consignment or handling on behalf of the producer or owner of the  
19 perishable commodities; or

20 (3) takes possession of perishable commodities for  
21 consignment or handling in a manner or under a contract that does  
22 not require or result in payment to the producer, seller, or  
23 consignor of the full amount of the purchase price in United States  
24 currency at the time of delivery or at the time that the perishable  
25 commodities pass from the producer, seller, or consignor to the  
26 person.

27 ~~[(b) A person shall register as a cash dealer if the person~~

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1 ~~purchases perishable commodities and pays for the perishable~~  
2 ~~commodities in United States currency before or at the time of~~  
3 ~~delivery or taking possession.]~~

4 SECTION 5.12. Subsections (b) and (c), Section 101.007,  
5 Agriculture Code, are amended to read as follows:

6 (b) If [~~an applicant for a license indicates on the~~  
7 ~~application that~~] a previous license of the applicant has been or is  
8 suspended or has been revoked, the department may not issue or renew  
9 a license to the applicant until the department is furnished with  
10 satisfactory proof that the applicant is, on the date of  
11 application, qualified to receive the license for which the  
12 applicant applied as provided by department rule.

13 (c) The department may refuse to issue or renew a license  
14 under this section if the department determines that a license  
15 previously issued to the applicant was revoked or suspended or that  
16 the applicant has engaged in conduct for which a license could have  
17 been revoked or suspended. In determining whether to refuse to  
18 issue or renew a license under this section, the department may  
19 consider:

20 (1) the facts and circumstances pertaining to a prior  
21 suspension or revocation;

22 (2) the financial condition of the applicant as of the  
23 date of the application;

24 (3) any judgment by a court of this state that is  
25 outstanding against the applicant and is due and owing to a  
26 licensee, grower, or producer of perishable commodities; and

27 (4) any certified claim against the applicant by a

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1 licensee, grower, or producer of perishable commodities that is  
2 under consideration by the department.

3 SECTION 5.13. Section 101.009, Agriculture Code, is amended  
4 to read as follows:

5 Sec. 101.009. LICENSEE LIST. The department may publish as  
6 often as it considers necessary a list in pamphlet form or on the  
7 department's Internet website of all persons licensed under this  
8 chapter.

9 SECTION 5.14. Subsections (a) and (b), Section 101.013,  
10 Agriculture Code, are amended to read as follows:

11 (a) If a licensee or a person required to be licensed causes  
12 a producer, seller, or owner, or an agent of a producer, seller, or  
13 owner, to part with control or possession of all or any part of the  
14 person's perishable commodities and agrees by contract of purchase  
15 to pay the purchase price on demand following delivery, the  
16 licensee or person required to be licensed shall make payment  
17 immediately on demand.

18 (b) If a person makes demand for the purchase price in  
19 writing, the mailing of a registered letter that makes the demand  
20 and is addressed to the licensee or person required to be licensed  
21 at their [~~the licensee's~~] business address is prima facie evidence  
22 that demand was made at the time the letter was mailed.

23 SECTION 5.15. Section 101.014, Agriculture Code, is amended  
24 to read as follows:

25 Sec. 101.014. COMMISSION OR SERVICE CHARGE IN CONTRACT. If  
26 a licensee or a person required to be licensed handles perishable  
27 commodities by guaranteeing a producer or owner a minimum price and

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1 handles the perishable commodities on the account of the producer  
2 or owner, the licensee or person required to be licensed shall  
3 include in the contract with the producer or owner the maximum  
4 amount that the licensee or person required to be licensed will  
5 charge for commission, service, or both, in connection with the  
6 perishable commodities handled.

7 SECTION 5.16. Subsections (a) and (b), Section 101.015,  
8 Agriculture Code, are amended to read as follows:

9 (a) Except as otherwise provided by this section, a licensee  
10 or a person required to be licensed shall settle with the producer  
11 or seller of perishable commodities on the basis of the grade and  
12 quality that is referred to in the contract under which the licensee  
13 or person required to be licensed obtained possession or control of  
14 the perishable commodities.

15 (b) If the perishable commodities have been inspected by a  
16 state or federal inspector in this state and found to be of a  
17 different grade or quality than that referred to in the contract,  
18 the licensee or person required to be licensed shall settle with the  
19 producer or seller of the perishable commodities on the basis of the  
20 grade and quality determined by the inspector.

21 SECTION 5.17. Section 101.0151, Agriculture Code, is  
22 amended to read as follows:

23 Sec. 101.0151. BUYING OR SELLING BY WEIGHT. A licensee or a  
24 person required to be licensed who buys or sells perishable  
25 commodities by weight shall weigh or have the perishable  
26 commodities weighed on scales that meet state requirements.

27 SECTION 5.18. Section 101.016, Agriculture Code, is amended

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1 to read as follows:

2           Sec. 101.016. RECORDS OF PURCHASE. (a) A licensee or a  
3 person required to be licensed or a packer, processor, or  
4 warehouseman may not receive or handle perishable commodities  
5 without requiring the person from whom the perishable commodities  
6 are purchased or received to furnish a statement in writing  
7 showing:

- 8                   (1) the owner of the perishable commodities;
- 9                   (2) the grower of the perishable commodities;
- 10                  (3) the approximate location of the land on which the  
11 perishable commodities were grown;
- 12                  (4) the date the perishable commodities were gathered;
- 13 and
- 14                  (5) by whose authority the perishable commodities were  
15 gathered.

16           (b) The licensee or person required to be licensed, packer,  
17 processor, or warehouseman shall keep records of statements  
18 furnished under Subsection (a) in a permanent book or folder for a  
19 minimum of three years from the date of the transaction and shall  
20 make the records available for inspection by any interested party.

21           (c) The licensee or person required to be licensed, packer,  
22 handler, or warehouseman shall:

- 23                   (1) prepare a receipt detailing the quantity of  
24 perishable commodities received from the producer or owner at the  
25 time of receipt of the commodities; and
- 26                   (2) on request, provide the receipt to the producer or  
27 owner.

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1 (d) The department periodically may investigate licensees,  
2 persons required to be licensed, or persons alleged to be selling or  
3 purchasing perishable commodities in violation of this chapter and,  
4 without notice, may require evidence of purchase of any perishable  
5 commodities in a person's possession or past possession.

6 SECTION 5.19. Section 101.017, Agriculture Code, is amended  
7 to read as follows:

8 Sec. 101.017. RECORD OF SALE. (a) Except for a retailer, a  
9 licensee or a person required to be licensed shall maintain for each  
10 sale a complete and accurate record showing:

- 11 (1) the date of sale of the perishable commodities;
- 12 (2) the person to whom the perishable commodities were  
13 sold;
- 14 (3) the grade and selling price of the perishable  
15 commodities; and
- 16 (4) an itemized statement of expenses of any kind or  
17 character incurred in the sale or handling of the perishable  
18 commodities, including the amount of the commission to the licensee  
19 or person required to be licensed.

20 (b) On demand of the department or of an owner, seller, or  
21 agent of the owner or seller, the licensee or person required to be  
22 licensed shall furnish the information demanded before the 11th day  
23 following the date of demand.

24 (c) A licensee or a person required to be licensed shall  
25 maintain the information required to be kept by this section for at  
26 least three years after the date of sale.

27 SECTION 5.20. Subsection (a), Section 101.020, Agriculture

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1 Code, is amended to read as follows:

2 (a) A person commits an offense if the person:

3 (1) acts in violation of Section 101.003 by not  
4 obtaining a license or registration or after receiving notice of  
5 cancellation of a license or registration;

6 (2) acts or assumes to act as a transporting agent or  
7 buying agent:

8 (A) without first obtaining an identification  
9 card; or

10 (B) after receiving notice of cancellation of an  
11 identification card;

12 (3) as a transporting agent or buying agent, fails and  
13 refuses to turn over to the department an identification card in  
14 accordance with Section 101.010(e);

15 (4) as a license holder or a person required to be  
16 licensed, fails to furnish information under Section 101.017 before  
17 the 11th day following the date of demand;

18 (5) as a license holder or a person required to be  
19 licensed, fails to settle with a producer or seller on the grade and  
20 quality of perishable commodities in the manner provided by Section  
21 101.015;

22 (6) [~~as a cash dealer, pays for perishable commodities~~  
23 ~~by a means other than United States currency,~~

24 [~~7~~] as a license holder or a person required to be  
25 licensed, transporting agent, or buying agent, violates a provision  
26 of this chapter;

27 (7) [~~8~~] ~~acts or assumes to act as a cash dealer~~



1 ~~without first registering as a cash dealer,~~

2           ~~[(9)]~~ as a license holder or a person required to be  
3 licensed, buys or sells perishable commodities by weight and does  
4 not have the perishable commodities weighed on scales that meet  
5 state requirements;

6           (8) ~~[(10)]~~ fails to prepare and maintain records  
7 required by Sections 101.016, 101.017, and 101.018; or

8           (9) ~~[(11)]~~ fails to provide records as required by  
9 Sections 101.016 and 101.018.

10           SECTION 5.21. Subsection (a), Section 103.002, Agriculture  
11 Code, is amended to read as follows:

12           (a) The produce recovery fund is a special trust fund with  
13 the comptroller administered by the department, without  
14 appropriation, for the payment of claims against license holders,  
15 ~~and~~ retailers, and persons required to be licensed under Chapter  
16 101.

17           SECTION 5.22. Section 103.005, Agriculture Code, is amended  
18 to read as follows:

19           Sec. 103.005. INITIATION OF CLAIM. (a) A person who deals  
20 with a license holder or a person required to be licensed under  
21 Chapter 101 in the purchasing, handling, selling, and accounting  
22 for sales of perishable commodities and who is aggrieved by an  
23 action of the license holder or person required to be licensed as a  
24 result of a violation of terms or conditions of a contract made by  
25 the license holder or person required to be licensed for the sale of  
26 Texas-grown produce may initiate a claim against the fund by filing  
27 with the department:

1 (1) a sworn complaint against the license holder or  
2 person required to be licensed; and

3 (2) a filing fee, as provided by department rule.

4 (b) A complaint and the fee under Subsection (a) [~~of this~~  
5 ~~section~~] must be filed on or before the second [~~first~~] anniversary  
6 of the date that payment was due [~~of the violation~~], or recovery  
7 from the fund is barred.

8 SECTION 5.23. Section 103.0055, Agriculture Code, is  
9 amended to read as follows:

10 Sec. 103.0055. BANKRUPTCY OF MERCHANT OR RETAILER. For  
11 purposes of this chapter, the amount due an aggrieved party by a  
12 license holder or a person required to be licensed is not affected  
13 by a final judgment of a bankruptcy court that releases the license  
14 holder or person required to be licensed from the legal duty to  
15 satisfy the claim.

16 SECTION 5.24. Subsection (a), Section 103.006, Agriculture  
17 Code, is amended to read as follows:

18 (a) After a claim is initiated, the department shall  
19 investigate the complaint and determine the amount due the  
20 aggrieved party. If the amount determined by the department is  
21 disputed by the license holder, a person required to be licensed, or  
22 the aggrieved party, the board shall conduct a hearing on the claim  
23 and determine the amount due the aggrieved party.

24 SECTION 5.25. Subsection (a), Section 103.007, Agriculture  
25 Code, is amended to read as follows:

26 (a) If the amount determined by the department's  
27 investigation to be due the aggrieved party is not disputed by the

1 license holder, a person required to be licensed, or the aggrieved  
2 party, the department shall pay the claim within the limits  
3 prescribed by this chapter.

4 SECTION 5.26. Subsections (a), (b), (d), and (f), Section  
5 103.008, Agriculture Code, are amended to read as follows:

6 (a) In making payments from the fund the department may  
7 ~~can~~ pay the aggrieved party the full value of their validated  
8 claim, subject to Subsections (b) and (d) ~~[all of the first \$2,000~~  
9 ~~of any claim and no more than 70 percent of the claim above \$2,000]~~.

10 (b) The total payment of all claims arising from the same  
11 contract with a license holder or a person required to be licensed  
12 may not exceed \$50,000 ~~[\$35,000]~~.

13 (d) Payment of a claim filed against a person who is not  
14 licensed in violation of Chapter 101 shall be limited to 80 percent  
15 of the recovery prescribed under this section ~~[The department may~~  
16 ~~not pay a claim against:~~

17 ~~[(1) a person who was not licensed on the date the~~  
18 ~~contract on which the claim is based was entered into, or~~

19 ~~[(2) a cash dealer registered under Chapter 101].~~

20 (f) If a license holder or a person required to be licensed  
21 owes money to the produce recovery fund at the time the license  
22 holder or person required to be licensed makes a claim against the  
23 fund, the department shall offset the amount owed to the fund from  
24 the amount dispensed.

25 SECTION 5.27. Section 103.009, Agriculture Code, is amended  
26 by amending Subsections (a), (c), and (d) and adding Subsection (e)  
27 to read as follows:

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1 (a) If the department pays a claim against a license holder  
2 or a person required to be licensed, the license holder or person  
3 required to be licensed shall:

4 (1) reimburse the fund immediately or agree in writing  
5 to reimburse the fund on a schedule to be determined by rule of the  
6 department; and

7 (2) immediately pay the aggrieved party any amount due  
8 that party or agree in writing to pay the aggrieved party on a  
9 schedule to be determined by rule of the department.

10 (c) If the license holder or person required to be licensed  
11 does not reimburse the fund or pay the aggrieved party, or does not  
12 agree to do so, in accordance with this section, the department  
13 shall issue an order canceling the license and may not issue a new  
14 license to or renew the license of that person for four years from  
15 the date of cancellation. If the license holder or person required  
16 to be licensed is a corporation, an officer or director of the  
17 corporation or a person owning more than 25 percent of the stock in  
18 the corporation may not be licensed under Chapter 101 during the  
19 four-year period in which the corporation is ineligible for  
20 licensing.

21 (d) Subsections (a) and (b) do [~~This section does~~] not apply  
22 to a license holder or a person required to be licensed who is  
23 released by a final judgment of a bankruptcy court from the legal  
24 duty to satisfy the claim paid by the department.

25 (e) The amount to be reimbursed under this section shall be  
26 one and one-half times the amount of the claim paid if the person  
27 required to reimburse the department was not licensed on the date on

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1 which the transaction forming the base of the claim occurred.

2 SECTION 5.28. Section 103.010, Agriculture Code, is amended  
3 to read as follows:

4 Sec. 103.010. SUBROGATION OF RIGHTS. If the department  
5 pays a claim against a license holder or a person required to be  
6 licensed, the department is subrogated to all rights of the  
7 aggrieved party against the license holder or person required to be  
8 licensed to the extent of the amount paid to the aggrieved party.

9 SECTION 5.29. Subsection (b), Section 103.011, Agriculture  
10 Code, is amended to read as follows:

11 (b) A person registered as a [~~cash dealer or a~~] marketing  
12 association organized under Chapter 52 that handles citrus fruit  
13 only for its members is exempt from payment of the fee under this  
14 section.

15 SECTION 5.30. Subsections (a) and (b), Section 103.013,  
16 Agriculture Code, are amended to read as follows:

17 (a) A person commits an offense if the person acts or  
18 assumes to act as a license holder under Chapter 101 without first  
19 paying the annual fee required by Section 103.011 [~~this chapter~~].

20 (b) An offense under this section is a Class B misdemeanor  
21 [~~punishable by a fine of not more than \$500~~].

22 SECTION 5.31. Subsection (a), Section 121.005, Agriculture  
23 Code, is amended to read as follows:

24 (a) Each rose plant or shipment of rose plants shall be  
25 labeled with[+]

26 [(1)] the proper grade[+ and

27 [(2)] ~~the number of the certificate of authority of the~~

1 ~~person selling or offering for sale the plant or shipment].~~

2 SECTION 5.32. Subsection (f), Section 52.092, Election  
3 Code, is amended to read as follows:

4 (f) Precinct offices shall be listed in the following order:

- 5 (1) county commissioner;
- 6 (2) justice of the peace;
- 7 (3) constable[+]
- 8 [(4) ~~public weigher~~].

9 SECTION 5.33. Subsection (a), Section 172.024, Election  
10 Code, is amended to read as follows:

11 (a) The filing fee for a candidate for nomination in the  
12 general primary election is as follows:

- 13 (1) United States senator \$5,000
- 14 (2) office elected statewide, except United States  
15 senator 3,750
- 16 (3) United States representative 3,125
- 17 (4) state senator 1,250
- 18 (5) state representative 750
- 19 (6) member, State Board of Education 300
- 20 (7) chief justice or justice, court of appeals, other  
21 than a justice specified by Subdivision (8) 1,875
- 22 (8) chief justice or justice of a court of appeals that  
23 serves a court of appeals district in which a county with a  
24 population of more than 750,000 is wholly or partly  
25 situated 2,500
- 26 (9) district judge or judge specified by Section  
27 52.092(d) for which this schedule does not otherwise prescribe a

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1	fee	1,500
2	(10) district or criminal district judge of a court in	
3	a judicial district wholly contained in a county with a population	
4	of more than 850,000	2,500
5	(11) judge, statutory county court, other than a judge	
6	specified by Subdivision (12)	1,500
7	(12) judge of a statutory county court in a county with	
8	a population of more than 850,000	2,500
9	(13) district attorney, criminal district attorney,	
10	or county attorney performing the duties of a district	
11	attorney	1,250
12	(14) county commissioner, district clerk, county	
13	clerk, sheriff, county tax assessor-collector, county treasurer,	
14	or judge, constitutional county court:	
15	(A) county with a population of 200,000	
16	or more	1,250
17	(B) county with a population of under	
18	200,000	750
19	(15) justice of the peace or constable:	
20	(A) county with a population of 200,000	
21	or more	1,000
22	(B) county with a population of under	
23	200,000	375
24	(16) county surveyor <u>or</u> [7] inspector of hides and	
25	animals[ <del>7</del> or public weigher]	75
26	(17) office of the county government for which this	
27	schedule does not otherwise prescribe a fee	750

1           SECTION 5.34. Subsection (b), Section 62.160, Labor Code,  
2 is amended to read as follows:

3           (b) Sections 62.051-62.054 [~~and Subchapter C~~] do not apply  
4 to an agricultural employer with respect to an employee engaged in  
5 the production of livestock.

6           SECTION 5.35. The following statutes are repealed:

- 7           (1) Section 13.252, Agriculture Code;
- 8           (2) Section 13.253, Agriculture Code;
- 9           (3) Section 13.2535, Agriculture Code;
- 10          (4) Section 13.254, Agriculture Code;
- 11          (5) Subsection (b), Section 52.035, Agriculture Code;
- 12          (6) Section 52.152, Agriculture Code;
- 13          (7) Subsection (b), Section 101.006, Agriculture  
14 Code;
- 15          (8) Subsection (c), Section 103.008, Agriculture  
16 Code;
- 17          (9) Section 121.004, Agriculture Code;
- 18          (10) Subdivision (1), Section 62.002, Labor Code; and
- 19          (11) Subchapter C, Chapter 62, Labor Code.

20           SECTION 5.36. (a) The changes in law made by this Act to  
21 Subchapter E, Chapter 13, Agriculture Code, do not affect the  
22 entitlement of a public weigher or deputy public weigher elected or  
23 appointed before the effective date of this Act to serve as a public  
24 weigher or deputy public weigher for the remainder of the public  
25 weigher's or deputy public weigher's term. A public weigher or  
26 deputy public weigher elected or appointed before the effective  
27 date of this Act is governed by the law in effect immediately before



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1 the effective date of this Act, and the former law is continued in  
2 effect for that purpose.

3 (b) The changes in law made by this Act to Section 103.008,  
4 Agriculture Code, apply only to a claim for payment filed on or  
5 after the effective date of this Act. A claim filed before that  
6 date is governed by the law in effect on the date the claim was  
7 filed, and the former law is continued in effect for that purpose.

8 ARTICLE 6. GENERAL LICENSING PROVISIONS

9 SECTION 6.01. Subsections (a) and (c), Section 12.020,  
10 Agriculture Code, are amended to read as follows:

11 (a) If a person violates a provision of law [~~this code~~]  
12 described by Subsection (c) [~~of this section~~] or a rule or order  
13 adopted by the department under a provision of law [~~this code~~]  
14 described by Subsection (c) [~~of this section~~], the department may  
15 assess an administrative penalty against the person as provided by  
16 this section.

17 (c) The provisions of law [~~this code~~] subject to this  
18 section and the applicable penalty amounts are as follows:

19 Provision	Amount of Penalty
20 Chapter 41	<u>not more than \$5,000</u> [ <del>\$1,000</del> ]
21 Chapters 13, 14A, 18, 46, 61, 94,	
22 95, 101, 102, 103, 121, 125, 132,	
23 and 134	not more than <u>\$5,000</u> [ <del>\$500</del> ]
24 Subchapter B, Chapter 71	
25 Chapter 19	
26 Chapter 76	not more than <u>\$5,000</u> [ <del>\$2,000</del> ]
27 Subchapters A and C, Chapter 71	

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- 1 Chapters 72, 73, and 74 not more than \$5,000
- 2 Chapter 14 not more than \$10,000
- 3 Chapter 1951, Occupations Code not more than \$5,000
- 4 Chapter 153, Natural Resources
- 5 Code not more than \$5,000.

6 SECTION 6.02. Section 12.023, Agriculture Code, is amended  
7 to read as follows:

8 Sec. 12.023. EXPIRATION OF REGISTRATION OR LICENSES. The  
9 department by rule shall [~~may~~] adopt a system under which  
10 registrations or licenses required by the department, including  
11 licenses issued under Chapter 1951, Occupations Code, expire on  
12 various dates during the year. The department may increase or  
13 decrease the term of an initial or renewal license or registration  
14 so that all licenses held by a person or a group of license holders  
15 expire on the same date. For the period [~~year~~] in which the  
16 registration or license expiration date is changed, registration or  
17 license fees shall be prorated on a monthly basis so that each  
18 registrant or licensee pays only that portion of the fee that is  
19 allocable to the number of months during which the registration or  
20 license is valid. On the next renewal of the registration or  
21 license [~~on the new expiration date~~], the total renewal fee is  
22 payable.

23 SECTION 6.03. Title 2, Agriculture Code, is amended by  
24 adding Chapter 12A to read as follows:

25 CHAPTER 12A. GENERAL LICENSING PROVISIONS

26 SUBCHAPTER A. POWERS AND DUTIES OF DEPARTMENT RELATED TO LICENSING

27 Sec. 12A.001. APPLICABILITY OF PROVISIONS. The general

1 licensing, regulatory, and enforcement provisions of Chapter 12 and  
2 this chapter apply to licensing and regulatory programs  
3 administered by the department under any law.

4 Sec. 12A.002. CEASE AND DESIST ORDER. (a) If it appears to  
5 the commissioner that a person who is not licensed by the department  
6 is violating a statute or rule that requires the person to hold a  
7 license issued by the department or a statute or rule relating to an  
8 activity regulated by the department, the commissioner after notice  
9 and opportunity for a hearing may issue a cease and desist order  
10 prohibiting the person from engaging in the activity.

11 (b) A violation of an order under this section constitutes  
12 grounds for imposing an administrative penalty.

13 Sec. 12A.003. RISK-BASED INSPECTIONS. For each person  
14 licensed or regulated by the department that the department may  
15 inspect:

16 (1) the department may conduct additional inspections  
17 based on a schedule of risk-based inspections using the following  
18 criteria:

19 (A) the type and nature of the person;

20 (B) whether there has been a prior violation by  
21 the person;

22 (C) the inspection history of the person;

23 (D) any history of complaints involving the  
24 person; and

25 (E) any other risk-based factor identified by the  
26 department; and

27 (2) the department may waive any inspection

1 requirement under law if an emergency arises or to accommodate  
2 complaint investigation or risk-based inspection schedules.

3 [Sections 12A.004-12A.050 reserved for expansion]

4 SUBCHAPTER B. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

5 Sec. 12A.051. INFORMATION REGARDING COMPLAINTS AND  
6 ENFORCEMENT PROCESS. (a) The department shall:

7 (1) inform applicants, license holders, and the public  
8 on the department's Internet website, in department brochures, and  
9 on any other available information resource about the department's  
10 enforcement process, including each step in the complaint  
11 investigation and resolution process, from initial filing through  
12 final appeal, and the opportunity to request an informal settlement  
13 conference; and

14 (2) inform license holders that a license holder may  
15 obtain information about a complaint made against the license  
16 holder and may obtain on request a copy of the complaint file.

17 (b) Except as provided by Subsection (d), the department  
18 shall provide to a license holder against whom a complaint has been  
19 filed:

20 (1) the allegations made against the license holder in  
21 the complaint; and

22 (2) on the license holder's request, any information  
23 obtained by the department in its investigation of the complaint.

24 (c) The department shall provide the information required  
25 under Subsection (b) in a timely manner to allow the license holder  
26 time to respond to the complaint.

27 (d) The department is not required to provide the following

1 information to a license holder:

2           (1) the name of a confidential informant whose  
3 testimony will not be used in any hearing as evidence against the  
4 license holder;

5           (2) attorney-client communications;

6           (3) attorney work product; or

7           (4) any other information that is confidential or not  
8 subject to disclosure under law, rule of evidence, or rule of civil  
9 procedure.

10       Sec. 12A.052. COMPLAINT AND VIOLATION ANALYSIS. The  
11 department shall analyze complaints filed with and violations  
12 discovered by the department to identify any trends or issues  
13 related to certain violations, including:

14           (1) the reason for each complaint or violation;

15           (2) how each complaint or violation was resolved; and

16           (3) the subject matter of each complaint or violation  
17 that was not within the jurisdiction of the department and how the  
18 department responded to the complaint or violation.

19       [Sections 12A.053-12A.100 reserved for expansion]

20       SUBCHAPTER C. ISSUANCE AND RENEWAL OF LICENSES

21       Sec. 12A.101. REPLACEMENT LICENSE; FEE. The department  
22 shall issue to a license holder whose license has been lost or  
23 destroyed or whose name has been changed a replacement license if  
24 the license holder submits to the department:

25           (1) an appropriate application; and

26           (2) a fee in an amount established by department rule.

27       [Sections 12A.102-12A.150 reserved for expansion]

SUBCHAPTER D. EXAMINATIONS

Sec. 12A.151. EXAMINATION PROCEDURES. For each licensing examination administered by the department, the department shall:

(1) adopt policies and guidelines detailing the procedures for the testing process, including test admission and internal test administration procedures; and

(2) post on the department's Internet website the policies that reference the testing procedures.

Sec. 12A.152. EVALUATION OF EXAMINATION QUESTIONS. For each licensing examination administered by the department, the department shall periodically evaluate the effectiveness of examination questions in objectively assessing an applicant's knowledge.

[Sections 12A.153-12A.200 reserved for expansion]

SUBCHAPTER E. PENALTIES AND ENFORCEMENT PROCEDURES

Sec. 12A.201. INFORMAL PROCEEDINGS. (a) The department by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056, Government Code; and

(2) an informal proceeding held in compliance with Section 2001.054, Government Code.

(b) The department shall offer the opportunity to conduct an informal settlement conference by telephone.

(c) The department shall:

(1) provide a license holder sufficient opportunity to indicate whether the terms of a proposed order are acceptable to the license holder;

1           (2) indicate in the notice of violation that the  
2 license holder has the opportunity described by Subdivision (1);  
3 and

4           (3) allow a license holder who does not agree with a  
5 proposed order to request an informal settlement conference.

6           SECTION 6.04. The heading to Section 76.113, Agriculture  
7 Code, is amended to read as follows:

8           Sec. 76.113. TERM [~~EXPIRATION~~] AND RENEWAL OF LICENSES.

9           SECTION 6.05. Subsections (a) and (b), Section 76.113,  
10 Agriculture Code, are amended to read as follows:

11           (a) Each pesticide [~~commercial applicator or noncommercial~~]  
12 applicator license issued under this chapter, other than a private  
13 applicator license, expires at the end of the license period  
14 established by department rule [~~on the first anniversary of the~~  
15 ~~date on which it was issued or renewed~~].

16           (b) Each private applicator license is valid for five years  
17 [~~expires on the fifth anniversary of the date on which it was issued~~  
18 ~~or renewed~~].

19           SECTION 6.06. Section 76.151, Agriculture Code, is amended  
20 by amending Subsection (a) and adding Subsection (a-1) to read as  
21 follows:

22           (a) The [~~For the purpose of inspection, examination, or~~  
23 ~~sampling, the~~] department, at any time and without notice during  
24 regular business hours, may:

25           (1) [is entitled to] enter and inspect a [at  
26 ~~reasonable hours any] building or place owned, controlled, or~~  
27 operated by a person engaged in any activity regulated under this

1 chapter or Chapter 1951, Occupations Code; and

2 (2) inspect and review any record maintained by a  
3 person engaged in any activity regulated under this chapter or  
4 Chapter 1951, Occupations Code [~~registrant or dealer if from~~  
5 ~~probable cause it appears that the building or place contains a~~  
6 ~~pesticide~~].

7 (a-1) The department may enter and inspect a building or  
8 place or inspect and review any record under Subsection (a) as  
9 necessary to:

10 (1) ensure compliance with this chapter or Chapter  
11 1951, Occupations Code; or

12 (2) investigate a complaint made to the department.

13 SECTION 6.07. Subsection (a), Section 76.1555, Agriculture  
14 Code, is amended to read as follows:

15 (a) If a person violates a provision of this chapter or  
16 Chapter 1951, Occupations Code, or a rule or order adopted by the  
17 department under this chapter or Chapter 1951, Occupations Code,  
18 the department may assess an administrative penalty against the  
19 person as provided by Section 12.020, except that the penalty for  
20 each violation may [~~shall~~] not exceed \$5,000 [~~\$4,000 for all~~  
21 ~~violations related to a single incident~~]. Each day a violation  
22 continues or occurs may be considered a separate violation for  
23 purposes of penalty assessment.

24 SECTION 6.08. Section 132.024, Agriculture Code, is amended  
25 to read as follows:

26 Sec. 132.024. LICENSE TERM [~~EXPIRATION~~]. A license issued  
27 or renewed under this chapter is valid for one year [~~expires on the~~



1 ~~first anniversary of the date of issuance or renewal].~~

2 SECTION 6.09. The changes in law made by this article to  
3 Subsection (c), Section 12.020 and Subsection (a), Section 76.1555,  
4 Agriculture Code, apply only to a violation committed on or after  
5 the effective date of this Act. A violation committed before the  
6 effective date of this Act is governed by the law in effect on the  
7 date the violation occurred, and the former law is continued in  
8 effect for that purpose.

9 ARTICLE 7. STRUCTURAL PEST CONTROL

10 SECTION 7.01. Section 12.0201, Agriculture Code, is amended  
11 to read as follows:

12 Sec. 12.0201. LICENSE SANCTIONS. (a) In addition to other  
13 sanctions provided by law, the department may revoke, modify,  
14 suspend, or refuse to issue or renew a license, assess an  
15 administrative penalty, place on probation a person whose license  
16 has been suspended, or reprimand a license holder if the department  
17 finds that the practitioner:

18 (1) violated a provision of this code or Chapter 1951,  
19 Occupations Code;

20 (2) violated a rule adopted by the department under  
21 this code or Chapter 1951, Occupations Code; or

22 (3) after appropriate notice, failed to comply with an  
23 order of the department.

24 (b) In addition to any other actions permitted under this  
25 code or Chapter 1951, Occupations Code, if a license suspension is  
26 probated, the department may require the practitioner:

27 (1) to maintain additional information in the

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1 practitioner's records;

2 (2) to report regularly to the department on matters  
3 that are the basis of the probation;

4 (3) to limit practice to the areas prescribed by the  
5 department; or

6 (4) to continue or review professional education until  
7 the practitioner attains a degree of skill satisfactory to the  
8 department in those areas that are the basis of the probation.

9 SECTION 7.02. Subdivision (16), Section 1951.002,  
10 Occupations Code, is amended to read as follows:

11 (16) "Technician" means a person who holds a license  
12 under this chapter and who, under ~~the~~ direct supervision of a  
13 certified noncommercial applicator or, as an employee of a holder  
14 of a structural pest control business license, performs supervised  
15 pesticide applications, maintains or uses structural pest control  
16 devices, makes sales presentations, or identifies pest infestation  
17 or damage. The term does not include a person whose duties are  
18 solely clerical or are otherwise completely disassociated with pest  
19 control.

20 SECTION 7.03. Section 1951.003, Occupations Code, is  
21 amended to read as follows:

22 Sec. 1951.003. BUSINESS OF STRUCTURAL PEST CONTROL.

23 (a) In this chapter, a person is engaged in the "business of  
24 structural pest control" if the person performs~~[, offers to~~  
25 ~~perform, or advertises for or solicits the person's performance of]~~  
26 any of the following services for compensation, including services  
27 performed as a part of the person's employment:

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1 (1) identifying infestations or making inspections  
2 for the purpose of identifying or attempting to identify  
3 infestations of:

4 (A) arthropods, including insects, spiders,  
5 mites, ticks, and related pests, wood-infesting organisms,  
6 rodents, weeds, nuisance birds, and any other obnoxious or  
7 undesirable animals that may infest households, railroad cars,  
8 ships, docks, trucks, airplanes, or other structures or their  
9 contents; or

10 (B) pests or diseases of trees, shrubs, or other  
11 plantings in a park or adjacent to a residence, business  
12 establishment, industrial plant, institutional building, or  
13 street;

14 (2) making oral or written inspection reports,  
15 recommendations, estimates, or bids with respect to an infestation  
16 described by Subdivision (1); or

17 (3) making contracts, or submitting bids based on an  
18 inspection for services or performing services designed to prevent,  
19 control, or eliminate an infestation described by Subdivision (1)  
20 by the use of insecticides, pesticides, rodenticides, fumigants,  
21 allied chemicals or substances, or mechanical devices.

22 (b) A person is not engaged in the business of structural  
23 pest control if the person is a clerical employee or a manual  
24 laborer and the person does not:

25 (1) identify pests;

26 (2) make inspections, recommendations, estimates,  
27 bids, or contracts;

1           (3) provide estimates, bids, or contracts based on an  
2 inspection; or

3           (4) apply insecticides, pesticides, rodenticides,  
4 fumigants, allied chemicals, or other related substances regulated  
5 by the department.

6           SECTION 7.04. Subchapter A, Chapter 1951, Occupations Code,  
7 is amended by adding Section 1951.007 to read as follows:

8           Sec. 1951.007. APPLICABILITY OF AGRICULTURE CODE LICENSING  
9 PROVISIONS. A provision of the Agriculture Code that applies  
10 generally to licensing or regulatory programs administered by the  
11 department, including a provision that refers generally to  
12 licensing or regulatory programs under the Agriculture Code,  
13 applies to this chapter.

14           SECTION 7.05. Subsection (a), Section 1951.053,  
15 Occupations Code, is amended to read as follows:

16           (a) Except as provided by Sections 1951.212 and  
17 1951.457(c), this chapter does not apply to:

18           (1) a person who performs pest control work on growing  
19 plants, trees, shrubs, grass, or other horticultural plants if the  
20 person[+]

21                   ~~[(A) holds a florist or nursery registration~~  
22 ~~certificate from the department under Section 71.043, Agriculture~~  
23 ~~Code, other than a registration certificate that permits the sale,~~  
24 ~~lease, or distribution of nursery products or floral items only at a~~  
25 ~~temporary market, and~~

26                   ~~[(B)]~~ holds a commercial or noncommercial  
27 applicator license from the department and issued under Chapter 76,

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1 Agriculture Code, that covers the pest control work; or

2 (2) a person who performs pest control work on growing  
3 plants, trees, shrubs, grass, or other horticultural plants or  
4 rights-of-way if the person:

5 (A) is employed by a political subdivision or a  
6 cemetery;

7 (B) is engaged in pest control work or vegetation  
8 management for the political subdivision or cemetery;

9 (C) holds a commercial or noncommercial  
10 applicator license from the department and issued under Chapter 76,  
11 Agriculture Code, that covers pest control work or is under the  
12 direct supervision of a person who holds a commercial or  
13 noncommercial applicator license from the department and issued  
14 under Chapter 76, Agriculture Code, that covers pest control work;  
15 and

16 (D) complies with annual continuing education  
17 required by the department.

18 SECTION 7.06. Subsection (a), Section 1951.101,  
19 Occupations Code, is amended to read as follows:

20 (a) The committee consists of nine members appointed by the  
21 commissioner as follows:

22 (1) two members who are experts in structural pest  
23 control application;

24 (2) three members who represent the public;

25 (3) one member from an institution of higher education  
26 who is knowledgeable in the science of pests and pest control;

27 (4) one member who represents the interests of

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1 structural pest control operators and who is appointed based on  
2 recommendations provided by a trade association of operators;

3 (5) one member who represents the interests of  
4 consumers [~~and who is appointed based on recommendations provided~~  
5 ~~by consumer advocacy groups or associations~~]; and

6 (6) the commissioner of state health services or the  
7 commissioner's designee.

8 SECTION 7.07. Section 1951.105, Occupations Code, is  
9 amended to read as follows:

10 Sec. 1951.105. RULES GOVERNING COMMITTEE; COMMITTEE

11 MEETINGS. (a) The department shall adopt rules for the operation  
12 of the committee, including rules governing:

13 (1) the purpose, role, responsibility, and goals of  
14 the committee;

15 (2) the quorum requirements for the committee;

16 (3) the qualifications required for members of the  
17 committee, which may include experience and geographic  
18 representation requirements;

19 (4) the appointment process for the committee;

20 (5) the members' terms;

21 (6) the training requirements;

22 (7) a process to regularly evaluate the effectiveness  
23 of the committee; and

24 (8) a requirement that the committee comply with  
25 Chapter 551, Government Code.

26 (b) The committee shall:

27 (1) meet quarterly;

1           (2) operate under Robert's Rules of Order; and

2           (3) record the minutes of each meeting.

3           SECTION 7.08. Subsection (a), Section 1951.205,  
4 Occupations Code, is amended to read as follows:

5           (a) The department, with the advice of the committee, shall  
6 adopt rules as authorized under this chapter governing the methods  
7 and practices of structural pest control that the department  
8 determines are necessary to protect the public's health and welfare  
9 and prevent adverse effects on human life and the environment. Each  
10 rule adopted must cite the section of this chapter that authorizes  
11 the rule.

12           SECTION 7.09. Subsection (a), Section 1951.207,  
13 Occupations Code, is amended to read as follows:

14           (a) The department by rule shall adopt a policy that [+  
15           ~~[(1)]~~ requires a business holding a structural pest  
16 control business license to be inspected by a field inspector at  
17 least once:

18           (1) [(A)] in the business's first year of operation;  
19 and

20           (2) [(B)] every four years after the first year of  
21 operation[+]

22           ~~[(2) provides for additional inspections based on a~~  
23 ~~schedule of risk-based inspections using the following criteria:~~

24           ~~[(A) the type and nature of the business,~~

25           ~~[(B) whether there has been a prior violation by~~  
26 ~~the business,~~

27           ~~[(C) the inspection history of the business,~~

1                   ~~[(D) any history of complaints involving the~~  
2 ~~business, and~~

3                   ~~[(E) any other factor determined by the~~  
4 ~~department by rule, and~~

5                   ~~[(3) provides that the department may waive the~~  
6 ~~inspection requirement on a case-by-case basis if an emergency~~  
7 ~~arises or to accommodate complaint investigation schedules].~~

8           SECTION 7.10. Subsection       (b),       Section       1951.212,  
9 Occupations Code, is amended to read as follows:

10           (b) The department shall use the structural pest control [~~an~~  
11 ~~existing~~] advisory committee [~~or create a new advisory committee~~]  
12 to assist the department in developing the standards for the  
13 integrated pest management program. In developing the standards,  
14 the advisory committee shall consult with a person knowledgeable in  
15 the area of integrated pest management in schools.

16           SECTION 7.11. Subsection       (f),       Section       1951.254,  
17 Occupations Code, as amended by Chapters 885 (H.B. 2278) and 890  
18 (H.B. 2458), Acts of the 80th Legislature, Regular Session, 2007,  
19 is reenacted to read as follows:

20           (f) The information sheet must include:

21                   (1) the names and telephone numbers of the department  
22 and the Department of State Health Services;

23                   (2) the telephone number of any pesticide hotline  
24 established by a state or federal agency or by a state university;

25                   (3) a statement of a consumer's rights under Chapter  
26 601, Business & Commerce Code, to cancel a home solicitation  
27 transaction; and



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1 (4) information concerning the availability of any  
2 pretreatment inspection service that may be provided by the  
3 department under Section 1951.210.

4 SECTION 7.12. Section 1951.301, Occupations Code, is  
5 amended by amending Subsection (d) and adding Subsection (f) to  
6 read as follows:

7 (d) A person engaged in the business of structural pest  
8 control must hold a structural pest control business license for  
9 each place of business, including each branch office. A certified  
10 commercial applicator, certified noncommercial applicator, or  
11 licensed technician is not required to obtain a separate license  
12 for each branch office of an employer.

13 (f) A certified commercial applicator or technician license  
14 must be associated with a business license holder. The name of the  
15 employer of a licensed commercial applicator or technician must be  
16 printed on the face of the license issued to a commercial applicator  
17 or technician.

18 SECTION 7.13. Subsection (a), Section 1951.306,  
19 Occupations Code, is amended to read as follows:

20 (a) The department may waive any license requirement under  
21 this chapter for an applicant who holds a license issued by another  
22 state that has license requirements substantially equivalent to  
23 those of this state. The department may enter into reciprocal  
24 licensing agreements with other states that have license  
25 requirements substantially equivalent to those of this state.

26 SECTION 7.14. Section 1951.308, Occupations Code, is  
27 amended to read as follows:

1           Sec. 1951.308. LICENSE EXPIRATION. A license issued under  
2 this chapter expires at the end of the license period as determined  
3 by department rule [~~(a) The department by rule may adopt a system~~  
4 ~~under which licenses expire on various dates during the year.~~

5           ~~[(b) For the year in which the license expiration date is~~  
6 ~~changed, license fees payable on December 31 shall be prorated on a~~  
7 ~~monthly basis so that each license holder pays only that portion of~~  
8 ~~the license fee that is allocable to the number of months during~~  
9 ~~which the license is valid. On renewal of the license on the new~~  
10 ~~expiration date, the total license renewal fee is payable].~~

11           SECTION 7.15. Section 1951.453, Occupations Code, is  
12 amended to read as follows:

13           Sec. 1951.453. PEST CONTROL INFORMATION FOR INDOOR  
14 TREATMENTS: RESIDENTIAL PROPERTY. (a) For an indoor treatment at  
15 a private residence that is not rental property, a certified  
16 applicator or technician shall make available [+

17           ~~[(1) give]~~ a pest control information sheet developed  
18 under Section 1951.254 to the owner of the residence before each  
19 treatment begins [~~+~~ or

20           ~~[(2) if the owner is not available at the time~~  
21 ~~treatment begins, leave the information sheet in a conspicuous~~  
22 ~~place in the residence].~~

23           (b) For an indoor treatment at a residential rental property  
24 with fewer than five rental units, a certified applicator or  
25 technician shall make available [~~leave~~] a pest control information  
26 sheet developed under Section 1951.254 to the tenant of [~~in~~] each  
27 unit [~~at the time of each treatment~~].

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1 (c) For an indoor treatment at a residential rental property  
2 with five or more rental units, a certified applicator or  
3 technician shall make available [~~provide~~] a pest control  
4 information sheet developed under Section 1951.254 and a pest  
5 control sign developed under that section to the owner or manager of  
6 the property. The owner or manager or an employee or agent of the  
7 owner or manager, other than the certified applicator or  
8 technician, shall notify residents who live in the direct area of  
9 the treatment or in an adjacent area by:

10 (1) posting the sign in an area of common access at  
11 least 48 hours before each planned treatment; or

12 (2) leaving the information sheet on the front door of  
13 each unit or in a conspicuous place inside each unit at least 48  
14 hours before each planned treatment.

15 SECTION 7.16. Section 1951.454, Occupations Code, is  
16 amended to read as follows:

17 Sec. 1951.454. PEST CONTROL INFORMATION FOR INDOOR  
18 TREATMENTS: WORKPLACE. For an indoor treatment at a workplace, a  
19 certified applicator or technician shall make available [~~provide~~] a  
20 pest control information sheet developed under Section 1951.254 and  
21 a pest control sign developed under that section to the employer or  
22 the building manager. The employer or building manager or an  
23 employee or agent of the owner or manager, other than the certified  
24 applicator or technician, shall notify the persons who work at the  
25 workplace of the date of the planned treatment by:

26 (1) posting the sign in an area of common access that  
27 the persons are likely to check on a regular basis at least 48 hours

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1 before each planned treatment; and

2 (2) providing the information sheet to any person  
3 working in the building on a request made by the person during  
4 normal business hours.

5 SECTION 7.17. Subsection (a), Section 1951.455,  
6 Occupations Code, is amended to read as follows:

7 (a) For an indoor treatment at a building that is a  
8 hospital, nursing home, hotel, motel, lodge, warehouse,  
9 food-processing establishment, school, or day-care center, a  
10 certified applicator or technician shall make available [~~provide~~] a  
11 pest control information sheet developed under Section 1951.254 and  
12 a pest control sign developed under that section to the chief  
13 administrator or building manager. The chief administrator or  
14 building manager shall notify the persons who work in the building  
15 of the treatment by:

16 (1) posting the sign in an area of common access that  
17 the persons are likely to check on a regular basis at least 48 hours  
18 before each planned treatment; and

19 (2) providing the information sheet to a person  
20 working in the building on request of the person.

21 SECTION 7.18. Subsections (a) and (b), Section 1951.457,  
22 Occupations Code, are amended to read as follows:

23 (a) For an outdoor treatment at a private residence that is  
24 not rental property, a certified applicator or technician shall  
25 make available [~~leave~~] a pest control information sheet developed  
26 under Section 1951.254 at the residence before the treatment  
27 begins.

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1 (b) For an outdoor treatment at a residential rental  
2 property with fewer than five rental units, a certified applicator  
3 or technician shall make available [~~leave~~] a pest control  
4 information sheet at each unit at the time of treatment.

5 SECTION 7.19. The following provisions of the Occupations  
6 Code are repealed:

- 7 (1) Section 1951.202;
- 8 (2) Section 1951.310;
- 9 (3) Section 1951.311;
- 10 (4) Subsection (d), Section 1951.456;
- 11 (5) Subsections (c) and (d), Section 1951.501;
- 12 (6) Subchapter L, Chapter 1951;
- 13 (7) Section 1951.604; and
- 14 (8) Section 1951.605.

15 SECTION 7.20. The changes in law made by this Act by the  
16 repeal of Subsections (c) and (d), Section 1951.501, Occupations  
17 Code, apply only to a violation of Chapter 1951, Occupations Code,  
18 committed on or after the effective date of this Act. A violation  
19 committed before the effective date of this Act is governed by the  
20 law in effect on the date the violation occurred, and the former law  
21 is continued in effect for that purpose. A violation committed on  
22 or after the effective date of this Act is governed by Section  
23 12.0201, Agriculture Code, as amended by this Act, and other  
24 applicable law.

25 SECTION 7.21. The change in law made by this Act by the  
26 repeal of Section 1951.310, Occupations Code, applies only to the  
27 renewal of a license under Chapter 1951, Occupations Code, that

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1 expires on or after the effective date of this Act. The renewal of a  
2 license that expires before the effective date of this Act is  
3 governed by the law in effect on the date the license expired, and  
4 the former law is continued in effect for that purpose. An  
5 application submitted on or after the effective date of this Act is  
6 governed by Section 12.024, Agriculture Code, and other applicable  
7 law.

8 SECTION 7.22. The change in law made by this Act by the  
9 repeal of Section 1951.311, Occupations Code, applies only to an  
10 application for a replacement license issued under Chapter 1951,  
11 Occupations Code, submitted on or after the effective date of this  
12 Act. An application submitted before the effective date of this Act  
13 is governed by the law in effect on the date the application was  
14 submitted, and the former law is continued in effect for that  
15 purpose. An application submitted on or after the effective date of  
16 this Act is governed by Section 12A.101, Agriculture Code, as added  
17 by this Act, and other applicable law.

18 SECTION 7.23. The change in law made by this Act by the  
19 repeal of Subchapter L, Chapter 1951, Occupations Code, applies  
20 only to a violation committed on or after the effective date of this  
21 Act. A violation committed before that date is governed by the law  
22 in effect on the date the violation occurred, and the former law is  
23 continued in effect for that purpose. A violation committed on or  
24 after the effective date of this Act is governed by Section 12.020,  
25 Agriculture Code, as amended by this Act, and other applicable law.

26 ARTICLE 8. SUNSET DATE AND ACROSS-THE-BOARD RECOMMENDATIONS

27 SECTION 8.01. Section 11.003, Agriculture Code, is amended

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1 to read as follows:

2           Sec. 11.003. SUNSET PROVISION.           The Department of  
3 Agriculture is subject to Chapter 325, Government Code (Texas  
4 Sunset Act). Unless continued in existence as provided by that  
5 chapter, the department is abolished September 1, 2021 [2009].

6           SECTION 8.02. Section 12.0135, Agriculture Code, is amended  
7 to read as follows:

8           Sec. 12.0135. CONFLICT PROVISIONS. (a) A person may not  
9 be a department employee employed in a "bona fide executive,  
10 administrative, or professional capacity," as that phrase is used  
11 for purposes of establishing an exemption to the overtime  
12 provisions of the federal Fair Labor Standards Act of 1938 (29  
13 U.S.C. Section 201 et seq.), if:

14                   (1) the person is an officer, employee, or paid  
15 consultant of a Texas trade association in the field of  
16 agriculture; or

17                   (2) the person's spouse is an officer, manager, or paid  
18 consultant of a Texas trade association in the field of  
19 agriculture.

20           (b) A person may not act as the general counsel to the  
21 commissioner or the department if the person is required to  
22 register as a lobbyist under Chapter 305, Government Code, because  
23 of the person's activities for compensation on behalf of a  
24 profession related to the operation of the department.

25           (c) ~~In [(b) An officer, employee, or paid consultant of a~~  
26 ~~statewide Texas trade association or an affiliate of a national~~  
27 ~~trade association in the field of agriculture may not be an employee~~

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1 ~~of the department who is exempt from the state's position~~  
2 ~~classification plan or is compensated at or above the amount~~  
3 ~~prescribed by the General Appropriations Act for step 1, salary~~  
4 ~~group 17, of the position classification salary schedule.~~

5 ~~[(c) A person who is the spouse of an officer, manager, or~~  
6 ~~paid consultant of a statewide Texas trade association or an~~  
7 ~~affiliate of a national trade association in the field of~~  
8 ~~agriculture may not be an employee of the department who is exempt~~  
9 ~~from the state's position classification plan or is compensated at~~  
10 ~~or above the amount prescribed by the General Appropriations Act~~  
11 ~~for step 1, salary group 17, of the position classification salary~~  
12 ~~schedule.~~

13 ~~[(d) For the purposes of]~~ this section, "Texas [a] trade  
14 association" means [is] a [~~nonprofit,~~] cooperative[~~,~~] and  
15 voluntarily joined statewide association of business or  
16 professional competitors in this state designed to assist its  
17 members and its industry or profession in dealing with mutual  
18 business or professional problems and in promoting their common  
19 interest.

20 SECTION 8.03. Chapter 12, Agriculture Code, is amended by  
21 adding Section 12.0203 to read as follows:

22 Sec. 12.0203. NEGOTIATED RULEMAKING AND ALTERNATIVE  
23 DISPUTE RESOLUTION. (a) The commissioner shall develop and  
24 implement a policy to encourage the use of:

25 (1) negotiated rulemaking procedures under Chapter  
26 2008, Government Code, for the adoption of department rules; and

27 (2) appropriate alternative dispute resolution



1 procedures under Chapter 2009, Government Code, to assist in the  
2 resolution of internal and external disputes under the department's  
3 jurisdiction.

4 (b) The department's procedures relating to alternative  
5 dispute resolution must conform, to the extent possible, to any  
6 model guidelines issued by the State Office of Administrative  
7 Hearings for the use of alternative dispute resolution by state  
8 agencies.

9 (c) The commissioner shall designate a trained person to:

10 (1) coordinate the implementation of the policy  
11 adopted under Subsection (a);

12 (2) serve as a resource for any training needed to  
13 implement the procedures for negotiated rulemaking or alternative  
14 dispute resolution; and

15 (3) collect data concerning the effectiveness of those  
16 procedures, as implemented by the department.

17 SECTION 8.04. Chapter 12, Agriculture Code, is amended by  
18 adding Section 12.0271 to read as follows:

19 Sec. 12.0271. RURAL ECONOMIC DEVELOPMENT AND INVESTMENT  
20 PROGRAM. (a) From funds appropriated for that purpose, the  
21 commissioner shall establish and administer a financial assistance  
22 program to encourage private economic development in rural areas.  
23 Financial assistance under the program may be provided only to:

24 (1) a county with a population of not more than 75,000;

25 (2) a municipality with a population of not more than  
26 50,000; or

27 (3) an economic development corporation or community

1 development financial institution that primarily represents a  
2 county or municipality described by this subsection.

3 (b) Financial assistance under Subsection (a) may be used  
4 only for a project relating to:

5 (1) the acquisition or development of land, easements,  
6 or rights-of-way;

7 (2) attracting new private enterprises to the county  
8 or municipality, including:

9 (A) manufacturing facilities;

10 (B) freight storage facilities;

11 (C) distribution warehouse centers; and

12 (D) other nonretail private enterprises;

13 (3) the construction, extension, or other improvement  
14 of:

15 (A) water or waste disposal facilities; or

16 (B) transportation infrastructure; or

17 (4) any other activity relating to private economic  
18 development that the commissioner determines will encourage  
19 economic and infrastructure development in a rural area.

20 (c) To further a purpose described by Subsection (b), the  
21 commissioner may provide financial assistance to an eligible  
22 county, municipality, community development financial institution,  
23 or economic development corporation by:

24 (1) extending credit by direct loan, based on the  
25 credit of the county, municipality, community development  
26 financial institution, or economic development corporation;

27 (2) providing a credit enhancement;

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1           (3) effectively lowering interest rates;

2           (4) financing a purchase or lease agreement in  
3 connection with an economic or infrastructure development project;  
4 or

5           (5) providing methods of leveraging money from sources  
6 other than this state that are related to the project for which the  
7 assistance is provided.

8           (d) A county, municipality, community development financial  
9 institution, or economic development corporation that receives  
10 funds under Subsection (c) shall segregate the funds from other  
11 funds under the control of the county, municipality, or economic  
12 development corporation and use the funds only for a purpose  
13 described by this section. Any funds disbursed through the program  
14 must be repaid on terms determined by the department.

15           (e) The department shall adopt rules necessary to implement  
16 this section.

17           SECTION 8.05. Chapter 12, Agriculture Code, is amended by  
18 adding Section 12.047 to read as follows:

19           Sec. 12.047. USE OF TECHNOLOGY. The commissioner shall  
20 implement a policy requiring the department to use appropriate  
21 technological solutions to improve the department's ability to  
22 perform its functions. The policy must ensure that the public is  
23 able to interact with the department on the Internet.

24                           ARTICLE 9. ADDITIONAL PROVISIONS

25           SECTION 9.01. Subsection (a), Section 11.005, Agriculture  
26 Code, is amended to read as follows:

27           (a) To be eligible for election as commissioner or

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1 appointment to fill a vacancy in the office of commissioner, a  
2 person must:

3 (1) have been engaged, for at least five of the 10  
4 years preceding the year in which the person is elected or appointed  
5 to the person's initial term, in the business of agriculture;

6 (2) have worked, for the five-year period preceding  
7 the calendar year in which the person is elected or appointed to the  
8 person's initial term, for a state or federal agency in a position  
9 directly related to agriculture; [~~or~~]

10 (3) have owned or operated, for at least five of the 10  
11 years preceding the year in which the person is elected or appointed  
12 to the person's initial term, farm, ranch, or timber land that  
13 qualifies for agricultural use appraisal under Subchapter C,  
14 Chapter 23, Tax Code, and be participating, in the calendar year in  
15 which the person is elected or appointed to the person's initial  
16 term, in a farm program administered by the federal Agricultural  
17 Stabilization and Conservation Service; or

18 (4) have worked, for at least five years at any time  
19 before the calendar year in which the person is elected or appointed  
20 to the person's initial term, for the Texas Agricultural Council,  
21 an organization that is a member of the Texas Agricultural Council,  
22 or another agricultural producer association.

23 SECTION 9.02. Section 12.022, Agriculture Code, is amended  
24 to read as follows:

25 Sec. 12.022. AUTHORITY TO SOLICIT AND ACCEPT GIFTS, GRANTS,  
26 AND DONATIONS. The department may solicit and [~~is authorized to~~]  
27 accept gifts, grants, and donations of money, services, or property

1 from any person. Money received by the department under this  
 2 section may be expended or distributed for any public purpose  
 3 related to the department's duties [~~and shall file annually with~~  
 4 ~~the governor and the presiding officer of each house of the~~  
 5 ~~legislature a complete and detailed written report accounting for~~  
 6 ~~all gifts, grants, and donations received and disbursed, used, or~~  
 7 ~~maintained by the department during the preceding fiscal year.~~  
 8 ~~This report shall be included in the annual report required by~~  
 9 ~~Section 12.014 of this chapter].~~

10 SECTION 9.03. Chapter 12, Agriculture Code, is amended by  
 11 adding Section 12.0027 to read as follows:

12 Sec. 12.0027. NUTRITION OUTREACH PROGRAM. (a) The  
 13 department may develop an outreach program to promote better health  
 14 and nutrition programs and prevent obesity among children in this  
 15 state.

16 (b) The department may solicit and accept gifts, grants, and  
 17 donations from any public or private sources for the purposes of  
 18 this section.

19 (c) The department may adopt rules as necessary to  
 20 administer an outreach program established under this section.

21 SECTION 9.04. Chapter 12, Agriculture Code, is amended by  
 22 adding Section 12.046 to read as follows:

23 Sec. 12.046. TEXAS RURAL INVESTMENT FUND. (a) In this  
 24 section:

25 (1) "Fund" means the Texas Rural Investment Fund.

26 (2) "Rural community" means a municipality with a  
 27 population of less than 50,000 or a county with a population of less

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1 than 200,000.

2 (b) The fund is a dedicated account in the general revenue  
3 fund and consists of:

4 (1) appropriations of money to the fund by the  
5 legislature;

6 (2) gifts, grants, including federal grants, and other  
7 donations received for the fund; and

8 (3) interest earned on the investment of money in the  
9 fund.

10 (b-1) The department shall administer the fund and select  
11 recipients of grants and loans from the fund.

12 (c) The fund may be used by the department only to:

13 (1) pay for grants or loans to public or private  
14 entities for projects in rural communities that have strong local  
15 support, provide positive return on the state's investment, and  
16 stimulate one or more of the following:

17 (A) local entrepreneurship;

18 (B) job creation or retention;

19 (C) new capital investment;

20 (D) strategic economic development planning;

21 (E) individual economic and community  
22 development leadership training;

23 (F) housing development; or

24 (G) innovative workforce education; and

25 (2) administer the grant and loan program under this  
26 section.

27 (d) In awarding a grant or loan of money from the fund for a

1 project, the department shall consider:

2 (1) the project's effect on job creation and wages;

3 (2) the financial strength of the applicant;

4 (3) the applicant's business history;

5 (4) an analysis of the relevant business sector;

6 (5) whether there is public or private sector

7 financial support for the project; and

8 (6) whether there is local support for the project.

9 (e) The fund is exempt from the application of Sections  
10 403.095 and 404.071, Government Code.

11 (f) The department may accept grants, gifts, or donations  
12 from any source that are made for the purposes of this section.  
13 Money received under this subsection shall be deposited in the  
14 fund.

15 (g) The department shall adopt rules to administer this  
16 section.

17 SECTION 9.05. Chapter 12, Agriculture Code, is amended by  
18 adding Section 12.048 to read as follows:

19 Sec. 12.048. OBTAINING CRIMINAL HISTORY RECORD  
20 INFORMATION. (a) The department is authorized to obtain from the  
21 Department of Public Safety criminal history record information  
22 maintained by the Department of Public Safety that relates to a  
23 person who:

24 (1) applies for a license issued by the department;

25 (2) holds a license issued by the department;

26 (3) requests a determination of eligibility for a

27 license issued by the department; or

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the

1           (4) is an employee, volunteer, or intern of the  
2 department, or an applicant to be an employee, volunteer, or intern  
3 of the department.

4           (b) In addition to the information the department is  
5 authorized to obtain under Sections 411.122 and 411.1405,  
6 Government Code, and this section, the department is authorized to  
7 request and obtain criminal history record information through the  
8 Federal Bureau of Investigation as provided by Section 411.087,  
9 Government Code.

10           (c) Information provided to the department under this  
11 section and Chapter 411, Government Code, is confidential, is not  
12 subject to disclosure under Chapter 552, Government Code, and may  
13 not be disclosed to any person other than as required by a court  
14 order.

15           SECTION 9.06. Subsection (a), Section 19.012, Agriculture  
16 Code, is amended to read as follows:

17           (a) A person commits an offense if the person:

18                   (1) sells or offers to sell citrus budwood or a citrus  
19 nursery tree falsely claiming that it is certified or that it comes  
20 from a designated foundation grove; ~~or~~

21                   (2) uses, for commercial purposes, citrus budwood that  
22 is required by department rule to be certified and is not certified  
23 or does not come from a designated foundation grove; or

24                   (3) fails to comply with an order of the department  
25 issued under this chapter.

26           SECTION 9.07. Section 19.014, Agriculture Code, is amended  
27 to read as follows:



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1           Sec. 19.014. ADMINISTRATIVE PENALTIES. The department may  
2 assess an administrative penalty under Chapter 12 for a violation  
3 of this chapter if the department finds that a person:

4           (1) sells or offers to sell citrus budwood or a citrus  
5 nursery tree falsely claiming that it is certified or that it comes  
6 from a designated foundation grove under this chapter;

7           (2) uses citrus budwood in violation of rules adopted  
8 under this chapter; [~~or~~]

9           (3) uses, for commercial purposes, citrus budwood that  
10 is required by department rule to be certified and is not certified  
11 or does not come from a designated foundation grove; or

12           (4) fails to comply with an order of the department  
13 issued under this chapter.

14           SECTION 9.08. Section 41.151, Agriculture Code, is amended  
15 to read as follows:

16           Sec. 41.151. DEFINITIONS. In this subchapter:

17           (1) "Beef products" means products produced in whole  
18 or in part from beef. The term does not include milk or products  
19 made from milk.

20           (2) [~~"Board" means the board of directors of the Texas~~  
21 ~~Beef Council.~~

22           [~~(3)~~] "Council" means the Texas Beef Council.

23           (3) [~~(4)~~] "Producer" means a person who owns or  
24 acquires ownership of cattle, except that a person is not a producer  
25 if the person's only share in the proceeds of a sale of cattle or  
26 beef is a sales commission, handling fee, or other service fee.

27           SECTION 9.09. Subsection (b), Section 41.152, Agriculture

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1 Code, is amended to read as follows:

2 (b) The council shall be the certified organization  
3 ~~[recognized as the entity]~~ to plan, implement, and operate  
4 research, education, promotion, and marketing programs under this  
5 subchapter. The council is the state beef council qualified to  
6 collect the proceeds of and administer in this state the beef check  
7 off program established by federal law.

8 SECTION 9.10. Section 41.156, Agriculture Code, is amended  
9 to read as follows:

10 Sec. 41.156. COUNCIL ~~[BOARD]~~ MEMBERS. (a) The council  
11 ~~[board]~~ is composed of 20 ~~[21]~~ members nominated by the council and  
12 appointed by the commissioner as follows:

13 (1) three representatives of the Texas and  
14 Southwestern Cattle Raisers Association;

15 (2) three representatives of the Texas Cattle Feeders  
16 Association;

17 (3) three representatives of the Texas Farm Bureau;

18 (4) two representatives of the Independent Cattlemen's  
19 Association of Texas;

20 (5) two representatives of the Texas purebred cattle  
21 industry;

22 (6) two representatives of the Texas dairy industry;

23 (7) one representative ~~[two representatives]~~ of the  
24 Livestock Marketing Association of Texas;

25 (8) one representative of meat packer and exporter  
26 associations;

27 (9) one representative of Texas CattleWomen; and

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1 (10) two at-large directors.

2 (b) A council [~~board~~] member serves a one-year term or until  
3 his or her successor is appointed. A council member may serve not  
4 more than six consecutive one-year terms, except that a council  
5 member who is elected to serve as an officer during the member's  
6 sixth consecutive one-year term may serve as chairman or past  
7 chairman for not more than two additional consecutive one-year  
8 terms.

9 (c) The commissioner, on recommendation of the council,  
10 shall fill a vacancy on the council [~~board~~] by appointment for the  
11 unexpired term.

12 SECTION 9.11. Section 41.157, Agriculture Code, is amended  
13 to read as follows:

14 Sec. 41.157. GENERAL POWERS OF COUNCIL. The council may  
15 take action or exercise other authority as necessary to execute any  
16 act authorized by this chapter [~~subchapter~~] or the Texas Non-Profit  
17 Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil  
18 Statutes).

19 SECTION 9.12. Subsections (b), (c), and (e), Section  
20 41.160, Agriculture Code, are amended to read as follows:

21 (b) If an assessment referendum is approved, the council  
22 shall recommend to the commissioner an assessment amount not  
23 greater than the maximum amount approved in the referendum. After  
24 the assessment is approved by the commissioner, the council shall  
25 collect the assessment.

26 (c) An assessment levied on producers shall [~~may~~] be applied  
27 by the council to efforts relating to the marketing, education,

1 research, and promotion of beef and beef products in Texas, the  
2 United States, and international markets, including administrative  
3 costs of conducting an assessment referendum.

4 (e) Section 41.083 applies to an assessment collected by the  
5 council under this subchapter. Section 41.082 does not apply to an  
6 assessment collected under this subchapter. The commissioner, on  
7 the council's recommendation, may exempt from the assessment  
8 certain producers who are exempt under federal law.

9 SECTION 9.13. Subsection (a), Section 41.161, Agriculture  
10 Code, is amended to read as follows:

11 (a) The commissioner shall annually review and approve the  
12 council's operating budget for the funds collected under this  
13 subchapter.

14 SECTION 9.14. Subsection (g), Section 41.162, Agriculture  
15 Code, is amended to read as follows:

16 (g) The council shall pay all expenses incurred in  
17 conducting a referendum with funds collected from the beef  
18 industry.

19 SECTION 9.15. Subsection (d), Section 71.004, Agriculture  
20 Code, is amended to read as follows:

21 (d) An emergency quarantine shall be established in  
22 accordance with the provisions related to emergency rulemaking in  
23 Chapter 2001, Government Code [~~expires 30 days following the date~~  
24 ~~on which it was established unless reestablished following notice~~  
25 ~~and hearing as provided by this subchapter~~].

26 SECTION 9.16. Subsection (b), Section 72.002, Agriculture  
27 Code, is amended to read as follows:

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1 (b) The department may adopt rules [~~to be proclaimed by the~~  
2 ~~governor,~~] as necessary for the administration of this chapter.

3 SECTION 9.17. Subsections (a) and (b), Section 72.011,  
4 Agriculture Code, are amended to read as follows:

5 (a) When advised of the existence of Mexican fruit fly  
6 within a county or part of a county in this state, the department  
7 shall certify that fact and [~~to the governor, and the governor~~  
8 ~~shall~~] proclaim the county or part of a county quarantined under  
9 this chapter.

10 (b) If the department determines that the exigencies of the  
11 situation require a modified quarantine, the department may  
12 designate a modified quarantined area [~~to be certified to the~~  
13 ~~governor for proclamation~~].

14 SECTION 9.18. Section 72.012, Agriculture Code, is amended  
15 to read as follows:

16 Sec. 72.012. PERSONS AND PREMISES SUBJECT. The premises of  
17 each individual, whether an owner, lessee, renter, tenant, or  
18 occupant, within the area named in the quarantine [~~proclamation~~]  
19 are subject to the quarantine, even though not specifically named.

20 SECTION 9.19. Subsection (a), Section 72.015, Agriculture  
21 Code, is amended to read as follows:

22 (a) A person may not haul, truck, or otherwise move citrus  
23 fruit from any premises or area that is under quarantine for Mexican  
24 fruit fly infestation by this chapter or [~~]~~ by order of the  
25 department [~~or by proclamation of the governor~~] in violation of  
26 the quarantine without a written permit or certificate issued by  
27 the department or an inspector of the Plant Protection and

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1 Quarantine Programs, Animal and Plant Health Inspection Service,  
2 United States Department of Agriculture.

3 SECTION 9.20. Subsection (a), Section 76.004, Agriculture  
4 Code, is amended to read as follows:

5 (a) The [~~Except as provided by Subchapter C, after notice,~~  
6 ~~the department shall conduct at least five regional hearings~~  
7 ~~throughout the state before the adoption of any rule for carrying~~  
8 ~~out the provisions of this chapter. Thereafter, the]~~ department  
9 may adopt rules for carrying out the provisions of this chapter,  
10 including rules providing for:

11 (1) the collection, examination, and reporting of  
12 records, devices, and samples of pesticides;

13 (2) the safe handling, transportation, storage,  
14 display, distribution, or disposal of pesticides and pesticide  
15 containers;

16 (3) labeling requirements for pesticides and devices  
17 required to be registered under this chapter; and

18 (4) compliance with federal pesticide rules and  
19 regulations.

20 SECTION 9.21. Section 144.041, Agriculture Code, is amended  
21 by adding Subsection (g) to read as follows:

22 (g) The recording of marks and brands at a point of sale for  
23 use by an association authorized to inspect livestock under 7  
24 U.S.C. Section 217a does not serve as a record under this chapter.  
25 An association authorized to inspect livestock under 7 U.S.C.  
26 Section 217a has no duty to verify ownership at a point of sale.

27 SECTION 9.22. Section 251.005, Agriculture Code, is amended

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1 by adding Subsection (e) to read as follows:

2 (e) A governmental requirement of a political subdivision  
3 of the state does not apply to conduct described by Section  
4 42.09(f), Penal Code, on an agricultural operation.

5 SECTION 9.23. The following provisions are repealed:

- 6 (1) Section 12.017, Agriculture Code;
- 7 (2) Section 72.003, Agriculture Code;
- 8 (3) Subsection (c), Section 72.011, Agriculture Code;
- 9 and
- 10 (4) Section 76.005, Agriculture Code.

11 SECTION 9.24. (a) The change in law made by this Act to  
12 Section 19.012, Agriculture Code, applies only to an offense  
13 committed on or after the effective date of this Act. An offense  
14 committed before the effective date of this Act is covered by the  
15 law in effect when the offense was committed, and the former law is  
16 continued in effect for that purpose. For purposes of this  
17 subsection, an offense was committed before the effective date of  
18 this Act if any element of the offense was committed before that  
19 date.

20 (b) The change in law made by this Act to Section 19.014,  
21 Agriculture Code, applies only to conduct that occurred on or after  
22 the effective date of this Act. Conduct that occurred before the  
23 effective date of this Act is governed by the law in effect when the  
24 conduct occurred, and the former law is continued in effect for that  
25 purpose.

26 (c) The change in law made by this Act to Section 41.156,  
27 Agriculture Code, does not affect the entitlement of a member of the

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1 board of directors of the Texas Beef Council to serve for the  
2 remainder of the member's term. A board member appointed before the  
3 effective date of this Act is governed by the law in effect  
4 immediately before the effective date of this Act, and the former  
5 law is continued in effect for that purpose.

6 (d) The change in law made by this Act to Section 41.160,  
7 Agriculture Code, applies only to an assessment approved on or  
8 after the effective date of this Act. An assessment approved before  
9 the effective date of this Act is governed by the law in effect  
10 immediately before the effective date of this Act, and the former  
11 law is continued in effect for that purpose.

12 (e) The change in law made by this Act to Section 41.162,  
13 Agriculture Code, applies only to an assessment referendum  
14 conducted on or after the effective date of this Act. An assessment  
15 referendum conducted before the effective date of this Act is  
16 governed by the law in effect immediately before the effective date  
17 of this Act, and the former law is continued in effect for that  
18 purpose.

19 (f) The changes in law made by this Act by the amendment of  
20 Section 76.004, Agriculture Code, and the repeal of Section 76.005,  
21 Agriculture Code, apply only to a public hearing held on or after  
22 the effective date of this Act. A public hearing held before the  
23 effective date of this Act is governed by the law in effect  
24 immediately before the effective date of this Act, and the former  
25 law is continued in effect for that purpose.



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1 ARTICLE 10. ESTABLISHMENT OF THE OFFICIAL CITRUS PRODUCERS' PEST  
2 AND DISEASE MANAGEMENT CORPORATION

3 SECTION 10.01. Subtitle B, Title 5, Agriculture Code, is  
4 amended by adding Chapter 80 to read as follows:

5 CHAPTER 80. OFFICIAL CITRUS PRODUCERS' PEST AND DISEASE  
6 MANAGEMENT CORPORATION

7 Sec. 80.001. FINDINGS AND DECLARATION OF POLICY. (a) The  
8 legislature finds that:

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

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

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

26 (4) citrus producers, in partnership with the state  
27 and federal governments, have made significant investments toward

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1 the suppression of these pests and disease in this state; and

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

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

9 (c) The department may recover costs for administration of  
10 this chapter.

11 Sec. 80.002. DESIGNATION OF ENTITY TO CARRY OUT ASIAN  
12 CITRUS PSYLLID AND CITRUS GREENING CONTROL AND SUPPRESSION.

13 (a) The Texas Citrus Pest and Disease Management Corporation,  
14 Inc., a Texas nonprofit corporation, shall be recognized by the  
15 department as the entity to plan, carry out, and operate  
16 suppression programs to manage and control the Asian citrus psyllid  
17 and citrus greening in citrus plants in the state under the  
18 supervision of the department as provided by this chapter.

19 (b) The commissioner may terminate the corporation's  
20 designation as the entity recognized to carry out Asian citrus  
21 psyllid control and management by giving 45 days' written notice to  
22 the corporation and by designating a successor entity. If the  
23 commissioner designates a successor to the corporation, the  
24 successor has all the powers and duties of the corporation under  
25 this chapter. Any successor to the corporation shall assume and  
26 shall be responsible for all obligations and liabilities relating  
27 to any notes, security agreements, assignments, loan agreements,

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1 and any other contracts or other documents entered into by the  
2 corporation with or for the benefit of any financial institution or  
3 its predecessor, successor, or assignee.

4 Sec. 80.003. DEFINITIONS. In this chapter:

5 (1) "Board" means the board of directors of the Texas  
6 Citrus Pest and Disease Management Corporation, Inc.

7 (2) "Asian citrus psyllid" means Diaphorina citri  
8 Kuwayama.

9 (3) "Commissioner" means the commissioner of  
10 agriculture.

11 (4) "Citrus" means:

12 (A) a citrus plant;

13 (B) a part of a citrus plant, including trees,  
14 limbs, flowers, roots, and leaves; or

15 (C) citrus products.

16 (5) "Citrus greening" means the disease caused by the  
17 Asian citrus psyllid.

18 (6) "Citrus producer" means a person who grows citrus  
19 and receives income from the sale of citrus. The term includes an  
20 individual who as owner, landlord, tenant, or sharecropper is  
21 entitled to share in the citrus grown and available for marketing  
22 from a farm or to share in the proceeds from the sale of the citrus  
23 from the farm.

24 (7) "Suppression" means control of the numbers and  
25 migration of the Asian citrus psyllid to the extent that the  
26 commissioner does not consider further management of the Asian  
27 citrus psyllid necessary to prevent economic loss to citrus

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1 producers.

2           (8) "Pest management zone" means a geographic area  
3 designated by the commissioner in accordance with Section 80.005 in  
4 which citrus producers by referendum approve their participation in  
5 a citrus pest control program.

6           (9) "Corporation" means the Texas Citrus Pest and  
7 Disease Management Corporation, Inc., a Texas nonprofit  
8 corporation.

9           (10) "Host" means a plant or plant product in which the  
10 Asian citrus psyllid is capable of completing any portion of its  
11 life cycle.

12           (11) "Infested" means the presence of the Asian citrus  
13 psyllid in any life stage or the existence of generally accepted  
14 entomological evidence from which it may be concluded with  
15 reasonable certainty that the Asian citrus psyllid is present.

16           (12) "Integrated pest management" means the  
17 coordinated use of pest and environmental information with  
18 available pest control methods, including pesticides, natural  
19 predator controls, cultural farming practices, and climatic  
20 conditions, to prevent unacceptable levels of pest damage by the  
21 most economical means and with the least possible hazard to people,  
22 property, and the environment.

23           (13) "Regulated article" means an article carrying or  
24 capable of carrying the Asian citrus psyllid, including citrus  
25 plants, nursery plants, citrus rootstock, or other hosts.

26           Sec. 80.004. ADVISORY COMMITTEES. (a) The commissioner  
27 may appoint an advisory committee for an existing pest management

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1 zone or an area of the state that is to be considered by the  
2 commissioner for designation as or inclusion in a pest management  
3 zone. The committee shall gather advice, input, and guidance from  
4 citrus producers from the area represented by the committee  
5 concerning the interest in and concerns about the implementation of  
6 this chapter.

7 (b) Each advisory committee may consider and make  
8 recommendations to the commissioner and the corporation  
9 concerning:

10 (1) the geographic boundaries for a proposed pest  
11 management zone;

12 (2) the amount of local interest in operating a  
13 suppression program;

14 (3) the basis and amount of an assessment necessary to  
15 support a suppression program;

16 (4) ongoing implementation of a suppression program  
17 approved by growers in a pest management zone; and

18 (5) any other matter requested by the commissioner or  
19 the corporation.

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

24 (d) An advisory committee established under this section is  
25 subject to Chapters 551 and 552, Government Code.

26 Sec. 80.005. CREATION OF PEST MANAGEMENT ZONES. (a) The  
27 commissioner by rule may designate an area of this state as a

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1 proposed pest management zone.

2 (b) The commissioner may hold a public hearing in the  
3 proposed pest management zone to discuss the proposed geographic  
4 boundaries of the zone. The public hearing may include any other  
5 topic allowed under this chapter.

6 (c) After the adoption of a rule under Subsection (a), the  
7 commissioner shall conduct a referendum under Section 80.006.

8 Sec. 80.006. PEST MANAGEMENT ZONE REFERENDA. (a) The  
9 commissioner shall conduct a referendum in each proposed pest  
10 management zone to determine whether citrus producers want to  
11 establish a pest management zone.

12 (b) Pest management zone referenda shall be conducted under  
13 the procedures provided by Section 80.016.

14 (c) A proposed pest management zone referendum ballot must  
15 include or be accompanied by information about the proposed pest  
16 management zone, including:

17 (1) a statement of the purpose of the Asian citrus  
18 psyllid suppression program;

19 (2) the geographic area included in the proposed pest  
20 management zone;

21 (3) a general summary of rules adopted by the  
22 commissioner under Sections 80.016, 80.020, and 80.022, including a  
23 description of:

24 (A) citrus producer responsibilities; and

25 (B) penalties for noncompliance with rules  
26 adopted under this chapter; and

27 (4) an address and toll-free telephone number that a

1 citrus producer may use to request more information about the  
2 referendum or the Asian citrus psyllid suppression program.

3 (d) If a referendum to establish a pest management zone is  
4 not approved, the concurrent election of a board member from the  
5 proposed pest management zone under Section 80.007 has no effect,  
6 and the commissioner shall appoint a representative to the board  
7 from the area.

8 (e) The corporation may request the commissioner to call  
9 additional referenda in a proposed pest management zone in which a  
10 referendum has not been approved. An additional pest management  
11 zone referendum and concurrent board election may not be held  
12 before the first anniversary of the date of the preceding  
13 referendum.

14 (f) After the approval of any referendum, the eligible  
15 voters shall be allowed, by subsequent referenda, to vote on  
16 whether to continue their assessments. The requirements for an  
17 initial referendum must be complied with in a subsequent  
18 referendum.

19 Sec. 80.007. BOARD ELECTIONS. (a) The initial election  
20 for board members from a proposed pest management zone shall be held  
21 concurrently with a pest management zone referendum held under  
22 Section 80.006. Each pest management zone must be represented on  
23 the board and remain represented on the board until suppression  
24 operations are concluded and all debt of the pest management zone is  
25 paid.

26 (b) A board election shall be conducted under the procedures  
27 provided by this section and Section 80.016.

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

6        (d) A citrus producer who wants to be a candidate for the  
7 board must meet the qualifications for board membership and file an  
8 application with the commissioner. The application must be:

9            (1) filed not later than the 30th day before the date  
10 set for the board election;

11            (2) on a form approved by the commissioner; and

12            (3) signed by at least 10 citrus producers who are  
13 eligible to vote in the board election.

14        (e) On receipt of an application and verification that the  
15 application meets the requirements of Subsection (d), an  
16 applicant's name shall be placed on the ballot for the board  
17 election.

18        (f) An eligible voter may vote for a citrus producer whose  
19 name does not appear on the official ballot by writing that person's  
20 name on the ballot.

21        (g) A board election must be preceded by at least 45 days'  
22 notice published in one or more newspapers published and  
23 distributed in the proposed or established pest management zone.  
24 The notice shall be published not less than once a week for three  
25 consecutive weeks. Not later than the 45th day before the date of  
26 the election, direct written notice of the election shall be given  
27 to each Texas AgriLife Extension Service agent in the pest



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1 management zone.

2 (h) Each board member shall be sworn into office by a  
3 representative of the commissioner by taking the oath of office  
4 required for elected officers of the state.

5 Sec. 80.008. COMPOSITION OF BOARD. (a) The board is  
6 composed of members elected from each pest management zone  
7 established by referendum, members appointed by the commissioner  
8 from other citrus-growing areas of the state, and members appointed  
9 by the commissioner under Subsection (b). The commissioner shall  
10 appoint an initial board composed of 15 members. Except as provided  
11 by Subsection (b), the term of each board position may not exceed  
12 four years.

13 (b) In making appointments under this section, the  
14 commissioner shall appoint the following board members, selected  
15 from a variety of citrus-growing regions of the state, for  
16 four-year terms:

- 17 (1) an agricultural lender;
- 18 (2) an independent entomologist who is an integrated  
19 pest management specialist;
- 20 (3) two representatives from industries allied with  
21 citrus production; and
- 22 (4) a representative from the pest control industry.

23 (c) The commissioner may change the number of board  
24 positions or the pest management zone representation on the board  
25 to accommodate changes in the number of pest management zones. A  
26 change under this subsection may not contravene another provision  
27 of this chapter.

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1        (d) A vacancy on the board shall be filled by appointment by  
2 the commissioner for the unexpired term.

3        (e) On 30 days' notice and opportunity for hearing, the  
4 commissioner may replace any unelected board member of the  
5 corporation.

6        Sec. 80.009. POWERS OF BOARD AND COMMISSIONER. (a) The  
7 board may:

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

10          (2) accept, as necessary to implement this chapter,  
11 gifts and grants;

12          (3) borrow money, with the approval of the  
13 commissioner, as necessary to execute this chapter;

14          (4) take other action and exercise other authority as  
15 necessary to execute any act authorized by this chapter or the Texas  
16 Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's  
17 Texas Civil Statutes); and

18          (5) form an advisory committee composed of individuals  
19 from this state, other states, or other countries and change  
20 membership on the committee, as necessary. Any advisory committee  
21 created under this subdivision for the purpose of establishing  
22 treatment methods shall include among its members persons with  
23 knowledge of the effects of different treatments on the health of  
24 agricultural workers, the local population, and the ecosystem,  
25 including but not limited to the effects of a particular method of  
26 treatment on beneficial organisms and wildlife, the potential for  
27 secondary infestations from nontarget pests, and the potential for

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1 pest resistance to particular methods of treatment.

2 (b) On petition of at least 30 percent of the citrus  
3 producers eligible to vote in the proposed area, the commissioner  
4 may, or at the commissioner's discretion the commissioner by rule  
5 may, add an area to a pest management zone or transfer an area or  
6 county from one zone to another zone if:

7 (1) citrus production has begun or could begin in the  
8 area;

9 (2) the area is adjacent to a pest management zone or  
10 is in an area with biological characteristics similar to the pest  
11 management zone; and

12 (3) the addition is approved in a referendum held in  
13 the area.

14 (c) The board must adopt a procurement policy, subject to  
15 approval by the commissioner, outlining the procedures to be used  
16 in purchasing.

17 (d) The commissioner at any time may inspect the books and  
18 other financial records of the corporation.

19 Sec. 80.010. BOARD DUTIES. (a) The board shall have an  
20 annual independent audit of the books, records of account, and  
21 minutes of proceedings maintained by the corporation prepared by an  
22 independent certified public accountant or a firm of independent  
23 certified public accountants. The audit must include information  
24 for each zone in which a suppression program has been conducted  
25 under this chapter. The audit shall be filed with the board, the  
26 commissioner, and the state auditor and be made available to the  
27 public by the corporation or the commissioner. The transactions of

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1 the corporation are subject to audit by the state auditor in  
2 accordance with Chapter 321, Government Code.

3 (b) Not later than the 45th day after the last day of the  
4 fiscal year, the board shall submit to the commissioner a report  
5 itemizing all income and expenditures and describing all activities  
6 of the corporation during the fiscal year.

7 (c) The corporation shall provide fidelity bonds in amounts  
8 determined by the board for employees or agents who handle money for  
9 the corporation.

10 (d) The corporation and the board are state agencies for the  
11 following purposes only:

12 (1) exemption from taxation, including exemption from  
13 sales and use taxes and taxes under Chapter 152, Tax Code; and

14 (2) exemption from vehicle registration fees.

15 (e) Funds collected by the corporation are not state funds  
16 and are not required to be deposited in the state treasury. The  
17 corporation shall deposit all money collected under this chapter in  
18 a bank or other depository approved by the commissioner.

19 (f) The board shall collect data on the type and quantity of  
20 pesticides used in accordance with this chapter. The data shall be  
21 filed with the commissioner.

22 (g) All money collected under this chapter shall be used  
23 solely to finance programs approved by the commissioner as  
24 consistent with this chapter.

25 (h) The corporation is subject to the requirements of:

26 (1) the open meetings law, Chapter 551, Government  
27 Code; and

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1           (2) the public information law, Chapter 552,  
2 Government Code.

3           (i) A board member may not vote on any matter in which the  
4 member has a direct pecuniary interest. A board member is subject  
5 to the same restrictions as a local public official under Chapter  
6 171, Local Government Code.

7           Sec. 80.011. ADMINISTRATIVE REVIEW. (a) The commissioner  
8 by rule shall establish procedures for the informal review and  
9 resolution of a claim arising out of certain acts taken by the  
10 corporation under this chapter. Rules established under this  
11 section shall include a designation of the acts that are subject to  
12 review under this subsection and the appropriate remedial action,  
13 as authorized by this chapter.

14           (b) A person dissatisfied with the department's informal  
15 resolution of a claim under procedures adopted under Subsection (a)  
16 may appeal the department's decision to the commissioner.

17           (c) A decision issued by the commissioner on a claim  
18 appealed under Subsection (b) is the final administrative action of  
19 the department and is subject to judicial review under Chapter  
20 2001, Government Code.

21           (d) This section does not constitute a waiver of the state's  
22 immunity from liability.

23           Sec. 80.012. CONTRACTING. (a) For a purchase of goods and  
24 services under this chapter, the corporation may purchase goods and  
25 services that provide the best value for the corporation.

26           (b) In determining the best value for the corporation, the  
27 purchase price and whether the goods or services meet

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1 specifications are the most important considerations. However, the  
2 corporation may consider other relevant factors, including:

3 (1) the quality and reliability of the goods and  
4 services;

5 (2) the delivery terms;

6 (3) indicators of probable vendor performance under  
7 the contract, including:

8 (A) past vendor performance;

9 (B) the vendor's financial resources and ability  
10 to perform;

11 (C) the vendor's experience or demonstrated  
12 capability and responsibility; and

13 (D) the vendor's ability to provide reliable  
14 maintenance agreements and support;

15 (4) the cost of any employee training associated with  
16 a purchase; and

17 (5) other factors relevant to determining the best  
18 value for the corporation in the context of a particular purchase.

19 Sec. 80.013. BOARD MEMBER COMPENSATION. Board members  
20 serve without compensation but are entitled to reimbursement for  
21 reasonable and necessary expenses incurred in the discharge of  
22 their duties.

23 Sec. 80.014. DISCONTINUATION OF PROGRAM AND CORPORATION AND  
24 DISPOSITION OF FUNDS ON DISCONTINUANCE. (a) On the determination  
25 by the corporation that the Asian citrus psyllid suppression  
26 program has been completed in all pest management zones established  
27 under this chapter, the corporation shall provide notice of the

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1 completion to the commissioner along with a request for  
2 discontinuance of the control and suppression program and  
3 collection of the assessment. Any request under this subsection  
4 must include documentation supporting the fact that the Asian  
5 citrus psyllid is no longer a threat to the state's citrus industry  
6 and a plan for discontinuance of the program and assessment.

7 (b) The commissioner shall determine whether or not the  
8 further suppression of the Asian citrus psyllid is necessary in the  
9 pest management zones and approve or disapprove discontinuance of  
10 the corporation and the plan for dissolution.

11 (c) On completion of the dissolution, the corporation shall  
12 file a final report with the commissioner, including a financial  
13 report, and submit all remaining funds into the trust of the  
14 commissioner. Final books of the corporation shall be filed with  
15 the commissioner and are subject to audit by the department.

16 (d) The commissioner shall pay from the corporation's  
17 remaining funds all of the corporation's outstanding obligations.

18 (e) Funds remaining after payment under Subsection (d)  
19 shall be returned to contributing citrus producers on a pro rata  
20 basis.

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

26 (g) The commissioner shall give notice of the referendum,  
27 the referendum shall be conducted, and the results shall be

1 declared in the manner provided by law for the original referendum  
2 and election, with any necessary exceptions provided by rule of the  
3 commissioner.

4 (h) The commissioner shall conduct the referendum before  
5 the 90th day after the date the petition was filed, except that a  
6 referendum may not be held before the second anniversary of any  
7 other referendum in the pest management zone pertaining to  
8 establishing or discontinuing the pest management zone.

9 (i) Approval of the proposition requires the same vote as  
10 required in a referendum under Section 80.016(g). If the  
11 proposition is approved, the suppression program is abolished and  
12 the pest management zone ceases to exist on payment of all debts of  
13 the pest management zone.

14 Sec. 80.015. ASSESSMENT REFERENDA. (a) The commissioner  
15 shall propose the assessment needed in each pest management zone to  
16 ensure the stability of the citrus industry by suppressing the  
17 public nuisance caused by the Asian citrus psyllid.

18 (b) The commissioner shall propose in a referendum the:

19 (1) maximum assessment to be paid by citrus producers  
20 having production in the pest management zone; and

21 (2) time for which the assessment will be made.

22 (c) With the commissioner's approval, the corporation may  
23 make an assessment in a pest management zone at a level less than  
24 the assessment approved by the referendum.

25 (d) The commissioner shall conduct an assessment referendum  
26 under the procedures provided by Section 80.016.

27 (e) If an assessment referendum is approved, the



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1 corporation may collect the assessment.

2 (f) An assessment levied on citrus producers in a pest  
3 management zone may be applied only to:

- 4 (1) pest control in that zone;
- 5 (2) the corporation's operating costs, including  
6 payments on debt incurred for a corporation activity, except that  
7 the funds of one zone may not be used to pay another zone's bank  
8 loans or debts; and

9 (3) the conducting of other programs consistent with  
10 the declaration of policy stated in Section 80.001.

11 (g) The assessment shall be adequate and necessary to  
12 achieve the goals of this chapter. The amount of the assessment  
13 shall be determined by criteria established by the commissioner,  
14 including:

- 15 (1) the extent of infestation;
- 16 (2) the amount of acreage planted;
- 17 (3) historical efforts to suppress;
- 18 (4) the growing season;
- 19 (5) epidemiology;
- 20 (6) historical weather conditions; and
- 21 (7) the costs and financing of the program.

22 (h) The commissioner shall give notice of and hold a public  
23 hearing in the pest management zone regarding the proposed  
24 assessment referendum. Before the referendum, the commissioner  
25 shall review and approve:

- 26 (1) the amount of the assessment;
- 27 (2) the basis for the assessment;

the

1           (3) the time for payment of the assessment;

2           (4) the method of allocation of the assessment among  
3 citrus producers;

4           (5) the restructuring and repayment schedule for any  
5 preexisting debt; and

6           (6) the amount of debt to be incurred in the pest  
7 management zone.

8           (i) The commissioner shall on a zone-by-zone basis set the  
9 date on which assessments are due and payable.

10           (j) Each year, the commissioner shall review and approve the  
11 corporation's operating budget.

12           (k) The corporation shall prepare and mail billing  
13 statements to each citrus producer subject to the assessment that  
14 state the amount due and the due date. The assessments shall be  
15 sent to the corporation.

16           Sec. 80.016. CONDUCT OF BOARD ELECTIONS AND REFERENDA;  
17 BALLOTING. (a) The commissioner shall conduct a referendum or  
18 board election authorized under this chapter.

19           (b) The corporation shall bear all expenses incurred in  
20 conducting a referendum or board election.

21           (c) The commissioner shall adopt rules for voting in board  
22 elections and referenda to establish pest management zones. Rules  
23 adopted under this subsection must include provisions for  
24 determining:

25           (1) who is a citrus producer eligible to vote in an  
26 election or referendum;

27           (2) whether a board member is elected by a plurality or

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1 a majority of the votes cast; and

2 (3) the area from which each board member is elected.

3 (d) A citrus producer having citrus production in a proposed  
4 or established pest management zone is entitled to:

5 (1) vote in a referendum concerning the pest  
6 management zone; and

7 (2) elect board members to represent the pest  
8 management zone.

9 (e) An eligible citrus producer may vote only once in a  
10 referendum or board election.

11 (f) Ballots in a referendum or board election shall be  
12 mailed directly to a central location, as determined by the  
13 commissioner. A citrus producer eligible to vote in a referendum or  
14 board election who has not received a ballot from the commissioner,  
15 corporation, or another source shall be offered the option of  
16 requesting a ballot by mail or obtaining a ballot at the office of  
17 the Texas AgriLife Extension Service or a government office  
18 distributing ballots in a county in the proposed or established  
19 zone in which the referendum or board election is conducted.

20 (g) A referendum is approved if:

21 (1) at least two-thirds of those voting vote in favor  
22 of the referendum; or

23 (2) those voting in favor of the referendum cultivate  
24 more than 50 percent, as determined by the commissioner, of the  
25 citrus acreage in the relevant pest management zone.

26 (h) If a referendum under this chapter is not approved, the  
27 commissioner may conduct another referendum. A referendum under

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1 this subsection may not be held before the first anniversary of the  
2 date on which the previous referendum on the same issue was held.

3 (i) A public hearing regarding the proposed suppression  
4 program, including information regarding regulations to be  
5 promulgated by the commissioner, may be held by the commissioner in  
6 each of several locations in each Asian citrus psyllid pest  
7 management zone.

8 (j) Individual voter information, including an individual's  
9 vote in a referendum or board election conducted under this  
10 section, is confidential and is not subject to disclosure under  
11 Chapter 552, Government Code.

12 Sec. 80.017. PAYMENT OF ASSESSMENTS; ASSESSMENT LIENS.

13 (a) A citrus producer who fails to pay an assessment levied under  
14 this chapter when due may be subject, after reasonable notice and  
15 opportunity for hearing, to a penalty set by the commissioner. In  
16 determining the amount of the penalty to be assessed, the  
17 commissioner shall consider:

- 18 (1) the seriousness of the violation, including the
- 19 nature, circumstances, and extent of the violation;
- 20 (2) the history of previous violations;
- 21 (3) the amount necessary to deter future violations;
- 22 (4) the economic situation of the citrus producer; and
- 23 (5) any other matter that justice may require.

24 (b) The corporation may develop a compliance certificate  
25 program to manage the payment and collection of an assessment  
26 levied under this chapter. Under the program the corporation,  
27 subject to department rules, may issue a compliance certificate for

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1 citrus for which an assessment has been paid.

2 (c) In addition to any other remedies for the collection of  
3 assessments and penalties, the commissioner may adopt rules  
4 relating to the compliance certificate program for suppression  
5 assessments. The rules may include:

6 (1) provisions establishing and relating to the  
7 obligations of growers, packers, and buyers in due course of citrus  
8 produced in active pest management zones to ensure that assessments  
9 are paid within a prescribed time period;

10 (2) provisions allowing incentives in the form of  
11 discounted assessments for growers who pay assessments within a  
12 prescribed time period;

13 (3) provisions establishing penalties and interest  
14 against growers who pay assessments after a prescribed time period;  
15 and

16 (4) other provisions the commissioner determines are  
17 proper.

18 (d) In addition to any other remedies for the collection of  
19 assessments and penalties, an assessment lien in favor of the  
20 corporation attaches and is perfected 60 days after the date the  
21 corporation mails notice of the assessment on citrus produced and  
22 harvested that year from the acreage that is subject to the  
23 assessment that is due and unpaid. An assessment lien is not an  
24 agricultural lien for the purposes of Chapter 9, Business &  
25 Commerce Code, and is not subject to the provisions of that chapter.  
26 An assessment lien is subject to and preempted by the Food Security  
27 Act of 1985 (7 U.S.C. Section 1631 et seq.) and shall be treated

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1 under that Act in the same manner as a security interest created by  
2 the seller. A buyer of citrus takes free of the assessment lien if  
3 the buyer:

4 (1) receives a compliance certificate issued by the  
5 corporation when the buyer purchases the citrus that certifies that  
6 the assessment has been paid to the corporation;

7 (2) pays for the citrus by a check on which the  
8 department is named as a joint payee;

9 (3) does not receive notice of the assessment lien as  
10 required by the Food Security Act of 1985 (7 U.S.C. Section 1631 et  
11 seq.); or

12 (4) buys the citrus from a person other than the  
13 producer of the citrus.

14 (e) The corporation may assign, with the approval of the  
15 commissioner, assessments or liens in favor of the corporation as  
16 collateral for a loan to the corporation only if the proceeds of the  
17 loan are designated for use in the pest management zone from which  
18 the assessments or liens originated.

19 (f) If the department believes that a violation of this  
20 section or a rule adopted under this section has occurred, the  
21 department may investigate and, during normal business hours, audit  
22 and inspect the records of the person who is the subject of the  
23 investigation.

24 Sec. 80.018. EXEMPTION FROM ASSESSMENT PENALTIES. (a) The  
25 commissioner by rule shall adopt criteria to exempt from payment of  
26 an assessment penalty under Section 80.017 a citrus producer for  
27 whom payment would impose an undue financial burden.

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

6        (c) A citrus producer who applies for an exemption under  
7 this section must use a form prescribed by the commissioner. A  
8 citrus producer must file a separate application form for each year  
9 for which the citrus producer claims an exemption.

10       (d) The commissioner may establish a payment plan for a  
11 citrus producer applying for an exemption under this section.

12       (e) The commissioner shall promptly notify an applicant of  
13 the determination regarding the applicant's request for an  
14 exemption.

15       (f) If an exemption under this section is denied,  
16 assessments and penalties for the year for which the application is  
17 made are due on the later of:

18            (1) the date on which they would be due in the absence  
19 of an application for exemption; or

20            (2) 30 days after the date the applicant receives  
21 notice of the denial.

22       (g) In addition to the authority provided under Subsections  
23 (a)-(f), the commissioner may reduce or waive an assessment penalty  
24 as appropriate and necessary.

25       Sec. 80.019. ENTRY OF PREMISES; SUPPRESSION ACTIVITIES;  
26 INSPECTIONS. The department, the corporation, or a designated  
27 representative of either entity may enter citrus groves or other

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1 premises to carry out the purposes of this chapter, which include  
2 the treatment and monitoring of growing citrus or other host  
3 plants. The department, the corporation, or a designated  
4 representative of either entity may inspect groves or premises in  
5 this state for the purpose of determining whether the property is  
6 infested with the Asian citrus psyllid or citrus greening. An  
7 inspection must be conducted during reasonable daylight hours. The  
8 department shall give notice by publication of the planned schedule  
9 of dates for entry by the department, the corporation, or a  
10 designated representative of either entity, to the owner or  
11 occupant of the groves or premises to carry out the purposes of this  
12 chapter, including treatment, monitoring, or inspection functions.  
13 The department shall publish notice of the planned schedule to  
14 enter the groves or premises in a newspaper of general circulation  
15 in the pest management zone not less than once a week for two weeks  
16 immediately before the scheduled dates of entry. In addition to the  
17 notice published by the department, the corporation shall post  
18 notice of the planned schedule to enter groves or premises to carry  
19 out the purposes of this chapter at the county courthouse of each  
20 county in the pest management zone not later than the 15th day  
21 before the planned dates of entry.

22 Sec. 80.020. AUTHORITY TO PROHIBIT PLANTING OF CITRUS AND  
23 REQUIRE PARTICIPATION IN SUPPRESSION PROGRAM. (a) The  
24 commissioner may adopt reasonable rules regarding areas where  
25 citrus may not be planted in a pest management zone if there is  
26 reason to believe planting will jeopardize the success of the  
27 program or present a hazard to public health or safety.



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

6        (c) Notice of a prohibition or requirement shall be given by  
7 publication for one day each week for three successive weeks in a  
8 newspaper having general circulation in the affected area.

9        (d) The commissioner may adopt a reasonable schedule of  
10 penalty fees to be assessed against growers in a designated pest  
11 management zone who do not meet the requirements of the rules issued  
12 by the commissioner relating to reporting of acreage and  
13 participation in cost sharing. A penalty fee may not exceed \$50 per  
14 acre.

15        Sec. 80.021. AUTHORITY FOR DESTRUCTION OR TREATMENT OF  
16 CITRUS IN PEST MANAGEMENT ZONES; COMPENSATION PAYABLE. The  
17 department may destroy or treat, and establish procedures for the  
18 purchase and destruction of, citrus plants or hosts in pest  
19 management zones if the department determines the action is  
20 necessary to carry out the purposes of this chapter. The department  
21 is not liable to the owner or lessee for the destruction of or  
22 injury to any citrus that was planted in a pest management zone  
23 after the date notice is published as required by this chapter. The  
24 corporation is liable for the destruction of citrus if the citrus  
25 was planted in a pest management zone before the date that notice is  
26 published.

27        Sec. 80.022. AUTHORITY TO ADOPT RULES. (a) The

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1 commissioner shall adopt rules to protect individuals, livestock,  
2 wildlife, and honeybee colonies on any premises in a pest  
3 management zone on which citrus plants are being grown that have  
4 been or are being treated to control or suppress the Asian citrus  
5 psyllid and citrus greening.

6 (b) Rules adopted under this section shall establish the  
7 criteria by which the corporation develops its procedures and  
8 methods of treatment, which shall:

9 (1) establish a methodology for determining when Asian  
10 citrus psyllid population levels have reached economic  
11 significance or when citrus greening is present;

12 (2) establish an effective treatment regimen that  
13 seeks to provide the least possible risk to workers, the public, and  
14 the environment;

15 (3) minimize the effects of the use of pesticides on  
16 long-term control methods, including but not limited to the effect  
17 a particular pesticide may have on biological controls;

18 (4) establish methods for monitoring Asian citrus  
19 psyllids, citrus greening, and secondary pests;

20 (5) establish methods for verifying pesticide use  
21 reduction; and

22 (6) consider the acute and chronic toxicity of  
23 particular pesticides and the quantity of particular pesticides  
24 needed. Pest management zone treatment plans may take into account  
25 the potential for the use of smaller quantities of more toxic  
26 substances to result in fewer health and environmental risks than  
27 larger quantities of less toxic substances.

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1        (c) The commissioner may adopt other reasonable rules  
2 necessary to carry out the purposes of this chapter. All rules  
3 issued under this chapter must be adopted and published in  
4 accordance with the laws of this state.

5        (d) An advisory committee may be established to assist the  
6 commissioner in the development of rules under this section. The  
7 advisory committee may be composed of:

8            (1) three citrus producers from the commercial citrus  
9 growing area of the state, appointed by the commissioner;

10           (2) three entomologists with knowledge of the  
11 principles of integrated pest management, at least one of whom has  
12 special knowledge of nonchemical or biological pest control,  
13 appointed by the commissioner;

14           (3) two individuals with experience representing the  
15 general interests of the environment, appointed by the chair of the  
16 Texas Commission on Environmental Quality;

17           (4) an environmental engineer with expert knowledge of  
18 ground and surface water protection from contamination, appointed  
19 by the chair of the Texas Commission on Environmental Quality; and

20           (5) a toxicologist, appointed by the commissioner of  
21 state health services.

22        Sec. 80.023. REPORTS. Each person in an active pest  
23 management zone growing citrus in this state shall furnish to the  
24 corporation on forms supplied by the corporation information that  
25 the corporation requires concerning the size and location of all  
26 commercial citrus orchards and of noncommercial citrus grown for  
27 ornamental or other purposes. The corporation may provide an

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1 incentive for early and timely reporting.

2 Sec. 80.024. DOCUMENTING REGULATED ARTICLES. To implement  
3 this chapter, the department may issue or authorize issuance of:

4 (1) a certificate that indicates that a regulated  
5 article is not infested with the Asian citrus psyllid; and

6 (2) a permit that provides for the movement of a  
7 regulated article to a restricted destination for limited handling,  
8 use, or processing.

9 Sec. 80.025. COOPERATIVE PROGRAMS AUTHORIZED. (a) The  
10 corporation may carry out programs to destroy and manage the Asian  
11 citrus psyllid and citrus greening in this state by cooperating  
12 through written agreements, as approved by the commissioner, with:

13 (1) an agency of the federal government;

14 (2) a state agency;

15 (3) an appropriate agency of a foreign country  
16 contiguous to the affected area to the extent allowed by federal  
17 law;

18 (4) a person who is engaged in growing, processing,  
19 marketing, or handling citrus;

20 (5) a group of persons in this state involved in  
21 similar programs to carry out the purposes of this chapter; or

22 (6) an appropriate state agency of another state  
23 contiguous to the affected area, to the extent allowed by federal  
24 law, the law of the contiguous state, and the law of this state.

25 (b) An agreement entered into under this section may provide  
26 for cost sharing and for division of duties and responsibilities  
27 under this chapter and may include other provisions to carry out the

1 purposes of this chapter.

2 Sec. 80.026. ORGANIC CITRUS PRODUCERS. (a) The  
3 commissioner shall develop rules and procedures to:

4 (1) protect the eligibility of organic citrus  
5 producers to be certified by the commissioner;

6 (2) ensure that organic and transitional  
7 certifications by the commissioner continue to meet national  
8 certification standards in order for organic citrus to maintain  
9 international marketability; and

10 (3) in all events maintain the effectiveness of the  
11 Asian citrus psyllid suppression program and citrus greening  
12 management administered under this chapter.

13 (b) The board may not treat or require treatment of organic  
14 citrus groves with chemicals that are not approved for use on  
15 certified organic citrus. Rules adopted under Subsection (a) may  
16 provide indemnity for the organic citrus producers for reasonable  
17 losses that result from a prohibition of production of organic  
18 citrus or from any requirement of destruction of organic citrus.

19 Sec. 80.027. PENALTIES. (a) A person who violates this  
20 chapter or a rule adopted under this chapter or who alters, forges,  
21 counterfeits, or uses without authority a certificate, permit, or  
22 other document issued under this chapter or under a rule adopted  
23 under this chapter commits an offense.

24 (b) An offense under this section is a Class C misdemeanor.

25 (c) If the commissioner determines that a violation of this  
26 chapter or a rule adopted under this chapter has occurred, the  
27 commissioner may request that the attorney general or the county or

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1 district attorney of the county in which the alleged violation  
2 occurred or is occurring file suit for civil, injunctive, or other  
3 appropriate relief.

4 Sec. 80.028. SUNSET PROVISION. (a) The board of directors  
5 of the official citrus producers' pest and disease management  
6 corporation is subject to Chapter 325, Government Code (Texas  
7 Sunset Act). Unless continued in existence as provided by that  
8 chapter, the board is abolished and this chapter expires September  
9 1, 2021.

10 (b) The commissioner may order the dissolution of the  
11 corporation at any time the commissioner determines that the  
12 purposes of this chapter have been fulfilled or that the  
13 corporation is inoperative and abandoned. Dissolution shall be  
14 conducted in accordance with Section 80.014.

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

19 Sec. 80.029. ANNUAL REPORT. The board shall issue to the  
20 commissioner and the appropriate oversight committee in the house  
21 of representatives an annual report detailing its efforts to carry  
22 out the purposes of this chapter.

23 Sec. 80.030. EXEMPTION FROM TAXATION. All payments,  
24 contributions, funds, and assessments received or held by the  
25 corporation under this chapter are exempt from state or local  
26 taxation, levies, sales, and any other process and are  
27 unassignable.

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1       Sec. 80.031. USE OF BIO-INTENSIVE CONTROLS. (a) The  
2 commissioner shall develop and adopt rules to allow a citrus  
3 producer in a suppression program to use biological, botanical, or  
4 other nonsynthetic pest control methods. In developing rules, the  
5 commissioner shall consider:

6           (1) scientific studies and field trials of the  
7 effectiveness of a proposed alternative control method;

8           (2) the feasibility of using a proposed alternative  
9 control technique within a particular region;

10          (3) the degree of monitoring necessary to establish  
11 the success of the use of a proposed alternative control; and

12          (4) methods to prevent the use of substances that  
13 would impede the use of alternative controls and the promotion of  
14 beneficial insect populations.

15       (b) A citrus producer that chooses to use an alternative  
16 method of control as provided in Subsection (a) shall notify the  
17 board. The board and the citrus producer shall coordinate their  
18 actions to prevent the use of substances that would impede the use  
19 of alternative controls and the promotion of beneficial insect  
20 populations.

21       (c) The citrus producer shall pay any additional cost of  
22 bio-intensive control in addition to any assessment.

23       Sec. 80.032. VENUE. Venue for an action arising out of this  
24 chapter in which the corporation is a party is in Travis County.

ARTICLE 11. EFFECTIVE DATE

25           SECTION 11.01. This Act takes effect September 1, 2009.

S.B. No. 1016

David Dewhurst  
President of the Senate

Jim Strawn  
Speaker of the House

I hereby certify that S.B. No. 1016 passed the Senate on April 16, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 25, 2009, by the following vote: Yeas 31, Nays 0.

Patricia Spaw  
Secretary of the Senate

I hereby certify that S.B. No. 1016 passed the House, with amendments, on May 21, 2009, by the following vote: Yeas 142, Nays 0, two present not voting.

Robert Haney  
Chief Clerk of the House

Approved:

19 JUN '09  
Date

RICK PERRY  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
2 PM O'CLOCK  
JUN 19 2009

Colby Hunter III