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 [ie in
the business or entering the business of

[(A)] processing and marketing agricultural crops

in this state,

[(B)] producing alternative agricultural crops in
this state,

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

[(D) producing agricultural crops in this state
using water conservation equipment for agricultural production
purposes; or

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

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

Sec. 44.007. INTEREST RATE REDUCTION [LINKED DEPOSIT]
PROGRAM.

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

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

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

[(2) encourage the development or expansion of
businesses in rural areas of this state; and

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

(c) The board shall promulgate rules for the loan portion of
the interest rate reduction [linked deposit] program. [The rules
must include:

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

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

(3) identification of criteria for a project eligible for natural disaster assistance; and

(4) identification of projects and types of equipment considered as water conservation projects or equipment for agricultural production purposes;

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

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

(1) achieve adequate geographic distribution of loans;

(2) assist certain industries;

(3) encourage certain practices including water conservation; and

(4) encourage value-added processing of agricultural
1 (`products.`)
2
3 (1) A lending institution is not ineligible to participate
4 in the interest rate reduction [linked deposit] program solely
5 because a member of the board is also an officer, director, or
6 employee of the lending institution, provided that a board member
7 shall recuse himself or herself from any action taken by the board
8 on an application involving a lending institution by which the
9 board member is employed or for which the board member serves as an
10 officer or director.
11
12 SECTION 1.04. Subsections (a) and (b), Section 44.010,
13 Agriculture Code, are amended to read as follows:
14
15 (a) At any one time, not more than $30 million [$10 million
16 of which may be used only to finance water conservation projects and
17 $5 million of which may be used only to finance the economic
18 development of businesses in rural areas] may be placed in linked
19 deposits under this chapter.
20
21 (b) The maximum amount of a loan under this chapter [to
22 procure and market Texas agricultural crops] is $500,000. [The
23 maximum amount of a loan under this chapter to produce alternative
24 agricultural crops in this state is $250,000. The maximum amount of
25 a loan under this chapter to finance water conservation projects or
26 equipment for agricultural production purposes is $250,000. The
27 maximum amount of a loan under this chapter to finance production of
28 a crop declared eligible for disaster relief, as defined by
29 board rule, is $250,000. The maximum amount of a loan under this
30 chapter to finance a business in a rural area is $250,000.]
31
32 SECTION 1.05. Section 58.012, Agriculture Code, is amended
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by amending Subsections (a), (b), and (c) and adding Subsection (g)
to read as follows:

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

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

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

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

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

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

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

(c) Any vacancy occurring in an appointed position on the
board shall be filled by the commissioner [governor] for the
unexpired term.

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

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

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

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

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

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

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

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

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

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

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

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

(d) When the board authorizes the issuance of debt instruments to fund a loan, the authority shall notify the Texas
Public Finance Authority of the amount of the loan and the recipient
of the loan and request the Texas Public Finance Authority to issue
debt instruments in an amount necessary to fund the loan. The
authority and the Texas Public Finance Authority shall determine
the amount and time of a debt instrument issue to best provide funds
for one or multiple loans.

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

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

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

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

(i) This subsection applies only in relation to general
obligation debt instruments. To the extent other sources of
revenue available for payment of the authority's debts are
insufficient and in accordance with the Texas Constitution, general
revenue is to be appropriated to the Texas Public Finance Authority
in an amount determined by the Texas Public Finance Authority to be
necessary to pay the principal, premium if any, and interest on
general obligation debt instruments issued by the Texas Public
Finance Authority on behalf of the authority, and that amount shall
be specified in the biennial appropriations acts.

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

SUBCHAPTER E. AGRICULTURAL [YOUNG FARMER] LOAN GUARANTEE PROGRAM

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

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

[(A)] is at least 18 years of age but younger than

40 years of age, and

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

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

Sec. 58.052. AGRICULTURAL [YOUNG FARMER] LOAN GUARANTEE
PROGRAM.

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

(b) The board, either directly or through authority
delegated to the commissioner, may grant to an eligible applicant a
guarantee of a loan made by a commercial lender for the purposes
prescribed by this subchapter. The board by rule shall establish

tiered loan guarantee limits. To be eligible to be guaranteed under
this subchapter, a loan with a term of more than one year must have a
fixed interest rate [guarantee amount may not exceed the lesser of
$250,000 or 90 percent of the loan amount].

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

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

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

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

Sec. 58.056. MONEY FOR LOAN GUARANTEE PROGRAM. The
authority may accept gifts and grants of money from the federal
government, local governments, private corporations, or other
persons for use in the agricultural [young farmer] loan guarantee
program. The legislature may appropriate money for the program.

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

(g) [4+] The fund includes [account consists of funds and
transfers made to the account,] grants and donations made for the
purposes of the programs administered by the Texas Agricultural
Finance Authority [the young farmer loan guarantee program, income
earned on money in the account,] and any other money received under
this chapter [subchapter]. Notwithstanding Section 404.071,
Government Code, income and interest earned on money in the fund
[account] shall be deposited to the credit of the fund [account].
[At the end of each state fiscal year the authority shall transfer
to the general credit of the Texas agricultural fund any interest
earned on the account that remains after payment of any
administrative expenses of the program.] The fund [account] is
exempt from the application of Section 403.095, Government Code.

(h) [4+] The board shall attempt to administer the fund in
a manner that makes private donations to the fund an eligible
itemized deduction for federal income taxation purposes.

SECTION 1.16. Chapter 58, Agriculture Code, is amended by
adding Subchapter F to read as follows:
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SUBCHAPTER F. YOUNG FARMER INTEREST RATE REDUCTION PROGRAM

Sec. 58.071. DEFINITIONS. In this subchapter:

(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 young farmer interest rate reduction program and to provide collateral equal to the amount of linked deposits placed with it.

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

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

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

(ii) 0.5 percent;

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

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

Sec. 58.072. YOUNG FARMER INTEREST RATE REDUCTION PROGRAM.

(a) The board shall establish a young farmer interest rate
reduction program to promote the creation and expansion of
agricultural businesses by young people in this state.

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

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

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

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

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

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

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

(i) After acceptance of the application, the comptroller
shall place a linked deposit with the applicable eligible lending
institution for the period the comptroller considers appropriate.
The comptroller may not place a deposit for a period extending beyond the state fiscal biennium in which it is placed. Subject to the limitation described by Section 58.075, the comptroller may place time deposits at an interest rate described by Section 58.071(2).

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

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

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

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

(n) Linked deposits under the young farmer interest rate reduction program shall be funded from the Texas agricultural fund.
deposit, an eligible lending institution must loan money to
eligible applicants in accordance with the deposit agreement and
this subchapter. The eligible lending institution shall forward a
compliance report to the board.

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

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

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

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

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

SUBCHAPTER G. YOUNG FARMER GRANT PROGRAM

Sec. 58.091. GRANT PROGRAM. (a) The authority shall
administer a young farmer grant program. A grant must be for the
purpose of fostering the creation and expansion of agricultural
businesses by young people in this state.
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(b) The board shall adopt rules governing the operation of
the program and selection criteria for grant recipients.

c) The board shall select grant recipients.
Sec. 58.092. ELIGIBILITY. To be eligible to receive a grant
under this subchapter, a person must:

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

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

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

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

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

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

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

Sec. 1232.101. ISSUANCE OF BONDS FOR CERTAIN STATE
AGENCIES. With respect to all bonds authorized to be issued by or
on behalf of the adjutant general's department, Parks and Wildlife
Department, Texas Agricultural Finance Authority, Texas Low-Level
Radioactive Waste Disposal Authority, Stephen F. Austin State
University, Midwestern State University, and Texas Southern
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
10 SECTION 1.19. Subsection (d), Section 1372.028, Government
11 Code, is amended to read as follows:
12
13 (d) An issuer is not required to provide the statement
14 required by Subsection (c)(3)(F) if the issuer:
15
16 (1) is an issuer of a state-voted issue;
17
18 (2) is the Texas Department of Housing and Community
19 Affairs[, the Texas Agricultural Finance Authority,] or the Texas
20 State Affordable Housing Corporation; or
21
22 (3) provides evidence that one or more binding
23 contracts have been entered into, or other evidence acceptable to
24 the board as described by program rule, to spend the unexpended
25 proceeds by the later of:
26
27 (A) 12 months after the date the board receives
28 the application; or
29
30 (B) December 31 of the program year for which the
31 application is filed.
32
33 SECTION 1.20. Subsection (b), Section 502.174,
34 Transportation Code, is amended to read as follows:
35
36 (b) The county assessor-collector shall send an assessment
collected under this section to the comptroller, at the time and in
the manner prescribed by the Texas Agricultural Finance Authority,
for deposit in the Texas agricultural fund [to the credit of the
young farmer loan guarantee account].

SECTION 1.21. The following provisions are repealed:

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

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

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

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

(5) Section 1372.0235, Government Code.

SECTION 1.22. On the effective date of this Act:

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

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

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

2 SECTION 1.24. (a) As soon as practicable on or after the
effective date of this Act, the commissioner of agriculture shall
appoint two members to the board of directors of the Texas
Agricultural Finance Authority who represent young farmers and the
interests of young farmers. In appointing those members, the
commissioner shall appoint one person to a term expiring January 1,
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
date of this Act to continue to serve on the board and carry out the
board's functions for the remainder of the member's term. The
changes in law apply only to a member appointed on or after the
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,
renewal, or renegotiation of debt issued by the Texas Agricultural
Finance Authority before the effective date of this Act. The
extension, renewal, or renegotiation of debt issued by the Texas
26 Agricultural Finance Authority before the effective date of this
Act is governed by the law in effect immediately before that date,
and the former law is continued in effect for that purpose.

ARTICLE 2. PRESCRIBED BURNING BOARD

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

Sec. 153.001. DEFINITIONS. In this chapter:
(1) "Board" means the Prescribed Burning Board.
(2) "Department" means the Department of Agriculture.

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

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

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

(a) The Prescribed Burning Board is established within the [Department of Agriculture] and is composed of:
(1) an employee of the Texas Forest Service designated by the director of the Texas Forest Service;
(2) an employee of the Parks and Wildlife Department appointed by the executive director of the Parks and Wildlife Department;
(3) an employee of the Texas Commission on Environmental Quality [Natural Resource Conservation Commission]
appointed by the executive director of the Texas Commission on Environmental Quality [Natural Resource Conservation Commission];

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

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

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

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

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

(9) five persons who are:

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

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

(C) appointed by the commissioner of agriculture.

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

Sec. 153.044. SUNSET PROVISION. The Prescribed Burning Board is subject to Chapter 325, Government Code (Texas Sunset
The board shall be reviewed during the period in which the Department of Agriculture is reviewed [unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2009].

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

Sec. 153.046. DUTIES. The board shall:
(1) establish standards for prescribed burning;
(2) develop a comprehensive training curriculum for certified and insured prescribed burn managers;
(3) establish standards for certification, recertification, and training for certified and insured prescribed burn managers;
(4) establish minimum education and professional requirements for instructors for the approved curriculum; and
(5) establish minimum insurance requirements for certified and insured prescribed burn managers.

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

Sec. 153.047. PRESCRIBED BURNING STANDARDS. Minimum standards established by the board for prescribed burning must:
(1) ensure that prescribed burning is the controlled application of fire to naturally occurring or naturalized vegetative fuels under specified environmental conditions in accordance with a written prescription plan:
(A) designed to confine the fire to a predetermined area and to accomplish planned land management
objectives; and

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

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

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

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

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

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

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

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

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

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

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

(a) Subject to Section 153.082, an owner, lessee, or 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:
22
SUBCHAPTER D. COMPLAINTS, ENFORCEMENT, AND PENALTIES
23
Sec. 153.101. COMPLAINTS. The department shall receive and
24 process complaints concerning certified and insured prescribed
25 burn managers in the manner described by Section 12.026,
26 Agriculture Code, and rules adopted under that section.
27
Sec. 153.102. DISCIPLINARY ACTION; SCHEDULE OF SANCTIONS.
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(a) The department may impose an administrative sanction, including an administrative penalty, as provided by Sections 12.020, 12.0201, 12.0202, and 12.0261, Agriculture Code, for a violation of this chapter.

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

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

(1) whether the person:

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

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

(2) the seriousness of the violation;

(3) the threat to public safety; and

(4) any mitigating factors.

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

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

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

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

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

(2) state the grounds for the suspension; and

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

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

(d) A hearing on a suspension order under this section is
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subject to Chapter 2001, Government Code. If the hearing is before
an administrative law judge, after the hearing, the administrative
law judge shall recommend to the department whether to uphold,
vacate, or modify the suspension order.

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

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

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

ARTICLE 3. TEXAS-ISRAEL EXCHANGE FUND BOARD
SECTION 3.01. The heading to Chapter 45, Agriculture Code,
is amended to read as follows:

CHAPTER 45. TEXAS-ISRAEL EXCHANGE RESEARCH PROGRAM [FUND]
SECTION 3.02. Section 45.001, Agriculture Code, is amended to read as follows:

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

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

(b) The purpose of this chapter is to:

(1) establish a program [fund] to promote and support practical and applied agricultural research and development that will result in mutual benefit to Texas and Israel and will help to provide solutions to food and fiber production problems wherever
they exist, particularly those relating to water conservation; and

(2) establish a program of mutual cooperation that

will foster the development of trade, mutual assistance, and

business relations between Texas and Israel.

SECTION 3.03. Section 45.002, Agriculture Code, is amended

to read as follows:

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

[41] "applied [Applied] research" means the process

of assembling knowledge gained by careful and diligent search and

studious inquiry and examination and using that knowledge to solve

practical, real-world problems.

(2) "Board" means the Texas-Israel Exchange Fund

Board.

(3) "Fund" means the Texas-Israel Exchange Fund.]

SECTION 3.04. Section 45.005, Agriculture Code, is amended

to read as follows:

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

(a) The department may establish a binational program to support

joint agricultural research and development with Israel. The scope

of agricultural research and development which the program [fund]

may promote and support encompasses all scientific activities

related to agriculture, including production, processing,

marketing, and agricultural services, with emphasis on the support

of applied research to improve water, labor, and energy utilization

in agriculture.

(b) The program [fund] shall support applied research in

areas of potential mutual interest, including:
(1) water conservation;
(2) water management and use;
(3) soil management and conservation;
(4) innovative sources of energy for agricultural production;
(5) environmental aspects of agricultural technology;
(6) intensive crop production; and
(7) agricultural engineering and processing.

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

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

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

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

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

(b) The department [board] may accept gifts and grants from the federal government, state government, and private sources, as
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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
6 (d) The department [board] shall make an annual accounting
7 of all money received, awarded, and expended during the year under
8 this chapter to the legislative committees responsible for
9 agricultural issues.
10
11 SECTION 3.06. Chapter 45, Agriculture Code, is amended by
12 adding Section 45.009 to read as follows:
13
14 Sec. 45.009. TEXAS-ISRAEL EXCHANGE ADVISORY COMMITTEE. The
15 department may establish a binational agricultural research
16 advisory committee to provide guidance and direction on activities
17 conducted under this chapter and the expenditure of money
18 appropriated for the purposes of this chapter.
19
20 SECTION 3.07. (a) The Texas-Israel Exchange Fund Board and
21 the Texas-Israel Exchange Fund are abolished.
22
23 (b) The following provisions of the Agriculture Code are
24 repealed:
25
26 (1) Section 45.003;
27 (2) Section 45.004;
28 (3) Section 45.006;
29 (4) Subsections (a) and (c), Section 45.007; and
30 (5) Section 45.008.
31
32 ARTICLE 4. STRUCTURE OF CERTAIN BOARDS AND ADVISORY COMMITTEES
33
34 SECTION 4.01. Chapter 50B, Agriculture Code, is amended by
35 adding Section 50B.0015 to read as follows:
Sec. 50B.0015. DEFINITION. In this chapter, "committee"
means the wine industry development and marketing advisory
committee.

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

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

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

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

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

(1) grape growers;
(2) wineries;
(3) wholesalers;
(4) package stores;
(5) retailers;
(6) researchers;
(7) consumers;
(8) the department; and
(9) the Texas Alcoholic Beverage Commission.
(c) The members of the committee serve without compensation.

(d) A member of the committee serves at the pleasure of the commissioner for a term of two years. The commissioner may reappoint a member to the committee.

(e) The commissioner shall select a presiding officer from among the members and adopt rules governing the operation of the committee.

(f) The committee shall meet as necessary to provide guidance to the commissioner.

SECTION 4.03. Title 3, Agriculture Code, is amended by adding Chapter 50D to read as follows:

CHAPTER 50D. TEXAS BIOENERGY POLICY COUNCIL AND TEXAS BIOENERGY RESEARCH COMMITTEE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 50D.001. PURPOSE. The purpose of the Texas Bioenergy Policy Council and the Texas Bioenergy Research Committee is to promote the goal of making biofuels a significant part of the energy industry in this state not later than January 1, 2019.

Sec. 50D.002. DEFINITIONS. In this chapter:

(1) "Alternative chemical feedstock" means a feedstock that is produced by a thermochemical process that converts alternative sources of fuel, including biomass, or other renewable sources, to a raw material to be used in the chemical manufacturing process.

(2) "Policy council" means the Texas Bioenergy Policy Council.
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(3) "Research committee" means the Texas Bioenergy
Research Committee.

Sec. 50D.003. ADMINISTRATIVE SUPPORT. The department;
(1) shall provide administrative support, including
staff, to the policy council; and
(2) may allocate appropriate administrative support
to the research committee.

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

SUBCHAPTER B. TEXAS BIOENERGY POLICY COUNCIL

Sec. 50D.011. COMPOSITION. (a) The policy council is
composed of the following 18 members:
(1) the commissioner, who serves as chair of the
policy council;
(2) one representative of the Railroad Commission of
Texas designated by the commission;
(3) one representative of the Texas Commission on
Environmental Quality designated by the commission;
(4) one representative of the Public Utility
Commission of Texas designated by the commission;
(5) one representative of the Texas Water Development
Board designated by the board;
(6) the chancellor of The Texas A&M University System,
or the person designated by the chancellor;
(7) the chancellor of The Texas Tech University
System, or the person designated by the chancellor;
(8) the chancellor of The University of Texas System,
or the person designated by the chancellor;
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(9) one member of the senate appointed by the
lieutenant governor;

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

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

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

(B) retail distribution of energy;

(C) transportation of biomass feedstock;

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

(E) production of biodiesel from nonfood
feedstocks;

(F) production of ethanol from nonfood
feedstocks;

(G) bio-based electricity generation; and

(H) chemical manufacturing.

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

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

(d) Appointments to the policy council must be made without
regard to the race, color, disability, sex, religion, age, or
national origin of the appointees.

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

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

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

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

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

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

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

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

(1) provide a vision for unifying this state's agricultural, energy, and research strengths in a successful launch of a cellulosic biofuel and bioenergy industry.
(2) foster development of cellulosic-based and bio-based fuels and build on the Texas emerging technology fund's investments in leading-edge energy research and efforts to commercialize the production of bioenergy;

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

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

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

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

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

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

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

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

Sec. 50D.015. COORDINATION WITH FEDERAL GOVERNMENT ON BIOENERGY POLICY. (a) In this section, "state agency" has the meaning assigned by Section 315.002, Government Code.
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(b) The policy council shall take reasonable steps to track the development of federal bioenergy policy and provide information relating to federal regulatory developments to each affected state agency.

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

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

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

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

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

SUBCHAPTER C. TEXAS BIOENERGY RESEARCH COMMITTEE

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

(1) the commissioner or the person designated by the
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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,
or national origin of the appointees.

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

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

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

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

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

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

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

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

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

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

(b) The research committee shall:
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(1) identify and research appropriate and desirable biomass feedstock for each geographic region of this state;

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

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

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

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

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

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

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

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

Sec. 50D.024. REIMBURSEMENT OF EXPENSES. A member of the research committee may not receive compensation for service on the
committee. Subject to availability of funds, a research committee
member may receive reimbursement for the actual and necessary
expenses incurred while conducting research committee business.

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

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

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

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

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

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

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

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

(d) The commissioner [governor] shall designate a member of
the board as the chairman to serve in that capacity at the pleasure
of the commissioner [governor]. The board annually shall elect a
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1 vice-chairman and secretary. The board shall meet at times and
2 places determined by the chairman.
3
4 SECTION 4.05. Subsection (a), Section 62.0027, Agriculture
5 Code, is amended to read as follows:
6 (a) Before a member of the board may assume the member's
7 duties [and before the member may be confirmed by the senate], the
8 member must complete at least one course of the training program
9 established under this section.
10
11 SECTION 4.06. Subsections (a) and (f), Section 103.003,
12 Agriculture Code, are amended to read as follows:
13 (a) The Produce Recovery Fund Board is composed of five
14 members appointed by the commissioner [governor with the advice and
15 consent of the senate]. Two members must be producers, one must be
16 a license holder licensed under Chapter 101, and two must be members
17 of the general public.
18
19 (f) The commissioner [governor] shall designate a member of
20 the board as the chairman of the board to serve in that capacity at
21 the pleasure of the commissioner [governor].
22
23 SECTION 4.07. Subsection (a), Section 103.019, Agriculture
24 Code, is amended to read as follows:
25 (a) Before a member of the board may assume the member's
26 duties [and before the member may be confirmed by the senate], the
27 member must complete at least one course of the training program
28 established under this section.
29
30 SECTION 4.08. Subsection (b), Section 110.002, Alcoholic
31 Beverage Code, is amended to read as follows:
32 (b) The commissioner, in consultation with the advisory
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committee established under Section 50B.002, Agriculture Code
shall adopt rules as necessary to implement the program.

SECTION 4.09. The following statutes are repealed:
(1) Subsection (c), Section 62.0023, Agriculture Code;
(2) Subsection (b), Section 103.003 and Subsection (c), Section 103.017, Agriculture Code; and
(3) Section 110.003, Alcoholic Beverage Code.

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

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

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

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

44
Plant Board or Produce Recovery Fund Board immediately before the effective date of this Act to continue to serve as a board member for the remainder of the member's term. The changes in law apply only to a member appointed on or after the effective date of this Act.

ARTICLE 5. CERTAIN AGRICULTURAL REGULATORY PROGRAMS

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

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

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

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

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

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

Sec. 13.2555. REVOCATION, MODIFICATION, OR SUSPENSION OF
CERTIFICATE. (a) The department shall revoke, modify, or suspend the certificate of authority of a [an appointed public weigher or a deputy of an appointed county] public weigher, assess an administrative penalty, place on probation the public weigher [person] whose certificate has been suspended, or reprimand a [an appointed public weigher or a deputy of an appointed county] public weigher for a violation of this subchapter or a rule adopted by the department under this subchapter.

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

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

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

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

(c) If the department proposes to revoke, modify, or suspend a public weigher's [person's] certificate, the public weigher [person] is entitled to a hearing conducted under Section 12.032.

The decision of the department is appealable in the same manner as provided for contested cases under Chapter 2001, Government Code.

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

Sec. 13.256. BOND. [a] Each [county public weigher, whether elected or appointed, and each deputy] public weigher shall execute [for the full term of office] a bond in accordance with
rules adopted [that is in the amount of $2,500, approved] by the
department[, and made payable to the county judge of the county for
which the weigher is elected or appointed]. The bond must be
conditioned on the accurate weight or measure of a commodity being
reflected on the certificate issued by the public weigher [or
deputy], on the protection of a commodity that the public weigher
[or deputy] is requested to weigh or measure, and on compliance with
all laws and rules governing public weighers. [The bond shall be
filed with the county clerk's office in the county for which the
public weigher or deputy is appointed or elected.] The bond is not
void on first recovery. A person injured by the public weigher may
sue on the bond.

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

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

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

(1) time and date that the weight or measurement was
taken;

(2) signature and license number of the public weigher
[or deputy public weigher]; and

(3) seal of the department.

SECTION 5.06. Subsection (a), Section 13.259, Agriculture
Code, is amended to read as follows:

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

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

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

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

Sec. 52.038. EXISTING CORPORATIONS AND ASSOCIATIONS.
(a) Any corporation or association organized under prior law
before March 1, 1921, may elect, by a majority vote of its members
or stockholders, to adopt this chapter and become subject to it by:

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

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

(3) filing articles of incorporation in accordance
with the requirements of Section 52.035 of this code except that the
entity's directors shall sign the articles].
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[4(b) The filing fee for the articles filed under Subsection
(a) of this section is equal to the filing fee for an amendment to
the articles of incorporation as provided by Section 52.151 of this
code.]

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

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

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

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

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

(b) This section does not apply to:

(1) a retailer, unless the retailer:

   (A) has annual sales of perishable commodities
   that comprise 50 percent or more of the retailer's total sales; or
   (B) employs a buying agent who buys directly from
   a producer;

(2) a producer who handles or deals exclusively in the
producer's own products;
§ 5.11. Section 101.004, Agriculture Code, is amended to read as follows:

Sec. 101.004. LICENSE OR REGISTRATION CATEGORIES. (a) A person shall apply for a license if the person:

(1) purchases perishable commodities on credit;

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

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

(b) A person shall register as a cash dealer if the person
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purchases perishable commodities and pays for the perishable
commodities in United States currency before or at the time of
delivery or taking possession.)

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

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

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

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

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

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

(4) any certified claim against the applicant by a
licensee, grower, or producer of perishable commodities that is
under consideration by the department.

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

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

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

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

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

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

Sec. 101.014. COMMISSION OR SERVICE CHARGE IN CONTRACT. If
a licensee or a person required to be licensed handles perishable
commodities by guaranteeing a producer or owner a minimum price and
handles the perishable commodities on the account of the producer
or owner, the licensee or person required to be licensed shall
include in the contract with the producer or owner the maximum
amount that the licensee or person required to be licensed will
charge for commission, service, or both, in connection with the
perishable commodities handled.

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

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

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

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

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

SECTION 5.18. Section 101.016, Agriculture Code, is amended
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to read as follows:

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

(1) the owner of the perishable commodities;
(2) the grower of the perishable commodities;
(3) the approximate location of the land on which the perishable commodities were grown;
(4) the date the perishable commodities were gathered;
and
(5) by whose authority the perishable commodities were gathered.

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

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

(1) prepare a receipt detailing the quantity of perishable commodities received from the producer or owner at the time of receipt of the commodities; and
(2) on request, provide the receipt to the producer or owner.
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(d) The department periodically may investigate licensees, persons required to be licensed, or persons alleged to be selling or purchasing perishable commodities in violation of this chapter and, without notice, may require evidence of purchase of any perishable commodities in a person's possession or past possession.

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

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

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

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

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

SECTION 5.20. Subsection (a), Section 101.020, Agriculture
Code, is amended to read as follows:

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

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

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

(A) without first obtaining an identification card; or

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

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

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

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

(6) as a cash dealer, pays for perishable commodities by a means other than United States currency;

(7) as a license holder or a person required to be licensed, transporting agent, or buying agent, violates a provision of this chapter;

(8) acts or assumes to act as a cash dealer
without first registering as a cash dealer, 

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

[8] [10] fails to prepare and maintain records 
required by Sections 101.016, 101.017, and 101.018; or

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

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

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

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

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

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

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

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

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

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

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

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

(a) If the amount determined by the department's investigation to be due the aggrieved party is not disputed by the
license holder, a person required to be licensed, or the aggrieved
party, the department shall pay the claim within the limits
prescribed by this chapter.

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

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

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

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

(1) a person who was not licensed on the date the
contract on which the claim is based was entered into; or

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

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

SECTION 5.27. Section 103.009, Agriculture Code, is amended
by amending Subsections (a), (c), and (d) and adding Subsection (e)
to read as follows:
(a) If the department pays a claim against a license holder or a person required to be licensed, the license holder or person required to be licensed shall:

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

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

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

(d) Subsections (a) and (b) do not apply to a license holder or a person required to be licensed who is released by a final judgment of a bankruptcy court from the legal duty to satisfy the claim paid by the department.

(e) The amount to be reimbursed under this section shall be one and one-half times the amount of the claim paid if the person required to reimburse the department was not licensed on the date on
which the transaction forming the base of the claim occurred.

SECTION 5.28. Section 103.010, Agriculture Code, is amended
to read as follows:
Sec. 103.010. SUBROGATION OF RIGHTS. If the department
pays a claim against a license holder or a person required to be
licensed, the department is subrogated to all rights of the
aggrieved party against the license holder or person required to be
licensed to the extent of the amount paid to the aggrieved party.

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

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

SECTION 5.30. Subsections (a) and (b), Section 103.013,
Agriculture Code, are amended to read as follows:
(a) A person commits an offense if the person acts or
assumes to act as a license holder under Chapter 101 without first
paying the annual fee required by Section 103.011 [this chapter].
(b) An offense under this section is a Class B misdemeanor
[punishable by a fine of not more than $500].

SECTION 5.31. Subsection (a), Section 121.005, Agriculture
Code, is amended to read as follows:
(a) Each rose plant or shipment of rose plants shall be
labeled with[+]

[++++] the proper grade[+ and

[++] the number of the certificate of authority of the
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SECTION 5.32. Subsection (f), Section 52.092, Election Code, is amended to read as follows:

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

(1) county commissioner;
(2) justice of the peace;
(3) constable[
(4) public weigher].

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

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

(1) United States senator $5,000
(2) office elected statewide, except United States senator 3,750
(3) United States representative 3,125
(4) state senator 1,250
(5) state representative 750
(6) member, State Board of Education 300
(7) chief justice or justice, court of appeals, other than a justice specified by Subdivision (8) 1,875
(8) chief justice or justice of a court of appeals that serves a court of appeals district in which a county with a population of more than 750,000 is wholly or partly situated 2,500
(9) district judge or judge specified by Section 52.092(d) for which this schedule does not otherwise prescribe a
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1 fee

1,500

(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

(11) judge, statutory county court, other than a judge

6 specified by Subdivision (12)

1,500

(12) judge of a statutory county court in a county with

8 a population of more than 850,000

2,500

(13) district attorney, criminal district attorney,

9 or county attorney performing the duties of a district

11 attorney

1,250

(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

(15) justice of the peace or constable:

19 (A) county with a population of 200,000

20 or more

1,000

22 (B) county with a population of under

23 200,000

375

(16) county surveyor or[7] inspector of hides and

25 animals[ or public weigher]

75

(17) office of the county government for which this

26 schedule does not otherwise prescribe a fee

750

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

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

SECTION 5.35. The following statutes are repealed:

(1) Section 13.252, Agriculture Code;
(2) Section 13.253, Agriculture Code;
(3) Section 13.2535, Agriculture Code;
(4) Section 13.254, Agriculture Code;
(5) Subsection (b), Section 52.035, Agriculture Code;
(6) Section 52.152, Agriculture Code;
(7) Subsection (b), Section 101.006, Agriculture Code;
(8) Subsection (c), Section 103.008, Agriculture Code;
(9) Section 121.004, Agriculture Code;
(10) Subdivision (1), Section 62.002, Labor Code; and

SECTION 5.36. (a) The changes in law made by this Act to Subchapter E, Chapter 13, Agriculture Code, do not affect the entitlement of a public weigher or deputy public weigher elected or appointed before the effective date of this Act to serve as a public weigher or deputy public weigher for the remainder of the public weigher's or deputy public weigher's term. A public weigher or deputy public weigher elected or appointed before the effective date of this Act is governed by the law in effect immediately before
the effective date of this Act, and the former law is continued in
effect for that purpose.

(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
after the effective date of this Act. A claim filed before that
date is governed by the law in effect on the date the claim was
filed, and the former law is continued in effect for that purpose.

ARTICLE 6. GENERAL LICENSING PROVISIONS

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

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

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

<table>
<thead>
<tr>
<th>Provision</th>
<th>Amount of Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter 41</td>
<td>not more than $5,000 [5,000]</td>
</tr>
<tr>
<td>Chapters 13, 14A, 18, 46, 61, 94, 95, 101, 102, 103, 121, 125, 132, 134</td>
<td>not more than $5,000 [5,000]</td>
</tr>
<tr>
<td>Subchapter B, Chapter 71</td>
<td>not more than $5,000 [5,000]</td>
</tr>
<tr>
<td>Chapter 19</td>
<td>not more than $5,000 [5,000]</td>
</tr>
<tr>
<td>Chapter 76</td>
<td>not more than $5,000 [5,000]</td>
</tr>
<tr>
<td>Subchapters A and C, Chapter 71</td>
<td>not more than $5,000 [5,000]</td>
</tr>
</tbody>
</table>
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Chapters 72, 73, and 74 not more than $5,000
Chapter 14 not more than $10,000
Chapter 1951, Occupations Code not more than $5,000
Chapter 153, Natural Resources not more than $5,000.

SECTION 6.02. Section 12.023, Agriculture Code, is amended to read as follows:
Sec. 12.023. EXPIRATION OF REGISTRATION OR LICENSES. The department by rule shall [may] adopt a system under which registrations or licenses required by the department, including licenses issued under Chapter 1951, Occupations Code, expire on various dates during the year. The department may increase or decrease the term of an initial or renewal license or registration so that all licenses held by a person or a group of license holders expire on the same date. For the period [year] in which the registration or license expiration date is changed, registration or license fees shall be prorated on a monthly basis so that each registrant or licensee pays only that portion of the fee that is allocable to the number of months during which the registration or license is valid. On the next renewal of the registration or license [on the new expiration date], the total renewal fee is payable.

SECTION 6.03. Title 2, Agriculture Code, is amended by adding Chapter 12A to read as follows:
CHAPTER 12A. GENERAL LICENSING PROVISIONS
SUBCHAPTER A. POWERS AND DUTIES OF DEPARTMENT RELATED TO LICENSING
Sec. 12A.001. APPLICABILITY OF PROVISIONS. The general
licensing, regulatory, and enforcement provisions of Chapter 12 and
this chapter apply to licensing and regulatory programs
administered by the department under any law.

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

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

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

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

(A) the type and nature of the person;

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

(C) the inspection history of the person;

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

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

(2) the department may waive any inspection

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

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

SUBCHAPTER B. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

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

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

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

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

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

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

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

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

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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.

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

(1) the reason for each complaint or violation;
(2) how each complaint or violation was resolved; and
(3) the subject matter of each complaint or violation
that was not within the jurisdiction of the department and how the
department responded to the complaint or violation.

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

SUBCHAPTER C. ISSUANCE AND RENEWAL OF LICENSES

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

(1) an appropriate application; and
(2) a fee in an amount established by department rule.

[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.
(2) indicate in the notice of violation that the license holder has the opportunity described by Subdivision (1); and
(3) allow a license holder who does not agree with a proposed order to request an informal settlement conference.

SECTION 6.04. The heading to Section 76.113, Agriculture Code, is amended to read as follows:
Sec. 76.113. TERM [EXPIRATION] AND RENEWAL OF LICENSES. SECTION 6.05. Subsections (a) and (b), Section 76.113, Agriculture Code, are amended to read as follows:
(a) Each pesticide [commercial applicator or noncommercial] applicator license issued under this chapter, other than a private applicator license, expires at the end of the license period established by department rule [on the first anniversary of the date on which it was issued or renewed].
(b) Each private applicator license is valid for five years [expires on the fifth anniversary of the date on which it was issued or renewed].

SECTION 6.06. Section 76.151, Agriculture Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:
(a) The [For the purpose of inspection, examination, or sampling, the] department, at any time and without notice during regular business hours, may:
(1) [is entitled to] enter and inspect a [at reasonable hours any] building or place owned, controlled, or operated by a person engaged in any activity regulated under this
chapter or Chapter 1951, Occupations Code; and

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

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

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

(2) investigate a complaint made to the department.

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

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

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

Sec. 132.024. LICENSE TERM [EXPIRATION]. A license issued or renewed under this chapter is valid for one year [expires on the
first anniversary of the date of issuance or renewal].

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

ARTICLE 7. STRUCTURAL PEST CONTROL

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

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

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

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

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

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

(1) to maintain additional information in the
practitioner's records;
(2) to report regularly to the department on matters
that are the basis of the probation;
(3) to limit practice to the areas prescribed by the
department; or
(4) to continue or review professional education until
the practitioner attains a degree of skill satisfactory to the
department in those areas that are the basis of the probation.

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

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

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

Sec. 1951.003. BUSINESS OF STRUCTURAL PEST CONTROL.
(a) In this chapter, a person is engaged in the "business of
structural pest control" if the person performs[., offers to
perform, or advertises for or solicits the person's performance of]
any of the following services for compensation, including services
performed as a part of the person's employment:
(1) identifying infestations or making inspections for the purpose of identifying or attempting to identify infestations of:

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

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

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

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

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

(1) identify pests;

(2) make inspections, recommendations, estimates, bids, or contracts.
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(3) provide estimates, bids, or contracts based on an inspection; or

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

SECTION 7.04. Subchapter A, Chapter 51, Occupations Code, is amended by adding Section 1951.007 to read as follows:

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

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

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

(1) a person who performs pest control work on growing plants, trees, shrubs, grass, or other horticultural plants if the person

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

[(B)] holds a commercial or noncommercial applicator license from the department and issued under Chapter 76,
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(2) a person who performs pest control work on growing plants, trees, shrubs, grass, or other horticultural plants or rights-of-way if the person:

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

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

(C) holds a commercial or noncommercial applicator license from the department and issued under Chapter 76, Agriculture Code, that covers pest control work; and

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

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

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

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

(2) three members who represent the public;

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

(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
26 (b) The committee shall:
27 (1) meet quarterly;
(2) operate under Robert's Rules of Order; and

(3) record the minutes of each meeting.

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

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

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

(a) The department by rule shall adopt a policy that requires a business holding a structural pest control business license to be inspected by a field inspector at least once:

(1) in the business's first year of operation;

and

(2) every four years after the first year of operation;

(4) provides for additional inspections based on a schedule of risk-based inspections using the following criteria:

[(A)] the type and nature of the business;

[(B)] whether there has been a prior violation by the business;

[(C)] the inspection history of the business.
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[(D) any history of complaints involving the
business; and

[(E) any other factor determined by the
department by rule; and

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

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

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

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

(f) The information sheet must include:

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

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

(3) a statement of a consumer's rights under Chapter
601, Business & Commerce Code, to cancel a home solicitation
transaction; and
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(4) information concerning the availability of any pretreatment inspection service that may be provided by the department under Section 1951.210.

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

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

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

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

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

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

81
Sec. 1951.308. LICENSE EXPIRATION. A license issued under this chapter expires at the end of the license period as determined by department rule [(a) The department by rule may adopt a system under which licenses expire on various dates during the year.]

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

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

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

[(1) give] a pest control information sheet developed under Section 1951.254 to the owner of the residence before each treatment begins[\[\[\[\]

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

(b) For an indoor treatment at a residential rental property with fewer than five rental units, a certified applicator or technician shall make available [leave] a pest control information sheet developed under Section 1951.254 to the tenant of [in] each unit [at the time of each treatment].
(c) For an indoor treatment at a residential rental property with five or more rental units, a certified applicator or technician shall make available a pest control information sheet developed under Section 1951.254 and a pest control sign developed under that section to the owner or manager of the property. The owner or manager or an employee or agent of the owner or manager, other than the certified applicator or technician, shall notify residents who live in the direct area of the treatment or in an adjacent area by:

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

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

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

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

(1) posting the sign in an area of common access that 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]
11 a 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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(b) For an outdoor treatment at a residential rental property with fewer than five rental units, a certified applicator or technician shall make available [leave] a pest control information sheet at each unit at the time of treatment.

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

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

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

SECTION 7.21. The change in law made by this Act by the repeal of Section 1951.310, Occupations Code, applies only to the renewal of a license under Chapter 1951, Occupations Code, that
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expires on or after the effective date of this Act. The renewal of a
license that expires before the effective date of this Act is
governed by the law in effect on the date the license expired, and
the former law is continued in effect for that purpose. An
application submitted on or after the effective date of this Act is
governed by Section 12.024, Agriculture Code, and other applicable
law.

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

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

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

SECTION 8.01. Section 11.003, Agriculture Code, is amended
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to read as follows:

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

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

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

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

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

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

(c) In (b), an officer, employee, or paid consultant of a
statewide Texas trade association or an affiliate of a national
trade association in the field of agriculture may not be an employee
of the department who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

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

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

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

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

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

(2) appropriate alternative dispute resolution
procedures under Chapter 2009, Government Code, to assist in the
resolution of internal and external disputes under the department's
jurisdiction.

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

(c) The commissioner shall designate a trained person to:
(1) coordinate the implementation of the policy
adopted under Subsection (a);
(2) serve as a resource for any training needed to
implement the procedures for negotiated rulemaking or alternative
dispute resolution; and
(3) collect data concerning the effectiveness of those
procedures, as implemented by the department.

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

Sec. 12.0271. RURAL ECONOMIC DEVELOPMENT AND INVESTMENT
PROGRAM. (a) From funds appropriated for that purpose, the
commissioner shall establish and administer a financial assistance
program to encourage private economic development in rural areas.
Financial assistance under the program may be provided only to:
(1) a county with a population of not more than 75,000;
(2) a municipality with a population of not more than
50,000; or
(3) an economic development corporation or community
development financial institution that primarily represents a
county or municipality described by this subsection.

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

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

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

(A) manufacturing facilities;

(B) freight storage facilities;

(C) distribution warehouse centers; and

(D) other nonretail private enterprises;

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

(A) water or waste disposal facilities; or

(B) transportation infrastructure; or

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

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

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

(2) providing a credit enhancement;
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(3) effectively lowering interest rates;

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

or

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

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

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

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

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

ARTICLE 9. ADDITIONAL PROVISIONS

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

(a) To be eligible for election as commissioner or
appointment to fill a vacancy in the office of commissioner, a
person must:

(1) have been engaged, for at least five of the 10
years preceding the year in which the person is elected or appointed
to the person's initial term, in the business of agriculture;
(2) have worked, for the five-year period preceding
the calendar year in which the person is elected or appointed to the
person's initial term, for a state or federal agency in a position
directly related to agriculture; or
(3) have owned or operated, for at least five of the 10
years preceding the year in which the person is elected or appointed
to the person's initial term, farm, ranch, or timber land that
qualifies for agricultural use appraisal under Subchapter C,
Chapter 23, Tax Code, and be participating, in the calendar year in
which the person is elected or appointed to the person's initial
term, in a farm program administered by the federal Agricultural
Stabilization and Conservation Service; or
(4) have worked, for at least five years at any time
before the calendar year in which the person is elected or appointed
to the person's initial term, for the Texas Agricultural Council,
an organization that is a member of the Texas Agricultural Council,
or another agricultural producer association.

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

Sec. 12.022. AUTHORITY TO SOLICIT AND ACCEPT GIFTS, GRANTS,
AND DONATIONS. The department may solicit and accept gifts, grants, and donations of money, services, or property
from any person. Money received by the department under this
section may be expended or distributed for any public purpose
related to the department's duties [and shall file annually with
the governor and the presiding officer of each house of the
legislature a complete and detailed written report accounting for
all gifts, grants, and donations received and disbursed, used, or
maintained by the department during the preceding fiscal year.
This report shall be included in the annual report required by
Section 12.014 of this chapter].

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

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

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

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

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

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

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

(2) "Rural community" means a municipality with a
population of less than 50,000 or a county with a population of less
than 200,000.

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

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

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

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

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

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

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

(A) local entrepreneurship;

(B) job creation or retention;

(C) new capital investment;

(D) strategic economic development planning;

(E) individual economic and community development leadership training;

(F) housing development; or

(G) innovative workforce education; and

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

(d) In awarding a grant or loan of money from the fund for a
project, the department shall consider:

(1) the project's effect on job creation and wages;
(2) the financial strength of the applicant;
(3) the applicant's business history;
(4) an analysis of the relevant business sector;
(5) whether there is public or private sector financial support for the project; and
(6) whether there is local support for the project.

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

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

(q) The department shall adopt rules to administer this section.

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

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

(1) applies for a license issued by the department;
(2) holds a license issued by the department;
(3) requests a determination of eligibility for a license issued by the department; or
4 (4) is an employee, volunteer, or intern of the
5 department, or an applicant to be an employee, volunteer, or intern
6 of the department.
7 (b) In addition to the information the department is
8 authorized to obtain under Sections 411.122 and 411.1405,
9 Government Code, and this section, the department is authorized to
10 request and obtain criminal history record information through the
11 Federal Bureau of Investigation as provided by Section 411.087,
12 Government Code.
13 (c) Information provided to the department under this
14 section and Chapter 411, Government Code, is confidential, is not
15 subject to disclosure under Chapter 552, Government Code, and may
16 not be disclosed to any person other than as required by a court
17 order.
18 SECTION 9.06. Subsection (a), Section 19.012, Agriculture
19 Code, is amended to read as follows:
20 (a) A person commits an offense if the person:
21 (1) sells or offers to sell citrus budwood or a citrus
22 nursery tree falsely claiming that it is certified or that it comes
23 from a designated foundation grove; [ex]
24 (2) uses, for commercial purposes, citrus budwood that
25 is required by department rule to be certified and is not certified
26 or does not come from a designated foundation grove; or
27 (3) fails to comply with an order of the department
28 issued under this chapter.
29 SECTION 9.07. Section 19.014, Agriculture Code, is amended
30 to read as follows:
31
Sec. 19.014. ADMINISTRATIVE PENALTIES. The department may
assess an administrative penalty under Chapter 12 for a violation
of this chapter if the department finds that a person:

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

(2) uses citrus budwood in violation of rules adopted
under this chapter; [\(\text{\textregistered}\)]

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

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

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

Sec. 41.151. DEFINITIONS. In this subchapter:

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

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

(3) ["Council" means the Texas Beef Council.

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

SECTION 9.09. Subsection (b), Section 41.152, Agriculture
Code, is amended to read as follows:

(b) The council shall be the certified organization recognized as the entity to plan, implement, and operate research, education, promotion, and marketing programs under this subchapter. The council is the state beef council qualified to collect the proceeds of and administer in this state the beef checkoff program established by federal law.

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

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

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

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

(3) three representatives of the Texas Farm Bureau;

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

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

(6) two representatives of the Texas dairy industry;

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

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

(9) one representative of Texas CattleWomen; and
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(10) two at-large directors.

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

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

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

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

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

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

(c) An assessment levied on producers shall [may] be applied
by the council to efforts relating to the marketing, education,
research, and promotion of beef and beef products in Texas, the
United States, and international markets, including administrative
costs of conducting an assessment referendum.

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

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

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

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

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

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

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

SECTION 9.16. Subsection (b), Section 72.002, Agriculture
Code, is amended to read as follows:
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(b) The department may adopt rules [to be proclaimed by the governor] as necessary for the administration of this chapter.

SECTION 9.17. Subsections (a) and (b), Section 72.011, Agriculture Code, are amended to read as follows:

(a) When advised of the existence of Mexican fruit fly within a county or part of a county in this state, the department shall certify that fact and [to the governor, and the governor shall] proclaim the county or part of a county quarantined under this chapter.

(b) If the department determines that the exigencies of the situation require a modified quarantine, the department may designate a modified quarantined area [to be certified to the governor for proclamation].

SECTION 9.18. Section 72.012, Agriculture Code, is amended to read as follows:

Sec. 72.012. PERSONS AND PREMISES SUBJECT. The premises of each individual, whether an owner, lessee, renter, tenant, or occupant, within the area named in the quarantine [proclamation] are subject to the quarantine, even though not specifically named.

SECTION 9.19. Subsection (a), Section 72.015, Agriculture Code, is amended to read as follows:

(a) A person may not haul, truck, or otherwise move citrus fruit from any premises or area that is under quarantine for Mexican fruit fly infestation by this chapter or [by order of the department, or by proclamation of the governor] in violation of the quarantine without a written permit or certificate issued by the department or an inspector of the Plant Protection and
 SECTION 9.20. Subsection (a), Section 76.004, Agriculture Code, is amended to read as follows:

(a) The [Except as provided by Subchapter C, after notice, the department shall conduct at least five regional hearings throughout the state before the adoption of any rule for carrying out the provisions of this chapter. Thereafter, the department may adopt rules for carrying out the provisions of this chapter, including rules providing for:

(1) the collection, examination, and reporting of records, devices, and samples of pesticides;

(2) the safe handling, transportation, storage, display, distribution, or disposal of pesticides and pesticide containers;

(3) labeling requirements for pesticides and devices required to be registered under this chapter; and

(4) compliance with federal pesticide rules and regulations.

 SECTION 9.21. Section 144.041, Agriculture Code, is amended by adding Subsection (g) to read as follows:

(g) The recording of marks and brands at a point of sale for use by an association authorized to inspect livestock under 7 U.S.C. Section 217a does not serve as a record under this chapter. An association authorized to inspect livestock under 7 U.S.C. Section 217a has no duty to verify ownership at a point of sale.

 SECTION 9.22. Section 251.005, Agriculture Code, is amended
by adding Subsection (e) to read as follows:

(e) A governmental requirement of a political subdivision of the state does not apply to conduct described by Section 42.09(f), Penal Code, on an agricultural operation.

SECTION 9.23. The following provisions are repealed:

(1) Section 12.017, Agriculture Code;

(2) Section 72.003, Agriculture Code;

(3) Subsection (c), Section 72.011, Agriculture Code;

and

(4) Section 76.005, Agriculture Code.

SECTION 9.24. (a) The change in law made by this Act to Section 19.012, Agriculture Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

(b) The change in law made by this Act to Section 19.014, Agriculture Code, applies only to conduct that occurred on or after the effective date of this Act. Conduct that occurred before the effective date of this Act is governed by the law in effect when the conduct occurred, and the former law is continued in effect for that purpose.

(c) The change in law made by this Act to Section 41.156, Agriculture Code, does not affect the entitlement of a member of the
board of directors of the Texas Beef Council to serve for the remainder of the member's term. A board member appointed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(d) The change in law made by this Act to Section 41.160, Agriculture Code, applies only to an assessment approved on or after the effective date of this Act. An assessment approved before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(e) The change in law made by this Act to Section 41.162, Agriculture Code, applies only to an assessment referendum conducted on or after the effective date of this Act. An assessment referendum conducted before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(f) The changes in law made by this Act by the amendment of Section 76.004, Agriculture Code, and the repeal of Section 76.005, Agriculture Code, apply only to a public hearing held on or after the effective date of this Act. A public hearing held before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.
ARTICLE 10. ESTABLISHMENT OF THE OFFICIAL CITRUS PRODUCERS' PEST
AND DISEASE MANAGEMENT CORPORATION

SECTION 10.01. Subtitle B, Title 5, Agriculture Code, is
amended by adding Chapter 80 to read as follows:

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

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

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

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

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

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

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

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

(c) The department may recover costs for administration of
this chapter.

Sec. 80.002. DESIGNATION OF ENTITY TO CARRY OUT ASIAN
CITRUS PSYLLID AND CITRUS GREENING CONTROL AND SUPPRESSION.

(a) The Texas Citrus Pest and Disease Management Corporation,
Inc., a Texas nonprofit corporation, shall be recognized by the
department as the entity to plan, carry out, and operate
suppression programs to manage and control the Asian citrus psyllid
and citrus greening in citrus plants in the state under the
supervision of the department as provided by this chapter.

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

Sec. 80.003. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the Texas
Citrus Pest and Disease Management Corporation, Inc.

(2) "Asian citrus psyllid" means Diaphorina citri
Kuwayama.

(3) "Commissioner" means the commissioner of
agriculture.

(4) "Citrus" means:
   (A) a citrus plant;
   (B) a part of a citrus plant, including trees,
    limbs, flowers, roots, and leaves; or
   (C) citrus products.

(5) "Citrus greening" means the disease caused by the
Asian citrus psyllid.

(6) "Citrus producer" means a person who grows citrus
and receives income from the sale of citrus. The term includes an
individual who as owner, landlord, tenant, or sharecropper is
entitled to share in the citrus grown and available for marketing
from a farm or to share in the proceeds from the sale of the citrus
from the farm.

(7) "Suppression" means control of the numbers and
migration of the Asian citrus psyllid to the extent that the
commissioner does not consider further management of the Asian
citrus psyllid necessary to prevent economic loss to citrus
producers.

(8) "Pest management zone" means a geographic area designated by the commissioner in accordance with Section 80.005 in which citrus producers by referendum approve their participation in a citrus pest control program.

(9) "Corporation" means the Texas Citrus Pest and Disease Management Corporation, Inc., a Texas nonprofit corporation.

(10) "Host" means a plant or plant product in which the Asian citrus psyllid is capable of completing any portion of its life cycle.

(11) "Infested" means the presence of the Asian citrus psyllid in any life stage or the existence of generally accepted entomological evidence from which it may be concluded with reasonable certainty that the Asian citrus psyllid is present.

(12) "Integrated pest management" means the coordinated use of pest and environmental information with available pest control methods, including pesticides, natural predator controls, cultural farming practices, and climatic conditions, to prevent unacceptable levels of pest damage by the most economical means and with the least possible hazard to people, property, and the environment.

(13) "Regulated article" means an article carrying or capable of carrying the Asian citrus psyllid, including citrus plants, nursery plants, citrus rootstock, or other hosts.

Sec. 80.004. ADVISORY COMMITTEES. (a) The commissioner may appoint an advisory committee for an existing pest management
zone or an area of the state that is to be considered by the
commissioner for designation as or inclusion in a pest management
zone. The committee shall gather advice, input, and guidance from
citrus producers from the area represented by the committee
concerning the interest in and concerns about the implementation of
this chapter.
(b) Each advisory committee may consider and make
recommendations to the commissioner and the corporation
concerning:
(1) the geographic boundaries for a proposed pest
management zone;
(2) the amount of local interest in operating a
suppression program;
(3) the basis and amount of an assessment necessary to
support a suppression program;
(4) ongoing implementation of a suppression program
approved by growers in a pest management zone; and
(5) any other matter requested by the commissioner or
the corporation.
(c) Each advisory committee appointed under this section
must include a sufficient number of citrus producers to ensure
adequate representation across the pest management zone and other
persons as determined by the commissioner.
(d) An advisory committee established under this section is
subject to Chapters 551 and 552, Government Code.
Sec. 80.005. CREATION OF PEST MANAGEMENT ZONES. (a) The
commissioner by rule may designate an area of this state as a
proposed pest management zone.

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

(c) After the adoption of a rule under Subsection (a), the commissioner shall conduct a referendum under Section 80.006.

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

(b) Pest management zone referenda shall be conducted under the procedures provided by Section 80.016.

(c) A proposed pest management zone referendum ballot must include or be accompanied by information about the proposed pest management zone, including:

(1) a statement of the purpose of the Asian citrus psyllid suppression program;

(2) the geographic area included in the proposed pest management zone;

(3) a general summary of rules adopted by the commissioner under Sections 80.016, 80.020, and 80.022, including a description of:

(A) citrus producer responsibilities; and

(B) penalties for noncompliance with rules adopted under this chapter; and

(4) an address and toll-free telephone number that a
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citrus producer may use to request more information about the
referendum or the Asian citrus psyllid suppression program.

(d) If a referendum to establish a pest management zone is
not approved, the concurrent election of a board member from the
proposed pest management zone under Section 80.007 has no effect,
and the commissioner shall appoint a representative to the board
from the area.

(e) The corporation may request the commissioner to call
additional referenda in a proposed pest management zone in which a
referendum has not been approved. An additional pest management
zone referendum and concurrent board election may not be held
before the first anniversary of the date of the preceding
referendum.

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

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

(b) A board election shall be conducted under the procedures
provided by this section and Section 80.016.
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(c) A citrus producer who is eligible to vote in a referendum or election under this chapter is eligible to be a candidate for and member of the board if the person has at least seven years of experience as a citrus producer and otherwise meets the qualifications for the office.

(d) A citrus producer who wants to be a candidate for the board must meet the qualifications for board membership and file an application with the commissioner. The application must be:

(1) filed not later than the 30th day before the date set for the board election;

(2) on a form approved by the commissioner; and

(3) signed by at least 10 citrus producers who are eligible to vote in the board election.

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

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

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

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

Sec. 80.008. COMPOSITION OF BOARD. (a) The board is composed of members elected from each pest management zone established by referendum, members appointed by the commissioner from other citrus-growing areas of the state, and members appointed by the commissioner under Subsection (b). The commissioner shall appoint an initial board composed of 15 members. Except as provided by Subsection (b), the term of each board position may not exceed four years.

(b) In making appointments under this section, the commissioner shall appoint the following board members, selected from a variety of citrus-growing regions of the state, for four-year terms:

(1) an agricultural lender;

(2) an independent entomologist who is an integrated pest management specialist;

(3) two representatives from industries allied with citrus production; and

(4) a representative from the pest control industry.

(c) The commissioner may change the number of board positions or the pest management zone representation on the board to accommodate changes in the number of pest management zones. A change under this subsection may not contravene another provision of this chapter.
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(d) A vacancy on the board shall be filled by appointment by
the commissioner for the unexpired term.

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

Sec. 80.009. POWERS OF BOARD AND COMMISSIONER. (a) The
board may:

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

(2) accept, as necessary to implement this chapter,
gifts and grants;

(3) borrow money, with the approval of the
commissioner, as necessary to execute this chapter;

(4) take other action and exercise other authority as
necessary to execute any act authorized by this chapter or the Texas
Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's
Texas Civil Statutes); and

(5) form an advisory committee composed of individuals
from this state, other states, or other countries and change
membership on the committee, as necessary. Any advisory committee
created under this subdivision for the purpose of establishing
treatment methods shall include among its members persons with
knowledge of the effects of different treatments on the health of
agricultural workers, the local population, and the ecosystem,
including but not limited to the effects of a particular method of
treatment on beneficial organisms and wildlife, the potential for
secondary infestations from nontarget pests, and the potential for
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pest resistance to particular methods of treatment.

(b) On petition of at least 30 percent of the citrus producers eligible to vote in the proposed area, the commissioner may, or at the commissioner's discretion the commissioner by rule may, add an area to a pest management zone or transfer an area or county from one zone to another zone if:

(1) citrus production has begun or could begin in the area;

(2) the area is adjacent to a pest management zone or is in an area with biological characteristics similar to the pest management zone; and

(3) the addition is approved in a referendum held in the area.

(c) The board must adopt a procurement policy, subject to approval by the commissioner, outlining the procedures to be used in purchasing.

(d) The commissioner at any time may inspect the books and other financial records of the corporation.

Sec. 80.010. BOARD DUTIES. (a) The board shall have an annual independent audit of the books, records of account, and minutes of proceedings maintained by the corporation prepared by an independent certified public accountant or a firm of independent certified public accountants. The audit must include information for each zone in which a suppression program has been conducted under this chapter. The audit shall be filed with the board, the commissioner, and the state auditor and be made available to the public by the corporation or the commissioner. The transactions of
the corporation are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

(b) Not later than the 45th day after the last day of the fiscal year, the board shall submit to the commissioner a report itemizing all income and expenditures and describing all activities of the corporation during the fiscal year.

(c) The corporation shall provide fidelity bonds in amounts determined by the board for employees or agents who handle money for the corporation.

(d) The corporation and the board are state agencies for the following purposes only:

(1) exemption from taxation, including exemption from sales and use taxes and taxes under Chapter 152, Tax Code; and

(2) exemption from vehicle registration fees.

(e) Funds collected by the corporation are not state funds and are not required to be deposited in the state treasury. The corporation shall deposit all money collected under this chapter in a bank or other depository approved by the commissioner.

(f) The board shall collect data on the type and quantity of pesticides used in accordance with this chapter. The data shall be filed with the commissioner.

(g) All money collected under this chapter shall be used solely to finance programs approved by the commissioner as consistent with this chapter.

(h) The corporation is subject to the requirements of:

(1) the open meetings law, Chapter 551, Government Code; and
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(2) the public information law, Chapter 552, Government Code.

(i) A board member may not vote on any matter in which the member has a direct pecuniary interest. A board member is subject to the same restrictions as a local public official under Chapter 171, Local Government Code.

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

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

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

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

Sec. 80.012. CONTRACTING. (a) For a purchase of goods and services under this chapter, the corporation may purchase goods and services that provide the best value for the corporation.

(b) In determining the best value for the corporation, the purchase price and whether the goods or services meet
specifications are the most important considerations. However, the
corporation may consider other relevant factors, including:

(1) the quality and reliability of the goods and
services;

(2) the delivery terms;

(3) indicators of probable vendor performance under
the contract, including:

(A) past vendor performance;

(B) the vendor's financial resources and ability
to perform;

(C) the vendor's experience or demonstrated
capability and responsibility; and

(D) the vendor's ability to provide reliable
maintenance agreements and support;

(4) the cost of any employee training associated with
a purchase; and

(5) other factors relevant to determining the best
value for the corporation in the context of a particular purchase.

Sec. 80.013. BOARD MEMBER COMPENSATION. Board members
serve without compensation but are entitled to reimbursement for
reasonable and necessary expenses incurred in the discharge of
their duties.

Sec. 80.014. DISCONTINUATION OF PROGRAM AND CORPORATION AND
DISPOSITION OF FUNDS ON DISCONTINUANCE. (a) On the determination
by the corporation that the Asian citrus psyllid suppression
program has been completed in all pest management zones established
under this chapter, the corporation shall provide notice of the
completion to the commissioner along with a request for
discontinuance of the control and suppression program and
collection of the assessment. Any request under this subsection
must include documentation supporting the fact that the Asian
citrus psyllid is no longer a threat to the state's citrus industry
and a plan for discontinuance of the program and assessment.

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

(c) On completion of the dissolution, the corporation shall
file a final report with the commissioner, including a financial
report, and submit all remaining funds into the trust of the
commissioner. Final books of the corporation shall be filed with
the commissioner and are subject to audit by the department.

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

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

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

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

(h) The commissioner shall conduct the referendum before
the 90th day after the date the petition was filed, except that a
referendum may not be held before the second anniversary of any
other referendum in the pest management zone pertaining to
establishing or discontinuing the pest management zone.

(i) Approval of the proposition requires the same vote as
required in a referendum under Section 80.016(q). If the
proposition is approved, the suppression program is abolished and
the pest management zone ceases to exist on payment of all debts of
the pest management zone.

Sec. 80.015. ASSESSMENT REFERENDA. (a) The commissioner
shall propose the assessment needed in each pest management zone to
ensure the stability of the citrus industry by suppressing the
public nuisance caused by the Asian citrus psyllid.

(b) The commissioner shall propose in a referendum the:

(1) maximum assessment to be paid by citrus producers
having production in the pest management zone; and

(2) time for which the assessment will be made.

(c) With the commissioner's approval, the corporation may
make an assessment in a pest management zone at a level less than
the assessment approved by the referendum.

(d) The commissioner shall conduct an assessment referendum
under the procedures provided by Section 80.016.

(e) If an assessment referendum is approved, the
corporation may collect the assessment.

(f) An assessment levied on citrus producers in a pest
management zone may be applied only to:

(1) pest control in that zone;
(2) the corporation's operating costs, including
payments on debt incurred for a corporation activity, except that
the funds of one zone may not be used to pay another zone's bank
loans or debts; and
(3) the conducting of other programs consistent with
the declaration of policy stated in Section 80.001.

(g) The assessment shall be adequate and necessary to
achieve the goals of this chapter. The amount of the assessment
shall be determined by criteria established by the commissioner,
including:

(1) the extent of infestation;
(2) the amount of acreage planted;
(3) historical efforts to suppress;
(4) the growing season;
(5) epidemiology;
(6) historical weather conditions; and
(7) the costs and financing of the program.

(h) The commissioner shall give notice of and hold a public
hearing in the pest management zone regarding the proposed
assessment referendum. Before the referendum, the commissioner
shall review and approve:

(1) the amount of the assessment;
(2) the basis for the assessment;
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(3) the time for payment of the assessment;

(4) the method of allocation of the assessment among citrus producers;

(5) the restructuring and repayment schedule for any preexisting debt; and

(6) the amount of debt to be incurred in the pest management zone.

(i) The commissioner shall on a zone-by-zone basis set the date on which assessments are due and payable.

(ii) Each year, the commissioner shall review and approve the corporation's operating budget.

(k) The corporation shall prepare and mail billing statements to each citrus producer subject to the assessment that state the amount due and the due date. The assessments shall be sent to the corporation.

Sec. 80.016. CONDUCT OF BOARD ELECTIONS AND REFERENDA; BALLOTING. (a) The commissioner shall conduct a referendum or board election authorized under this chapter.

(b) The corporation shall bear all expenses incurred in conducting a referendum or board election.

(c) The commissioner shall adopt rules for voting in board elections and referenda to establish pest management zones. Rules adopted under this subsection must include provisions for determining:

(1) who is a citrus producer eligible to vote in an election or referendum;

(2) whether a board member is elected by a plurality or
a majority of the votes cast; and

(3) the area from which each board member is elected.

(d) A citrus producer having citrus production in a proposed
or established pest management zone is entitled to:

(1) vote in a referendum concerning the pest
management zone; and

(2) elect board members to represent the pest
management zone.

(e) An eligible citrus producer may vote only once in a
referendum or board election.

(f) Ballots in a referendum or board election shall be
mailed directly to a central location, as determined by the
commissioner. A citrus producer eligible to vote in a referendum or
board election who has not received a ballot from the commissioner,
corporation, or another source shall be offered the option of
requesting a ballot by mail or obtaining a ballot at the office of
the Texas AgriLife Extension Service or a government office
distributing ballots in a county in the proposed or established
zone in which the referendum or board election is conducted.

(g) A referendum is approved if:

(1) at least two-thirds of those voting vote in favor
of the referendum; or

(2) those voting in favor of the referendum cultivate
more than 50 percent, as determined by the commissioner, of the
citrus acreage in the relevant pest management zone.

(h) If a referendum under this chapter is not approved, the
commissioner may conduct another referendum. A referendum under
this subsection may not be held before the first anniversary of the
date on which the previous referendum on the same issue was held.

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

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

Sec. 80.017. PAYMENT OF ASSESSMENTS; ASSESSMENT LIENS.
(a) A citrus producer who fails to pay an assessment levied under
this chapter when due may be subject, after reasonable notice and
opportunity for hearing, to a penalty set by the commissioner. In
determining the amount of the penalty to be assessed, the
commissioner shall consider:

   (1) the seriousness of the violation, including the
nature, circumstances, and extent of the violation;

   (2) the history of previous violations;

   (3) the amount necessary to deter future violations;

   (4) the economic situation of the citrus producer; and

   (5) any other matter that justice may require.

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

(c) In addition to any other remedies for the collection of assessments and penalties, the commissioner may adopt rules relating to the compliance certificate program for suppression assessments. The rules may include:

(1) provisions establishing and relating to the obligations of growers, packers, and buyers in due course of citrus produced in active pest management zones to ensure that assessments are paid within a prescribed time period;

(2) provisions allowing incentives in the form of discounted assessments for growers who pay assessments within a prescribed time period;

(3) provisions establishing penalties and interest against growers who pay assessments after a prescribed time period; and

(4) other provisions the commissioner determines are proper.

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

(1) receives a compliance certificate issued by the
corporation when the buyer purchases the citrus that certifies that
the assessment has been paid to the corporation;

(2) pays for the citrus by a check on which the
department is named as a joint payee;

(3) does not receive notice of the assessment lien as
required by the Food Security Act of 1985 (7 U.S.C. Section 1631 et
seq.); or

(4) buys the citrus from a person other than the
producer of the citrus.

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

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

Sec. 80.018. EXEMPTION FROM ASSESSMENT PENALTIES. (a) The
commissioner by rule shall adopt criteria to exempt from payment of
an assessment penalty under Section 80.017 a citrus producer for
whom payment would impose an undue financial burden.
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(b) A citrus producer is not eligible for an exemption under this section for a year in which the amount computed by subtracting the assessments and penalties due under this chapter from the citrus producer's net income subject to federal income taxation in the previous year is greater than $15,000.

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

(d) The commissioner may establish a payment plan for a citrus producer applying for an exemption under this section.

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

(f) If an exemption under this section is denied, assessments and penalties for the year for which the application is made are due on the later of:

1. the date on which they would be due in the absence of an application for exemption; or
2. 30 days after the date the applicant receives notice of the denial.

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

Sec. 80.019. ENTRY OF PREMISES; SUPPRESSION ACTIVITIES; INSPECTIONS. The department, the corporation, or a designated representative of either entity may enter citrus groves or other
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premises to carry out the purposes of this chapter, which include
the treatment and monitoring of growing citrus or other host
plants. The department, the corporation, or a designated
representative of either entity may inspect groves or premises in
this state for the purpose of determining whether the property is
infested with the Asian citrus psyllid or citrus greening. An
inspection must be conducted during reasonable daylight hours. The
department shall give notice by publication of the planned schedule
of dates for entry by the department, the corporation, or a
designated representative of either entity, to the owner or
occupant of the groves or premises to carry out the purposes of this
chapter, including treatment, monitoring, or inspection functions.
The department shall publish notice of the planned schedule to
enter the groves or premises in a newspaper of general circulation
in the pest management zone not less than once a week for two weeks
immediately before the scheduled dates of entry. In addition to the
notice published by the department, the corporation shall post
notice of the planned schedule to enter groves or premises to carry
out the purposes of this chapter at the county courthouse of each
county in the pest management zone not later than the 15th day
before the planned dates of entry.

Sec. 80.020. AUTHORITY TO PROHIBIT PLANTING OF CITRUS AND
REQUIRE PARTICIPATION IN SUPPRESSION PROGRAM. (a) The
commissioner may adopt reasonable rules regarding areas where
citrus may not be planted in a pest management zone if there is
reason to believe planting will jeopardize the success of the
program or present a hazard to public health or safety.
(b) The commissioner may adopt rules requiring all growers
of citrus in a pest management zone to participate in an Asian
citrus psyllid suppression program and growers of commercial citrus
to participate in pest and disease management programs that include
cost sharing as required by the rules.

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

(d) The commissioner may adopt a reasonable schedule of
penalty fees to be assessed against growers in a designated pest
management zone who do not meet the requirements of the rules issued
by the commissioner relating to reporting of acreage and
participation in cost sharing. A penalty fee may not exceed $50 per
acre.

Sec. 80.021. AUTHORITY FOR DESTRUCTION OR TREATMENT OF
CITRUS IN PEST MANAGEMENT ZONES; COMPENSATION PAYABLE. The
department may destroy or treat, and establish procedures for the
purchase and destruction of, citrus plants or hosts in pest
management zones if the department determines the action is
necessary to carry out the purposes of this chapter. The department
is not liable to the owner or lessee for the destruction of or
injury to any citrus that was planted in a pest management zone
after the date notice is published as required by this chapter. The
corporation is liable for the destruction of citrus if the citrus
was planted in a pest management zone before the date that notice is
published.

Sec. 80.022. AUTHORITY TO ADOPT RULES. (a) The
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commissioner shall adopt rules to protect individuals, livestock, wildlife, and honeybee colonies on any premises in a pest management zone on which citrus plants are being grown that have been or are being treated to control or suppress the Asian citrus psyllid and citrus greening.

(b) Rules adopted under this section shall establish the criteria by which the corporation develops its procedures and methods of treatment, which shall:

(1) establish a methodology for determining when Asian citrus psyllid population levels have reached economic significance or when citrus greening is present;

(2) establish an effective treatment regimen that seeks to provide the least possible risk to workers, the public, and the environment;

(3) minimize the effects of the use of pesticides on long-term control methods, including but not limited to the effect a particular pesticide may have on biological controls;

(4) establish methods for monitoring Asian citrus psyllids, citrus greening, and secondary pests;

(5) establish methods for verifying pesticide use reduction; and

(6) consider the acute and chronic toxicity of particular pesticides and the quantity of particular pesticides needed. Pest management zone treatment plans may take into account the potential for the use of smaller quantities of more toxic substances to result in fewer health and environmental risks than larger quantities of less toxic substances.
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(c) The commissioner may adopt other reasonable rules necessary to carry out the purposes of this chapter. All rules issued under this chapter must be adopted and published in accordance with the laws of this state.

(d) An advisory committee may be established to assist the commissioner in the development of rules under this section. The advisory committee may be composed of:

(1) three citrus producers from the commercial citrus growing area of the state, appointed by the commissioner;

(2) three entomologists with knowledge of the principles of integrated pest management, at least one of whom has special knowledge of nonchemical or biological pest control, appointed by the commissioner;

(3) two individuals with experience representing the general interests of the environment, appointed by the chair of the Texas Commission on Environmental Quality;

(4) an environmental engineer with expert knowledge of ground and surface water protection from contamination, appointed by the chair of the Texas Commission on Environmental Quality; and

(5) a toxicologist, appointed by the commissioner of state health services.

Sec. 80.023. REPORTS. Each person in an active pest management zone growing citrus in this state shall furnish to the corporation on forms supplied by the corporation information that the corporation requires concerning the size and location of all commercial citrus orchards and of noncommercial citrus grown for ornamental or other purposes. The corporation may provide an
incentive for early and timely reporting.

Sec. 80.024. DOCUMENTING REGULATED ARTICLES. To implement this chapter, the department may issue or authorize issuance of:

(1) a certificate that indicates that a regulated article is not infested with the Asian citrus psyllid; and

(2) a permit that provides for the movement of a regulated article to a restricted destination for limited handling, use, or processing.

Sec. 80.025. COOPERATIVE PROGRAMS AUTHORIZED. (a) The corporation may carry out programs to destroy and manage the Asian citrus psyllid and citrus greening in this state by cooperating through written agreements, as approved by the commissioner, with:

(1) an agency of the federal government;

(2) a state agency;

(3) an appropriate agency of a foreign country contiguous to the affected area to the extent allowed by federal law;

(4) a person who is engaged in growing, processing, marketing, or handling citrus;

(5) a group of persons in this state involved in similar programs to carry out the purposes of this chapter; or

(6) an appropriate state agency of another state contiguous to the affected area, to the extent allowed by federal law, the law of the contiguous state, and the law of this state.

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

Sec. 80.026. ORGANIC CITRUS PRODUCERS. (a) The commissioner shall develop rules and procedures to:

(1) protect the eligibility of organic citrus producers to be certified by the commissioner;

(2) ensure that organic and transitional certifications by the commissioner continue to meet national certification standards in order for organic citrus to maintain international marketability; and

(3) in all events maintain the effectiveness of the Asian citrus psyllid suppression program and citrus greening management administered under this chapter.

(b) The board may not treat or require treatment of organic citrus groves with chemicals that are not approved for use on certified organic citrus. Rules adopted under Subsection (a) may provide indemnity for the organic citrus producers for reasonable losses that result from a prohibition of production of organic citrus or from any requirement of destruction of organic citrus.

Sec. 80.027. PENALTIES. (a) A person who violates this chapter or a rule adopted under this chapter or who alters, forges, counterfeits, or uses without authority a certificate, permit, or other document issued under this chapter or under a rule adopted under this chapter commits an offense.

(b) An offense under this section is a Class C misdemeanor.

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

Sec. 80.028. SUNSET PROVISION. (a) The board of directors
of the official citrus producers' pest and disease management
corporation is subject to Chapter 325, Government Code (Texas
Sunset Act). Unless continued in existence as provided by that
chapter, the board is abolished and this chapter expires September
1, 2021.

(b) The commissioner may order the dissolution of the
corporation at any time the commissioner determines that the
purposes of this chapter have been fulfilled or that the
corporation is inoperative and abandoned. Dissolution shall be
conducted in accordance with Section 80.014.

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

Sec. 80.029. ANNUAL REPORT. The board shall issue to the
commissioner and the appropriate oversight committee in the house
of representatives an annual report detailing its efforts to carry
out the purposes of this chapter.

Sec. 80.030. EXEMPTION FROM TAXATION. All payments,
contributions, funds, and assessments received or held by the
corporation under this chapter are exempt from state or local
taxation, levies, sales, and any other process and are
unassignable.
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Sec. 80.031. USE OF BIO-INTENSIVE CONTROLS. (a) The commissioner shall develop and adopt rules to allow a citrus producer in a suppression program to use biological, botanical, or other nonsynthetic pest control methods. In developing rules, the commissioner shall consider:

(1) scientific studies and field trials of the effectiveness of a proposed alternative control method;

(2) the feasibility of using a proposed alternative control technique within a particular region;

(3) the degree of monitoring necessary to establish the success of the use of a proposed alternative control; and

(4) methods to prevent the use of substances that would impede the use of alternative controls and the promotion of beneficial insect populations.

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

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

Sec. 80.032. VENUE. Venue for an action arising out of this chapter in which the corporation is a party is in Travis County.

ARTICLE 11. EFFECTIVE DATE

SECTION 11.01. This Act takes effect September 1, 2009.
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David Dewhurst
President of the Senate

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.

Jon Straun
Speaker of the House

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
Secretary of the Senate

Chief Clerk of the House

Approved:

19 JUN '09

Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2 P.M. O'CLOCK
JUN 19 2009

Colley Hunter

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