Emergency Sections
Texas State Board of Dental Examiners
  623—Dental Laboratories
Texas State Board of Public Accountancy
  623—The Board
  623—Practice and Procedure
Texas State Treasury Department
  624—Electronic Transfer of Certain Payments to State Agencies
  626—Electronic Transfer of Payments to the Texas State Treasury Department

Proposed Sections
State Securities Board
  629—Transactions Exempt from Registration
  629—Administrative Guidelines for Registration of Real Estate Programs
Railroad Commission of Texas
  632—Guidelines for Regulation of Offers
Texas Education Agency
  632—Oil and Gas Division
  633—Regional Education Service Centers
School Districts
  634—School Districts
Nonpublic Elementary and Secondary Schools
  637—Nonpublic Elementary and Secondary Schools
Instructional Resources
  638—Instructional Resources
Student Services
  641—Student Services
Instructional Development
  644—Instructional Development
Texas Register

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Information Available: The eight sections of the Texas Register represent various facets of state government. Documents contained within them include:

- Governor-Appointments, executive orders, and proclamations
- Attorney General-summary of requests for opinions, opinions, and open records decisions
- Emergency Sections-sections adopted by state agencies on an emergency basis
- Proposed Sections-sections proposed for adoption
- Withdrawn Sections-sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after proposal publication date
- Adopted Sections-sections adopted following a 30-day public comment period
- Open Meetings-notice of open meetings

In addition, miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the Texas Register is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published. For example, a document published on page 2040 of Volume 6 (1981) is cited as follows: 6 TexReg 2040.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower left-hand corner of the page, would be written: "14 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 14 TexReg 3.

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the Texas Register offices, 1019 Brazos, Austin. Material can be found using Texas Register indexes, the Texas Administrative Code, sections number, or TRD number.

Texas Administrative Code

The Texas Administrative Code (TAC) is the approved, collected volumes of Texas administrative rules. How to Cite: Under the TAC scheme, each agency section is designated by a TAC number. For example, in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the Texas Administrative Code;

TAC stands for the Texas Administrative Code;

§27.15 is the section number of rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).
State Board of Dental Examiners
644—Dental Laboratories
Texas State Board of Examiners of Psychologists
644—Applications
645—Annual Renewal Fees
Texas State Board of Public Accountancy
645—The Board
646—Practice and Procedure
Texas Workers’ Compensation Commission
646—Workers’ Health and Safety-Drug Free Workplace Program
Parks and Wildlife Department
647—Wildlife
Texas State Treasury Department
651—Electronic Transfer of Certain Payments to State Agencies
Teacher Retirement System of Texas
651—Insurance
Texas Department of Human Services
652—Family Planning.

Withdrawn Sections
Railroad Commission of Texas

Adopted Sections
Office of Consumer Credit Commissioner
655—Rules of Operation for Pawnshops
State Securities Board
669—Transactions Exempt from Registration
670—Registration of Securities
670—Dealers and Salesmen
671—Exemptions by Rule or Order
Texas Department of Commerce
671—Product Development Fund
Texas Workers’ Compensation Commission
671—Benefits—Guidelines for Medical Services, Charges, and Payments

Open Meetings
675—Texas Commission for the Blind
675—Texas Department of Commerce
675—Credit Union Department
675—Texas State Board of Dental Examiners
675—Educational Economic Policy Center
675—Texas Education Agency
676—Texas Historical Commission
676—Texas Department of Human Service
676—State Board of Insurance
677—Texas Department of Licensing and Regulation
677—Texas Motor Vehicle Commission
677—State Pension Review Board
677—Public Utility Commission of Texas
678—University of Texas Health Center at Tyler
678—Texas Water Commission
679—Regional Meetings

In Addition
Texas Department of Aviation
681—Professional Engineering Services Contract Award
Texas Department of Community Affairs
681—Public Notice—Emergency Shelter Grants Program
Comptroller of Public Accounts
682—Consultant Contract Award
682—Correction of Error
Office of Consumer Credit Commissioner
682—Notice of Rate Ceilings
Texas Education Agency
683—Call for Proposals
Texas Employment Commission
683—Consultant Contract Award
Texas Department of Health
683—Annual Report, HIV Services Program
Texas Department of Health (Interagency Council for Genetic Services)
683—Correction of Error
Texas Higher Education Coordinating Board

683-Correction of Error
State Department of Highways and Public Transportation

683-Notice of Public Hearing
Texas Housing Agency

684-Notice of Public Hearings
Texas Department of Human Services

684-Correction of Error
Texas Department of Licensing and Regulations

685-Correction of Error
Northeast Texas Community College

685-Invitation to Bidders
Board of Nurse Examiners

685-Correction of Error

Texas Optometry Board

685-Correction of Error
Prairie View A&M University

685-Campus Telecommunication Network
Railroad Commission of Texas

685-Correction of Error

686-Notice of Hearing
Texas Southern University

686-Request to Hire Consultant
Texas Water Commission

687-Correction of Errors

687-Enforcement Orders

687-Meeting Notice

687-Notice of Application for Waste Disposal Permit
Texas Workers' Compensation Commission

688-Correction of Errors
TAC Titles Affected

TAC Titles Affected—February

The following is a list of the administrative rules that have been published this month.

TITeL 4. AGRICULTURE

Part l. Texas Feed and Fertilizer Control Service
4 TAC §61.1—543
4 TAC §61.22—543
4 TAC §61.44—543

TITeL 7. BANKING AND SECURITIES

Part V. Office of Consumer Credit Commission
7 TAC §85.1—655
7 TAC §§85.1, 85.2, 85.4, 85.9, 85.12, 85.22, 85.30, 85.57, 85. 58—655

Part VII. State Securities Board
7 TAC §109.3—669
7 TAC §109.5—629
7 TAC §113.13—670
7 TAC §115.2—670
7 TAC §115.3—670
7 TAC §117.1, §117.4—629
7 TAC §137.1—632
7 TAC §139.4—671

TITeL 10. PRODUCT DEVELOPMENT

Part V. Texas Department of Commerce
10 TAC §§163.1-163.9—671

TITeL 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas
16 TAC §3.54—632
16 TAC §5.152—537
16 TAC §5.227—653

Part II. Public Utility Commission of Texas
16 TAC §23.23—543

TITeL 19. EDUCATION

Part II. Texas Education Agency
19 TAC §§53.1-53.3—633
19 TAC §§53.21-53.25—633
19 TAC §§53.71-53.77—633
19 TAC §61.1, §61.2—634
19 TAC §61.21—545, 634
19 TAC 61.30, §61.31—546, 634
19 TAC §61.41—634
19 TAC §§61.61-61.65—634
19 TAC §61.71—635
19 TAC §61.81, §61.82—635
19 TAC §61.91, §61.92—635
19 TAC §§61.101, 61.102, 61.104—635
19 TAC §61.111, §61.112—635
19 TAC §61.121, §61.122—635
19 TAC §§61.141-61.146—636
19 TAC §§61.161-61.165, 61.167-61.170, 61.172-61.175—636
19 TAC §§61.191-61.193—636
19 TAC §61.211—636
19 TAC §61.231, §61.232—637
19 TAC §61.251—637
19 TAC §§61.271-61.273—637
19 TAC §§61.291-61.295—637
19 TAC §§65.1-65.3, 65.5—637
19 TAC §§69.11-69.16, 69.18-69.23—547
19 TAC §69.101—547
19 TAC §§69.121, 69.122, 69.124-69.127, 69.129—548
19 TAC §69.128—554
19 TAC §81.1, §81.2—638
19 TAC §§81.21-81.25—638
19 TAC §§81.41-81.43—638
19 TAC §§81.61-81.63—638
19 TAC §§81.71-81.73—639
19 TAC §§81.81—639
19 TAC §§81.90-81.95—639
19 TAC §§81.101, 81.103-81.108, 81.110-81.137—639
19 TAC §§81.151-81.156, 81.158, 81.164—640
19 TAC §§81.171-81.179—640
19 TAC §§81.221-81.223—641
19 TAC §§81.241—641
19 TAC §§81.261—641
19 TAC §§85.1—641
19 TAC §§85.21, 85.22—642
19 TAC §§85.41—642
19 TAC §§85.71—642
19 TAC §§85.91—642
19 TAC §§85.111—642
19 TAC §§85.121—642
19 TAC §§85.141—642
19 TAC §§85.161—643
19 TAC §§85.171-85.173—643
19 TAC §§85.181-85.187—643
19 TAC §§85.212-85.219—643
19 TAC §§85.232, 85.233—644
19 TAC §93.101—644
19 TAC §101.7, §101.8—554
19 TAC §141.443—555
19 TAC §149.25—555
TITLE 22. EXAMINING BOARDS

Part I. Texas Board of Architectural Examiners

22 TAC §§3.123—556
22 TAC §§3.124-3.127—556
22 TAC §§3.143, §3.146—556

Part V. Texas State Board of Dental Examiners

22 TAC §116.3—644

Part XXI. Texas State Board of Examiners of Psychologists

22 TAC §463.6—644
22 TAC §473.3—645

Part XXII. Texas State Board of Public Accountancy

22 TAC §505.10—645
22 TAC §519.14—646

TITLE 28. INSURANCE

Part I. State Board of Insurance

28 TAC §§5.6001-5.6003—541
28 TAC §§5.6003, 5.6004—541
28 TAC §21.105—556
28 TAC §21.113—557
28 TAC §166.2—562
28 TAC §§166.100-166.109, 166.112, 166.113—562
28 TAC §166.110—541

Part II. Texas Workers' Compensation Commission

28 TAC §§134.800-134.802—671
28 TAC §166.110—562
28 TAC §169.1, §169.2—646

TITLE 31. NATURAL RESOURCE AND CONSERVATION

Part II. Parks and Wildlife Department


TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

34 TAC §3.391—568
34 TAC §3.9—535

Part II. Texas State Treasury Department

34 TAC §§15.1-15.17—651
34 TAC §§15.3-15.17—651
34 TAC §16.1—

Part III. Teacher Retirement System of Texas

34 TAC §41.8 and §41.9—651

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

37 TAC §§13.1-13.54—568
Name: Michael Dickerson
Grade: 4
School: Greenwood Hills Elementary, Richardson ISD
Letter of Opinions

LO-90-80 (RQ-2159). Withdrawal of LO-90-80 for reconsideration. Mr. S. E. Seely, County Auditor, El Paso County, 307 Texas Avenue, El Paso. After issuance of Attorney General Letter Opinion LO-90-80, the attorney general received a brief that brought attention to Article 5143e-1, §20. Because that provision is directly relevant to the questions raised in LO-90-80, the attorney general withdraws that letter opinion for reconsideration. The questions will be reconsidered under the designation RQ-2159.

LO-90-71 (RQ-2086). October 4, 1990, Honorable Ernestine V. Glossbrenner, Chairman, Public Education Committee, Texas House of Representatives, P.O. Box 2910, Austin. This LO considers whether a school district trustee may participate in a health care plan established under the Education Code, §21.922.

LO-90-72 (ID#:10671). October 4, 1990, Honorable Alvin Roy Granoff, Chairman, State, Federal and International Relations Committee, Texas House of Representatives, P.O. Box 2910, Austin. This LO considers whether the construction of the phrase “full amount of a person’s salary” as used in the Local Government Code, §143.045(c).

LO-90-73 (RQ-1931). October 8, 1990, Honorable Robert T. Jarvis, Grayson County Attorney, Grayson County Justice Center, Sherman. This LO considers whether a home rule municipality may terminate a perpetual care trust created under provisions of former Texas Civil Statutes, Article 912a-15.

LO-90-74 (ID#:10654). October 9, 1990, Honorable Karen S. Price, District Attorney, 123rd Judicial District, Shelby and Panola Counties, 101 San Augustine Street, Center. This LO considers whether a county-court-at-law judge may hear pleas of guilty in felony cases filed with the district court.

LO-90-75 (RQ-2023). October 9, 1990, Honorable Bruce Gibson, Chairman, Committee on Government Organization, House of Representatives, P.O. Box 2910, Austin. This LO considers whether motor vehicle taxes are applicable to vehicles used by certain child-care facilities.

LO-90-76 (RQ-2100). October 17, 1990, Mr. Steve N. Swapi, P.E., Executive Director, Texas Air Control Board, 6330 Highway 290 East, Austin. This LO considers whether employees of the Texas Air Control Board may tamper with pollution-control devices to conduct audits of inspection stations.

LO-90-77 (RQ-2093). October 17, 1990, Honorable Charles W. Champion, Criminal District Attorney, Hays County, Hays County Courthouse, Suite 208, San Marcos. This LO is a denial of a request to reconsider Attorney General Opinion 26-565 and §17-12, regarding fees for services of sheriffs and constables.

LO-90-78 (RQ-2044). October 22, 1990, Honorable Mark W. Siles, Chairman, House County Affairs, Texas House of Representatives, P.O. Box 2910, Austin. This LO considers whether a cemetery is subject to a zoning ordinance if it existed before enactment of said ordinance.

LO-90-79 (ID#:10768). October 22, 1990, Honorable Tracey Bright, Ector County Attorney, County Courthouse, Room 218, Odessa. This LO considers the maximum salary of a county-court-at-law judge under the Government Code, §25.0705(e).

LO-90-80 (RQ-2073). October 24, 1990, Mr. S. E. Seely, County Auditor, El Paso County, 307 Texas Avenue, El Paso. This LO considers whether the validity of county payroll deductions on behalf of a political action committee and related questions has been withdrawn and reopened as RQ-2159.

LO-90-81 (RQ-2065). October 25, 1990, Honorable Erwin W. Barton, Chairman, Human Services Committee, Texas House of Representatives, P.O. Box 2910, Austin. This LO considers whether airport security personnel should be designated as “airport officers” or “airport security officers.”

LO-90-82 (RQ-2074). October 29, 1990, Mr. Ray L. Goad, Executive Director, Commission on Fire Protection Personnel Standards and Education, 9800 North Lamar Boulevard, Austin. This LO considers whether the certification of aircraft crash and rescue fire protection personnel employed by the adjacent general.

LO-90-83 (RQ-2134). October 31, 1990, Honorable Alvin Roy Granoff, Chairman, State, Federal and International Relations Committee, Texas House of Representatives, P.O. Box 2910, Austin. This LO considers whether firefighters employed by political subdivisions are exempt from fees for courses in fire science taken at state-supported institutions.

LO-90-84 (RQ-2085). October 31, 1990, Mr. Jack E. Crump, Executive Director, Texas Commission on Jail Standards, P.O. Box 12985, Austin. This LO considers whether the Commission on Jail Standards can amend its jail standards to require testing for tuberculosis.

LO-90-85 (RQ-2041). November 1, 1990, Robert Bernstein, M.D., F.A.C. P., Commissioner, Texas Department of Health, 1100 West 49th Street, Austin. This LO considers whether retirement centers that also provide or arrange for home health services must be licensed under Chapter 242 of the Health and Safety Code.

LO-90-86 (RQ-2053). November 1, 1990, Mr. Bryan M. Perot, Executive Officer, Polygraph Examiners Board, 5805 North Lamar Boulevard, P.O. Box 4087, Austin. This LO considers whether the Polygraph Examiners Board may allow employees to maintain peace officer status by participating in continuing education during working hours.

LO-90-87 (RQ-2089). November 2, 1990, Mr. Ron Rees, Executive Director, Texas Cosmetology Commission, Frank Joseph Cosmetology Building, 1111 Rio Grande, Austin. This LO considers whether a separate shop license is required to rent a booth in a licensed beauty shop.

LO-90-88 (RQ-2022). November 3, 1990, Honorable Hugh Parmer, Chairman, Committee on Intergovernmental Relations, Texas State Senate, P.O. Box 12068, Austin. This LO considers the legality of participating in out-of-state lotteries.

LO-90-89 (RQ-2055). November 13, 1990, Mr. Leon Willihite, Executive Director, State Property Tax Board, Austin. This LO considers the ownership of submerged property grazing the Gulf of Mexico.

LO-90-90 (RQ-2062). November 13, 1990, Honorable George Pierce, Chairman, Urban Affairs, Texas House of Representatives, P.O. Box 2910, Austin. This LO considers
the remedy for failure to comply with a
service plan providing for extension of mu-
ncipal services to areas annexed by a city.
TRD-9101174
Emergency Sections

An agency may adopt a new or amended section or repeal an existing section on an emergency basis if it determines that such action is necessary for the public health, safety, or welfare of this state. The section may become effective immediately upon filing with the Texas Register, or on a stated date less than 20 days after filing, for no more than 120 days. The emergency action is renewable once for no more than 60 days.

Symbology in amended emergency sections. New language added to an existing section is indicated by the use of bold text. [Brackets] indicate deletion of existing material within a section.

TITLE 22. EXAMINING BOARDS
Part V. Texas State Board of Dental Examiners
Chapter 116. Dental Laboratories

• 22 TAC §116.3

The Texas State Board of Dental Examiners adopts an emergency basis an amendment to §116.3, concerning dental laboratories. The section is being amended to clarify the duties of laboratories in performing routine services and prevent potential statutory or rule compliance actions.

The emergency action is being taken to prevent any potential delays or problems in care relating to timely treatment prescribed by dentists of which these procedures might be part.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 4451d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties, and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§116.3. Requirements.

(a) A dental laboratory shall be registered according to the provisions of Texas Civil Statutes, Article 4551(5)(a)-(c), if it is a place where a person undertakes to perform or accomplish any act or service listed in Texas Civil Statutes, Article 4451(1). Permitted services to be performed under a written order from a dentist include:

(1) shade taking performed by a registered laboratory when authorized by a prescription from a licensed dentist. Shade taking does not constitute the practice of dentistry;

(2) computer imaging as pertaining to the oral cavity by a registered laboratory. Computer imaging may be accomplished when authorized by a prescription from a licensed dentist. The
result should be furnished to that dentist accompanied by a disclaimer to the patient that computer imaging is an artistic interpretation and does not guarantee exact results.

(b) (No change.)

Issued in Austin, Texas, on January 28, 1991.

TRD-9101080 C. Thomas Camp Acting Executive Director Texas State Board of Dental Examiners

Effective date: January 28, 1991
Expiration date: May 28, 1991

For further information, please call: (512) 477-2985

Part XXII. Texas State Board of Public Accountancy
Chapter 505. The Board

• 22 TAC §505.10

The Texas State Board of Public Accountancy proposes an emergency basis an amendment to §505.10, concerning the board. The amendment will delete language which requires that committee meetings of the board be announced in accordance with the provisions of the Open Meetings Act (Texas Civil Statutes, Article 6252-17). The board has determined that an imminent peril to the public welfare requires the adoption of this rule on fewer than 30 days notice in order that committee meetings may be conducted to facilitate board business. Creating public meetings out of the committee meetings precludes discussions and the conduct of the board business needed to carry out the mandates of the Public Accountancy Act. The amendment will allow the board to properly conduct its business.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules to effectuate the Act.

§505.10. Board Committees.

(a)-(b) (No change.)

(c) Committee meetings.

[(1)] Committee meetings shall be held at the call of the committee chair-

man, and a report to the board at its next regularly scheduled meeting shall be made by such chairman or, in the absence of the chairman, by another board member serving on the committee.

[(2) Committee meetings shall be open to the public in accordance with the Texas Open Meetings Act, Texas Civil Statutes, Article 6251-17, unless the chairman adjourns into executive session for purposes prescribed in the Open Meetings Act.]

(d)-(h) (No change.)

Issued in Austin, Texas, on January 24, 1991.

TRD-9101200 William Treacy Executive Director Texas State Board of Public Accountancy

Effective date: January 29, 1991
Expiration date: May 29, 1991

For further information, please call: (512) 450-7066

Chapter 519. Practice and Procedure

• 22 TAC §519.14

The Texas State Board of Public Accountancy adopts on an emergency basis the repeal of §519.14, concerning practice and procedure. An imminent peril to the public safety and welfare requires the repeal of §519.14 in order that the board not be impeded from prosecuting violators of the Public Accountancy Act of 1979, as amended.

The repeal is adopted on an emergency basis under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules to effectuate the Act.


Issued in Austin, Texas, on January 24, 1991.

TRD-9101198 William Treacy Executive Director Texas State Board of Public Accountancy

Effective date: January 29, 1991
Expiration date: May 29, 1991

For further information, please call: (512) 450-7066
TITLE 34. PUBLIC FINANCE
Part II. Texas State Treasury Department
Chapter 15. Electronic Transfer of Certain Payments to State Agencies

• 34 TAC §§15.1-15.17

The Texas State Treasury Department (Treasury) adopts an emergency basis amendment to §§15.1 and 15.2, the repeal of §§15.3-15.17, and new §§15. 3-15.17, concerning the electronic transfer of certain payments to state agencies. These sections adopted on an emergency basis are simultaneously proposed for public comment in this issue of the Texas Register.

The amendments to §§15.1 and 15.2 are adopted on an emergency basis to delete and include new language in current definitions and to include additional definitions.

The repeal and replacement of §§15.3-15.17 are adopted on an emergency basis to allow state agencies to implement procedures to collect payments due the agency by electronic funds transfer upon adoption of state agency electronic funds transfer rules pursuant to the authority provided state agencies by the Texas Government Code, §404.095(c).

In addition, the repeal and replacement of §§15.3-15.17 are adopted on an emergency basis to restrict wire transfer as a means of electronic funds transfer on or after April 15, 1991, to: payments in the amounts of $1 million or more; or cigarette tax payments to the Treasury pursuant to the Texas Tax Code, Chapter 154; or payments as permitted by §15.12 relating to alternate procedures.

The emergency adoption of these sections will enhance the public benefit by increasing the amount of large payments made to the state agencies by electronic funds transfer. These payments will be available for investment purposes by the Treasury on the business day following the date payment is made resulting in additional interest earnings for the state from investment on these large payments.

The amendments and new sections are adopted on an emergency basis under the Texas Government Code, §404.095, which provides the Texas State Treasury Department with the authority to adopt rules specifying means of electronic funds transfer approved by the Treasurer and specifying the types of taxes constituting separate categories.

§15.1. Applicability. Pursuant to the Texas Government Code Annotated,
§404.095 (Vernon 1990), [These rules will be codified as Texas Government Code, §404.095 and] the following rules shall apply to:

§15.2. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

ACH credit—An ACH transaction in CCD format which is initiated by the person for credit to the treasury.

ACH credit with an addenda record—An ACH transaction in CCD+ format which is initiated by the person for credit to the treasury.

ACH debit—An ACH transaction initiated by the treasury, upon the person’s instruction, [instruction from the person] for credit to the treasury.

ACH transaction—An [The] electronic transaction [transfer of funds] which is cleared through the ACH.

Addenda record—A separate record transmitted with an ACH transaction which contains payment information in the approved State of Texas addenda record format.

CCD+ format (cash concentration or disbursement format with an addenda record) — A standard ACH transaction format which includes one addenda record.

Data collection center—The entity which [A facility that] collects payment information from the person making payment to a state agency.

OBI field (Originator to Beneficiary Information)—A field in a wire transfer that contains information required by the Treasury (the beneficiary) from the person (the originator).

Payment information—Information required by the state agency from the person making payment to be communicated to the data collection center or included in the addenda record for accurate credit of the payment to the person’s account by the state agency.

[Reference field—An informational field in a wire transfer that carries supplemental data.]

Wire transfer—An instantaneous electronic funds transfer initiated by a person [the payor] for credit to the treasury.

§15.3. Minimum Payment Amounts.

(a) All persons subject to §15.1(2) of this title (relating to Applicability) shall be required by the state agency receiving payment to transfer payments of $25,000 or more due to that state agency in a particular category of payments by one of the means of electronic funds transfer listed in §15.7 of this title (relating to Means of Electronic Funds Transfer) on or before the date the payment is due.

(b) All persons subject to §15.1(3) shall be required by a state agency’s own rule(s) to transfer payments in the amount of $10,000 or more due to the state agency in a particular category of payments by one of the means of electronic funds transfer listed in §15.7 on or before the date the payment is due, protested tax payment.

§15.4. State Agency Rules Requirements.

(a) Those state agencies which adopt rules pursuant to §15.1(3) of this title (relating to Applicability) must notify each person to whom the adopted rules apply by sending said persons the information set forth in §15.5(b) of this title (relating to Applicability Determination and Notification Procedures) at least 60 days before the first payment is due.

(b) All persons to whom state agency rules apply shall be required to electronically transfer payments to the state agency beginning on the date set forth in the notification and thereafter until December 31 of the same year.

§15.5. Applicability Determination and Notification Procedures.

(a) By October 1 of each year, the state agency shall determine the total amount paid by each person to the state agency in each category of payment in the preceding state fiscal year.

(b) Based on the determination in subsection (a) of this section, by October 15 of each year, each state agency shall:

(1) notify all persons newly required to electronically transfer payments to the state agency by sending said persons the following information: whom a person may communicate in the event of questions or problems; and necessary;

(2) notify each person who is no longer required to electronically transfer payments to the state agency; and

(3) provide the treasury with a list of all persons newly required to electronically transfer payments and a list of all persons no longer required to do so. applicability status has not changed from the preceding state fiscal year, listed in subsections (a) and (b) of this section, all persons required to electronically transfer payments to a state agency shall do so for the period of one year, beginning January 1 and ending December 31, and each year thereafter unless notified otherwise.

(c) State agencies shall not be required to notify persons whose applicability status has not changed from the preceding state fiscal year.

(d) Following the applicability determination and notification dates listed in subsections (a) and (b) of this section, all persons required to electronically transfer payments to a state agency shall do so for the period of one year, beginning January 1 and ending December 31, and each year thereafter unless notified otherwise.

(e) A person may contact the state agency to which payments are due for a determination of applicability at any time.

§15.6. Voluntary Payments by Electronic Funds Transfer.

(a) A person currently making payments to a state agency in a particular category of payments who is not required to

16 TexReg 624 February 5, 1991 Texas Register •
electronically transfer payments may do so voluntarily, subject to the approval of the state agency.

(b) A person who elects to voluntarily transfer payments electronically must contact the state agency to which payments are to be transferred to obtain the information set forth in §15.5(b) of this title (relating to Applicability Determination and Notification Procedures).

(c) A person who elects to voluntarily transfer payments electronically may begin transferring such payments upon notification by the state agency.

(d) A person shall notify the state agency if the person elects to discontinue its voluntary participation.

§15.7. Means of Electronic Funds Transfer.

(a) A person may choose any of the following means of electronic funds transfer:

1. ACH debit;
2. ACH credit in CCD format;
3. ACH credit with an addenda record in CCD+ format; or
4. wire transfer, as set forth in subsection (c) of this section.

(b) Persons choosing the means of electronic funds transfer listed in subsection (a)(1), (2), or (4) of this section, must communicate payment information to the data collection center in accordance with §15.10 of this title (relating to Communication of Payment Information to the Data Collection Center).

(c) Effective April 15, 1991, wire transfer will only be offered as a means of electronic funds transfer for:

1. payments in the amount of $1 million or more; or
2. cigarette tax payments to the Treasury pursuant to the Texas Tax Code; Chapter 154; or
3. payments as permitted by §15.12 of this title (relating to Alternate Procedures).

§15.8. Methods of Communication to the Data Collection Center. §15.7(a)(1), (2), or (4) of this title (relating to Means of Electronic Funds Transfer) may choose any of the following methods to communicate payment information to the data collection center:

1. terminal-communication of payment information made by entering data via a dumb terminal or personal computer with a modem;
2. touch-tone-communication of payment information made by entering data via the dial pad of a touch-tone telephone; or
3. voice-communication of payment information made orally by rotary or touch-tone telephone.

(b) Persons choosing ACH credit with an addenda record must transmit payment information in the approved State of Texas addenda record format in lieu of communicating payment information to the data collection center.

§15.9. Payor Information.

(a) The person must completely and return the payor information form to the Treasury (see 15.5(b)(1)(ii) of this title (relating to Applicability Determination and Notification Procedures)). Upon receipt and processing of the payor information form by the Treasury, the person will be provided with:

1. the access code and instructions for communicating payment information to the data collection center by the chosen method of communication described in §15.8 of this title (relating to Methods of Communication to the Data Collection Center) if the person has chosen ACH debit, ACH credit, or wire transfer (see §15.7(c) of this title (relating to Means of Electronic Funds Transfer)) as the means of electronic funds transfer;
2. the Treasury bank's routing number and account number to which the person shall transfer payment if the person has chosen ACH credit, ACH credit with an addenda record, or wire transfer (see §15.7(c)) as the means of electronic funds transfer;
3. the approved State of Texas addenda record format if the person has chosen ACH credit with an addenda record as the means of electronic funds transfer.

(b) A person must notify the Treasury (see §15.17 of this title (relating to Notification)) of any change of information in the payor information form as follows:

1. a change in the person's bank's routing number or account number, or a change to or from the ACH debit means of electronic funds transfer, must be communicated to the Treasury in writing. The change will become effective upon notification to the person by the Treasury or within 10 business days, whichever occurs first; and communicated to the Treasury in writing or by telephone. The change will be effective upon notification to the person by the Treasury or within five business days, whichever occurs first.

§15.10. Communication of Payment Information to the Data Collection Center.

(a) Any person transferring payment to a state agency by the means of electronic funds transfer chosen in §15.7(a)(1), (2), or (4) of this title (relating to Means of Electronic Funds Transfer) must communicate payment information to the data collection center by the method of communication chosen in §15.8 of this title (relating to Methods of Communication to the Data Collection Center) by 6 p.m. Austin time on the business day before the due date. Communication by the person to the data collection center is mandatory to ensure proper credit of the payment by the state agency receiving payment.

(b) The data collection center will give each person a trace number which will facilitate tracking the person's communication of payment information when necessary.

(c) The person must initiate a separate communication with the data collection center for every payment made as defined in §15.2 of this title (relating to Definiti-ones) and for every time period for which a payment is due.

(d) Any change, correction, or cancellation in the payment information must be communicated to the data collection center before 6 p.m. Austin time on the call-in day.

(e) Persons experiencing difficulty communicating with the collection center should contact the treasury at the telephone number listed in §15.17 of this title (relating to Notification).

§15.11. Transfer of Funds to the Treasury.

(a) Transfer of funds to the Treasury shall occur as follows:

1. If ACH debit is the chosen means of electronic funds transfer, the payment amount communicated to the data collection center by the person will be automatically withdrawn from the person's account on the following business day and no further action by the person is required.

2. If ACH credit is the chosen means of electronic funds transfer, the person must initiate an ACH credit in the same amount as the payment amount communicated to the data collection center for credit to the Treasury on the business day following the call-in day. The person should include the payor identification number in the individual identification number field of the ACH credit.

3. If ACH credit with an addenda record is the chosen means of electronic funds transfer, the person must initiate the transfer for credit to the Treasury on or before the due date. The addenda record must be in the approved State of Texas addenda record format.

4. If wire transfer is the chosen means of electronic funds transfer (see §15.7(c) of this title (relating to Means of Electronic Funds Transfer)), the person must initiate a wire transfer in the same amount as the payment amount communicated to the data collection center for credit to the Treasury on the business day following the call-in day. The person must initiate...
the wire transfer by 12 p.m. Austin time and must include the payor identification number in the OBI field of the wire transfer.

(b) The person must initiate a separate transfer of funds for every payment made to a different category of payment and for every time period for which a payment is due.

§15.12. Alternate Procedures. In the event a person is unable to communicate payment information to the data collection center by 6 p.m. Austin time on the business day before the due date, or a person transferring funds by ACH credit or ACH credit with an addenda record is unable to effect such transfer for credit to the Treasury on the due date, the person must follow the procedures listed below to insure timely credit of payment:

(1) wire the transfer, the payment, including the payor identification number in the OBI field of the wire transfer, by 12 p.m. Austin time, on the due date; and

(2) communicate payment information to the Treasury by telephone or facsimile (see §15.17 of this title (relating to Notification) by 12 p.m. Austin time, on the due date. Any change or correction of the payment information must be communicated to the Treasury by 12 p.m. Austin time, on the due date.

§15.13. Credit of Payment.

(a) Communication of payment information to the data collection center by a person transferring payment to a state agency or inclusion of the payment information in the addenda record of the ACH credit will insure credit of the payment to the proper state agency and correct category of payment. In the event the payment is credited to the improper state agency or the incorrect category of payment due to insufficient payment information, the state agency to which the payment is due shall make any late payment determination.

(b) Circumstances within the control of the person or the person’s financial institution which result in failure of the transfer of payment to the appropriate Treasury account on the due date may result in a late payment. Any determination of late payment will be made by the state agency to which the payment is due.


(a) In the event a person follows the procedures set forth to electronically transfer payment to a state agency, by payment is not received by the Treasury, a person may rely upon the following numbers as proof of an attempt to transfer payment:

(1) the trace number provided by the data collection center if ACH debit is the chosen means of electronic funds transfer;

(2) the trace number assigned to the ACH credit by the person’s financial institution if ACH credit or ACH credit with an addenda record is the chosen means of electronic funds transfer; or

(3) the Federal Reserve Bank reference number if wire transfer is the chosen means of electronic funds transfer (see §15.7(c) of this title (relating to Means of Electronic Funds Transfer)) or if wire transfer is used as the alternate procedure for electronic funds transfer (see §15.12 of this title (relating to Alternate Procedures)).

(b) A person must produce proof of an attempt to transfer payment within 30 days following said attempt.

(c) Upon determination by the state agency that the person and the person’s financial institution did timely and correctly attempt to transfer payment, payment records will be credited upon receipt of the funds from the person.

§15.15. Errors in Transmission. In the event a state agency determines that a payment or overpayment has mistakenly been made by electronic funds transfer, the state agency shall return the payment or the amount of the overpayment to the person in the manner established by each state agency.

§15.16. Effective Date. Any and all payments subject to the Texas Government Code, §404.095, due on or after April 15, 1991, must be made in accordance with these rules. Any and all payments required to be made in accordance with state agency rules, are due no earlier than 60 days after the adoption of such state agency rules.

§15.17. Notification. Any notification to the Treasury by mail, telephone, or facsimile must be directed to: Texas State Treasury Department, P.O. Box 12308, Austin, Texas 78711, (800) 766-7777, (512) 440-4796 (fax). Issued in Austin, Texas, on January 18, 1991.

TRD-9101082 Anne L. Schwartz General Counsel Texas State Treasury Department

Effective date: January 28, 1991
Expiration date: May 28, 1991

For further information, please call: (512) 463-5971

Chapter 16. Electronic Transfer of Payments to the Texas State Treasury Department

• 34 TAC §16.1

The Texas State Treasury Department (the Treasury) adopts an emergency basis new §16.1, concerning electronic transfer of payments to the Texas State Treasury Department.

The emergency adoption of this section shall apply to persons that paid the Treasury a total of $500,000 or more in a category of payments in the preceding state fiscal year and who are reasonably anticipated to do the same in the current fiscal year. The emergency adoption of this section will allow the Treasury to implement procedures to collect...
said payments by electronic funds transfer upon adoption of the Treasury EFT Rules.

The emergency adoption of this section will enhance the public benefit by increasing the amount of large payments made to the Treasury by electronic funds transfer. These payments will be available for investment by the Treasury on the business day following the date payments is made resulting in additional interest earnings for the state from investment on these large payments.

The new section is adopted on an emergency basis under the Texas Government Code, §404.095(c), which provides the Texas State Treasury Department with the authority to adopt rules specifying means of electronic funds transfer approved by the Treasurer.

§16.1. Applicability.

(a) These rules shall apply to persons that paid the treasury a total of $500,000 or more in a category of payments in the preceding state fiscal year and who are reasonably anticipated to do the same in the current fiscal year. See §15.1 of this title (relating to Applicability).

(b) All persons subject to these rules are required to transfer payment amounts of $10,000 or more due in a category of payments to the treasury by electronic funds transfer on or before the date payment is due.

Issued in Austin, Texas, on January 18, 1991.

TRD-9101064  Anne L. Schwartz
General Counsel
Texas State Treasury
Department

Effective date: January 28, 1991
Expiration date: May 28, 1991
For further information, please call: (512) 463-5871
Name: L.D. Smith
Grade: 4
School: Greenwood Hills Elementary, Richardson ISD
Proposed Sections

Before an agency may permanently adopt a new or amended section, or repeal an existing section, a proposal detailing the action must be published in the Texas Register at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive sections, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

**Symbology in proposed amendments.** New language added to an existing section is indicated by the use of bold text. [Brackets] indicate deletion of existing material within a section.

**TITLE 7. BANKING AND SECURITIES**

**Part VII. State Securities Board**

**Chapter 109. Transactions Exempt from Registration**

* 7 TAC §109.5

The State Securities Board proposes new §109.5, concerning sales. The new section is proposed pursuant to the Securities Act, §6.C(1), which is commonly referred to as the "isolated transactions" exemption.

Richard D. Latham, securities commissioner, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Latham also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be clarified as to the circumstances in which the isolated transactions exemption would be available. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Denise Voight Crawford, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The new section is proposed under Texas Civil Statutes, Article 581, §28.1, which provide the board with the authority to adopt rules and regulations governing registration statements and applications; classify securities, persons, and matters within its jurisdiction; and prescribe different requirements for different classes.

**§109.5. Sales Pursuant to the Securities Act, §5C(1).**

(a) Who may sell.

(1) For purposes of the Securities Act, (the Act) §5.C(1), the term "vendor" does not include the issuer of the securities sought to be sold or an affiliate of such issuer.

(2) "Vendor" is not limited to individuals, and may include a company as defined by the Act, §4.B.

(b) Number of allowable transactions.

(1) If, during a 12-month period, a vendor consummates not more than three sales in Texas of a single issuer's securities, the sales will be considered "isolated" for purposes of the exemption.

(2) Not included in the count of allowable transactions are sales made by or on behalf of a vendor that are made in compliance with the Act, §§5.H, 5.O, and/or 6.F.

(c) Use of agents. Any person acting as an agent for a vendor shall be registered either as a dealer or agent as required by the Act.

(d) Certain benefits to others prohibited.

(1) The payment of a usual commission to a registered dealer or agent in connection with the sale(s) is permissible.

(2) The exemption is unavailable if the sale or sales are made or intended by the vendor or his agent to help create a market in the issuer's securities.

(e) Advertising permitted. The use of advertising alone does not mean that the sales will not be considered "isolated" or "in the course of repeated and successive transactions of a like character" for purposes of the exemption.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 29, 1991.

TRD-9101187 Richard D. Latham Securities Commissioner State Securities Board

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 474-2233

✦ ✦ ✦

**Chapter 117. Administrative Guidelines for Registration of Real Estate Programs**

* 7 TAC §117.1, §117.4

The State Securities Board proposes amendments to §117.1 and §117.4, concerning administrative guidelines for the registration of real estate programs. The amendments reflect provisions that were included in the most recent amendments to the North American Securities Administrators' Association, Inc. (NASAA) real estate guidelines.

Michael Northcutt, director, Securities Registration Division, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Northcutt also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the section will be continued uniformly with other states in applying standards for registration of real estate programs. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Denise Voight Crawford, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendments are proposed under Texas Civil Statutes, Article 581, §28.1, which provide the board with the authority to adopt rules and regulations governing registration statements and applications; classify securities, persons, and matters within its jurisdiction; and prescribe different requirements for different classes.

**§117.1. Introduction.**

(a) (No change.)

(b) Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1)-(3) (No change.)

(4) Affiliate-

(A)-(C) (No change.)

(D) if such other person is an officer, director, or partner, any company for which such person acts in any such capacity.

(5) (No change.)

(6) Asset based fee–Compensation to a sponsor computed according to §117.4(b) of this title (relating to Fees–Compensation–Expenses).

(7)/(6) Audited financial statements–Financial statements (balance sheet, statement of income, statement of partners'
equity and statement of cash (flows) prepared in accordance with generally accepted accounting principles and accompanied by an independent auditor's report containing:

(A) an unqualified opinion;

(B) an opinion containing no material qualification; or

(C) no explanatory paragraph disclosing information relating to material uncertainties (except as to litigation) or going concern issues.

(8) Base amount—That portion of the capital contributions originally committed to investment in properties without regard to leverage and including working capital reserves allowable under §117. 4(l)(1)(C) of this title (relating to Fees-Compensation-Expenses). The base amount shall be recomputed annually by subtracting from the then fair market value of the program's real properties as determined by independent appraisals plus the working capital reserves allowable under §117.4(l)(1)(C) of this title (relating to Fees-Compensation-Expenses), the amount equal to the outstanding debt secured by the program's properties.

(9)(7) Capital contribution—The gross amount of investment in a program by a participant, or all participants, as the case may be. Unless otherwise specified, capital contribution shall be deemed to include principal amounts to be received on account of mandatory deferred payments.

(10)(7) Carried interest—An equity interest in a program which participates in all allocations and distributions other than the promotional interest provided for in §117.4(c)(3)(A), (c)(1), and (c)(2) of this title (relating to Fees-Compensation-Expenses), for which full consideration is not paid or to be paid.

(11)(9) Cash available for distribution—Cash flow less amount set aside for restoration or creation of reserves.

(12) Cash flow—Program cash funds provided from operations, including lease payments on net leases from builders and sellers, without deduction for depreciation, but after deducting cash funds used to pay all other expenses, debt payments, capital improvements, and replacements.

(13)(11) Competitive real estate commission—That real estate or brokerage commission paid for the purchase or sale of property which is reasonable, customary, and competitive in light of the size, type, and location of the property.

(14)(12) Construction fee—A fee or other remuneration for acting as general contractor and/or construction manager to construct improvements, supervise, and coordinate projects or provide major repairs or rehabilitation on a program's property.

(15)(13) Cross-reference sheet—A compilation of the guideline sections, referenced to the page of the prospectus, partnership agreement, or other exhibits, and justification of any deviation from the guidelines.

(16)(14) Development fee—A fee for the packaging of a program's property, including negotiating and approving prices, and undertaking to assist in obtaining zoning and necessary variances and necessary financing for the specific property, either initially or at a later date.

(17)(15) Financing—All indebtedness encumbering program properties or incurred by the program, the principal amount of which is scheduled to be paid over a period of not less than 48 months, and not more than 50% of the principal amount of which is scheduled to be paid during the first 24 months. Nothing in this definition shall be construed as prohibiting a bona fide prepayment provision in the financing agreement.

(18)(16) Front-end fees—Fees and expenses paid by any party for any services rendered to organize the program and to acquire assets for the program, including organization and offering expenses, acquisition fees, acquisition expenses, interest on deferred fees and expenses, and any other similar fees, however designated by the sponsor.

(19)(17) Investment in properties—The amount of capital contributions used to make or invest in mortgage loans or the amount actually paid or allocated to the purchase, development, construction, or improvement of properties acquired by the program, including the purchase of properties, working capital reserves allocable thereto (except that working capital reserves in excess of 5% shall not be included), and other cash payments such as interest and taxes but excluding front-end fees.

(20)(18) Major repairs and rehabilitation—The repair, rehabilitation, or reconstruction of a property where the aggregate costs exceed 10% of the fair market value of the property at the time of such services.

(21)(19) Mandatory deferred payments—Payments on account of the purchase price of program interests offered in accordance with 17 Code of Federal Regulations 240.3a12-9.

(22)(20) Net worth—The excess of total assets over total liabilities as determined by generally accepted accounting principles, except that if any of such assets have been depreciated, then the amount of depreciation relative to any particular asset may be added to the depreciated cost of such asset to compute total assets, provided that the amount of depreciation may be added only to the extent that the amount resulting after adding such depreciation does not exceed the fair market value of such asset.

(23)(21) Non-specified property programs—Programs other than specified property programs.

(24)(22) Organization and offering expenses—Those expenses[,] incurred in connection with and in preparing a program for registration and subsequently offering and distributing it to the public, including sales commissions paid to brokers, dealers in connection with the distribution of the program and all advertising expenses.

(25)(23) Participant—The holder of a program interest.

(26)(24) Person—Any natural person, partnership, corporation, association, or other legal entity.

(27)(25) Program—A limited or general partnership, joint venture, unincorporated association, or similar organization other than a corporation formed and operated for the primary purpose of investment in and the operation of or gain from an interest in real property, including such entities formed to make or invest in mortgage loans.

(28)(26) Program interest—The limited partnership unit or other indicia of ownership in a program.

(29)(27) Program management fee—A fee paid to the sponsor or other persons for management and administration of the program.

(30)(28) Property management fee—The fee paid for day-to-day professional property management services in connection with a program's real property projects.

(31)(29) Prospectus—Shall have the meaning given to that term by the Securities Act of 1933, §2(10), including a preliminary prospectus, provided, however, that such term as used herein shall also include an offering circular, as described in the Securities Act of 1933, Rule 256, or, in the case of an intrastate offering, any document by whatever name known, utilized for the purpose of offering and selling securities to the public.

(32)(30) Purchase price—The price paid upon purchase or sale of a particular property, including the amount of acquisition fees and all liens and mortgages on the property, but excluding points and prepaid interest.

(33)(31) Specified property program—A program where, at the time a securities registration is ordered effective, more than 75% of the net proceeds from the sale of program interests is allocable to the purchase, construction, or improvement of specific properties. Reserves shall be included in the nonspecified portion. Net proceeds shall include principal amounts to be received on account of mandatory deferred payments.
(34)((32)) Sponsor—Any person directly or indirectly instrumental in organizing, wholly or in part, a program or any person who will manage or participate in the management of a program, and any affiliate of any such person, does not include a person whose only relation with the program is as that of an independent property manager, whose only compensation is as such. Sponsor does not include wholly independent third parties such as attorneys, accountants, and underwriters whose only compensation is for professional services rendered in connection with the offering of syndicate interests. A person may also be a sponsor of the program by:

(A) taking the initiative, directly or indirectly, in founding or organizing the business or enterprise of the program, either alone or in conjunction with one or more other persons;

(B) receiving a material participation in the program in connection with the founding or organizing of the business of the program, in consideration of services or property, or both services and property;

(C) having a substantial number of relationships and contacts with the program;

(D) possessing significant rights to control program properties;

(E) receiving fees for providing services to the program which are paid on a basis that is not customary in the industry; or

(F) providing goods or services to the program on a basis which was not negotiated at arms-length with the program.

§117.4. Fees—Compensation—Expenses.
(a)-(b) (No change.)
(c) Investment in properties.
(1) (No change.)
(2) At a minimum, the sponsor shall commit a percentage of the capital contributions to investment in properties which is equal to 82% for [from] programs which make or invest in mortgage loans and, for all other programs, is equal to the greater of:

(A)-(B) (No change.)
(3)-(5) (No change.)
(d)-(i) (No change.)
(j) Asset based fee.

(1) Eligibility. A program may elect to compensate the sponsor according to the provisions of this section only if the program meets all of the following.

(A) The prospectus states that a primary investment objective of the program is to generate and to distribute to the participants the cash flow from the operation of the properties of the program.

(B) The anticipated life of the program does not exceed 20 years from the date the offering is declared effective by the Securities and Exchange Commission ("SEC"). However, the partnership agreement may provide that the program will be extended by the affirmative vote of a majority of the participants.

(C) The program will invest not less than 82% of the capital contributions as the investment in properties. The remaining capital contributions may be used to pay front-end fees. The total amount of front-end fees, whenever paid, shall be limited to the initial amount of capital contributions not applied to investment in properties. Of this investment in properties, not more than 3.0% of the capital contributions may be included as a working capital reserve.

(2) Computation. The annual asset based fee shall be 0.75% of the base amount. On capital contributions temporarily held while awaiting investment in properties, the asset based fee shall be 0.5% of those capital contributions. The sponsor may also be allowed the following additional fees and compensation:

(A) a property management fee as provided in subsection (g) of this section;

(B) real estate commissions as provided in subsection (f) of this section;

(C) a promotional interest as provided in subsection (e)(2)/(B) of this section;

(D) fees for insurance services as allowed by subsection (b) of this section;

(E) front-end fees as provided in subsection (j)(1)/(C) of this section;

(F) reimbursement for program expenses as provided in §117.5(e) of this title (relating to Conflicts of Interest and Investment Restrictions);

(G) fees, interest, and other charges as allowed in §117.5(3) of this title (relating to Conflicts of Interest and Investment Restrictions);

(H) additional promotional interest in sale or refinancing proceeds as provided in subsection (c)(3)(A) of this section; and

(I) except as provided in subparagraphs (A)-(H) of this paragraph, the sponsor shall receive no fees or other compensation from the program.

(3) Limitations. An election to compensate the sponsor with an asset based fee as provided in this subsection shall be subject to the following limitations.

(A) The program may reinvest the proceeds from the sale and refinancing of its properties during the seven years following the date of its effectiveness with the SEC. No deduction for front-end fees shall be allowed on such reinvestments. Beginning on a date seven years after the date of effectiveness with the SEC, no reinvestment of the proceeds from the sale and refinancing of the properties of the program shall be allowed.

(B) The asset based fee may be accrued without interest when program funds are not available for its payment. Any accrued asset based fee may be paid from the next available cash flow or net proceeds from sale or refinancing of properties. No asset based fee may be paid from program reserves.

(C) A sponsor that is terminated and entitled to compensation from the program as provided in the partnership documents and governed by §117.2(f) of this title (relating to Requirements of Sponsors) shall be paid the asset based fee through the date of such termination.

(D) Except as modified by this paragraph, all other portions of this statement of policy shall apply where appropriate to programs electing an asset base fee.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 29, 1991.

TRD-9101188 Richard D. Latham
Securities Commissioner
State Securities Board

Earliest possible date of adoption: March 8, 1991
TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

Conservation Rules and Regulations

16 TAC §3.54

The Railroad Commission of Texas proposes an amendment to §3.54, concerning the filing of casinghead gas processing plant reports. The proposed amendment would eliminate the requirement that operators of casinghead gas processing plants file semi-annually with the commission a list of all leases and wells to which the plant is connected. Adoption of the proposed amendment will relieve operators of the obligation to compile this lease and well information and will reduce the filing burden of the commission.

Rita E. Percival, systems analyst for the Oil and Gas Division, has determined that for the first five-year period the proposed rule revision will be in effect, there will be fiscal implications as a result of enforcing or administering it. The effect on state government for the first five-year period the section will be in effect is an estimated savings of $750 for Fiscal Year 1991 and $1,500 annually for Fiscal Year 1992 through Fiscal Year 1996. There will be no fiscal implications for local government.

Jamie Nielson, Hearings Examiner, Legal Division, has determined that for each year of the first five years the amended section is in effect, the public will benefit from reduced time and monetary burdens of semi-annual filings with the commission. There will be no additional financial burden. There will be no anticipated additional economic cost to persons who are required to comply with the section as amended.

The Railroad Commission encourages public comment on the proposed amendment. Please submit written comments to Jamie Nielson, Legal Division-Oil and Gas Section, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. The deadline for filing comments is 5 p.m. March 7, 1991. The dock number is 20-95,956.

The Railroad Commission proposes the amendment pursuant to the Texas Natural Resources Code, Title 3, Chapter 86, §§86.041 and §§86.042, which authorizes the commission to adopt rules regarding the regulation of natural gas.

3.54. Gas Reports Required.

(a) Gas processing plant report. As soon after the first day of each calendar month as practicable, and never later than the 25th day of each calendar month, the operator of each plant manufacturing or extracting liquid hydrocarbons, including gasoline, butanes, condensates, kerosene, or other derivatives from natural gas, or refining or storage vessels, shall file, in duplicate, in the Austin office, a report concerning the operation of the plant during the immediately preceding month, which must contain the data and information required on the form.

(b) Casinghead gas processing plant report. Each plant processing casinghead gas shall file semi-annually with the commission a list of all leases and wells to which the plant is connected. The list shall be filed in duplicate with the district office on or before January 15 and July 15 of each year, and shall show the connections as of January 1 and July 1 respectively. Each list should be arranged by field and reservoir, and the wells listed alphabetically by well owner and lease.

(b)(c) Pressure maintenance and repurposing plant report. (1) As soon after the first day of each month as practicable, but never later than the 15th day of each calendar month, the operator of each plant that returns natural gas to oil or gas producing reservoirs, or both, for the purpose of maintaining pressure or repurposing an oil or gas reservoir, but is not reporting such gas on any other commission approved form, shall file in duplicate in the district office a report concerning the operation of the plant during the immediately preceding month, which must contain the data and information required on the form.

(2) Pressure maintenance.

(A) The operator of each pressure-maintenance or repurposing plant shall file the report although no liquid hydrocarbons are recovered.

(B) The term "pressure-maintenance plant" or "repurposing plant" as used herein [in this section] means any equipment or facility, mechanical or otherwise, used for the purpose of returning any natural gas, residue gas from a gas processing plant, including plant and storage vessels, to an underground oil reservoir if the plant is operated as a separate unit. If pressure maintenance or repurposing operations are conducted as an integral part of a gas processing plant extracting, manufacturing, or recovering liquid hydrocarbons from natural gas or vapors, or both, the operations shall be reported by the operator of the processing plant.

(c)(d) Producer's report of condensate and/or crude oil produced from gas wells. As soon as practicable after the first day, and never later than the last day of the calendar month, subsequent to the period of the report, the operator of each gas well from which liquids are recovered on the lease shall file the required form.

(d)(e) Carbon black plant report. As soon as practicable after the first day and never later than the 15th day of each calendar month, each operator of a carbon-black plant shall file a report. The report
shall cover the operation of the plant for the immediately preceding month and shall be filed in duplicate in the district office.

(6)(c) Monthly gas production report. As soon after the first day of each month as practicable, and never later than the last day of the calendar month, subsequent to the period of the report, every operator producing natural gas from wells classified as either gas wells or oil wells by the commission, except those expressly exempted by the commission shall file a report on the required form.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 29, 1991.

TRD-9101195 Brenda Loudermilk Hearing Examiner, Legal Division-General Counsel Railroad Commission of Texas

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-6864

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TITLE 19. EDUCATION
Part II. Texas Education Agency
Chapter 53. Regional Education Service Centers
Subchapter A. Authorization
★ 19 TAC §§53.1-53.3

(Editor’s note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Braeswood Street, Austin.)

The Texas Education Agency (TEA) proposes the repeal of §§53.1-53.3, 53.21-53.25, and 53.71-53.77, concerning regional education service centers.

Senate Bill 1, passed by the 71st Texas Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision so that any rules adopted on these matters must occur under the new rulemaking relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. The sections in Chapter 53 have been reviewed by the board and are being repealed. The reviewed sections are being re-proposed as new Chapter 53, Regional Education Service Centers, in a separate submission.

Lynn Moak, deputy commissioner for research and development, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, also has deter-

★ 53.23. Fiscal Records and Accounting.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 22, 1991.

TRD-9101164 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-9701

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Subchapter B. Administration and Operation
★ 19 TAC §§53.21-53.25

(Editor’s note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Braeswood Street, Austin.)

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§53.22. Staff.

★ 53.23. Fiscal Records and Accounting.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101163 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991

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Chapter 61. School Districts


Senate Bill 1, passed by the 71st Texas Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision so that any rules adopted on these matters must occur under the new rulemaking relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. The sections in Chapter 61 have been reviewed by the board and are being repealed. The repealed sections are being re-proposed as new Chapter 61, School Districts, in a separate submission.

Lynn Moak, deputy commissioner for research and development, has determined that for the first five years the proposed repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Moak and Criss Clodfelter McCuller, director for planning coordination, also have determined that for each year of the first five years the proposed repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be a clearer, more concise statement of the agency's rule authority. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply the repeals as proposed.

Comments on the proposal may be submitted to Criss Clodfelter McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 465-9701. All requests for a public hearing on the proposed repeal submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioners of education not more than 15 calendar days after notice of the proposed change in the sections has been published in the Texas Register.

Subchapter A. Operational Basis

• 19 TAC §61.1, §61.2

(Revised note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides for the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.


This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt. Issued in Austin, Texas, on January 24, 1991.

TRD-9101084 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-9701

• 19 TAC §61.21

(Revised note: The text of the following section proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides for the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.


This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101085 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-9701

• Subchapter B. Waivers and Exemptions

• 19 TAC §61.30, §61.31

(Revised note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides for the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§61.30. Waivers and Exemptions from Rules or Laws.


This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101086 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-9701

• Subchapter C. Creation, Alteration, and Abolition

• 19 TAC §61.41

(Revised note: The text of the following section proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides for the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§61.41. Process; Report of Action Taken.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101078 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-9701

• Subchapter D. School District-Pupil Relationship

Attendance

• 19 TAC §§61.61-61.65

(Revised note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides for the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

16 TexReg 634 February 5, 1991 Texas Register
§61.61. Permission for Enrollment.

§61.62. Compulsory Attendance.

§61.63. Transfers.

§61.64. Dropout Reporting.

§61.65. Absences.
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.
TRD-9101088 W. N. Kirby Commissioner of Education
Earliest possible date of adoption: March 8, 1991
For further information, please call: (512) 463-9701

Discipline

• 19 TAC §61.71
(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)
The repeal is proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§61.71. Discipline, Law, and Order.
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.
TRD-9101086 W. N. Kirby Commissioner of Education
Earliest possible date of adoption: March 8, 1991
For further information, please call: (512) 463-9701

Pupil Organizations

• 19 TAC §61.81, §61.82
(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)
The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§61.81. Prohibition of Secret Societies.

§61.82. Approval of Pupil Organizations.
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.
TRD-9101090 W. N. Kirby Commissioner of Education
Earliest possible date of adoption: March 8, 1991
For further information, please call: (512) 463-9701

Health and Safety

• 19 TAC §61.91, §61.92
(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)
The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§61.91. Student Health, Safety, and Well-Being.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.
TRD-9101091 W. N. Kirby Commissioner of Education
Earliest possible date of adoption: March 8, 1991
For further information, please call: (512) 463-9701

Special Students

• 19 TAC §§61.101, 61.102, 61.104
(Addendum: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)
The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§61.101. Commitment to and Procedures for Nonbiased Pupil Attendance.

§61.102. Provision for Pregnant Students.

§61.104. Permissive Attendance.
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.
TRD-9101092 W. N. Kirby Commissioner of Education
Earliest possible date of adoption: March 8, 1991
For further information, please call: (512) 463-9701

Insurance

• 19 TAC §61.111, §61.112
(Addendum: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)
The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§61.111. Athletes.

§61.112. Other Pupils (Nonathletes).
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.
TRD-9101093 W. N. Kirby Commissioner of Education
Earliest possible date of adoption: March 8, 1991
For further information, please call: (512) 463-9701

Fees

• 19 TAC §61.121, §61.122
(Addendum: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)
The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§61.121. Free Textbook Not Returned.

§61.122. School District Collection of Student Fees.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101094 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-9701

Subchapter F. Responsibilities and Powers for Operation

• 19 TAC §§61.161-61.165, 61.167-61.170, 61.172-61.175

( Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.


§61.162. Holidays.

§61.163. Records and Reports.

§61.164. Textbooks.

§61.165. Violations of Statutes.


§61.168. Maintenance of Law and Order.

§61.169. Accreditation of Schools.

§61.170. Name of School District.

§61.172. Late Afternoon and Evening Sessions.


§61.174. Training for School Board Members.

§61.175. Year-Round Schools.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101096 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-9701

Subchapter G. Responsibilities and Powers for Finance

• 19 TAC §§61.191-61.193

( Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.


§61.192. Use of Donations to Schools.


This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101097 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-9701

Subchapter H. Pupils from Other States

• 19 TAC §61.211

( Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§61.211. Tuition.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101098 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-9701
Subchapter K. Mineral Leases by School Districts
• 19 TAC §§61.271-61.273

(Ed. note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.


This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency’s authority to adopt.

Issued in Austin, Texas, on January 24, 1991.
TRD-910101
W. N. Kirby
Commissioner of Education

Earliest possible date of adoption: March 8, 1991
For further information, please call: (512) 463-9701

Subchapter L. School Volunteer Program
• 19 TAC §§61.291-61.295

(Ed. note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.


§61.292. Responsibility of Regional Education Service Centers.

§61.293. Use of Volunteers in Local School Districts.

§61.294. Desirable Program Elements.

§61.295. Data Collection.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency’s authority to adopt.

Issued in Austin, Texas, on January 24, 1991.
TRD-910102
W. N. Kirby
Commissioner of Education

Earliest possible date of adoption: March 8, 1991
For further information, please call: (512) 463-9701

Chapter 65. Nonpublic Elementary and Secondary Schools

General Operations
• 19 TAC §§65.1-65.3, 65.5

(Ed. note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Education Agency (TEA) proposes the repeal of §§65.1-65.3, and 65.5, concerning general operations. Senate Bill 1, passed by the 71st Texas Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision so that any rules adopted on these matters must occur under the new rule-making relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. The sections in Chapter 65 have been reviewed by the board and are being repealed.

Lynn Moak, deputy commissioner for research and development, has determined that for the first five-year period the rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Mr. Moak and Criss Cloud McCuller, director for planning coordination also have determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the rules will be a cleaner more concise statement of the agency’s rule authority. There will be no effect on small businesses. There is no anticipated economic impact to persons who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Criss Cloud McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed repeals must be submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the sections has been published in the Texas Register.

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.
§65.1. Freedom of Operation.

§65.2. Recognition for Compulsory Attendance.

§65.3. Participation in Federal Programs.

§65.5. Approval of a Nonpublic School for Contractual Arrangements.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101103 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-9701

Chapter 81. Instructional Resources

The Texas Education Agency (TEA) proposes the repeal of §§81.1, 81.2, 81.21-81.25, 81.41-81.43, 81.61-81.63, 81.71-81.73, 81.81, 81.90-81.95, 81.101, 81.103-81.108, 81.110-81.137, 81.151-81.156, 81.158, 81.164, 81.171-81.179, 81.221-81.223, 81.241, and 81.261, concerning Instructional Resources. Senate Bill 1, passed by the 71st Texas Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision so that any rules adopted on these matters must occur under the new rule-making relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. The sections in Chapter 81 have been reviewed by the.board and are being repealed. The reviewed sections are being re-proposed as new Chapter 67, Instructional Resources, in a separate submission.

Lynn Moak, deputy commissioner for research and development, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, also have determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be a clearer more concise statement of the agency's rule authority. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Criss Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed repeals submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the sections has been published in the Texas Register.

Subchapter A. General Provisions

• 19 TAC §81.1, §81.2

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§81.1. Provision for Instructional Resources.

§81.2. Statewide Instructional Resources System.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101104 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-9701

Subchapter B. Instructional Television Services Program

• 19 TAC §§81.21-81.25

( Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.


§81.22. Eligibility and Participation.

§81.23. District Instructional Television Committee.

§81.24. Multidistrict Instructional Television Services Committee.

§81.25. Multidistrict Services Sources.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101105 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-9701

Subchapter C. Media Service Program of the Education Service Centers

• 19 TAC §§81.41-81.43

( Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapters 75, under Title 19, Texas Administrative Code, relating to public education.

§81.41. Authorization of the Media Service Program.

§81.42. Media Services for Public Schools.

§81.43. Discontinuing Participation for Media Services.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101106 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-9701

Subchapter D. State Textbook Program

General Provisions

• 19 TAC §§81.61-81.63

( Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)
The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§81.61. Free Textbooks To Be Adopted.

§81.62. Scope of Rules.

§81.63. Materials Available for Use With Textbooks.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.
TRD-9101107 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991
For further information, please call: (512) 463-9701

General Content Requirements and Manufacturing Standards

• 19 TAC §§81.71-81.73

(EDITOR'S NOTE: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§81.71. General Content Requirements and Limitations.

§81.72. Manufacturing Standards and Specifications.

§81.73. Grade Designation.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.
TRD-9101108 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991
For further information, please call: (512) 463-9701

Funding

• 19 TAC §81.81

(EDITOR'S NOTE: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§81.81. Textbook Fund.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.
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Earliest possible date of adoption: March 8, 1991
For further information, please call: (512) 463-9701

Textbook Proclamation

• 19 TAC §§81.90-81.95

(EDITOR'S NOTE: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§81.90. Proclamation, Public Notice, and Schedule for Adoption of Textbooks.

§81.91. State Textbook Proclamation Advisory Committees: Appointments and Qualifications.

§81.92. Duties of the State Textbook Proclamation Advisory Committees.

§81.93. State Textbook Proclamation Advisory Committees: Meetings and Expenses.

§81.94. No-Contact Periods.

§81.95. Committee Member Conduct.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.
TRD-9101110 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991
For further information, please call: (512) 463-9701

State Adoption, Acquisition, and Custody of Textbooks

• 19 TAC §§81.101, 81.103-81.108, 81.110-81.137

(EDITOR'S NOTE: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code, relating to public education.


§81.103. Review of Contracts.


§81.105. Refusal To Rebid.

§81.106. Statement of Intent To Offer Textbooks for Adoption.


§81.108. Orientation for Committee Members.

§81.110. Duties.

§81.111. Meetings, Compensatory Per Diem, and Expenses.

§81.112. Presentations by Publishers at Hearings of State Textbook Subject Area Committees.

§81.113. No-Contract Periods.

§81.114. Committee Member Conduct.

§81.115. Requirements for Registers.

§81.116. Bid Prices.

§81.117. Deposits with the State Treasurer.
§81.118. Consumable Textbooks and Learning Systems Offered for Purchase by the State.

§81.119. Revised, Identical, or Special Editions.

§81.120. Samples.

§81.121. Special Provisions Concerning Samples of Learning Systems and Supplementary Instructional Materials.

§81.122. Regional Education Service Centers: Procedures for Handling Samples; Public Access to Samples.

§81.123. Field Testing.

§81.124. Public Comment on Textbooks.

§81.125. Hearings before the State Textbook Subject Area Committees and the Commissioner of Education.


§81.128. Procedures Governing Violations of the Statutes or the Rules, Procedural Irregularities, or Failure To Meet Established Deadlines.

§81.129. Consideration and Adoption of Textbooks by the State Board of Education.

§81.130. Preparation and Completion of Contract Form.

§81.131. Activation of Textbook Contracts.

§81.132. Bond.

§81.133. Rebinding of Textbooks.


§81.135. Disposition of Expiring Adoption Textbooks and Textbooks in Unsuitable Condition.

§81.136. Out-of-Adoption Textbooks Provided to Falls and Other Institutions.

§81.137. Availability of Textbooks.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101111

W. N. Kirby
Commissioner of Education

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For further information, please call: (512) 463-9701

Local Operations

• 19 TAC §§81.151-81.156, 81.158, 81.164

(Editors' note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§81.151. Mandatory Use of Adopted Textbooks.

§81.152. Sample Copies of Textbooks for Local School Districts.

§81.153. Selection of Textbooks by Local School Districts.

§81.154. Retention of Expired Textbooks.


§81.156. Local Accountability.

§81.158. Registration of Certain Transactions.

§81.164. Depository Status.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101112

W. N. Kirby
Commissioner of Education

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For further information, please call: (512) 463-9701

Special Textbooks

• 19 TAC §§81.171-81.179

(Editors' note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§81.171. Textbooks To Be Made Available.

§81.172. Agreements.

§81.173. Authorization of State Funds.

§81.174. Gifts of Textbooks.

§81.175. Distribution and Control.
§81.176. Textbooks for Blind and Visually Handicapped Teachers.

§81.177. Bilingual Education Textbook Adoptions.

§81.178. Textbooks for Special Education Classes.

§81.179. Reproduction of Textbooks on Audiocassette.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101113 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-9701

Subchapter F. Library Media Standards

• 19 TAC §81.241

(Editors' note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brass Street, Austin.)

The repeal is proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§81.241. Requirements for Library Media Programs.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101115 W. N. Kirby Commissioner of Education

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For further information, please call: (512) 463-9701

Subchapter G. Other Instructional Resources

• 19 TAC §81.261

(Editors' note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brass Street, Austin.)

The repeal is proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.


This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101118 W. N. Kirby Commissioner of Education

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For further information, please call: (512) 463-9701

Subchapter A. General Provisions

• 19 TAC §85.1

(Editors' note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brass Street, Austin.)

The repeal is proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§85.1. Scope.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.
Subchapter B. Guidance Services

19 TAC §85.21, §85.22

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.


§85.22. School-Community Guidance Centers.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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TRD-9101118 W. N. Kirby
Commissioner of Education

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For further information, please call: (512) 463-9701

Subchapter D. Home/School Coordination Services

19 TAC §85.71

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§85.71. Provision of Services.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101118 W. N. Kirby
Commissioner of Education

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For further information, please call: (512) 463-9701

Subchapter E. School Psychological Services

19 TAC §85.91

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§85.91. Provisions of Services.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101121 W. N. Kirby
Commissioner of Education

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-9701

Subchapter F. School Lunch Program

School Lunch and Child Nutrition Program

19 TAC §85.111

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§85.111. Services.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101112 W. N. Kirby
Commissioner of Education

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-9701

Subchapter F. School Lunch Program

School Lunch and Child Nutrition Administration

19 TAC §85.121

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§85.121. State Administration of National School Lunch and Other Child Nutrition Programs.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.
Earliest possible date of adoption: March 8, 1991
For further information, please call: (512) 463-9701

Subchapter G. Attendance Improvement

19 TAC §85.141
(Editors’ note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brasso Street, Austin.)
The repeal is proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§85.141. Attendance Services.
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency’s authority to adopt.
Issued in Austin, Texas, on January 24, 1991.

Subchapter H. Transportation Services
Commitment to Providing Student Transportation Services
19 TAC §85.161
(Editors’ note: The text of the following section proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brasso Street, Austin.)
The repeal is proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency’s authority to adopt.
Issued in Austin, Texas, on January 24, 1991.
For further information, please call: (512) 463-9701

Subchapter I. Adoptions by Reference

• 19 TAC §§85.232, §§85.233

(Editors' note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.


§85.233. Medical Examination Report for School Bus Drivers.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101129 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-9701

Chapter 93. Instructional Development

Subchapter F. Career Education

• 19 TAC §93.101

(Editors' note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Education Agency (TEA) proposes the repeal of §93.101, concerning instructional development.

Senate Bill 1, passed by the 71st Texas Legislature, requires the State Board of Education (SBOE) to reexamine all rules affected by this provision so that any rules adopted on these matters must occur under the new rulemaking relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. Section 93.101 has been reviewed by the board and is being repealed because statutory authority no longer exists.

Lynn Moak, deputy commissioner for research and development, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, have determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be clearer more concise statement of the agency's rule authority. There will be no effect on small businesses. Thre is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Criss Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposal submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the section has been published in the Texas Register.

The repeal is proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code, relating to public education.

§93.101. Design for Implementing Career Education.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101130 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-9701

Chapter 463. Applications

• 22 TAC §463.6

The Texas State Board of Examiners of Psychologists proposes an amendment to §463.6, concerning experience requirements of the board. The board is adding the requirement that the predoctoral year of supervised experience for licensure must be received within an internship program that is defined by the board and approved by the board.

Patricia S. Bizzell, executive director, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Bizzell also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the board is requiring applicants to receive at least one
year of their training in an organized internship program that is approved by the board. This will help to ensure that potential licensees will have training that is organized and approved by a large group of credentialed psychologists. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the section as proposed will be any costs associated with enrolling in an approved program for fiscal years 1991-1995.

Comments on the proposal may be submitted to Patricia S. Bizzell, M.P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§463.6. Experience. Supervision may be obtained only in a full-time or half-time setting.

(1)-(10) [No change.]

(11) Effective January 1, 1993 the one year of pre-doctoral experience must be an internship certified by the Director of Internship Training and must be satisfied by either:

(A) the successful completion of a pre-doctoral internship program accredited by the American Psychological Association; or

(B) The successful completion of an organized internship meeting the following criteria:

(i) an organized training program, in contrast to supervised experience or on-the-job training, designed to provide the intern with a planned, programmed sequence of training experiences. The primary focus and purpose is assuring breadth and quality of training;

(ii) the Internship agency had a clearly designated staff psychologist who was responsible for the integrity and quality of the training program and who was actively licensed/certified by the State Board of Examiners in Psychology;

(iii) the Internship agency had two or more psychologists on the staff as supervisors, at least one of whom was actively licensed as a psychologist by the State Board of Examiners in Psychology;

(iv) Internship supervision was provided by a staff member of the Internship agency or by an affiliate of that agency who carried clinical responsibility for the cases being supervised. At least half of the Internship supervision was provided by one or more psychologists;

(v) the Internship provided training in a range of assessment and intervention activities conducted directly with patients/clients;

(vi) at least 25% of trainee's time was in direct patient/client contact (minimum 375 hours);

(vii) the internship included a minimum of two hours per week (regardless of whether the internship was completed in one year or two) of regularly scheduled formal, face-to-face individual supervision. There must also have been at least two additional hours per week in learning activities such as: case conferences involving a case in which the intern was actively involved; seminars dealing with psychology issues; co-therapy with a staff person including discussion; group supervision; additional individual supervision;

(viii) training was post-clerkship, post-practicum, and post externship level;

(ix) the Internship agency had a minimum of two intern at the internship level of training during applicant's training period;

(x) trainee had title such as "Intern", "resident," "fellow," or other designation of trainee status;

(xi) The Internship agency had a written statement or brochure which described the goals and content of the internship, stated clear expectations for quantity, and quality of trainee's work and was made available to prospective interns;

(xii) the Internship experience (minimum 1,500 hours) was completed within 24 months.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 28, 1991.

TRD-9101169 Patricia S. Bizzell
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 835-2036

Part XXII. Texas State Board of Public Accountancy

Chapter 505. The Board

• 22 TAC §505.10

(Reader's Note: The Texas State Board of Public Accountancy proposes for permanent adoption the amended section it adopts on an emergency basis in this issue. The text of the amended section is in the Emergency Rules section of this issue.)

The Texas State Board of Public Accountancy proposes an amendment to §505.10, concerning the board. The amendment will delete the requirement that board committee meetings be subject to the notice requirements of the Open Meetings Act.
William Tracy, executive director, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Tracy also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to allow the board to conduct committee meetings without limiting its discussions and to carry out its mandated business of protecting the public from improper accounting practices. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to J. Randal (Jerry) Hill, General Counsel, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §1(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding board committees.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101201 William Tracy Executive Director Texas State Board of Public Accountancy

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 450-7066

Chapter 519. Practice and procedure

• 22 TAC §519.14

(EDITOR'S NOTE: The Texas State Board of Public Accountancy proposes for permanent adoption the repealed section it adopts on an emergency basis in this issue. The text of the repealed section is in the Emergency Rules section of this issue.)

The Texas State Board of Public Accountancy proposes the repeal of §519.14, concerning amendments. The repeal of the section eliminates the limitation that allowed amending pledging.

William Tracy, executive director, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Tracy also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that the public will be protected from persons practicing public accountancy lacking competency and/or integrity. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to J. Randal (Jerry) Hill, General Counsel, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The repeal is proposed under Texas Civil Statutes, Article 41a-2, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to practice and procedure.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 24, 1991.

TRD-9101199 William Tracy Executive Director Texas State Board of Public Accountancy

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 450-7066

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TITLE 28. INSURANCE

Part II. Texas Workers’ Compensation

Chapter 169. Workers’ Health and Safety—Drug Free Workplace Program

• 28 TAC §169.1, §169.2

The Texas Workers’ Compensation Commission proposes new §169.1 and §169.2, concerning workers’ health and safety—drug free workplace program.

New §169.1 requires employers that employ 15 or more employees and that maintain workers’ compensation insurance to adopt, by April 15, 1991, a policy for the elimination of drug abuse. Employers that become subject to this section after January 1, 1991, have 45 days from the date they become subject in which to comply with the requirement. A written copy of the drug abuse policy must be given to each employee, either on or before the employee's first day of employment, or 30 days after the date the policy is adopted. For purposes of a compliance audit, an employer is required to provide a copy of the policy to the commission within 30 days of a written request for it. The new section provides that after June 1, 1991, employers subject to this section that do not have a drug abuse policy may be subject to an administrative penalty up to $500.

New §169.2 sets out the required elements that the drug abuse policy must contain, including the purpose and scope of the policy, a definition of the term “drug,” a statement of the consequences of the policy, a description of available treatment programs and how they may be requested, a description of the availability of drug and alcohol abuse education, and a description of any drug testing program that the employer has in force.

R. Glenn Looney, manager of planning and analysis, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections. There is no anticipated impact on employment, locally or statewide, as a result of implementing the sections.

Mr. Looney also has determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of enforcing the sections will be the implementation of the Workers’ Compensation Act adopted by recent legislation; and implementation of anti-drug-abuse policies by businesses which are expected to result in fewer drug-related incidents on the job, and therefore lower compensation-related costs to insurers, and employers (both private and public). There will be no effect on small businesses. There is no anticipated additional economic cost to persons who are required to comply with the sections as proposed; aside from nominal copying charges that may result from the necessity to copy and distribute the policy to employees.

Comments on the proposal may be submitted to Susan M. Kelley, General Counsel, Texas Workers’ Compensation Commission, 200 East Riverside Drive, Austin, Texas 78704-1287. Comments will be accepted for 30 days after publication of this proposal in the Texas Register.

The new sections are proposed under Texas Civil Statutes, Article 8308, §109(a), which authorize the Commission to adopt rules necessary to administer the Texas Workers’ Compensation Act, and under §7.10(b), which authorize the commission to adopt rules relating to policies for eliminating drugs in the workplace.

§169.1. Notification of Drug Abuse Policy.

(a) Each employer who has 15 or more employees and who maintains workers’ compensation insurance coverage shall adopt a policy for elimination of drug abuse (hereinafter called drug abuse policy) by April 15, 1991. An employer who becomes subject to this subchapter after January 1, 1991, shall adopt a drug abuse policy within 45 days of the date on which the employer becomes subject. An employer who is in compliance with the Federal Drug-Free Workplace Act of 1988 has met this requirement.

(b) An employer shall provide a written copy of the drug abuse policy to each employee:

(1) on or before the first day of employment; or

(2) within 30 days after the date the policy is adopted by the employer.

(c) An employer shall provide the commission with a copy of the drug abuse policy for the purpose of a compliance audit, no later than 30 days after the receipt of a written request.

(d) After June 1, 1991, an employer who is subject to this section, and who does not have a drug abuse policy, may be subject to a Class D administrative violation, and may be assessed with an administrative penalty not to exceed $300.
§169.2. Required Elements of Drug Abuse Policy. An employer adopting a policy for the elimination of drug abuse shall provide each employee with a written copy of the policy, which shall include:

(1) a statement of the purpose and scope of the policy;

(2) a statement that the term "drug" includes alcoholic beverages and prescription drugs, as well as illegal inhalants and illegal drugs. The policy shall exclude prescription drugs when taken as directed by the employee's doctor;

(3) a statement of any consequences the employee may suffer if found violating the policy;

(4) a description of available treatment programs, if any, and how they may be requested, such as assistance provided by the employee's health care insurance on drug and alcohol abuse rehabilitation programs sponsored by the employer;

(5) the availability of, and the requirements for, participation in drug and alcohol abuse education and training programs, if any; and

(6) a description of any drug testing program that the employer has in force.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 30, 1991.

TRD-9101206 Susan M. Kelley
General Counsel
Texas Workmen's Compensation Commission

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 440-3973

TITLE 31. NATURAL RESOURCE AND CONSERVATION

Part II. Parks and Wildlife Department

Chapter 65. Wildlife

Subchapter P. Alligators


(Editor's note: The Texas Parks and Wildlife Department submitted proposed amendments to 31 TAC Subchapter P. Alligators for publication in the December 12, 1990, issue (15 TexReg 7418). Due to publication errors, the proposed rules are reprinted in this issue.)

The amendments to §65.364 establishes minimum facility requirements for maintaining hatchlings and the incubation of alligator eggs, requires reports on nesting activity of captive alligators, prohibits the shipment of alligator eggs out of state, and requires all alligators under 48 inches be housed in temperature controlled sheds unless authorization has been received.

The amendment to §65.368 provides that authorized representatives of the department may take and possess alligator eggs while in the performance of official duties.

Robin Riechers, staff economist, has determined that for the first five-year period the proposed sections are in effect there will be minimal fiscal implications for state or local government as a result of enforcing or administering the sections. There will be an effect on small businesses. These costs cannot be quantified at this time.

Bill Brownlee, Alligator Program Director, has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be improved control on alligator production and harvest to ensure that alligators harvested and marketed in Texas continue to meet federal requirements for approved international export without having the maximum value of hides and parts. Provision of minimum alligator farm facility requirements will ensure proper handling and control of alligators maintained in captivity, thereby accruing public benefits in the form of protection and efficiency in the industry. There is an anticipated economic cost to individual alligator hunters and farmers who are required to comply with the sections as proposed. These costs cannot be quantified at this time.

The department has filed a local employment impact statement with the Texas Employment Commission in compliance with the Administrative Procedure and Texas Register Act, §4A, as this agency has determined that the sections as proposed may have a minimal impact on local economies.

Comments on the proposed amendments may be submitted to William C. Brownlee, Alligator Program Director, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4700 or 1-800-792, extension 4700.

The amendments are proposed under the Texas Parks and Wildlife Code, Chapter 65, which provides the Texas Parks and Wildlife Commission with the authority to adopt regulations for the taking, possession, propagation, transportation, exportation, importation, sale, and offering for sale of alligator or parts of alligators as considered necessary to manage the species.

§65.352. Definitions. The following words or terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

ADC-animal damage control, Animal and Plant Health Inspection Service, United States Department of Agriculture. Alligator farmer—A properly permitted person who holds live alligators in captivity or who propagates alligators (to
take] for the purpose of selling alligators, hides, meat, or other parts of an alligator.

Alligator parts—The hide or skin, teeth, meat, [eggs,] or any other part of an alligator, excluding eggs.

Alligator parts dealer—A person holding an alligator parts dealer permit who buys alligators (except live alligators) or parts of alligators from a licensed alligator farmer, licensed alligator buyer, or another alligator parts dealer permit holder.

Incubator—An apparatus designed and used for the purpose of incubating alligator eggs.

Nest stamp recipient—A landowner or landowner’s agent who has received alligator nest stamps from the department.

Landowner—A person who owns land which the department has designated as alligator habitat.

Landowner’s agent—A person who has written authorization to represent the landowner.

Nuisance control hunter—A person [licensed alligator hunter] who is contracted or otherwise selected by the department to remove designated nuisance alligators.

Resident—A person, except an alien, who has been a resident of this state for more than six months immediately before applying for an alligator hunter’s or buyer’s license ([Texas Parks and Wildlife Code, §65. 001(6)).]

§65.354. Licenses, Permits, and Fees.

(a) The licenses and fees required for activities authorized by this subchapter are as prescribed under provisions of the Texas Parks and Wildlife Code, Chapter 65, or as prescribed in this subsection, and are:

(1)-(10) (No change.)

(11) $10 for each alligator hunting tag fee.

(b) No person may take, attempt to take, possess, or accompany another person who is attempting to take an alligator in this state during the open season established in this subchapter for taking alligators [or collect, attempt to collect, possess, or accompany another person who is attempting to collect hatchling alligators] unless he or she has acquired and possesses an alligator hunter’s license.

(c) (No change.)

(d) An alligator farmer permit shall [must] be acquired by any person possessing one or more live alligators or alligator eggs.

(e) (No change.)

(f) No person may remove and possess alligator eggs from wild nests or accompany anyone removing eggs from wild nests unless he or she has acquired and possesses an alligator hunter’s license and an alligator egg collector’s validation provided, however, landowners are not required to be validated as egg collectors to accompany authorized egg collectors on their property. Egg collector’s validations will only be issued to those persons who demonstrate competency in egg collection and handling, have necessary equipment accessible, and complete the prescribed application form provided by the department.

(g)-(h) (No change.)

§65.356. Hide Tag Procurement and Tagging Requirements.

(a) Alligator hide tags may be obtained as follows.

(1)-(2) (No change.)

(3) Landowners and landowner’s agents—upon application to the department on forms provided for tag issuance.

(A) Maximum tag issuance to individual landowners or landowner’s [their] agents shall be determined solely by the department. Landowners or landowner’s [their] agents shall certify total acreage owned or represented on a form prescribed by the department at the time of application.

(B) Landowner’s agents [Agents] must present a notarized document from the landowner verifying their selection to represent that landowner and the total acreage represented to obtain hide tags.

(C) Landowner’s [Owners] or landowner’s agents may issue hide tags thus obtained only to licensed alligator hunters.

(D) Landowners, landowner’s agents, and all other persons receiving hide tags from the department are responsible for disposition of all issued tags.

(E) Landowners, landowner’s agents, and all other persons shall file a written report with the department for all lost or stolen tags within 15 days. The report shall include the number of each hide tag lost and the circumstances surrounding the loss or theft. Lost or stolen tags will not be replaced.

(4) (No change.)

(b) It is unlawful for a landowner or landowner’s agent to issue an alligator hide tag for a tract of land or water other than the tract for which the tag was originally issued and an alligator hunter shall hunt only on tracts designated for the tags he or she possesses.

(c) A hide tag shall be attached around a medial scute in the last six inches of an alligator’s tail immediately upon possession of an alligator by an alligator hunter. [The tag shall be attached in accordance with instructions issued by the department.]

(d) Alligators or hides of alligators taken in Texas shall be presented to department personnel for examination no later than 5 p.m. of the day following the last day of the open season. No alligators taken in Texas may be transported outside the state before such examination takes place.

(e) All alligators which have not been examined by department personnel must be accompanied by the corresponding, completed hunters report.

§65.357. Open Seasons, Open Areas, and Bag Limits.

(a) Open seasons are as follows.

(1) The general open season for taking alligators in the wild is September 10 through September 30 [shall run for 17 consecutive days beginning on the first Friday in September].

(2) Nuisance control hunters may take nuisance alligators at any time as prescribed by the department.

(2)(3) Propagated alligators may be taken only during periods authorized by the department.

(3) [44] [Hatchling] Alligator [alligators and] eggs may be taken only during periods specified on department authorization forms.

(b)-(c) (No change.)

§65.358. Possession.

(a) (No change.)

(b) No person other than a licensed alligator hunter, licensed alligator buyer, or permitted alligator farmer, alligator importer, person designated as a nuisance control hunter by animal damage control under a cooperative agreement with the department, and alligator parts dealer may possess a tagged raw or salted hide of an alligator at any time, provided that legally documented, tagged hides may be possessed without license for handling while in transit by common carrier or during processing for tanning or taxidermy.

(c) No person other than an [licensed] alligator farmer may possess live alligators at any time provided that a licensed alligator hunter may possess a live alligator on any legal capture device while retrieving that animal to be dispatched [or live, tagged hatchling alligators during specified hatchling collection periods and while in possession of a hatchling collection authorization].

(d) No person other than an [licensed] alligator farmer may possess alliga-
tor eggs at any time except that an alligator egg collector may possess alligator eggs for transport to an alligator farmer provided that each clutch of eggs is accompanied by a legal nest stamp and documented by an egg collection authorization.

(a)-(b) (No change.)
(c) Purchases of alligators and alligator parts are restricted as follows.
(1) (No change.)
(2) A licensed alligator buyer may purchase only from a licensed alligator hunter or a person designated as a nuisance control hunter by animal damage control (ADC) under a cooperative agreement with the department.
(3) (No change.)
(4) An alligator farmer may purchase live alligators only from another alligator farmer, a nuisance control hunter, a person designated as a nuisance control hunter by ADC under a cooperative agreement with this department, an import permit holder, a hatchling tag recipient, an alligator hunter possessing tagged hatchlings, or the department.
(5) An alligator farmer may purchase alligator eggs only from another alligator farmer, an alligator egg collector, an alligator nest stamp recipient, or the department.
(6)-(7) (No change.)
(d) Sales of alligators and alligator parts are restricted as follows.
(1) A licensed alligator hunter may sell alligators during the general open season only to a licensed alligator buyer and tagged hatchlings only to licensed alligator farmers designated on hatchling collection authorization forms.
(2)-(4) (No change.)
(5) [Alligator egg collectors and] Alligator nest stamp recipients may sell alligator eggs only to licensed alligator farmers designated on egg collection authorization forms.
(6)-(7) (No change.)
(8) A nuisance alligator hunter or a person designated as a nuisance control hunter by ADC under a cooperative agreement with the department may sell to an alligator farmer or an alligator buyer.
(9) All alligator meat processed in this state must be packaged in containers which identifies the contents as alligator meat and is marked with a properly completed department alligator parts label.
(e) (No change.)
(f) It is an offense for any alligator farmer to transport or receive any live alligator(s) unless:
(1) The game warden or district law enforcement supervisor in the area of origin of the alligator(s) is notified at least 24 hours prior to transport if the transportation of alligators begins in Texas; and
(2) The game warden or district law enforcement supervisor in the area of destination of the alligator(s) is notified at least 24 hours prior to transport or receipt of alligators, regardless of origin of the alligator(s).

§653.360. Nuisance Alligator Control.
(a)-(c) (No change.)
(d) Nuisance control hunters may take nuisance alligators at any time as prescribed by the department.
(e) A person designated as a nuisance control hunter shall be licensed as an alligator hunter except for persons employed by ADC, who are designated by animal damage control (ADC) to serve as nuisance control hunters under a cooperative agreement with the department.

(a) Report forms provided by the department must be completed and filed with the department by all persons who have been issued an alligator hunter’s license, alligator buyer’s license, alligator import permit, alligator farmer permit, alligator parts dealer permit, alligator nest stamp(s), [alligator hatchling tag(s),] or alligator hide tag(s) in accordance with this section. Reports shall include [but not be limited to,] the information specified in this section.
(1) A person receiving hide tags from the department shall file a report accounting for all tags by October 10 following the end of the open season for which tags were issued.
(2) An individual alligator hide tag report form provided by the department to the landowner or landowner’s agent shall be completed by the licensed alligator hunter immediately after taking each alligator. Information shall include hide tag recipient number, date taken, county where taken, tag number, method of skinning, name, address, telephone number, license number, and signature of the alligator hunter, length of alligator, and sex. The alligator hunter shall deliver the completed report to the landowner or landowner’s agent within 24 hours after take of the alligator. An alligator hunter shall file a report by 5 p.m. on the day after the end of the open season which includes hide tag numbers used, date taken for each alligator, county of take, landowner of property where taken, the sex and carcass length of each alligator tagged, and the method of skimming for each alligator tagged. Subsequent reports detailing the tag number, transaction date, and name, address, and license number of buyer that purchased each hide or alligator part sold shall be filed by October 31 and on the last day of each month thereafter until final disposition of all hides is reported.
(3) The original copy of the form shall be submitted by the landowners or landowner’s agent to the Parks and Wildlife Department office in Austin; not later than the 5th day following the date of take. A copy shall remain with the dealer or person possessing the alligator hide until shipped or sold out of state, at which time, the copy shall also be submitted to the Parks and Wildlife Department office in Austin.
(4) [3] An alligator buyer shall file reports by October 31 after the end of the open season and by the last day of every second month thereafter detailing purchase and sale transactions until all transactions are complete for hides and parts handled during the license year.
(A)-(B) (No change.)
(5) [6] An alligator import permit holder shall report within 30 days following permit period termination all import activities conducted during that period. The report will specify type and quantity of items imported or exported, place of origin, destination in Texas or elsewhere, and original hide tag number (including year).
(6) [5] An alligator farmer [permits] shall report quarterly, as of the last day of February, May, August, and November, the number of live alligators and alligator eggs in possession as of that date, the number of alligators killed and the type and number of alligator parts sold during the previous three months, the permit number or license number of persons purchasing alligators or alligator parts, the number of live alligators purchased and hatched during the previous three months, and inclusive numbers of hide tags applied. Reports are due 15 days following the end of each quarterly period.
(7) [6] A nuisance control hunter shall comply with the same report requirements as a licensed alligator hunter.
(8) [7] An alligator parts dealer shall comply with the same report requirements as a licensed alligator buyer.
(9) [8] An alligator nest stamp recipient shall file by August 15 a report which specifies the number of nest stumps utilized, the total number of eggs collected, the name of the egg collector, and the name of the alligator farmer to whom the eggs
were transferred. Any unused nest stamps must be returned with the report.

(9) An alligator hatching tag recipient shall file by October 31 a report which specifies the number of hatchlings collected, the hatching tag numbers applied, the name of the alligator hunter(s) performing the collection, and the name of the alligator farmer to whom the hatchlings were transferred. Any unused hatching tags must be returned with the report.

(b) Any person who is delinquent in excess of 30 days in returning hatching tags, [hatching tags,] or nest stamps, or filing a report required by this subchapter or who falsifies a report commits an offense.


(a) Alligator nest stamps [and hatching tags] may be obtained as follows.

(1) Landowners and landowner’s agents may obtain nest stamps and hatching tags upon filing an application to the department on forms provided for nest stamp [and hatching tag] issuance.

(A) Alligator nest [Maximum] stamp [tag] issuance rates to individual landowners or landowner’s [their] agents shall be determined by the department. Landowners or landowner’s [their] agents shall certify total acreage owned or represented on a form prescribed by the department at the time of application.

(B) Landowner’s agents must present a notarized document from the landowner verifying their selection to represent that landowner and the total acreage represented to obtain nest stamps [and/or hatching tags].

(C) Landowners [Owners] or landowner’s agents may transfer nest stamps only to permitted egg collectors [and hatching tags only to licensed alligator hunters].

(2) (No change.)

(3) Licensed alligator hunters may obtain hatching tags from a landowner or landowner’s agent.

(b) It is unlawful for a landowner or landowner’s agent to issue a nest stamp [or hatching tag] for a tract of land or water other than the tract for which the stamp [tag] was originally issued and an alligator [hunter or] egg collector shall collect only on tracts designated for the [tags or] stamps he or she possesses.

(c) (No change.)

(d) An alligator hunter in the act of collecting hatchlings must possess on his or her person one or more current hatching tags and a hatching collection authorization form, provided that only one hunter needs to possess hatching tags and the authorization form among a group of hunters accompanying each other.

(d)(e) Alligator eggs [and hatchlings] shall be collected from the wild by hand [or non-injurious handheld device] and must be appropriately marked as prescribed by these rules to identify them as being legally collected.

(1) Each clutch of eggs must be accompanied immediately upon collection and throughout transportation and incubation by a nest stamp which indicates the location of collection, the date and time of collection, [and] the number of eggs collected, and the name of the alligator farmer authorized to receive the alligator eggs.

(2) Egg collectors shall notify the game warden or district law enforcement supervisor in the area of egg collection no less than 24 hours prior to each collection trip. [Each hatching must upon collection immediately be tagged with a department hatching tag according to instructions issued with the tag.]

(e)(f) Alligator eggs [and hatchlings] may only be collected during set periods specified by the department as indicated on the egg collection authorization form [or hatching collection authorization form].

§65.364. Alligator Farm Facility Requirements.

(a)-(b) (No change.)

(c) All alligator farmers possessing hatching alligators shall house such hatchlings in temperature controlled alligator sheds capable of maintaining a minimum constant temperature of 80 degrees Fahrenheit [°F] [40°C] containing dry and wet areas of sufficient surface area to permit all alligators to completely submerge in water and completely exit from water and orient in any direction, without touching the sides of the tank(s).

(d) Alligator farmers shall house alligators of different lengths into at least three groups, providing separation for all alligators less than two feet in length, two to four feet in length, and over four feet in length. Land and water areas sufficient for complete submersion or complete exit from water shall be provided for each group of alligators held.

(e) Complete written records of all changes in alligator stock shall be kept and made available for examination by department personnel. Shipping tickets, invoices, or bills of lading shall be maintained to show source of supply or disposition of alligator stock. [Nesting activity of captive alligators shall be recorded, with a daily account of nests constructed and eggs collected.]

(f) Nesting activity of captive alligators shall be recorded on a daily basis. Summaries of nest constructed, eggs collected, number of viable eggs set, and hatching success shall be recorded on forms provided by the department and submitted to the department by September 15 of each year.

(g) All alligators 48 inches or less in length shall be housed in temperature controlled alligator sheds unless a written authorization from the department is received to move them to outside grow areas.

(h) Alligator egg incubators shall:

(1) maintain a water and air temperature of 85 to 91 degrees Fahrenheit during egg incubation;

(2) utilize temperature monitors;

(3) utilize alarm system which alerts farmer when temperatures are above or below the prescribed range;

(4) maintain backup system to supply power and water if main power source fails.

(D) All facilities, alligator stock, and records are subject to examination by department personnel prior to permitting and thereafter during farm operation.

(j) No alligator eggs collected or obtained under authority of these rules may be shipped out of state.

§65.368. Exceptions.

(a) (No change.)

(b) The department or an authorized representative of the department may take by any means and possess alligators, alligator eggs, or parts of alligators while in the performance of official duties.

(c)-(e) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on December 17, 1990

TRD-9013824
Boyd M. Johnson
General Counsel
Texas Parks and Wildlife Department

Earliest possible date of adoption: January 21, 1991

For further information, please call: 1-800-792-1112, ext. 4700 or (512) 389-4700

16 TexReg 650 February 5, 1991 Texas Register
The amendments and new sections are proposed under Texas Government Code, §404.095, which provides the Texas State Treasury Department with the authority to adopt rules specifying means of electronic funds transfer approved by the Treasurer and specifying the types of taxes constituting separate categories.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 18, 1991.

TRD-9101065
Anne L. Schwartz
General Counsel
Texas State Treasury Department

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-5971

* 34 TAC §§15.3-15.17

(Editor's Note: The Texas State Treasury Department proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections is in the Emergency Rules section of this issue.)

The repealed sections are proposed under the Texas Government Code, §404.095, which provides the Texas State Treasury Department with the authority to adopt rules specifying means of electronic funds transfer approved by the Treasurer and specifying the types of taxes constituting separate categories.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 18, 1991.

TRD-9101066
Anne L. Schwartz
General Counsel
Texas State Treasury Department

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 463-5971

* 34 TAC §§41.8, 41.9

The Teacher Retirement System of Texas proposes new §41.8 and §41.9, governing competitive bidding which is required in contracting for health benefits under the Texas Public School Retired Group Insurance Program. Section 41.18 establishes standards potential bidders must meet in order to be eligible to bid. Section 41.19 provides for procedures that must be followed in the bidding process.

Wayne Fickley, controller for the Teacher Retirement System, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Fickley also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that only qualified bidders will be eligible to bid on providing services or benefits to the Texas Public School Retirees Group Insurance Program and that the bidding process will be done in an orderly and fair manner. There will be no effect on small businesses. The anticipated cost to persons who are required to comply with the proposed sections will be $50 for the duplication of the bid.

Comments on the proposal may be submitted to Bruce Hineeman, Executive Secretary for the Teacher Retirement System of Texas, 1000 Red River Street Austin, Texas 78701.

The new sections are proposed under the Texas Insurance Code, Article 3.50-4, §5, which authorizes the Teacher Retirement System of Texas, as trustee, to adopt rules for the taking of bids and awarding of contracts for the Texas Public School Retirees Group Insurance Program.

§418. Eligible Bidders.

(a) The Texas Public School Retirees Group Insurance Program will include separate contracts for:

1. a health insurance plan;
2. a utilization review service;
3. services to provide other ancillary benefits.

(b) To be eligible to bid on the health insurance plan a carrier must have annual health insurance premiums and premium equivalents of at least one billion dollars.

(c) To be eligible to bid on utilization review a provider must:

1. satisfy the eligibility requirement set forth in subsection (b) of this section;
2. currently be serving at least twice as many persons as will be covered under this program.

(d) To be eligible to bid on services to provide other ancillary benefits a provider must currently be serving at least twice as many persons as will be covered under this program.

§419. Bid Procedure.

(a) All bids for contracts under the group insurance program must be submitted and all applicable questions answered on the bid specification forms adopted and provided by the Teacher Retirement System of Texas.

(b) All bids must be submitted in duplicate in separate sealed envelopes to the
Director of Group Insurance Program, Teacher Retirement System of Texas, 1000 Red River Street, Austin, Texas 78701-2698.

(c) All bids must be received no later than the date and time set by the Teacher Retirement System in the Teacher Retirement System of Texas building at 1000 Red River Street, Austin.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 30, 1991.

TRD-9101211
Bruce Hineman Executive Secretary Teacher Retirement System of Texas

Earliest possible date of adoption: March 8, 1991

For further information, please call: (512) 370-0524

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 56. Family Planning

Subchapter I. Joint TDH/DHS AIDS Prevention

The Texas Department of Human Services (DHS) proposes the repeal of Subchapter I, §§56.901-56.906, concerning Joint TDH/DHS AIDS Prevention, and new Subchapter I, §§56.901-56.904, concerning Joint TDH/DHS HIV Prevention, in its Family Planning chapter. The purpose of the repeal and new sections is to ensure that state-funded family planning providers comply with state legislation requiring that state-funded primary health, women's reproductive health, and sexually transmitted disease clinics make available to patients and clients information and educational materials concerning the prevention of Human Immunodeficiency Virus (HIV) infection; provide voluntary, anonymous, and affordable counseling and testing programs concerning HIV infection, or provide referrals to those programs. The proposed policy has been developed jointly with the Texas Department of Health.

Burton F. Raiford, chief financial officer, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be enhanced access to information and educational materials concerning the prevention of HIV infection; and voluntary, anonymous, and affordable HIV counseling and testing programs. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Questions about the content of this proposal may be directed to Linda Rae at (512) 338-6483 in DHS's Family Planning and Genetic Service Department. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support-595, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the Texas Register.

§56.901. Patient Education.

§56.902. Basic AIDS Risk Screening and Assessment.


§56.904. HIV Testing and Counseling.

§56.905. Protection of Confidentiality.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 29, 1991.

TRD-9101186
Nancy Murphy, Agency liaison, Policy and Document Support Texas Department of Human Services

Proposed date of adoption: April 8, 1991

For further information, please call: (512) 450-3765

Subchapter I. Joint TDH/DHS HIV Prevention

§56.901. Patient Education. Family planning providers must give all patients basic information about HIV infection, safer sexual behaviors, and the benefits of correct condom use. Pamphlets, fact sheets, or other written materials dealing with these topics must be available in the waiting room. At the appropriate educational level these subjects must also be covered in community education sessions.

§56.902. Basic HIV Risk Assessment.

(a) Family planning providers must include a thorough sexual history and a risk assessment for HIV infection as a part of all initial visits.

(b) Providers must update the sexual history and risk assessment information as medically indicated and at a minimum on an annual basis.

(c) If indicated by the risk assessment, HIV pre-test counseling and testing must be offered on site or by referral.

(d) If patients request information about testing, providers must provide appropriate information and offer testing or a referral for testing.


(a) To any patient requesting an HIV test, providers must offer the service on-site or by referral.

(b) If the HIV test is offered on-site, the provider must offer confidential pre-test and post-test counseling, performed by persons with appropriate training.

§56.904. Protection of Confidentiality. In performing risk assessment, referral, and testing, providers must protect the confidentiality of the patient.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 29, 1991.

TRD-9101185
Nancy Murphy, Agency liaison, Policy and Document Support Texas Department of Human Services

Proposed date of adoption: April 8, 1991

For further information, please call: (512) 450-3765
Withdrawn Sections

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a section by filing a notice of withdrawal with the Texas Register. The notice is effective immediately upon filing or 20 days after filing. If a proposal is not adopted or withdrawn six months after the date of publication in the Texas Register, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the Texas Register.

TITLE 16. ECONOMIC REGULATION
Part I. Railroad Commission of Texas
Chapter 5. Transportation Division
Subchapter M. Motor Bus Companies

16 TAC §5.227

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption a proposed amendment to §5.227 which appeared in the December 18, 1990, issue of the Texas Register (15 TexReg 7241). The effective date of this withdrawal is January 29, 1991.

Issued in Austin, Texas, on January 29, 1991.

TRD-9101198 Brenda Loudermilk
Hearing Examiner, Legal Division-General Law
Railroad Commission of Texas

Effective date: January 29, 1991

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TITLE 7. BANKING AND SECURITIES
Part V. Office of Consumer Credit Commissioner
Chapter 85. Rules of Operation For Pawnshops

7 TAC §85.1
The Office of Consumer Credit Commissioner adopts the repeal of §85.1, without changes to the proposed text as published in the July 27, 1990, issue of the Texas Register (15 TexReg 4279).

The section is repealed subject to the simultaneous adoption of §§85.1, 85.2, 85.4, 85.9, 85.12, 85.22, 85.30, 85.57, and 85.58 which promulgate a comprehensive set of rules in adjunct to the Texas Pawnshop Act.

No comments were received regarding adoption of the repeal.

The repeal is adopted under provisions of the Texas Pawnshop Act, Texas Civil Statutes, Article 5069-51.09(b) which provides the Office of Consumer Credit Commissioner with the authority to make regulations necessary for the enforcement of the Texas Pawnshop Act.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 27, 1991.

TRD-9101067
Al Endsay
Consumer Credit Commissioner of Texas

Effective date: March 1, 1991
Proposal publication date: July 27, 1990
For further information, please call: (512) 479-1290

7 TAC §§85.1, 85.2, 85.4, 85.9, 85.12, 85.22, 85.30, 85.57, 85.58

The Office of Consumer Credit Commissioner adopts new §§85.1, 85.2, 85.4, 85.9, 85.12, 85.22, 85.30, 85.57, and 85.58, with changes to the proposed text as published in the July 27, 1990, issue of the Texas Register (15 TexReg 4279).

The adoption will supplement the provisions of Texas Civil Statutes, Article 5069, Chapter 51, by defining and clarifying terms commonly used by pawnbrokers, as well as provide guidance to pawnbrokers concerning all matters pertaining to the operation of pawnshops. The adoption will provide new information and protection for consumers doing business with pawnbrokers. The adoption will also facilitate communication of property transaction information to local law enforcement agencies and will discourage the presentation of stolen property to pawnbrokers.

The Office of Consumer Credit Commissioner conducted a public hearing which was attended by in excess of 200 hundred persons representing the interests of individual citizens, concerned pawnbrokers, related businesses, trade associations, municipal governments and city and county law enforcement agencies. Representatives of the City of Dallas, the City of Fort Worth, the City of Greenville, the City of Plano, the Corpus Christi Police Department, the Houston Police Department, the Consumers Union, the Texas Pawn Brokers Association, the Golden Spread Pawnbrokers Association, the Austin Area Pawnbrokers Association, the Central Texas Pawn Brokers Association, the San Antonio Pawn Brokers Association, and the Coastal Bend Pawn Brokers Association spoke in relation to their concerns, both in favor of and in opposition to the proposed sections in general and to specified individual proposed sections. Thirty individuals voiced their concerns as to specified proposed sections. Numerous telephone calls and 61 letters, including letters from the Texas Chapter of the American Planning Association, the City of Carrollton, the East Texas Pawn Brokers Association, the El Paso Pawn Brokers Association, the City of Grand Prairie, two members of the House of Representatives and one Senator were received by the Office of Consumer Credit Commissioner addressing both opposition and support of specified proposed sections. Representatives of the Texas Pawnbrokers Association and the Golden Spread Pawnbrokers Association met with the Consumer Credit Commissioner to express their comments and recommendations as to individual proposed sections. In addition to the public hearing, the Office of Consumer Credit Commissioner provided an open forum for suggestions by municipal officials, law enforcement personnel, concerned citizens and pawnbrokers in six separate town-hall type meetings held in Corpus Christi, Houston, Dallas, Austin, Lubbock, and El Paso prior to proposing the adopted sections.

Based upon the comments received concerning the proposed rules the rules as adopted were changed to reflect such comments.

The following is a summary of all comments received by the agency and the sections to which they were addressed.

Concerning §85.1, definitions, Goods definition expands Commissioner's power. Change "Pawnbroker" to mean person licensed by commissioner to engage in business of pawnshop. Change "Persons" to individual, partnership, corporation, joint venture, trust, association or any legal entity however organized.

Concerning §85.1(a)(1), pawnshop licensing, violation of "any" law would be grounds for denial/revocation of license. Too broad. Change "violates" to "exhibits a clear pattern of willful violation of...". Apply only if definite pattern of violations not if unintentional violation. Already expressed in Texas Pawnshop Act. Language too broad and vague.

Concerning §85.2(a)(2), net assets. Does this mean new partner must show net assets of what is currently required or assets required when original license granted? Current asset requirement does not reflect minimum maximum amount of outstanding liability-unfair-graduate assets based on amount of liability. Heirs/partners do not re qualify at current asset requirements-pawnbroker sell license at existing financial requirement. Inheritance-asset requirements remain same as original license for at least one transfer. Defined under Chapter 51-no need to expand. Keep in mind the small business man. Extra expense and paperwork-hardship on small pawnshops-$150,000 is ridiculous-$50,000 is better.

Concerning §85.2(a)(3), determination of net assets. Do not increase if license is transferred. Clearly defined in Article §1.02A(9). Defined under Chapter 51-vague-ambiguous does not distinguish between personal and business. Not clear.

Concerning §85.2(a)(4), determination of value of merchandise. Use only current market value-gifts have no actual cost basis to customer. Change second sentence to "The current market value is the price a willing seller would accept and willing buyers would pay." Would not allow for inherited valuables/personal property at $0.00 cost but had a verifiable wholesale value. Valued at true value regardless of cost. Too vague and ambiguous. Not at owner's actual cost-use current market value.

Concerning §85.2(a)(5), financial responsibility. Too vague-ambiguous-cannot vest power in Commissioner-favorable report from independent credit reporting company proof of financial responsibility.


Concerning §85.2(b)(2), when required. Already addressed in Texas Pawnshop Act-highly discriminatory.


Concerning 85.2(b)(5), insurance. Pawnshops without insurance should place a notice in the pawnshop and let customers decide if they want to do business with pawnbroker. Insurance requirement and assets should be related to specific liability. Insurance should be mandatory. Delete in entirety. $150,000 asset requirement covers liability. Required by all or none-do not discriminate. Already addressed in Texas Pawnshop Act-highly discriminatory. Why no dollar amount listed in proposed rules? Personal guaranty-the point of a corporation is to limit personal liabilities. Delete in entirety. Do not discriminate-requiring by all or none. Net asset requirement should preclude necessity of a personal guaranty. Discriminatory-vague-undue burden. Personal guarantees make a corporation null and void.

Concerning 85.2(d)(1), sale, transfer, or assignment. Too broad, vague and ambiguous-no control or standard for this exercise of Commissioner's discretion. Appears extremely unlawful.

Concerning 85.2(d)(2), acquisition of license by gift, devise, or descent. Need to specifically cover the situation of inheritance. Does not provide for inheritance to occur at original net asset requirement when license issued.

Concerning 85.2(d)(3), organizational form of business. "Organizational Form of Business" defined and definition included in this paragraph.

Concerning 85.2(e), purchaser operating under seller's license. Issue temporary license to be used only for the duration of the holder's license is issued or denied-see typed substitution from Texas Pawn Broker Association comments page five.

Concerning 85.2(f)(1), notice to commissioner. Change "thirty days" in fourth line to "seven days." Cannot agree with as written.

Concerning 85.2(f)(2), notice to customers. Delete-pawnbrokers do not want to be without customers. Change to "written notice must be mailed to all customers with open pawn loans prior to the date of relocation." Clarify "and/or waive the collection of pawn service charges which may accrue after the action is taken." Require both mail notice and posting of a sign to notify customers of relocation.

Concerning 85.2(g), relocation of pawn loans. Clarify if terms and conditions of loan remain same after loan is sold-can borrower continue payments at pawnshop which originated loan?

Concerning 85.2(h)(2), general expiration date. Clearly stated in Texas Pawnshop Act.


Concerning 85.4(a), Pawnshop Employee Licensing. Knowledge of Laws and Rules Excellent improvement-Commissioner's office should compile and prescribe course. Clarify "study course." More details. Need information from Office of Consumer Credit Commissioner about employers who have worked at other pawnshops. Wait 30 days before licensing-unclear type of "required study"-who teaches and decides material matter. Unnecessary-pawnbroker would never hire and not train how can you consider making someone a pawnbroker? Why? Commissioner should put on a school. Limit to statement acknowledging familiarity of Texas Pawnshop Act and regulations promulgated by Office of Consumer Credit Commissioner. Where will course be given-cost of test-who gives test? Study course unnecessary-owners responsibility to train employees. Not practical to require study course. Too vague without specifics-delete. Define type and length of schooling-which individual schools are acceptable. Employer now trains-will Office of Consumer Credit Commissioner become trainers-how often will courses be given-graded-what grade is okay-can hire if course not given for months? Vague and ambiguous-subject to multiple interpretations.

Concerning 85.4(b)(1), Change "date of employment" to "within thirty days of employment." Add a 30 day grace period. Thirty days before sending $25-some employees stay only a few days.

Concerning 85.4(d)(1). Licensed post errata may exhibit confidential personal data-readable by all may require special and costly considerations. Consider safety of employee.

Concerning 85.4(d)(2), No problem with wearing one but can it stand court test. Not needed since license is posted in public view. Delete-some pawnshops use but should not be mandatory. Cause personal harassment-especially for female employees. No identification tags-does not want to put employees at risk. Opposes having name tags. Name tags not needed. What is purpose-other lending institutions do not have to. No purpose-intruding in personal privacy by wearing name tags-tags with first names only. Delete in entirety-license already posted. License already posted-badge could cause confusion. Security problem if full name of women given-extremely discriminatory-no other lending institution required. Female employees harassed if full name given. Employees should not be required to wear badges. Disagree-do not use full name. Identification badge determined by owner.

Concerning 85.4(e)(1). Allow some degree of flexibility-rejection not based on simple errors that could be corrected or verified.

Concerning 85.4(f), employee terminations. Notify within 30 days not 10 days. Change 30 days to 10 days. Pawnbroker has 30 days to notify Office of Consumer Credit Commissioner a licensed employee has terminated.

Concerning 85.9, Siting of pawnshops. Local government final arbiter of zoning decisions-change rule in second sentence to read "...finds that the siting will violate a zoning ordinance validly enacted by a home-rule municipality or other governmental subdivision, the Commissioner shall deny the application." Delete the third sentence and last sentence after "using the site." Local government authority to rule location of pawnshop. Amend to require commissioner to deny an application if location violates local zoning. According to city zoning ordinances-pawnshop treated same as any other retailer. Cities decide where pawnshop are located-do not overwrite the cities zoning ability. Unacceptable for Office of Credit Commissioner to rule over zoning-oppose as written. Office of Consumer Credit Commissioner does not have right to rule over zoning-oppose rules that destroy home-rules. Delete-recognize local zoning. Delete-replace with "No application shall be approved for a pawnshop or the relocation of a pawnshop which does not conform to local zoning regulations." Delete-replace with "No application shall be approved for a pawnshop or the relocation of a pawnshop which does not conform to local zoning regulations." Local laws to be considered and obeyed.

Concerning 85.12, business records. Supports better record keeping. Agrees with better record keeping.

Concerning 85.12(1)(A)(i). All disclosures should be understandable to everyone-pawnbroker goes over ticket with customer. Plain language disclosures-understandable to all-space for dollar amount of loan and interest rate-employee to complete or loan invalid-verbal agreement, employee time. Would like end of next business day for posting cash payments. Pawnbroker and customer. There is no copy to give customer. Property description excessive-line tickets require more than one ticket or enlarged tickets-cash register ticket-written receipt upon request. Not required but given if requested. Receipt for all cash payments. Do not require handwritten-computerized receipts not "cash receipts." Opposes-opposes should be required, easily seen property that is sold to stock-faster. Delete last two sentences of paragraph-pawnbroker not penalized for omission. Pawnshop on approved computer system should be excluded. Why have expiration date if not allowed to exercise this option?

Concerning 85.12(1)(F), alphabetical index. Pawnbrokers work off dates not alphabet. Why go back to separate lost ticket form? Fine but strictly alphabetical not to pawnbroker's interest. File third ticket alphabetical and numerical-help pull process-if ticket misfiled it is in back not middle. Would like end of next business day.

Concerning 85.12(1)(G), numerical index of loans. Pawnbrokers work off dates not alphabet. Why go back to separate lost ticket form? Fine but strictly alphabetical not to pawnbroker's interest. Would like end of next business day.

Concerning 85.12(1)(H), numerical index of redemptions. Pawnbrokers work off dates not alphabet. Why go back to separate lost ticket form? Fine but strictly alphabetical not to pawnbroker's interest. Would like end of next business day.

Concerning 85.12(2)(A), Office of Consumer Credit Commissioner has no concern over. Computers will only take two part forms-paper waste-environment consciousoptional. Fourth sentence delete after Article...
5098-51.16(4)-add this sentence to add purchases at computerized pawnshops: "All parts of the form must contain a computer-generated purchase receipt number." Regulations same as retail business except for pawn loans. "Purchases" not related to non-pawn transactions does not specify agreement to purchase is for use in pawn transactions, not general merchandise, buy-sell agreement.

Concerning 85.12(2)(B), Office of Consumer Credit Commissioner has no concern over. What is purpose of third copy-are other businesses of controlled merchandise required-only two copies. Use method which accommodates most pawnbrokers' computer systems. Suggest if requested by the customer, concerning third copy of "sellers bill of sale," to "Any visible owner applied number must be recorded." Remove "and purchase" from first sentence-rule is redundant. Favor standards. Owner applied numbers meaningless after good change hands-recording numbers cause problems on computer forms. State if goods are in working order.

Concerning 85.12(4)(A), firearms. Caliber not always stamped "caliber unknown" "caliber not visible" if stamped included. Alcohol, Tobacco and Firearms standards should be fine. Modify to "Description of firearms only to conform to the standards for describing firearms as defined by the Alcohol, Tobacco and Firearms." Federally regulated work an undue expense.

Concerning 85.12(4)(B) jewelry. Do not keep but one out of a hundred pieces-melt down and remelt stones. Should be approximate size and weight in points. Do not want liability for determining purity of gold-stone weight approximate. Impossible to designate weight of stones-have to weigh-guessing not effective. Do not know how you would describe value. How do you describe value and type? No one can guess weight of stones-have to unmount and weigh-most pawnshops do not have scale. Change gender, style and type. If "known-color," shape, number and size of stones to approximate-class rings include school name, year and personalized inscriptions. Gender hard to determine-inscriptions can wear off-some other initials instead of owners. Approximate weight of stones only on larger stones. Not practical-jewelry unisex-stone weight difficult to determine without removing. Delete gender-size and weight of stones described as approximate-can't weigh mounted stones. Strike approximate weight of stones-clarity weight of gold by use of gram or pennyweight scales. Writing size and weight down can open a law suit. Spouses pawn class rings with permission-initialed do not match. Opening door to all kinds of misunderstandings-do not have expertise to make comparison on jewelry-hard to describe rings.

Concerning 85.12(4)(D), required sequence. Order of information listing should be left to pawnshop. Delete entire paragraph-difficult for pawnshops under manual record keeping. Sequence can be determined for book entries-computer sequence depends on software. What is uncomfortable-sequence-what is procedure or penalty?

Concerning 85.12(5), sales. Office of Consumer Credit Commissioner has no concern over. Pawnbrokers give receipts-"upon request" insert at end of sentence. Only if customer requires-cost more to write up 25-cent sale than the sale-bulk sales ticket weekly/monthly saves time and money. Delete related to regulated loan. Receipt issued to prospective customer. Receipt required only if requested otherwise waste of time and resources. Receipt issued at customer's request-10-15-cent sales cost more to write than sale. Object to requirement not related to regulated loan. Key word "purchase"-section should only apply to ultimate sale of pawned goods. Suggest adding "upon customer request." Opposes-cash receipt upon request. Office of Consumer Credit Commissioner should not rule over. Describe the use of sale, warranty, return policy, all sales final and items not refundable. Concern over. Object to requirement not related to regulated loan. Delete-already covered by state laws. Covered under state law. Use Burrell Printing Company's tickets. Delete-laysaw are sales and no interest is charged. Tread as any other retail business. Key word "every layaway"-specify rule covers pawned layaway transactions only. Office of Consumer Credit Commissioner should not rule over.

Concerning 85.12(6)(B), prescribed content. Layaways are sales and no interest is charged. Treat as any other retail business. First sentence should end after "fully describe the goods."

Concerning 85.12(6)(C), payment receipts. Office of Consumer Credit Commissioner has no concern over. Delete-layaways are sales and no interest is charged. Treat as any other retail business.

Concerning 85.12(7), accounting records and systems. Costly for small pawnshops. No need for certified public accountant to issue report. As long as it meets State Comptroller and Internal Revenue Service requirements that is all that is needed. Too expensive. Who responsible for studies if satisfies Internal Revenue Service and banking institutions should be fine for Office of Consumer Credit Commissioner. Must keep good accounting to do tax returns-certified public accountant too costly. Cost a fortune. Expense of hiring certified public accountant is going out a bit far. Certified public accountant-brings in professional wide acceptance. Stating law makes pawn business-creates inept guidelines-prohibitive cost SOLUTION: Require in practice stated guidelines-establish cost of inventory at cost-loans in gross amount-changes from furs and fixtures-real estate-cost less depreciation as reflected in Internal Revenue Service returns-solution easy for everyone. Worthless expense-existing rules resolve questions of net worth. Delete paragraph after first sentence-certified public accountant too costly and no value. No need-adds expense and burden for pawnbroker. Records acceptable for State Comptroller and Internal Revenue Service should be acceptable. Not necessary-covered by Texas Pawnshop Act-vague-pressures unnecessary burden for pawnshop-who pays for certified public accountant-what is "reasonable assurance?" Use accounting procedures consistent with Texas Pawnshop Act-Office of Consumer Credit Commissioner may request special study....If the Commissioner has reasonable grounds to question the accounting records

Adopted Sections February 5, 1991 16 TexReg 657
with license renewal. Information can be misused and no reason why needed. Delete—do not want volumes of reports about business-intrigues on rights. What is purpose since Off- ices of Consumer Credit Commissioner records are open to public no bearing on consumer relations. Loan Total Report could be supplied. Information could be detrimental to the pawn industry in Texas. What is purpose—what are contents of report? Added paperbacks atop pawnbroker and office of Consumer Credit Commissioner down. Delete—paragraph too costly does not improve pawn business. Wasted paperwork and repetition to examiners work. Not necessary—general information requested by all pawnshops in the region. What is purpose—additional costs could produce distorted and misinterpreted information. Covered by Texas Pawnshop Act—vague ambiguous leaves open what information required could lead to abuse resulting in violation of privacy. Require annual report-use forms published by Office of Consumer Credit Commissioner—due within 75 days of pawnbroker’s fiscal year—do not publish information but consolidate reports of regions/state-Office of Consumer Credit Commissioner. They require certified public accountant certification—see page 15 of typed Texas Pawnbrokers Association proposal. Question if Commissioner has right to refrain from publishing financial information if compelled through requests under Open Records Act. Keep, pawnbroker’s work to a minimum. Why would we want to make our yearly income public information?

Concerning 85.22(a)(1). Notify customer pawnbroker not responsible for loss/damage—customer decides if to do business with pawnbroker. If merchandise seized by police as stolen original pawn contract is invalid—pawnbroker entitled to money. Do not allow pendants to crucify pawnbroker. Some items do not work fully when brought in—customer wants pawnbroker to repair items. Some times do not work when redeemed. Insurance only pays twice amount loaned if item lost. Support. Pawnbroker liable during testing—shoplifter hurt and pawnbroker sued. The pawnbroker is liable for. Disagree—amount loaned should be used in determining replacement value-loan value often reflects condition/quality of items. Deviation value should be at time pawned and optional.

Concerning 85.22(a)(4). Suggest adding “known to be damaged at the time of renewal or redemption.” Customer signed statement merchandise his—he got money on stolen goods—he is protected for re-paying what he received. Paragraph must address pawnbroker’s right to recoup losses from pendants who knowingly pawn or sell stolen goods. Stolen goods seized by police should fall under this rule—guaranteed by pendants for ownership—allow to collect from pendants initial amount. Does not allow for police seizure when part of collateral is taken and part left open.

Concerning 85.22(a)(5). Delete—already on back of pawn ticket. Pendants’ rights are on back of his copy of the pawn ticket. Not qualified to tell pendants his rights. Delete—pendant’s rights are already provided. Function now provided by Office of Consumer Credit Commissioner—additional record keeping and storage cost. Clarity exact rights of pendants.

Concerning 85.22(a)(6). Delete—already on pawn ticket. Rights on back of pawn ticket. Function now provided by Office of Consumer Credit Commissioner—additional record keeping and storage cost. Clarify pendants’ rights.

Concerning 85.22(a)(7). Goods stored outside orderly and with best security pawnbroker—least effective—false alarms—problems with law enforcement-consumer protected by pawnbroker liability. Security—security lighting and alarm system for outside storage areas. Storage of large items except in fenced area not feasible. Pawnbroker’s personal stipulations are vague and not specific. Security left to pawn licensee. Add “or Office of Consumer Credit Commissioner approved storage facility” to first sentence—object to outside alarm system—not dependable.

Concerning 85.22(b), goods alleged to have been stolen. If a suspected stolen item is seized by the police, let pawnbroker recover the amount of loan only, from the person who pawned it should he return to redeem it. Have the pawnbroker understand he must call the police and tell them he has collected the item, for them to notify the original owner and to pay his merchandise. Image improper. Make it a crime to sell/pledge stolen goods. Insert—re—hold of loans “should be for an acceptable and reasonable period of time.” Research needed—good identification cards/merchandise concludes the case. Thieves know pawnbroker closely monitored. Good—but needs specific details. Expensive for Office of Consumer Credit Commissioner and pawnbroker make a punishable crime to pledge/steal stolen goods and prosecute the guilty. Item held until hearing before a magistrate—no actual seizure—Fourth Amendment entitled hearing before item can be removed—police call and put hold on item—next day deliver written hold-item held until hearing/complainant. Half the amount loaned/agreed upon—hold no longer than 90 days if no hearing set. Office of Consumer Credit Commissioner should not interfere with pawnbroker rights under Fourth Amendment. Need guidelines—family quarrel. Need to protect pawnbroker from law enforcement coming in and picking up pawnbroker’s merchandise. Get lots of shotsguns and deer rifles—merchandise has changed hands four or five times. More stolen merchandise at flea markets—do not fix if it is not broken—most pawnbroker are honest.

Concerning 85.30, notices of licensing, regulation, and law. Office of Consumer Credit Commissioner has no concern over. Delete—tickets have information—not up to pawnshop to have posters stating this information. Information on back of purchase and pawn tickets should be enough. Statement is already on pawn ticket—not necessary to post ticket.

Concerning 85.50(a). Support. Commissioner should not censor laws but have authority to order pawnshop to cease false, misleading or deceptive ads, than one pawnshop. What purpose are other lending institutions required to do this? Improper—delete paragraph—handle on individual case basis. Not necessarily the burden of actual work-handle as complaints from citizens require. Laws in effect for fraudulent and misleading advertising—files not required for other lending institutions—added expense.

Keeps copies for music shop but not pawnshop. Keeping copy of all advertising burdensome, costly and time consuming.

Concerning 85.50(d). Agency name too cumbersome use “State Licensed” or “State Regulated.” Name of Office of Consumer Credit Commissioner should be all that is needed—putting the phone number on back of ticket. Delete last two sentences. Some allowance for abbreviations should be included.

Concerning 85.58(a). Good idea to regulate hours. Support this. Brought about by pawnshops too lazy and too tight to stay open late—late night openings a way of life. Agree with.

Concerning 85.58(a)(1) public posting. Assume can close during lunch. Not clear interpretation of closing for lunch and its effect major holiday closing. Think that New Year’s Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day should be recognized as major acceptable holidays in Texas for all pawnshops and should be encouraged to close on those days without any kind of penalty such as having to refund interest charged for those days. People depend on 24 hour services—not fair—problem with any other agencies. Honest pawnshop should be able to stay open as long as it wants. Live in America—untidy to tell when to open and close. Hopes new legislation will prevent thieves but blue collar shift workers is unconstitutional. Pawnbroker should be able to open 24 hours 365 days a year if he wants. Add “however, pawnshop may stay at their discretion.” Special services/sales promotions such as mid—night madness sales, Halloween, etc (no more than five days per year). No clear interpretation of closing for lunch and its effect. In favor of 7 a.m.—9 p.m.—improves image.

Concerning 85.58(a)(1), temporary. non—emergency closings. No clear interpretation of closing for lunch and its effect. What about Jewish holidays, recognized holidays, and Sundays? Understand need for posted notice-impossible to orally notify all pendants—how would you reach them? Requiring oral advisory is ludicrous. Change to “...advised through notices or announcements prior to the planned date of the temporary closing…” impossible to comply orally. Oral notice of closing-telephone.

Concerning 85.58(a)(4), effect of closing. No way to know about unsuccessful attempts if pawnshop is closed. No clear interpretation of closing for lunch and its effect. Concern over. People cannot read/write and do not have identification cards show that customer so let him make the loan. Include United States Merchant Marine identification cards. Include Border Crossing “green card” #1-197—Border Crossing card #1—186—Resident Citizen card #1-179—American Foreign Service #225A—all state agency issued identifications. Can customers use husband’s identification if they want to pawn wife’s ring? State driver’s license or identification should be valid for one year after expiration. Add Civil Service cards and Texas Department of Correction identification cards. Photocopy identification and take photo of customer showing facial features. Allow expiration to be 12 months. "Experienced pawnbroker would recognize as counterfeit” too vague and subjective—counterfeits not always detectable by visual examination.
"Known to me" still allowed—many senior citizens do not drive and do not have state identification card. Object to identification required for sellers of merchandise-sales do not pertain to regulated loans. Include state issued Parola and Pahranagon cards. Approximately 99% do not have any picture identification. Extend to twenty-four months strike picture from last sentence. Expired identifications are still identifications. 

Concerning §85.58(b)(1)(C). Illegal to pawn/self-stolen merchandise-commissioner and legislature set progressive fines and re-imbursements环境保护 is/parents and like litter signs. Delete-pawnbroker has right to make call. Only new customers not known to pawnbroker. Husband, wife and brother, etc. come together and one has left identification at home or it has expired. Is questionable in some instances-parent/child or spouses/dissever to consumer. Delete entire paragraph. 

Not fair to take friend's identification—every transaction is a need for money. Customer with expired identification okay to use for sale—no indication for redemption but not on loan—customer will go to another pawnshop. What about married couple with only one identification? Unconstitutional—not an alternative to current identification. Not feasible—already enough identification. Pledge sufficient amount and agrees with stopping store good—stolen goods returned to owner through pawnshop-current requirements. 

Unnecessary. Customers resent for small loan or sell item no longer need—will not improve pawnshop image. Fines if everyone had requirements for loans—probably not admissible in court unless taken by trained expert. Onerous—better way-Polaroid picture of individual. Serves no purpose—will run three-fourths of honest customers—off unconstitutional. Small percentage of merchandise is stolen—small percentage is identification problem—discriminatory. Emphatically against—police do not have time to enforce—Florida repealing their law on October 1, 1990. No other business regulation. Agrow on and discriminatory. No other business requires or assumes customers to be criminal suspects. No one in United States fingerprints to transaction—law enforcement does not have any equipment to examine. Humiliation that this is not helpful—Florida has repealed such a statute. Necessary and likely infringe on pledgeor's rights courts and district attorneys would not use. Louisiana customers will go to Shreveport if prints required. Criminal—court cannot use—already have driver's license. Unfair to pawnshops. 

Law enforcement does not have time/mannpower to service—more stolen items at flea markets-customers inconvenience—infraction of rights-SOLUTION: Good identification as outlined §85.58(b)(1)(A). Unacceptable: joke to police—they cannot build case on information we currently provide. Most ridiculous idea-harassment for pawnbroker and loan seeker "shutgun" approach to solving problem. Embarrassing—deprecating—demanding to customer—sad to need immediate loan without adding shame-helps legal concern does not reduce crime. 

Citizens personal business transactions become public. Unnecessary—discriminatory—unconstitutional. Customer will not agree each time they borrow money—violates rights—current identification enough—no other finance institution requires. Delete in entirety. Eviden
dence not admissible in court unless done by a licensed person. Definitely oppose—embarrassing and demeaning act. Inconvenience and insult-borders on "cruel and unusual punishment. Not necessary—very discriminative—individuals and customers step backwards. Takes extreme exception—no other lending institution requires—not admissible evidence. Offensive nature of such requirement. Discrimination against pawnbroker and of low income—Vio

Concerning §85.58(b)(2). Sellers bill of sale with proper identification. How can we take the less—SOLUTION: pawnbroker is kept on pledgor from getting stranger with identification to come in and use his identification? Already addressed in Texas Credit Code. 

Concerning §85.58(c), use of pledged goods prohibited. The display of ill—law goods should be prohibited. 

Concerning §85.58(e)(1)(A). Who determines if alarm is "generally approved, recognized..."? Way to protect goods left to pawnbroker's discretion. No necessary for Office of Consumer Credit Commission—good alarm systems protecting inside of sturdy building should be required. Change paragraph to read "Alarm—all pawnshops must be protected by an alarm system." Consider on an individual basis. Responsibility of each license with restrictions see §85.58(e) of Credit Code. 

Concerning §85.58(e)(1)(B). Who certifies safety—acceptable? Way to protect goods left to pawnbroker's discretion. Delete entire paragraph. Responsibility of each license with restrictions from Texas Credit Code. Should read "two hour, fire retardant safe" rather than jewelry safe—jewelry safe costs $10,000—$12,000 restrictions from Texas Credit Code. Unconstitutional—retain our right to protect ourselves—employees carry weapons with owner's permission—no weapons outside the shop structure. Leave to discre
tion of owner/owner's freedom to carry fire
guns in place of the Thur weapon. Instead right to bear arms—criminals know pawnbrokers have guns and are not afraid to use them. Delete other governing bodies and laws rule. Insurance industry considers pawn business hazardous occupation—high risk to injury to hospital insurance. Replaces saves pawnbroker's life. No owner/employee should wear weapon visible to public—this would improve image. Should be regulated by state laws. Do not carry any but would if felt needed. No customer offended by pawnbroker wearing gun—employees will quit if cannot wear-drastic proposal concerning lives and safety—cannot afford guards. 

Concerning §85.58(e)(1)(D). Responsibility of each licensee with restrictions from Texas Credit Code. Landlords will not grant permission for fortress. May order examine this to take $500-$1,000 from every pawnshop and set up a fund to handle special problems. Vague—needs specifics and not practical in every situation. Leave to local building codes and landlords. Delete—leave to building codes and local landlords. Pawns need and could for security and restrictions. Cost money—can this be included in net assets—law—judges offensive? Protection left to discretion of pawnbroker. Have these barriers but not meet Office of Consumer 
Credit with mission specifications. Have 2 -
1/2" pipe with extra thick walls and filled them with concrete—this is adequate. On downtown square-pipe in concrete not feasible. Not practical. Impossible to obtain and inspect in a unified manner—property owners prohibits—additions. Viole's pawnbroker is kept on pledgor from getting stranger with identification to come in and use his identification? Already addressed in Texas Credit Code. 

Concerning §85.58(e)(1)(C). Unconstitutional—cannot use in court so why do it—other lending companies do not do fair. 

Concerning §85.58(e)(1)(D). Responsibility of each licensee with restrictions from Texas Credit Code. Place sheet metal on the steel inside of some pawnshops will not be permitted by the property owners. If this meant for framing buildings, then it should be so stated. Delete leave to building codes and landlords. Protection left to discretion of pawnbroker. Landlords will never allow metal on building or re-dating or walls. Enforcement would be impossible. Delete. Adding 5'' exterior sheet steel conflicts with compatibility—let pawnbroker protect property. Violates local building codes. Licensees prefer regulation, pawnbroker is kept on pledgor from getting stranger with identification to come in and use his identification? Already addressed in Texas Credit Code. 

Concerning §85.58(e)(1)(E). Responsibility of each licensee with restrictions from Texas Credit Code. Placing sheet metal on the steel inside of some pawnshops will not be permitted by the property owners. If this meant for framing buildings, then it should be so stated. Delete leave to building codes and landlords. Protection left to discretion of pawnbroker. Landlords will never allow metal on building or re-dating or walls. Enforcement would be impossible. Delete. Adding 5'' exterior sheet steel conflicts with compatibility—let pawnbroker protect property. Review on case by case basis so not to conflict with city ordinances or lease agreements. May prove burden to pawnbroker—would not the public's perception of pawn industry be distorted? Let municipalities regulate pawnshops in their cities. These cannot be compatible with other buildings. Cannot afford. 5'' exterior sheet steel conflicts with compatibility—let pawnbroker protect property. Review on case by case basis so not to conflict with city ordinances or lease agreements. May prove burden to pawnbroker—would not the public's perception of pawn industry be distorted? Let municipalities regulate pawnshops in their cities. These cannot be compatible with other buildings. Cannot afford.
the public's perception of pawn industry be distorted? Review on a case by case basis so not to conflict with city ordinances or lease agreements. Who determines subbed colors should state "covered by some kind of bars." Protection left to discretion of pawnbroker.

Delete

Concerning §§85.58(2), Office of Consumer Credit Commissioner has no concern over. Leave to local regulations. Leave to local building codes. Competition should control not Office of Consumer Credit Commissioner. Difficult to administer-SOLUTION: Leave to local building ordinances. Left to local zoning-building lease/deed restrictions. Leave to city ordinances. Leave to local ordinances. Delete entire paragraph. Creates double standard requiring pawnbroker to comply with the local laws. Keep in mind unique type of retail stores.

Concerning §§85.58(3), Office of Consumer Credit Commissioner has no concern over. Delete this would not allow sidewalk sales, tent or parking lot sales. Competition should control not Office of Consumer Credit Commissioner. Leave to city ordinances. Pawnshop should not be restricted to color of walls and signs between pawn and non-pawn. Advertising is freedom of speech-do not infringe on rights. Creates double standard requiring pawnbroker to comply with the local laws.

Concerning §§85.58(4), Office of Consumer Credit Commissioner has no concern over. Leave to building codes/city ordinances. Should be in accordance with the pawnbroker's taste. What color are signs of pawnshop should control not Office of Consumer Credit Commissioner. Leave to local zoning-building lease/deed restrictions. City ordinance-define garish colors-"beauty is in the eyes of the beholder." Pawnshop should not be restricted to color of walls and signs because they are pawnshop. Delete entire paragraph. Advertising is freedom of speech-do not infringe on rights. Creates double standard requiring pawnbroker to comply with the local laws. Comply with city ordinances-one need not be visible permanent external sign with name on license-unnecessary to dictate color-leave to city codes. Clarity "name"-does it include corporation name, doing business as, store name, etc.? Denies freedom of speech-fundamental right-as long as not infringing on another's rights. Commissioner has no concern over. Nothing to do with protection of general public-free enterprise weeds out trashy shops. Keep your shop clean, neat and without noxious odors or you will be dealt with. Biggest joke-cleanliness is common sense, good business-nobody needs to be told when to clean-leave to local health codes-delete rule. Delete all but first sentence. Proposal offensive-only hair or food services should be dictated about cleanliness even doing the cleaning. Fix pawn to enforce-are retail shops required to do pawn dust no more hazardous than landscaping/wrecking yard dust. Stiff competition enforces. This Competition controls not Office of Consumer Credit Commissioner. Keeping pawnshop clean should be a sufficient. Impossible for state agency to administer-leave to local administration and ordinances. At discretion of pawnbroker in accordance with local ordinance. Adding paperwork leaves no time for cleaning and requires more personnel. Leave to state Department of Health and local city departments. An unrelated local handling business should not be told when to dust, clean windows and sweep. Delete entire paragraph. Regulation not needed. Cannot feel good about government telling how and when to clean. Not Office of Consumer Credit Commissioner's business. Freeze enterprise system takes care of this. Leave to local health authorities. Delete all but first and last sentences. This is over regulating. Ludicrous-government has no right to tell pawnshop when to clean. Extra Office of Consumer Credit Commissioner people needed to enforce rules-pawnbrokers have common sense.

Concerning §§85.58(6), Animals amend to allow attack animals inside shop after hours if owners want to accept liability. Trained dogs are some pawnshops security and should be left out of this section. Competition should control not Office of Consumer Credit Commissioner. Difficult to administer-impractical-SOLUTION: Local ordinances will address. Discretion of pawnbroker in accordance with local ordinance within limits of personal liability State and city departments have sufficient authority and enforcement capabilities. Delete entire paragraph. Guard/attack dogs leave at licensee's discretion in accordance with local ordinances. Pawnbroker complies with local health ordinances and state and local laws regarding nuisance to local health authorities. Replace last sentence with "A pawnbroker must not keep any other animals that are non-domestic (exotic)." Cannot live without his chimp-That is his security system. No objection to guard dogs. Regulate by state laws. Do not have guard dog but would if needed.

Concerning §§85.58(f), Identification of source of goods in pawnshop. Impossible to sell single tools from a tool box because of time involved in putting into computer. Impractical-impossible to tag small items-identification of serialized items should be kept. Cannot identify all goods by tagging-how do you tag hundreds of hand tools, sockets, compact disks, etc.-items out for sale legally are pawnbroker do not re-prove ownership. Goods bought from dealers, across counter after waiting period or through loan forfeiture should not be under pawn regulation-report to tag. Keeping merchandise tagged 100% is impossible. Customers remove tags-over time tags come off or get lost-impossible to keep all numbers on merchandise. Discretion of pawnbroker within limits of law that govern other retail sales outlets. Add "serially numbered" between "every item"-impossible to tag all small items. Regulation not needed-impossible to mark and maintain markings. Easy to trace large single items but difficult with small single items. Good and sound inventory control but customers destroy or remove tags. Unforbearable-customers remove tags. Tags come off quickly. Tags come off.

Concerning §§85.58(g), Hold period. Too long to tie up money-should be 15-days. More reasonable seven day period-waiting period on hunting guns eliminates gun trading. Disappearance of pawnbroker counter-signature-allow trip-copy pawnshop have less to offer-sellers go to used dealers without rules-stolen goods get through system. Seventy-two hours is sufficient. Fine as long as customers understand no money until 90 days pass-serves no purpose to investigative work. What about flea markets-buying and selling guns-where is jurisdiction? Two or more stores-120 days in store at which taken in-okay to sell but not move between stores. Too long-leave to local jurisdiction. Change to 15 days-30 days too long. What is the intent of such a hold period? We have to make sure that people do not demand a lesser purchase price and higher retail price-hard to administer-five to seven days is plenty. Two weeks is ample time. Not apply to wholesale items or items purchased from another pawnbroker. Thirty days too much time and lead to being pawnbroker-they are better. Two weeks is ample. Thirty days causes financial burden for pawnbroker-five to fifteen days is adequate. Change to five working days. Change to 10-days. Thirty days too much-time fourteen days is okay. Hold periods always threatened to be increased law enforcement. Object to holding period. Thirty days too long-business at disadvantage if have to hold anything bought from a wholesaler. Fourteen calendar days. Fourteen days enough time. Agrees with 30-day hold. Endorses 30-days. Reduces amount pawnbroker can pay-have to find storage-10 days is enough. Fourteen to 15 days. Why hold 30 days-flea markets can go immediately. Flea markets do not have any regulations. Thirty days too long-14 to 15-days better. Fourteen days better-30 days too long. Unfair-unreasonable-no other business does-use existing state regulations-15 police work days. Haste makes waste! Fourteen days is not enough time not invited to check back room State law in effective-11 days. Thirty days too long-six days is fine. Do flea markets, gold and silver places hold items they purchase for 30 days?

Concerning §§85.58(j), Customer's rights if agreed upon by customer and pawnbroker before hand. No way to positively identify or satisfy federal firearms requirements unless shipped to licensed dealer. Delete section or make it by choice only-how do you identify a person by mail? Impossible and unnecessary-interest to exact date-no one to sign hard copy-no way to identify customer-how pawnbroker recover charges-how calculate interest-on-what happens when payments lost in mail/not received/loan expires/loan pulled while payments enroute? How can you identify a person that mails you the ticket, money or instructs you to mail goods-
on-indeed-error! Error not rule-SOLUTION: Re-word to clear, concise and permissible ruling. Impossible for customer to retrieve pawned items through mail. Delete entire paragraph. Let discretion of each licensee. Not necessary-causes more problems than it solves. Leave to discretion of individual pawnbroker. Against. How can you identify-some items too hard to ship. No time or desire to be a shipping clerk-how can you identify person items are shipped to?

Concerning §§85.58(k), monitoring of transactions and customers. Injured construction workers poor one day/rich next-day after Christ mass people bring items in boxes. Violation of customers rights-could lead to lawsuits. If not broken, do not fix-ridiculous to point of being absurd.

Concerning §§85.58(k)(1), Office of Consumer Credit Commissioner has no concern over. No reason pawnbroker cannot lend on expensive jewelry/class rings with some other name on it-stolen pawnbroker is out his money. Cannot determine ownership by appearance-discriminatory-things with num-

16 TexReg 660 February 5, 1991 Texas Register
bers, names, and initials could be legitimate. Pawnbroker not responsible for determining customer's status or how many items a person owns-pawnbroker does not want stolen items. Customers will have to squarely up to get a loan on their jewelry-cannot determine customer's past/present status. Impossible to tell-risk pawnbroker runs-item may be stolen.

Paper serial numbers come off with normal wear and age-you cannot judge a person by the merchandise. Serial numbers ground off items are not stolen. Could create a discriminating pattern-SOLUTION: Strike out the words "and rejected." Unnecessary judgement by pawnbroker-execution of pawn ticket says customer has right to goods. -Work tools subject-pawnbroker is to assess value and enter into lending contract-not judge consumer's motives. P-pawnbroker monitor goods to identify situations of stolen goods-do not discriminate by out of clothes-legitimate reasons for item in new box. Object to original container. Pawnbroker discriminating against customer and depriving himself of legitimate business trade. Cannot match person with goods. Impossible to match person with merchandise. Hard to determine who owns what type of goods.

Concerning §85.58((j)(2), number of concurrent loans. Ten loans not really unusual-will not accomplish objective of Consumer Credit Commission's objective-only penalize pawnbroker with extra paperwork. Customers have thick stack of tickets-97% redemption last five years-consumer's credibility questioned-constitutional rights of lender to a personal matter between pawnbroker and customer. Why does the Office of Consumer Credit Commissioner want copies of tickets of customers with ten or more loans-customer gives up privacy right when pawn transactions exposed to police. Local law already receive copies-leave to their decision. -delete-impossible to know number unless pawnbroker has computer-intrigued on customer's rights. What is real purpose of report-creates more paperwork? Police watch for multiple loans-why duplicate effort-expensive and unnecessary. Police already have a copy of these loans-change from 10 to 15 loans. Do not see purpose of report on person with more than ten loans. More paperwork work for indication-hardwood of investigators-hardwood of pawnbroker-send customer to next shop-people have more than 10 loans-SOLUTION: Proper identification of customer and pledged goods-good faith and business guidance on part of pawnbroker. Why?-Do other lenders have to report same? Increase number of loans-10 is not enough-let police question numerous loans. Not anyone's business-additional paperwork for pawnbroker and Office of Consumer Credit Commissioner. Additional bookkeeping expense-invasion of customer's privacy-other lenders not required. Has nothing to do with regulation-you want to know who has 10 or more loans? Recommend no change. Creates great deal of work for pawnshop-leave for examiners to discover. The only person shorted is the customer. How is it useful? Not good idea.

Concerning §85.58((j)(3), acceptance of uniquely marked goods. -Office of Consumer Credit Commissioner has no concern over.

Call business involved. Delete-leave pawnbroker to make the call. Schools and motels sell old items-pawnbroker takes usual risk on losing the item. Small construction companies buy from other small construction companies. Execution of pawn ticket miners are redundant. Assumes businesses never sell or legally dispose of goods. Support does not want to buy back goods-standard procedure for marking-rule curbs 800f unallowed goods-cannot see goods without pawnshop ticket. Check with rental company via telephone-impossible to check rental jewelry.

Concerning §85.58((j)(4), Office of Consumer Credit Commissioner has no concern over. Vague-how do you tell at what point a person is "under" other than the more obvious ones? What is criteria for judging when someone is "wording not clear. Delete-most pawnbroker do any way. Delete-can always tell if person is using drugs or alcohol-no way of testing. Withdraw rule-no way of testing. Not qualified to decide-decide nightmare.

Concerning §85.58((k), purchases from minors prohibited. What about married persons who are age 17?

Concerning §85.58((l)(1), Office of Consumer Credit Commissioner has no concern over. Delete-legitimate business/pawnbroker should not be regulated Office of Consumer Credit Commissioner-illegal operations will not report. Would corporation whose total shares of stock is held by the pawn license and said corporation is involved in buying and selling firearms at same location as pawnshop need to be of Consumer Credit Commissioner? Should be sole discretion of pawnbroker within local ordinances. Delete regulation has no bearing on regulation of pawn loans. Be in accordance with local ordinances and lease agreements-allow to have multiple businesses or sub-lease part of lease space. "Jewelry repair" be added after collecting pawn loans and buy and selling goods. Cannot stay in business if pawnshop closes-has hardware and auto parts with pawnshop.

Concerning §85.58((l)(2), Office of Consumer Credit Commissioner has no concern over. Increase responsibility in accordance with local ordinances and lease agreements-allow to have multiple businesses or sub-lease part of leased space.

Concerning §85.58((m), unclaimed funds-escheat. Delete-already law. Certified mail too expensive-trust pawnbroker. Currently unclaimed funds reported to State Treasurer-unclaimed money after one year must be remitted to the state's Unclaimed Money Fund-will Escheat Suspect Account replace State Treasury Funds has the State Treasurer agreed to this?

Concerning §85.58((n), duties and responsibilities of pawnbrokers. Request Commissioner set forth guidelines for conduct of the "examiner" while on the pawnbroker's premises.

Concerning §85.58((n)(1), examinations. Not possible for many stores-counter serves as desk.

Concerning §85.58((n)(2), communications. No reason why anyone should request financial statement or total loan portfolio information. Examiner or peace officer okay? Others would be a breach of confidence of pledge. Change to "peace officer any information...

As worded too vague-violation of consumer's privacy-sensitive information could become public-law suits. Pawnbroker must not misrepresent examiner/peace officer but "other people with valid interest" includes noisy pieces-trust pledges that bank customer. Empt or any other person with a valid interest.

Concerning §85.58((n)(3), responsibility for acts of others. Delete-unfair to person who owns more than one pawnshop-cannot be two places at once-employees terminated when caught doing illegal things. Change to "pawnbroker business if it can be shown that the licensee has demonstrated gross negligence in the performance of his/her duties." Change to "A pawnbroker may be held financially responsible for the authorized acts of its officers, directors, employees and agents in the conduct of the business of the pawnbroker."
cause items deteriorate with age. Do not believe it is necessary to have sign! Would convey negative implications on worthiness of electrical items for sale. Delete paragraph. Totally unreasonably responsibility of pawnshop to protect the public. Supports recommend notice clearly state the shop’s policy on returns or if all sales are final. Please waive rule if pawnshop does not accept electronic goods.

Concerning §85.56(n)(7)(B), alternative procedure. Delete paragraph. Unreasonable fixed 2” x 2” sign will not improve image strongly suggest deletion. Allow for prescription drugs for legitimate use. Allow pawnbroker to take medication while under doctor’s care as long as maintains business standards. "should not." Should apply to all industries. Pawnbroker should not treat customer abusively but not ignore occasional abusive customers. Delete paragraph. Customer treatment determining factor in successful and unsuccessful business. Pawnbroker, physically mistreating a customer should be taken to court. Pawnbroker not required to take verbal/physical abuse from anyone in store. Intent good-natured dispute is started by customer-need clarification. Two way street-hurts pawnbroker.

Concerning §85.58(o), board of review. Let pawnbroker rules over other pawnbrokers first-if this does not work then appoint others to serve where two are needed. Only make complex business more complicating. More pawnbrokers than lay members gain a lot by seeing stores are run properly. Change to “...consisting of three pawnshop owners from a cross section of pawnbrokers not from the same organization, one person from Office of Consumer Credit Commissioner and three people not engaged in the business of a pawnbroker.” Support 100%-pawnbrokers represented by large and small pawnshop from large and small cities-Commissioner acknowledge recommendations of the board. Seven pawnbrokers, three lay people, one Office of Consumer Credit Commissioner representative. Seven pawnbrokers step forward. Add one representative of payroll lenders. Clarify non-business members should not be an employee of a pawnshop affiliate.

Concerning §85.58(p), consumer education. No objection-use sign advising information is available for the asking. Delete-not pawnbroker’s business to display information for Office of Consumer Credit Commissioner. Banks should educate public interest rates are as complicated as pawnshops and involve great deals of money. Printed on back of ticket-no sign needed. The new sections are adopted under the Texas Pawnshop Act, Texas Civil Statutes. Article 5069-51. (b), which provides they charge of Consumer Credit Commissioner with authority to make regulations necessary for the enforcement of the Texas Pawnshop Act.

§85.58 Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Commissioner—The commissioner of the Texas Office of Consumer Credit Commissioner.

Goods—Tangible personal property held by a pawnbroker. Goods may be either those pledged as collateral for a pawn loan or merchandise inventory or both and should be given the broadest meaning unless the context dictates otherwise.

Grace Period.—The 60 day period following the original or extended maturity date of a pawn loan during which a pledgor may redeem pledged goods.

Pawnbroker—a person who has an ownership interest in a pawnshop as shown in an application for a pawnshop license filed with the commissioner. When general duties and prohibitions are described, pawnbroker also includes pawnshop employees unless the context indicates otherwise.

§85.2. Pawnshop Licensing.

(a) Qualifications.

(1) Character and general fitness. To be eligible for a pawnshop license an applicant must have good moral character. Before granting a license, the commissioner must find that the character and general fitness of the applicant, its owners and any agent act to warrant belief that the business will be operated lawfully and fairly within the purposes of the Texas Pawnshop Act, Texas Civil Statutes, Article 5069, Chapter 51. In evaluating character and general fitness the commissioner will consider any felony or significant misdemeanor convictions of parties to the application.

(2) Net assets. Each existing pawnshop license has a defined net assets requirement. Statutory changes have provided that higher net assets requirements are not retroactive. If there is a change in ownership of a licensed pawnshop that results in the entry of a new person with any ownership interest, the net assets requirement is increased if the requirement in effect on the date of entry. Any other type of change in ownership does not cause an increase in the net assets requirement. All new license applications must meet the current net assets requirement.

(3) Determination of net assets. Pursuant to Texas Civil Statutes, Article 5069-51.02(g), the net assets that an applicant or licensee has is determined by taking the sum of cash on hand, cash on deposit in banks, the value of merchandise inventory held for sale in the pawnshop or to be held for sale in the pawnshop and the amount of cash loaned on open pawn loans receivable and subtracting any and all unsecured debts, debts secured in whole or in part by the previously listed assets and any other monetary liabilities. Net assets of licenses obtained under $25,000 or less requirement are determined by the definition used at the time the license was granted.

(4) Determination of value of merchandise inventory. The value of tangible personal property constituting merchandise inventory shall be the lower of the owner’s actual cost or the current market value. The current market value is the wholesale price that a willing seller would accept and a willing buyer would pay for the total inventory transferred in a single bulk sale within 30 days of the valuation. Valuations at cost must be substantiated by the books of the owner which are maintained according to generally accepted accounting principles. Property inherited or received as a gift shall be valued according to the above stated basis is held by the decedent at the date of death or by the grantor at the date of transfer.

(5) Financial responsibility. The commissioner is required to find that an applicant is financially responsible before granting a pawnshop license. The commissioner shall investigate the history of the applicant as to the applicant’s payment of debts, taxes, and judgments and handling of financial affairs generally. Compliance with the net assets requirement is not evidence of financial responsibility.

(6) Experience. The commissioner is required to find that an applicant has experience that would warrant belief that the business will be operated lawfully and fairly within the purposes of the Texas Pawnshop Act. The commissioner shall investigate the history of the applicant and any employees as to their previous satisfactory experience in the operation of a Texas pawnshop or other successful experience in the operation of a business.

(b) Applications.

(1) Forms. Applications for a pawnshop license under Texas Civil Statutes, Article 5069, Chapter 51 must be submitted on forms currently prescribed by the commissioner and in accordance with the commissioner’s published instructions.

(2) Engaging in business. An application must be filed and approved before any person engages in the business of making pawn loans. The application and approval is required without regard to the rate of interest or pawn service charge contracted for, charged or received, if any. An application must be filed and approved in connection with any change of ownership except as otherwise provided herein. A change in the proportionate interests of two or more owners of a pawnshop must be timely reported but does not require an application.

(3) Disclosure of principal parties. In submitting an application for a license all principal parties must be fully identified. As used herein "principal party" includes all proprietors and individuals associated with applicants as general partners, limited partners, officers, directors, shareholders owning any outstanding stock, trustees, and beneficiaries of trusts. The term also includes any individual or legal entity who, either directly or through ownership or control of any parent or controlling separate entity has a beneficial interest in the li-
lized entity. All corporations must identify any officer, director, or shareholder required to be identified above who is an officer, director, or shareholder of any other corporation licensed under Texas Civil Statutes, Article 5069. Any corporation described in Texas Civil Statutes, Article 5069-51.04(d) shall identify its shareholders through filings required by Texas Civil Statutes, Article 5069-51.03(d).

(4) Bond. The commissioner may require a bond, as authorized by Texas Civil Statutes, Article 5069-51.04(c) of any applicant or licensee. If bond is required, the commissioner shall give written notice to the applicant or licensee to deliver a bond acceptable to the commissioner within 40 days of the date of mailing of the notice. Failure to provide bond within the required time period may result in denial of any pending application or proceedings to revoke or suspend any license(s) held by the licensee.

(5) Insurance. The commissioner may require general liability and fire insurance coverage, as authorized by Texas Civil Statutes, Article 5069-51.04(b)(2), of any applicant or licensee. If insurance coverage is required, the commissioner shall give written notice to the applicant or licensee to produce proof of insurance acceptable to the commissioner within 40 days of the date of mailing of the notice. Failure to provide insurance coverage within the required time period may result in denial of any pending application or proceedings to revoke or suspend any license(s) held by the licensee.

(6) SEC filings. Any person described in Texas Civil Statutes, Article 5069-51.03(d) and Article 5069-51.04(d) shall make the filings described therein simultaneously with the commissioner and the Securities and Exchange Commission. Any such licensee shall, upon request of the commissioner, provide the commissioner with such information that it may have or may reasonably obtain regarding its shareholders. Any person making filings with the Securities and Exchange Commission in anticipation of obtaining the benefits of Texas Civil Statutes, Article 5069-51.03(d) and Article 5069-51.04(d) shall simultaneously make identical filings with the commissioner but shall not be required to pay a fee to the commissioner in connection with such preliminary filings.

(c) Timetable for actions. received by mail within 14 working days of receipt identifying deficiencies and/or requesting additional information.

(1) Initial review. The commissioner will respond to applications received by mail within 14 working days of receipt identifying deficiencies and/or requesting additional information.

(2) Approval or denial of complete application. A complete application is one which conforms to the commissioner’s published instructions and for which all fees have been paid. A complete application will be approved or denied within 60 days from the date received by the commissioner.

(d) Notice to commissioner of change of ownership or form of business.

(1) Sale, transfer, or assignment. Any sale, transfer, or assignment of a license or licensed business shall be reported to the commissioner no later than three business days after the transaction and said transaction shall be made subject to, and on the condition of, the approval of the commissioner. An application for license is required to be filed by the purchaser, transferee, or assignee.

(2) Acquisition of license by gift or inheritance. Any person or other legal entity acquiring any license or licensed business or any interest in a license or licensed business through gift or inheritance shall promptly notify the commissioner and submit such proof of ownership as the commissioner may reasonably require. An application for license is required to be filed.

(3) Organizational form of business. A pawnbroker desiring to alter the organizational form of business under which the licensed business is conducted without affecting any change of beneficial ownership, management, or control shall advise the commissioner and file an application reflecting such change.

(4) Application filing deadline. Applications filed in connection with changes of ownership or organizational form of business may be filed in advance but must be filed no later than 14 calendar days following the actual change except that an application required due to an inheritance must be filed within 45 calendar days of the death of the decedent.

(e) Purchaser operating under seller’s license. The commissioner may approve a written agreement whereby a seller grants a buyer the authority to operate a pawnshop under the seller’s license pending approval of the buyer’s license application. The agreement must provide that the seller accepts full responsibility to the commissioner and any customer of the pawnshop for any acts of the buyer in connection with the operation of the pawnshop. The request to operate under the seller’s license must be submitted along with the written agreement between the seller and buyer no less than three business days after the date of sale.

(f) Relocation of a pawnshop.

(1) Notice to commissioner. A pawnbroker may move a pawnshop from its licensed location to any other location, as permitted under these rules as to siting of pawnshops, but must forward notice of the intended relocation to the commissioner not less than 30 days prior to the anticipated relocation date. Such notice must include the present name and address of the licensed pawnshop, the anticipated date of relocation and a sample copy of the written notice to pledges on open pawn loans.

(2) Notice to customers. Written notices of relocation must be given to all pledges whose pledged goods will be moved. Within five days prior to relocation the pawnbroker must mail written notices to all pledges who have not been given written notices prior to that date. Notices must identify the pawnshop, identify both the old and the new locations and the telephone number of the new location and date the relocation is effective. The commissioner may modify the notification requirements if the relocation adversely affects pledges. Such modification may require the pawnbroker to extend the maturity date of pawn transactions and/or waive the collection of pawn service charges which may accrue after relocation. No relocation shall be made which will adversely affect pledges to the extent that redemption is unreasonable or impossible due to the distance between the locations. The commissioner may approve notification by signs in lieu of notification by mail if in his opinion no pledges will be adversely affected.

(g) Relocation of pawn loans. A pawnbroker may sell pawn loan receivables to a nonaffiliated licensee or transfer pawn loan receivables to an affiliated licensed location. The pawnbroker must notify the commissioner of an intended transfer to an affiliate not later than three business days in advance of the transfer, and of a sale to a nonaffiliated no later than three business days after the date of sale. Such notice must include the present name and address of the licensed pawnshop, the name and address of the receiving pawnshop, the anticipated date of sale or transfer, a sample copy of the notice to be mailed to pledges of active pawn transactions and a copy of any agreement between the buyer and seller concerning the sale of loans. A selling or transferring pawnbroker must comply with the “Notice to Customer” provisions immediately above.

(h) Expiration and renewal of licenses.

(1) Coordination with regulated loan licenses. Where both a pawnshop license and a regulated loan license are issued to any person authorizing the conduct of both businesses at the same location, the pawnshop license and the pawnshop employee licenses of employees of such pawnshop shall expire on December 31 of each year unless the annual fees for the following calendar year have previously been paid. At any time a pawnbroker obtains, surrenders or transfers a regulated loan license, the commissioner shall be notified in accordance with these provisions and the amount of the license fee shall be adjusted on a pro rata basis.

(2) General expiration date. All
other pawnshop licenses and the pawnshop employee licenses of employees of such pawnshops shall expire on June 30 of each year unless the annual fees for the following year have been previously paid.

(3) Pro rata fees. The license fee for any new pawnshop license shall be the statutory annual fee if that license becomes effective more than six months prior to its expiration date; otherwise, the fee shall be one-half of the annual fee.

§§85.4. Pawnshop Employee Licensing.

(a) Knowledge of laws and rules. Every applicant or employee must have sufficient knowledge of all applicable laws and rules as they relate to the making of pawn loans and the purchase of used or second hand personal property. The commissioner shall develop a course of study and thereafter all applicants must satisfactorily complete the course within a time period specified by the commissioner. Failure to satisfactorily complete the required study will result in a denial of license.

(b) Application.

(1) A pawnbroker must notify employees of the pawnshop of employee licensing requirements and make available to employees all necessary forms for the employees to apply for pawnshop employee licenses. This action is required at the date of employment. Each pawnbroker shall review each employee’s application for a pawnshop employee license to ensure that it is accurate and completed according to applicable instructions.

(2) Applications for a pawnshop employee license under the Texas Pawnshop Act must be submitted on forms currently prescribed by the commissioner and in accordance with his instructions.

(3) An application and any required exhibits may not be accepted for filing unless it is in compliance with the commissioner’s published instructions. The 60 day period within which the commissioner must act on an application begins when a completed application is received and all required fees have been paid.

(4) No person may apply for a pawnshop employee license unless that person is an employee of a pawnshop.

(c) Employment of persons with licenses.

(1) When a pawnbroker hires a person who holds a valid employee license, a new application is not required. The pawnbroker must notify the commissioner of the employment of such a person within 10 days of hiring. The pawnbroker should provide notification on forms provided by the commissioner. A new license will not be issued due to an employment change during the year and no extra fee will be charged.

(2) Any pawnshop employee whose license has expired must submit a new application.

(d) Display of license.

(1) All pawnshop employee licenses must be publicly displayed at the employing pawnshop.

(2) If a pawnshop employee regularly works in several pawnshops, the employee must display the employee license at the pawnshop whose address is on the license or other new address reported to the commissioner. The employee must carry the pocket card issued with the license when working at other pawnshops.

(e) Renewal.

(1) A pawnshop employee license may be renewed annually by payment of the required fee and submission of a renewal application prescribed by the commissioner. Renewal applications may be returned if not completed in accordance with the commissioner’s printed instructions.

(2) No person may apply for renewal of a pawnshop employee license unless that person is an employee of a pawnshop.

(f) Employee terminations. When the employment of a licensed employee is terminated, the pawnbroker must notify the commissioner of such termination. The pawnbroker must give this notification within 20 days of the termination and should do so on forms provided by the commissioner.

(g) Age and citizenship. There are no age or citizenship requirements or limitations. A minor may work in a pawnshop without an employee license if supervised by a parent who is an owner named in the pawnshop license application for that shop as filed with the commissioner.

(h) The employee named in each pawnshop employee license is the owner of the license—and may take possession of the license when terminating employment.

§§85.09. Siting of Pawnshops. Application of local ordinances; authority of the commissioner. Upon receiving application for a pawnshop license or to relocate a pawnshop, the commissioner shall determine whether all applicable local authorities have authorized operation of a pawnshop on the proposed site. If the commissioner finds that local authorities have denied required authorizations without discrimination as to the type of lender, the commissioner will deny the application. If the commissioner finds that the zoning of the proposed site would permit a lending business by any other lender supervised by the Finance Commission of Texas, the commissioner may approve the application. Approval of the application shall constitute the final authorization required for the operation of a pawnshop; however, the pawnbroker must comply with local ordinances which would be applicable to other lenders in developing and occupying the site.

§§85.12. Business Record. Each pawnbroker must keep adequate books and records relating to all business transacted in the pawnshop. The following records are the minimum required records and must be kept in the pawnshop unless otherwise approved by the commissioner.

(1) Loans.

(A) Pawn ticket.

(i) Prescribed form and content. The commissioner shall prescribe the form and content of the pawn ticket. Each pawnbroker must file with the commissioner a sample of the pawn ticket to be used. In a manual records system the pawn ticket must be a four part form on which entries to the top part are legibly and simultaneously reproduced on the remaining parts. The ticket must contain all the information required in Texas Civil Statutes, Article 5069 51.10, satisfy the requirements of the Truth-in-Lending Act and Regulation Z, and contain any additional information which the commissioner may prescribe. The fourth part must provide appropriately designated spaces for posting amounts paid on the loan. All parts of the form must be sequentially numbered by the printer who produces the ticket. The form must provide a perforated sequentially numbered stub to be utilized in tagging pledged goods.

(ii) Distribution of copies. The original must be given to the pledgor when the loan is made. The second part must be made available to a local law enforcement agency and may be retained by the agency. The third part must be placed in an alphabetical file of open loans. The fourth part must be maintained in a file in strict numerical sequence.

(iii) Voided tickets. The original and third parts of voided tickets must be retained and filed with the fourth part of the ticket.

(B) Memorandum of extension.

(i) Prescribed form and content. The commissioner shall prescribe the form and content of the memorandum of extension. A written memorandum must be used to document the extension of the maturity date of a pawn loan. The extension must be by agreement between the pledgor and the pawnbroker. The memorandum must be at least a two part form on which entries to the top part are legibly and simultaneously reproduced on other parts. The memorandum must set out the pawn ticket number of the loan being extended, the date of preparation of the memorandum, the extended maturity date, the amount of pawn service charge (finance charge) paid, the additional amount of pawn service charge to be paid as a result of the extension, the date to which pawn service charges have been paid and the daily rate at which the pawn service charge accrues. A written pro-
(ii) Distribution of copies. The original of the memorandum must be given to the pledgor or shall be mailed to the pledgor if the transaction is negotiated by mail. The copy shall be retained by the pawnbroker and shall be attached to the fourth part of the corresponding pawn ticket.

(C) Records of payment and forfeiture. A written record of every payment on a loan must be made immediately upon receipt. Payments must be posted on the day received or the following day to the fourth part of the pawn ticket. The payment record shall show at least the following information:

(i) the date (month, day, year) of payment;

(ii) the actual amount received and itemized as applied to:

(I) principal (amount financed);

(II) pawn service charge;

(III) charge for lost ticket statement;

(IV) charge for packing, insurance and shipping.

(D) Written receipt. A pawnbroker must upon request give a payor a written receipt for any payment on a loan to take pledged goods as his property if he must make a notation of such action and the date of action on the fourth part of the pawn ticket. If a pawn ticket has not been so marked, the related loan is considered open even if the grace period has expired. The pledged goods on any open loan may be redeemed by payment of the amount financed and any pawn service charges accrued to the actual date of redemption.

(F) The alphabetical index. The third part of each pawn ticket issued is to be promptly filed alphabetically by the name of the pledgor. The index shall be maintained in strict alphabetical order and tickets promptly removed when the corresponding loans are closed.

(G) Numerical index of loans. The fourth part of each pawn ticket must be promptly filed in numerical sequence by the serial number on the ticket.

(H) Numerical file of redemptions. The original of each pawn ticket returned to the pawnbroker must be promptly filed in serial number sequence.

Any separate lost ticket statement forms must be filed with the original pawn tickets according to the serial number of the related ticket. This file may be maintained separately or may be merged and combined with the numerical index of loans.

(2) Agreement to purchase.

(A) Prescribed form and content. The commission shall prescribe the form and content of the agreement to purchase, commonly called the sellers bill of sale. Each pawnbroker must file with the commissioner a sample copy of the form to be used. The form must be a three part form on which entries to the top part are legibly and simultaneously reproduced on the remaining parts. The form must contain a warranty that the seller has the right to possess the property, the information required in Texas Civil Statutes, Articles 5069-51, 16(1) and such additional information as the commissioner may require. All parts of the form must be sequentially numbered by the printer who produces the agreement.

(B) Distribution of copies. The original must be retained by the pawnbroker in serial number sequence. The second part must be made available to a local law enforcement agency and may be retained by the agency. The third part must be given to the seller of the goods at the time such goods are purchased by the pawnbroker.

(C) Voided agreements. The original and third part must be retained in serial number sequence with originals used. Forms on the effective date of these rules shall begin using such forms no later than September 1, 1991.

(3) Titled goods.

(A) Negotiation. A pawnbroker may accept motor vehicles and other tangible personal property requiring a certificate of title as goods pledged on loans. The pawnbroker must not have the owner sign the title to effect transfer to the pawnbroker.

(B) Limited power of attorney. When a pawn loan involves titled property, the pawnbroker may require that the owner sign a power of attorney form appointing the pawnbroker as his attorney-in-fact for the sole purpose of transferring the ownership of the titled property to the pawnbroker in the event the pledgor fails to pay the loan. The pawnbroker must establish a separate, special file in which all powers of attorney, certificates of title and registration receipts are kept.

(C) Title, tax and transfer fees. A pawnbroker must not charge for title, tax, transfer, or other such fees when accepting titled goods on a pawn loan.

(4) Standards for describing goods. Pledged goods and purchases must be accurately and fully described. All serial numbers including vehicle identification numbers and boat hull numbers that are reasonably available must be accurately entered on required documents. Any visible owner applied number must be recorded. As applicable, the item type, brand, make or model number, inscriptions, color, size, length, unique markings, and design must be recorded.

(A) Firearms. Descriptions of firearms must also include caliber, if known, and type of firearm such as handgun or pistol, rifle, shotgun, airgun, or black powder weapon.

(B) Jewelry. Descriptions of jewelry must also include type and approximate weight of metal including the purity of gold if indicated or determined; gender if determinable; style; and type, color, shape, number, size, and approximate weight of stones. Class ring descriptions must include school name and class year.

(C) Motor vehicles. Descriptions of motor vehicles must include the year model of manufacture, body style, license plate number, and state of registration. Sequence in which primary descriptive information is required to be entered on pawn tickets and on agreements to purchase.

(D) Required sequence. The commissioner may prescribe a required sequence in which primary descriptive information is required to be entered on pawn tickets and on agreements to purchase.

(5) Sales. A pawnbroker must give a purchaser an appropriate written acknowledgement of any amounts paid for purchases.

(6) Layaways.

(A) Written agreement required. A pawnbroker must establish a written agreement for every layaway. A copy of the agreement must be given to the purchaser at the time the agreement is established.

(B) Prescribed content. The agreement must accurately and fully describe the goods according to the rules for describing goods on pawn tickets. The agreement must also disclose the sale price of the goods, the amount paid when the agreement was established, the dates and amounts of payments required to fulfill the agreement. The agreement must clearly state whether the purchaser has any vested rights in amounts paid in the event of default and what those rights are, if any.
(C) Payment receipts. The pawnbroker must give the purchaser a written receipt for every payment made on a layaway. The agreement may be designed and used to satisfy this requirement.

(7) Accounting records and systems. Each pawnbroker must establish, within 150 days of the effective date of these rules, and maintain an internal accounting control system that can be relied upon to produce accurate financial information and to safeguard assets. Such system shall conform to generally accepted accounting principles.

(8) Records maintained on electronic data processing (EDP) systems. This section is applicable only to EDP systems that do not maintain records according to the preceding rules.

(A) Filing of description of systems and programs. Records and accounting systems maintained in whole or in part by electronic data processing may be used in lieu of the books, files and records required by these rules if they contain equivalent information. Each such system must receive prior written approval from the commissioner. Pawnbrokers seeking such approval must file a complete and detailed written description of the system proposed to be utilized, including an enumeration of all features that do not meet the requirements of these rules and a full explanation as to how the equivalent information is maintained in the proposed system. Filings must include operating manuals and instructions and, if requested, a copy of the software in the magnetic media as used by the pawnbroker. Printed user instructions must provide a clear and concise section of procedures which must be followed to operate the system as contemplated by the commissioner in approving the system. Within 30 days of the effective date of these rules every pawnbroker using an EDP system shall file notice of such use with the commissioner. Such notice shall clearly identify the name and address of the supplier of such system. All systems in place shall be deemed approved if previously reviewed and approved by the commissioner.

(B) Filings of amendments. All changes to a pawnbroker's electronic data processing system which degrade the system must be filed with the commissioner at least 14 days in advance of use by a pawnbroker. All changes which constitute upgrades of a system shall be filed within 14 days after the close of each calendar quarter.

(C) Who to file. Each pawnbroker is responsible for filings as described above; however, a vendor may make filings on behalf of pawnbrokers provided such filing identifies each pawnbroker represented by the filing.

(D) Withdrawal of approval by the commissioner. If based on examinations and practical experience with an EDP system and its records the commissioner finds that such system and records do not function and provide information as anticipated at the time of approval and are unsatisfactory, approval may be withdrawn by the commissioner. A pawnbroker will have 90 days to make modifications in accord with directives of the commissioner concerning a satisfactory record system.

(E) Reporting property transactions to law enforcement. The commissioner may require that pawnbrokers who maintain their records by use of an electronic data processing system report their transaction information and information on purchases of used or secondhand personal property to an appropriate local law enforcement agency directly or through the commissioner's office. The commissioner may do this by publication of a bulletin setting forth the technical criteria and details developed through consultation with interested law enforcement agencies and vendors of electronic data processing system software.

(9) Records retention. All required books, records, instruments, and papers must be available for inspection during normal business hours and at other reasonable times as requested by the commissioner or his authorized representative for two years from the date of the last recorded transaction.

(10) Consumer credit commissioner file. Each pawnbroker shall maintain a separate file for all communications from the commissioner and for copies of correspondence and reports addressed to the commissioner. This file shall include, but not be limited to, copies of the Texas Pawnshop Act, examination reports and any orders and rules issued by the commissioner.

§85.22. Personal Property-Pledged or Sold To Pawnbroker-Liability of Pawnbroker.

(a) A pawnbroker is liable for any loss or damage to pledged goods. No signs shall be posted in a pawnshop and no verbal statements shall be made by a pawnbroker or a pawnshop employee that would lead a pledgor to believe otherwise.

(b) A pawnbroker shall not advise a pledgor that the replacement of lost or damaged pledged goods will be accomplished in any manner which is more limited than replacement with like kinds of merchandise. The amount loaned on pledged goods may not be used in the determination of the value of pledged goods being replaced.

(c) Each pawnbroker shall establish a separate record immediately upon discovery that pledged goods have been lost or damaged. If the current market value of the lost item(s) or the extent of damage to the pledged item(s) exceeds $1,000, the pawnbroker shall immediately notify the commissioner by telephone and in writing of the scope of such loss or damage.

(d) No payment of pawn service charge or for application to principal of a pawn loan shall be accepted by a pawnbroker if none of the pledged goods are in the possession of the pawnbroker or otherwise cannot be made available to the pledgor for redemption. Likewise, no payment shall be accepted by a pawnbroker if the pledged goods were damaged while in the possession of the pawnbroker, such goods were not fully restored, and were known to be damaged at the time of redemption or renewal. A partial payment may be negotiated when part of the pledged goods on a loan are in good condition and available for redemption.

(e) In each instance when a pawnbroker must deny acceptance of payment by a pledgor under this rule, the pawnbroker, shall, at that time, provide the pledgor with a notice of the rights of the pledgor. The required notice shall be in a form prescribed by the commissioner and shall:

(A) disclose the rights of the person entitled to recover the pledged goods;

(B) prescribe the information required to be recorded and maintained by the pawnbroker relative to the lost or damaged goods.

(f) If a pawnbroker accepts pledged goods that cannot be stored inside the pawnshop, i.e., motor vehicles, boats, trailers, construction equipment, etc., such goods are required to be stored within the proximity of the pawnshop and shall be securely enclosed by protective fencing. Reasonable protection for pledged goods stored in a fenced area shall include security lighting.

§85.30. Notices of Licensing, Regulation and Law. A pawnbroker must provide that the following notice is legibly printed on every pawn ticket and on every agreement to purchase that is delivered to the customer: "Pawnbrokers are required to be licensed by: The Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard Austin, Texas 78705-4207. Contact the above Office relative to any inquiries or complaints." In addition, any pawnbroker must include the commissioner's Austin telephone number and any telephone number that provides toll free calling to the commissioner's office from the trade area in which the advertising is used.

§85.50. Advertising.

(a) Prohibition—False, Misleading or Deceptive. No pawnbroker may advertise or cause to be advertised, in any manner what-
sover, any false, misleading or deceptive statement or representation. No person may advertise the availability of pawn loans or suggest by use of any sign or other advertisement that a place of business is a pawnshop unless that person holds a pawnshop license for that place of business.

(b) Advertising copy file. Every pawnbroker must maintain at the licensed location or other location authorized by the commissioner a complete record of all printed and other advertising material used. This record must be retained until the next examination by a representative of the commissioner. Printed text or audio cassette recording of any audio advertising and a VHS video tape copy of any television advertising must be included. If any language other than English is used in any advertising material, a true and correct translation must be made and attached.

(c) Compliance with federal laws and regulations. Every pawnbroker must comply with all applicable requirements and disclosures of the Truth-in-Lending Act and Regulation Z.

(d) Use of state agency name. It shall be permissible for a licensed pawnbroker to publicly display or advertise the following statement: "Licensed and examined by the Texas Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207." In addition, any pawnbroker must include the commissioner's Austin telephone number and any telephone number that provides toll free calling to the commissioner's office from the trade area in which the advertising is used. The authorized statement must be used in its entirety if any reference is made to licensing or regulation.

§85.57. Examinations and Investigations. Corrective actions required. If the commissioner determines that a pawnbroker has excessive violations of the Texas Pawnshop Act or other applicable laws, the commissioner may direct the pawnbroker to review his records and make appropriate refunds or take other corrective actions. The pawnbroker must comply with such directive within a reasonable period of time as specified by the commissioner.


(a) Hours and days of operation.

(1) Public posting. Each pawnbroker must post the days and the hours of each day that the shop will normally be open for business. Normal hours may include regular periods of closing during a day such as a lunch time closing. The pawnshop shall be open for business during the posted hours. Any pawnshop may be closed on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day without notice. A pawnbroker may close a pawnshop for other state, national, and religious holidays after posting notice of the intended closing for five days prior to the closing. If the pawnshop must be closed during regular posted hours due to an emergency, a notice of closing must be posted. Such notice must include the date and the time that the pawnshop will reopen for business. All postings must be easily visible to a person outside all public entrances.

(2) Hours of operation. Every pawnshop must maintain normal minimum business hours of four hours on each of five days each week. No pawnshop shall begin doing business before 7 a.m. or continue doing business after 9 p.m. local time.

(3) Temporary, non-emergency closings. All pledgers must be adequately advised through use of posted notices prior to the planned date of the temporary closing. Any closing in excess of three business days requires notification of the commissioner in advance. A notice shall be posted as in paragraph (1) of this subsection.

(4) Effect of closing.

(A) Non-holiday closings. The amount of pawn service charge scheduled to accrue on each pawn loan during emergency or non-emergency closings of one or more full days must be waived for any person who states that he made an unsuccessful effort to redeem goods during such closings.

(B) All closings. If the 60 day grace period of any pawn loan is scheduled to expire during any closing, it is extended by one business day for each posted business day of a part of a day that the pawnshop was subject to an emergency or non-emergency closing.

(b) Identification of customers.

(i) Pledgers and sellers.

(A) Acceptable identification documents. Any time a pawn loan or a purchase is made, the pawnbroker must require that the customer show acceptable identification which contains a photograph of the customer. No other method of identification may be used. The pawnbroker must examine the photograph to be sure it is of the customer. A pawnbroker must refuse to make a loan or purchase goods when presented any identification that an experienced pawnbroker would recognize as counterfeit or that has a photograph or physical description that does not correspond with the person presenting the document. The following documents of identification are acceptable:

- (i) Texas (or any other state's) driver's license;
- (ii) Texas (or any other state's) driver's license;
- (iii) a passport issued by any government;
- (iv) United States Military identification including dependent, retired and reserve status cards; identification Forms 1-179 and 1-197 so long as they are acceptable for the purposes for which they were issued.
- (v) Non-Resident Alien Border Crossing Card, Form Number 1-586;
- (vi) Resident Alien Border Crossing Card, Form Number 1-551;
- (vii) United States Immigration and Naturalization Service identification Forms 1-179 and 1-197 so long as they are acceptable for the purposes for which they were issued.

(B) Expired and lost documents. Any of the above documents excluding Border Crossing Cards which have expired within 12 months prior to the date of presentation are considered acceptable identification provided the pawnbroker notes the fact and date of expiration on the pawn ticket or agreement to purchase and gives an oral warning to the customer to replace expired identification documents. If a customer has lost or had his driver's license stolen, the temporary driving permit plus any form of identification with a photograph of the customer is considered acceptable.

(C) Use of friend's identification. A pawn broker must not accept identification from any person except the person who first proposes a sale or requests a loan unless the pawnbroker has evidence that such other person is the lawful owner of the goods.

(2) Persons presenting pawn tickets to redeem pledged goods. Texas Civil Statutes, Article 5069-51.14, requires that the person presenting a pawn ticket to the pawnbroker for redemption properly identify himself. If not personally known to the pawnbroker, the pawnbroker must identify the person by requiring the person to produce an acceptable form of identification or, if the presenter has no proper identification, having another person who has acceptable identification confirm the identity of the person presenting the pawn ticket. A pawnbroker must record on the original pawn ticket the type of identification and the identifying number presented by any other person than the pledgor.

(c) Use of pledged goods prohibited. A pawnbroker must not use or permit any other person to use pledged goods, place pledged goods in a public area of the pawnshop.

(d) Public display of pledged prohibited. A pawnbroker must not place pledged goods in a public area of the pawn shop.

(e) Pawnshop premises.

(1) Security.
(A) Alarms. All pawnshops must be protected by an alarm system or systems that are generally recognized and accepted as sufficient to detect and signal unauthorized entry or presence of unauthorized persons. The purpose of such protection is for the security of pledged goods.

(B) Safes. A pawnbroker must provide a safe of a type generally recognized and accepted as suitable for the application for the safekeeping of pledged jewelry. If a pawnshop has loans outstanding on pledged jewelry which at any one time have aggregate amounts financed which exceed twenty percent of that pawnshop’s net asset requirement then the pawnbroker must provide special protection for the safeguard of such pledged jewelry. Such special protection means a burglary-resistive safe which meets or exceeds the Underwriters Laboratory Rating TL-15. A pawnbroker has until September 1, 1991, to comply with this section. The commissioner may approve a written application for waiver of this section as to a particular pawnshop. Such requests must clearly document the protection provided for pledged jewelry and waivers will only be granted when the commissioner finds such protection is equal or better than the protection required herein.

(C) Weapons. A pawnbroker may keep loaded firearms in areas of the pawnshop not open to the public such as behind and beneath counters over which business is conducted. Such firearms may only be displayed in an offensive or defensive manner when a pawnbroker is confronted by an armed person or by an aggressive person who is clearly threatening the pawnbroker with serious bodily harm. No pawnbroker may wear or carry any firearm on his person in a manner visible to the public in a pawnshop during business hours. The prohibition against wearing or carrying a firearm in a pawnshop does not prohibit the employment of an armed, uniformed security guard. The possession of firearms and employment of a security guard must be in accordance with all applicable laws, ordinances, and rules.

(2) Outdoor displays. All outdoor displays of merchandise for sale must be compatible with surrounding properties. Outdoor displays must not be established unless permitted by local ordinances and customarily established by other retail merchants in the immediate vicinity, if any. No displays may be placed on public right-of-way or within 15 feet of any street. All displays must be orderly.

(3) Signage. All signage must be in compliance with local ordinances. Each pawnshop must have at least one readily visible, permanent, external sign clearly stating the trade name of the business as shown on the pawnshop license issued by the commissioner. No signage may be constructed or positioned that creates a safety hazard.

(4) Cleanliness. Every pawnshop must be maintained in a manner that presents an impression of cleanliness to the public. All pawnshops must be maintained to prevent noxious odors.

(5) Animals. A pawnbroker must not keep in a pawnshop dogs or any other animals trained to attack humans on command.

(f) Identification of source of goods in pawnshop. Every item of tangible personal property located in a pawnshop other than personal effects of persons in the pawnshop and furniture, fixtures, and equipment of the pawnshop shall be tagged or otherwise marked to identify the source of the goods, and the date and location at which the goods were obtained. This section shall apply to all goods purchased by, forfeited to, or otherwise come into the possession of a pawnbroker on and after its effective date and which have a retail value of or are offered for sale at a price in excess of five dollars.

(g) Hold period. Each item of personal property purchased or otherwise acquired by a pawnbroker, other than forfeited goods, must be held at the pawnshop by the pawnbroker for a period of at least 20 calendar days from the date of acquisition before being sold or disposed of in any manner. Upon application to and investigation by the commissioner, the commissioner may reduce the hold period requirement for a particular pawnbroker in a specific jurisdiction. Such reduction shall only be granted when a pawnbroker and the local law enforcement agency have adopted a reporting system that minimizes the elapsed time between the recording of purchase transactions by the pawnbroker and access by the law enforcement agency to the transaction data in a useable, machine readable form. No hold period shall be required for new merchandise acquired from a wholesaler who operates from a permanent business location.

(h) Modification of character of goods. A pawnbroker must not modify or change the characteristics of any goods in his possession in connection with any open pawn loans or during any hold period described in subsection (g) of this section.

(i) Redemptions by mail.

(1) Persons authorized. Any pledgor who relocates subsequent to making a loan and thereafter resides more than 50 miles from the pawnshop and is unable to arrange redemption through a third party must be permitted to redeem by mail. Such a person may do so by mailing the pawn ticket and such a request of the pawnbroker provided the pawnbroker has not received prior notice that the pawn ticket has been lost, destroyed, or stolen. The pledgor must pay in advance all principal and pawn service charges due on the loan and the charges authorized below.

(2) Shipping, handling and insurance charges. The pawnbroker shall be entitled to recover the reasonable and necessary expenses involved in the packaging and shipping of the goods and any additional charge to insure the goods. Goods must be insured for their retail value during shipment. Shipment may be by United States Mail, any authorized parcel delivery service, or any common carrier.

(j) Monitoring of transactions and customers.

(1) Type of goods offered. A pawnbroker must not purchase, accept in pawn or otherwise acquire any item on which the serial number has been defaced, altered, or removed. A pawnbroker must monitor goods coming into a pawnshop in an effort to identify situations where there is an indication that the goods are stolen. Examples of situations that should be identified, investigated and rejected if appropriate are: expensive jewelry or equipment not compatible with the customer's employment and apparent economic status, a greater number of items of a particular type than one person would be expected to own, new goods especially in original containers and/or bearing price tags, owner applied identification numbers that do not match the customer's numbers, class rings with school year or engraved initials not consistent with the customer's age or name.

(2) Acceptance of uniquely marked goods. A pawnbroker must not purchase, accept in pawn or otherwise acquire any item that is marked in a manner that suggests or indicates ownership by a rental company, motel, training school, construction company, governmental body, or any other person or firm other than the person offering the item to the pawnbroker, unless the seller or pledgor produces a valid receipt or other evidence of purchase or ownership of the item.

(3) A pawnbroker must not make a loan to purchase goods from any person believed to be under the influence of alcohol or other drugs.

(k) Purchases from minors prohibited. A pawnbroker must not purchase goods from a person under the age of eighteen years unless that person is married or has had the disabilities of minority removed for general purposes.

(l) Other business on pawnshop premises.

(1) By the pawnbroker. A pawnbroker must notify the commissioner of any type of business that he conducts on the pawnshop premises other than making and collecting pawn loans and buying and selling goods. Such notice must be made within 30 days of the effective date of these rules or thereafter prior to starting such business. If a pawnbroker receives tangible personal
to the State Treasurer, as required by the Property Code.

(4) Preservation of records. The records shall be preserved according to applicable law or rule of the State Treasurer.

(n) Duties and responsibilities of pawnbrokers.

(1) Examinations. When a representative of the commissioner appears at a pawnshop to make an examination, the pawnbroker must provide the examiner with a desk or table providing adequate working space. The pawnbroker must also provide a suitable chair, adequate lighting, and convenient access to a 110 volt electrical outlet in an area reasonably suited to the type of work to be performed.

(2) Communications. A pawnbroker must not misrepresent to any examiner or peace officer any information regarding activities in or about the pawnshop or the status of any goods which may have come into the pawnbroker’s possession. A pawnbroker must cooperate with any robbery, burglary, or theft victim seeking information and assistance.

(3) Responsibility for acts of others. Any person who holds a pawnshop license may be held responsible for the acts of its officers, directors, employees, and agents in the conduct of the pawnshop business.

(4) Arrests. A pawnbroker must report to the commissioner within three business days after having knowledge of any arrest, charge, indictment, or conviction of the pawnbroker or any employee of the pawnbroker. Any such action or indictment that would not require reporting on a pawnshop employee license application form in use at that date is excepted from reporting.

(5) Federal firearms license. A pawnbroker must report to the commissioner any known investigation of alleged violations of the federal laws or rules relating to firearms. A pawnbroker must also report any adverse action proposed or taken by the Bureau of Alcohol, Tobacco and Firearms against the federal firearms license held by or used in the pawnshop. Such reports must be made within three business days of the pawnbroker’s knowledge of such information or action.

(6) Other business locations. A pawnbroker must report to the commissioner the name and address of every location at which the pawnbroker or any affiliated person operates a second hand merchandise store, buy shop, retail outlet or other similar business or any business to which the pawnbroker regularly transfers goods from the pawnshop, whether on a permanent or temporary basis.

(7) Electrically powered pledged goods. A pawnbroker must provide a site within the pawnshop that has appropriate electrical outlets where customers can test electrically powered goods at the time of redemption.

(8) Alcoholic beverages and other drugs. A pawnbroker must not use or possess or permit the use or possession of any drugs or other chemicals in or around the pawnshop if such use or possession violates any law or ordinance. A pawnbroker must not operate the pawnshop while under the influence of alcohol or other drugs. A pawnbroker may operate the pawnshop while taking medication or drugs prescribed by an authorized medical practitioner if his ability to operate the pawnshop properly is not impaired.

(9) Treatment of customers. A pawnbroker must not treat any customer in an abusive manner when any dispute arises over a regulated transaction.

(o) Consumer education. Every pawnbroker must provide a small, suitable space in a public area of each pawnshop for a display of printed materials designed to educate and inform customers of their duties, rights, and responsibilities in consumer credit transactions. The display and printed materials will be furnished by the commissioner.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency’s legal authority.

Issued in Austin, Texas, on January 25, 1991. TRD-9101068 Al Endley Consumer Credit Commissioner of Texas Effective date: March 1, 1991 Proposal publication date: July 27, 1990 For further information, please call: (512) 479-1280

Part VII. State Securities Board

Chapter 109. Transactions

Exempt from Registration

• 7 TAC §109.3

The State Securities board adopts an amendment to 7 TAC §109.3, with changes to the proposed text as published in the November 2, 1990, issue of the Texas Register (15 TexReg 6276).

The amendment clarifies that parties who render investment advice solely to the institutions specifically listed in the Act, §§5.H. are not required to register as investment advisers in some cases.

The amendment clarifies a situation in which dealer or agent registration is not required. All institutional investors that are listed in the Securities Act, §§5.H. are now specifically included in the section. As proposed, the amendment only included the specifically mentioned financial institutions.

A commenter stated he believed the requirement that the institution be acting as a bona fide trustee of a trust is too narrow and that certain fiduciary relationships ought to suffice. The board will study the advisability of such an approach but chose not to make any change prior to such study.

A group or association commenting in favor of adopting the section as proposed was Dewey Ballantine.

The amendment is adopted under Texas Civil Statutes, Article 581, §281-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

§109.3. Sales to Institutions Under the Securities Act, §5.H.

(a) (No change.)

(b) Sales to institutions acting as agent.

(1) The sale of securities to a financial institution or other institutional investor listed in the Securities Act, §5.H, is not exempt if the financial institution or other institutional investor named therein is in fact acting only as agent for another purchaser that is not an institution listed in §5.H.

(2) Section 5.H exempts only sales to a financial institution or other institutional investor named therein acting for its own account or as a bona fide trustee of a trust organized and existing other than for the purpose of acquiring the specific securities for which the seller is claiming an exemption under §5.H.

(3) A person who offers or sells securities or renders investment advice solely to a financial institution or other institutional investor listed in §5. H is not required to register as a dealer or agent (or as a dealer or agent whose registration is restricted to the rendering of investment advice) as long as the financial institution or other institutional investor meets the requirements of paragraph (2) of this subsection.

(c) (No change.)

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency’s legal authority.

Issued in Austin, Texas, on January 29, 1991. TRD-9101182 Richard D. Latham Securities Commissioner State Securities Board Effective date: February 19, 1991 Proposal publication date: November 2, 1990 For further information, please call: (512) 474-2233

* Adopted Sections  February 5, 1991  16 TexReg 669
Chapter 113. Registration of Securities

• 7 TAC §113.13

The State Securities Board adopts new §113.13, with changes to the proposed text as published in the November 2, 1990, issue of the Texas Register (15 TexReg 6276).

The section will help to facilitate cross-border offerings of securities by specified Canadian issuers pursuant to requirements recently devised by the SEC and Canadian regulatory authorities and endorsed by the North American Securities Administrators Association, Inc. (NASAA).

The section will create uniform registration provisions that specifically address cross-border offerings of securities by specified Canadian issuers. The change in subsection (a) reflects the most recent Securities and Exchange Commission (SEC) release concerning multijurisdictional system offerings.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.


(a) This section shall apply to the registration by coordination in Texas of securities registered with the Securities and Exchange Commission (SEC) in accordance with the multijurisdictional disclosure system (MDS) set forth in SEC Release Number 33-6879.

(b) For purposes of the Securities Act (the Act), §7C, a waiting period of seven days prior to effectiveness will apply to each MDS offering as long as the application for registration is filed contemporaneously with the SEC registration application in accordance with §113.2 of this title (relating to Registration by Coordination).

(c) Financial Statements.

(1) A financial statement prepared in a manner that meets the registration requirements of the SEC for an MDS offering is deemed to meet the financial statement requirements contained in the Act, §7C, if the registration statement has been designated as Form F-7, F-8, F-9, or F-10 by the SEC and:

(A) the securities which are the subject of a registration statement designated as Form F-7 by the SEC are offered for cash upon the exercise of rights granted to existing security holders;

(B) the securities which are the subject of a registration statement designated as Form F-8 by the SEC are securities to be issued in an exchange offer, merger, or other business combination;

(C) the securities which are the subject of the registration statement designated as Form F-9 by the SEC are either non-convertible preferred stock or non-convertible debt which are to be rated in one of the highest rating categories by one or more nationally recognized statistical rating organizations. For purposes of this subparagraph, preferred stock and debt securities which are not convertible for at least one year from the date of effectiveness of the registration statement will be deemed to meet the requirements of this subparagraph;

(D) the securities which are the subject of a registration statement designated as Form F-10 by the SEC are offered and sold pursuant to a prospectus in which the SEC has not required a reconciliation to United States generally accepted accounting principles with respect to the financial information presented therein.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 29, 1991.

TRD-9101183 Richard D. Latham
State Securities Board

Effective date: February 19, 1991
Proposal publication date: November 2, 1990
For further information, please call: (512) 474-2233

• 7 TAC §115.3

The State Securities Board adopts an amendment to §115.3, without changes to the proposed text as published in the November 2, 1990, issue of the Texas Register (15 TexReg 6277).

The amendment creates a mechanism to monitor the certification programs of the named organizations in order to be sure that high enough standards are maintained to continue justifying partial waivers of the examination requirements.

The amendment sets forth the requirement that any changes to certain recognized certification programs be submitted to the securities commissioner.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 29, 1991.

TRD-9101189 Richard D. Latham
State Securities Board

Effective date: February 19, 1991
Proposal publication date: November 2, 1990
For further information, please call: (512) 474-2233

Chapter 115. Dealers and Salesmen

• 7 TAC §115.2

The State Securities Board adopts an amendment to §115.2, without changes to the proposed text as published in the November 2, 1990, issue of the Texas Register (15 TexReg 6277).

The amendment clarifies that filings made in Texas through the central registration depository system (CRD) constitute official records of the board.

The amendment states that Texas filings made through the CRD, which is jointly operated by the National Association of Securities Dealers, Inc. and the North American Securities Administrators Association, Inc., will be official board records.
Chapter 139. Exemptions by Rule or Order

7 TAC §139.4

The State Securities Board adopts new §139.4, with changes to the proposed text as published in the November 2, 1990, issue of the Texas Register (15 TexReg 6278). The change eliminates the requirement that persons engaging in transactions covered by the section be registered as dealers or agents.

The new section will create uniformity with federal law such that certain resales of privately-placed securities that are exempt under federal law will likewise be exempt under Texas law.

The new section creates an exemption for private resales of securities made under Rule 144A of the Securities and Exchange Commission.

A commentator questioned the necessity of requiring that any person acting on behalf of a seller in order to effect a transaction covered by the section be registered as a dealer or agent in Texas. The board agrees that such registration is unnecessary and the section as amended does not contain such a requirement.

Commenting in favor of the new section was the law firm of Dewey Ballantine.

The new section is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

§139.4. Private Resales Under SEC Rule 144A

Offers to resell and resales of restricted securities made in compliance with Rule 144A of the Securities and Exchange Commission as made effective in SEC Release Number 33-6862 shall be exempt from the securities registration requirements of the Texas Securities Act.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency’s legal authority.

Issued in Austin, Texas, on January 29, 1991.

TRD-9101186

Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: February 19, 1991
Proposal publication date: November 2, 1990
For further information, please call: (512) 474-2233

TITLE 10. PRODUCT DEVELOPMENT

Part V. Texas Department of Commerce

Chapter 163. Product Development Fund

10 TAC §§163.1-163.9

The Texas Department of Commerce adopts new §§163.1-163.9, without changes to the proposed text as published in the December 21, 1990, issue of the Texas Register (15 TexReg 7407).

The new sections concern the investment of state money under the Texas Product Development Fund.

The new sections establish application and eligibility requirements and investment criteria for Product Development Fund candidates.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Government Code, Chapter 481, Subchapter Q, which provides Commerce with the authority to invest Product Development Fund money in new product development ventures according to department rules.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency’s legal authority.

Issued in Austin, Texas, on January 29, 1991.

TRD-9101158

W. D. Taylor
Executive Director
Texas Department of Commerce

Effective date: February 19, 1991
Proposal publication date: December 21, 1990
For further information, please call: (512) 320-8666

TITLE 28. INSURANCE

Part II. Texas Workers’ Compensation

Chapter 134. Benefits—Guidelines for Medical Services, Charges, and Payments

Subchapter I. Provider Billing Procedures

28 TAC §§134.800-134.802

The Texas Workers’ Compensation Commission (TWCC) adopts new §§134.800-134.802. Section 134.801 and §134.802 are adopted with changes to the proposed text as published in the November 30, 1990, issue of the Texas Register (15 TexReg 6825). Section 134.800 is adopted without changes and will not be republished.

The new sections are adopted in order to implement the requirements of the Texas Workers’ Compensation Act (the Act), Texas Civil Statutes, Article 8308, and to specify procedures to be followed for health care provider billing for medical services rendered to injured workers. The sections will enable the commission to build a statewide database of medical billing information, and actual payments on bills, as required under the Act, §8.01(b), and to monitor compliance with fee guidelines and charges.

New §134.800 requires medical bills (which are subject to the Act) to be submitted only to the insurance carrier, and, upon request, to the employee, the employee’s representative, or the commission at no charge. The section requires rebilling to include identical codes and charges as reflected in the original, to be clearly marked as a rebill, and to not include charges for new services. The section requires medical bills to be in the form and manner prescribed by the commission and to contain certain information which is set out in the section. The section also requires certain individuals and entities to submit bills using the HCFA-1500 health insurance claim form and to include specified information. The section requires hospitals to include additional information specified in the section. The section sets forth the information pharmacists must include in the bills they submit, and requires the bills to be submitted in a form and manner prescribed by the commission. The section authorizes the division of medical review to order reimbursement of the carrier when the health care provider is paid in excess of the amount allowed by the medical policies and fee guidelines established, and allows the health care provider to request review of those services and charges within 10 days after the medical review division orders the reimbursement.

New §134.801 requires a health care practitioner to submit a properly completed bill to the carrier within 15 days after the initial service or treatment date and provides that subsequent billing shall be made at least monthly. Health care facilities must submit bills to the carrier within 10 days of discharge if the confinement was for less than 30 days. For confinement of more than 30 days, the facility must submit the bills within 45 days of admission and then at least every 30 days until discharge. The final bill must be submitted within 10 days of discharge. Outpatient service bills must be submitted on a monthly basis.

New §134.802 requires insurance carriers to submit a copy of a bill from a health care provider to the commission within 15 days after final payment and allows for electronic submission. The new section sets out in detail the information to be submitted by the insurance carrier. The purpose of the section is to implement the data gathering duties of the commission under the new law.

Concerning proposed §§134.800-134.802, in general, one commenter suggested that the rules be modified on the basis that they fail to address whether each bill must be submitted to the carrier if the claim is medical only, or is of a dollar amount that is within the employee’s retention range as developed by agreement between the carrier and the employee. The commission disagreed with changing the rule; if an employer is directly paying medical bills and no claim is made through the carrier, then the rules do not apply because compen-
sation laws have not been invoked. The employee could seek reimbursement later, from the carrier (under the Act, §4.06), for amounts advanced for medical benefits, if a carrier became involved. However, any work-related injuries that require that bills be submitted in accordance with the rules of the TWCC. If the provider intends to characterize the billing as a compensation claim, then it should be submitted in accordance with these sections. The commissioner also modified subsection (a) to require that the rules be modified on the basis that they fail to provide whether the physician's initial report must be filed with the carrier and/or with the commission for each medical only/no lost time treatment. The commission disagrees with the suggestion, noting that initial medical reports are required to be submitted in accordance with adopted §133.101 of this title (relating to Initial Medical Report), whether or not there is lost time.

St. Luke's Lutheran Hospital submitted comments against proposed §§134.800-134.802 in general. No comments specifically favorable to the rules, in general, were received.

Concerning proposed §134.800, one commenter suggested that the rule be modified on the basis that the use of the HCFA-1500 form would cause undue expense as billing systems would have to be converted. The commenter suggested that health care providers be permitted to design their own billing forms as long as the required information is contained on the form. The commission disagrees with the suggestion, noting that a standardized form is necessary to execute the data gathering requirements of the law. Carriers who wish to submit bills to the commission electronically will be able to do so with greater ease if one form is used. Another commenter suggested that the rule be modified on the basis that the HCFA form will not accommodate a full description of services rendered to a patient as each claim form can accommodate only 1-1/2 visits to a therapist, and 14 claim forms would be required to submit bills for 20 visits in a 30-day period. The commission disagrees with the suggestion, noting that a standardized form is necessary to carry out the data gathering requirements of the law.

One commenter suggested that the rule be modified on the basis that required use of the HCFA form will result in additional expense due to purchasing preprinted forms and will necessitate reprogramming computers to accommodate the form. The commission disagrees with the suggestion, noting that a standardized form is necessary to carry out the data gathering requirements of the law.

Rehabilitation Associates of Northeast Texas, Campbell & Associates, and one person in an individual capacity commented against the rule. No comments specifically favorable to the rule were received.

Concerning proposed §134.801, one commenter suggested that the rule be modified on the basis that if subsection (a) is interpreted to mean that providers can bill carriers only once every 30 days, severe cash flow problems would result. The commission agrees with the suggestion and modifies subsection (a) by inserting the words "at least" before the word "monthly." Another commenter suggested that the rule be modified on the basis that a company must bill on a weekly basis to ensure adequate cash flow to stay in business. The commission agrees with the suggestion and modifies subsection (a) to provide that subsequent bills shall be made "at least" monthly. The commission also modifies subsection (b) by inserting the words "at least" before the words "every 30 days until discharge."

One commenter suggested that the rule be modified on the basis that severe hardship will result due to inadequate cash flow if providers must bill after the first 15 days and then every 30 days thereafter. The commission agrees with the suggestion in part, noting that the rule provides that the provider must bill "within 15 days" and therefore does not mandate unreasonable delay. The commission agrees with the suggestion as to modifying the language "every 30 days" and clarifies the requirement to submit bills every 30 days. The commenter also suggested that the rule be modified on the basis that auditing companies have influenced the medical review division to establish fees based on their recommendations, rather than on what insurance companies are paying. The commission disagrees with the suggestion, noting that the medical review division utilized provider billing data in establishing fee guidelines. Large numbers of providers provided and reviewed guideline input. The commenter furthermore suggested that the rule be modified on the basis that the volume of paperwork will increase greatly under the rule as there are only six data input lines on the HCFA-1500 form. The commission disagrees with the suggestion, noting that the HCFA-1500 form has a column that allows for billing multiple units of the same type of treatment, Block #241, Units of Service. The HCFA-1500 is designed to be a single form replacing a single form. The commenter also suggested that the rule be modified on the basis that the rule will cause an increase in delayed payments. The commission disagrees with the suggestion, noting that the new law, §4.68, specifically mandates payment within 45 days and sets forth sanctions for noncompliance.

Texas Back Institute, Rehabilitation Associates of Northeast Texas, and the Center for Appropriate Care and Rehabilitation commented against the rule. No comments specifically favorable to the rule were received.

Concerning proposed §134.802, one commenter suggested that the rule be modified on the basis that it would be more efficient to have all health care provider bills submitted to the commission for audit and then have the commission forward audited bills to carriers for payment. The commission disagrees with the suggestion, noting that it is not the intention of the commission, nor is it the mandate of the legislature, to relieve the carrier of its responsibility to adequately review submitted medical bills. The commission is mandated to establish an independent statewide data base of billing information. The commission will selectively review bills for compliance with the commission's fee and utilization guidelines.

Another commenter suggested that because of the cost of mailing bills to the commission, the rule not be adopted until such time as the data can be filed electronically. The commission disagrees with the suggestion, stating that the rule should be adopted at this time in order for the commission to collect billing information to establish a statewide data base pursuant to the Act, §8. 01(b). Electronic submission of bills to the commission may begin promptly.

One commenter testified in favor of electronic transmission of bills to the commission, stating that their members were prepared to transmit bills electronically. The commission responds that TWCC will be prepared to accept bills electronically.

Another commenter suggested that the rule be modified on the basis that it would be costly and burdensome to require carriers to make copies of medical bills if TWCC is not yet prepared to receive information electronically. The commission disagrees with the suggestion, stating that electronic submission of bills to TWCC may begin promptly. The commenter also suggested that the rule be modified on the basis that carriers should not be required to provide information that is not available to the carrier. The commission disagrees with the suggestion, stating that most of the information required should reside on the bill or should otherwise be known to the carrier.

The commission modifies subsection (b) of the rule by deleting the second sentence of subsection (b) as it is unnecessary to include the proposed requirement in this section.

The Texas Employers' Insurance Association, CNA Insurance Companies, and Liberty Mutual commented against the rule. The American Insurance Association commented in favor of the rule.

The new sections are adopted under Texas Civil Statutes, Article 5308, §2. 06(a), which provides the Texas Workers' Compensation Commission with the authority to adopt rules as necessary for the implementation and enforcement of the Texas Workers' Compensation Act, Article 5308-1.01 et seq.

§134.801. Submission of Health Care Provider Billing.

(a) Health care practitioners (as defined in the Texas Workers' Compensation Act (the Act), §1.03(22)) shall submit to the carrier a properly completed bill within 15 days of the initial service or treatment date. Subsequent billing shall be at least monthly for services and treatments rendered.

(b) For inpatient services, health care facilities (as defined in the Act, §1.03(21)) shall submit bills to the insurance carrier within 10 days after discharge, if the confinement is less than 30 days. If the confinement is greater than 30 days, the facilities shall submit an interim bill within 45 days of admission and then at least every 30 days until discharge. The final bill shall be submitted within 10 days of discharge. For outpatient services, bills shall be submitted on a monthly basis to the insurance carrier.

§134.802. Insurance Carriers Submission of Medical Bills to the Commission.

(a) Within 15 days after final payment of an original bill from a health care provider, insurance carriers shall submit a
copy of the bill with the information described in subsections (c) and (d) of this section to the commission in Austin. Upon written approval by the commission, the insurance carrier may submit the information described in this rule electronically, in a form and format prescribed by the commission.

(b) If the carrier is unable to submit the required information described in this rule electronically, paper copies of the original bill shall be submitted to the commission.

(c) The insurance carrier shall submit the following information from each original bill received from a health care provider:

(1) the injured worker's name, address, and social security number;
(2) date of injury;
(3) employer's name;
(4) insurance carrier's name;
(5) the worker's compensation number assigned by the commission, if known; number, and federal tax identification number;
(6) the health care provider's home, address, professional license number, and federal tax identification number;
(7) date of billing; and
(8) date the bill was received by the insurance carrier.

(d) In addition to the information in subsection (c) of this section, the insurance carrier shall include the following information for each service, treatment, or medication charged by the provider:

(1) date(s) of service(s) provided;
(2) place of service;
(3) specific diagnosis (es) with appropriate ICD-9-CM code(s);
(4) procedure code according to the fee guidelines established by the commission or, if a medication, the national drug code;
(5) unit(s) (or number) of service(s) or treatment(s);
(6) type of service;
(7) the charge; and
(8) if paid in full, the date of reimbursement.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 30, 1991.

TRD-9101210 Susan M. Kelley
General Counsel
Texas Workers' Compensation Commission

Effective date: February 20, 1991
Proposal publication date: November 30, 1990
For further information, please call: (512) 440-3973
Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the Texas Register.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the Texas Register.

Texas Commission for the Blind

Monday, February 11, 1991, 10 a.m. The Board of the Texas Commission for the Blind will meet at the Criss Cole Rehabilitation Center, 4800 North Lamar Boulevard, Austin. According to the complete agenda, the board will approve minutes of November 5, 1990; hear Executive Director's quarterly report and discussion; committee reports: Council on Disabilities; Legislative Committee; Public Relations Committee; Audit Committee; adoption of an internal audit schedule for FY 1991; review of the state audit report for SFY 1990; discussion of bills filed in the 72nd Legislature and direction to the executive director; meet in executive session pursuant to Article 6252-17, §§2(e) and (g), Amended Civil Statutes to discuss personnel and pending legal matters; discussion of date and location for next meeting; and adjourn.

Contact: Jean Wakefield, 4800 North Lamar Boulevard, Austin, Texas 78756, (512) 459-2600.

 Filed: January 29, 1991, 1:39 p.m.

 TRD-9101170

Credit Union Department

Thursday, January 31, 1991, 10 a.m. The Credit Union Commission of the Credit Union Department met at the Credit Union Department Building, 914 East Anderson Lane, Austin. According to the complete emergency revised agenda, the commission considered adoption of emergency and proposed Rule 91.206 (Amendments to Articles of Incorporation and Bylaws). The emergency status was necessary to enable credit unions handling certain deferred compensation accounts to satisfy federal insurance requirements by providing immediate membership status to account holders who are not members of the credit union.

Contact: Harry L. Elliott, 914 East Anderson Lane, Austin, Texas 78752-1699, (512) 837-9236.

 Filed: January 30, 1991, 12:01 p.m.

 TRD-9101216

Texas State Board of Dental Examiners

Wednesday, January 30, 1991, 4 p.m. The Texas State Board of Dental Examiners held an emergency meeting at 327 Congress Avenue, Suite 500, Austin. According to the complete agenda, the board met in executive session and discussed personnel matters regarding the Executive Director's position and the Director of Administration/Licensures's position. The emergency status was necessary to fill positions prior to agency budget and statutory amendments hearings.

Contact: C. Thomas Camp, 327 Congress Avenue, Suite 500, Austin, Texas 78701, (512) 477-2985.

 Filed: January 30, 1991, 8:08 a.m.

 TRD-9101202

 Educational Economic Policy Center

Thursday, February 7, 1991, 8:30 a.m. The Innovative Education Grants Subcommittee of the Educational Economic Policy Center will meet at the University of Texas at Austin College of Education, MLK at Speedway, Room EDB 238, Austin. According to the complete agenda, the subcommittee will review advisory panel recommendations on the innovative education grants program.

Contact: Mary Ward, SRH 3.303, The LBJ School, Austin, Texas 78705, (512) 471-4962.

 Filed: January 30, 1991, 3:46 p.m.

 TRD-9101229

Texas Education Agency

Saturday, February 2, 1991, 9:30 a.m. The State Board of Education Committee on School Finance of the Texas Education Agency held an emergency meeting at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the response of SBOE to Edgewood versus Kirby. As necessary, portions of the discussion of this item was held in executive session in accordance with Article 6252-17, §2(e), Texas Civil Statutes. The emergency status was necessary as agency found it of urgent public necessity for this meeting to be held to enable the board to discuss and take action on possible legal options to pursue as a result of the recent Supreme Court decision of Edgewood ver-

Open Meetings February 5, 1991 16 TexReg 675
sus Kirby which set the April 1, 1991 deadline to present a school finance plan to the legislature.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: January 30, 1991, 4:05 p.m.

TRD-9101242

Saturday-Sunday, February 2-3, 1991, 10:30 a.m. and 8:30 a.m. respectively.
The State Board of Education (SBOE) of the Texas Education Agency held an emergency meeting at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the board interviewed candidates to nominate for the position of commissioner of education; reviewed candidates for commissioner of education in terms of the relative strengths and merits of individual candidates; selected nominee for commissioner of education; and SBOE response to Edgewood versus Kirby. As necessary, portions of this meeting during which the position of commissioner of education will be discussed will be held in executive session in accordance with Article 6252-17, §2(g), Texas Civil Statutes. As necessary, portions of the discussion of the SBOE response to Edgewood versus Kirby will be held in executive session in accordance with Article 6252-17, §2(e), Texas Civil Statutes. Executive session portions of the meeting will be held in Room 1-109 of the William B. Travis Building. The emergency status was necessary as the agency found it of urgent public necessity for the SBOE to hold an emergency meeting to enable the SBOE to select a candidate for commissioner of education to submit to the governor as near as possible to the February 1, 1991, deadline; and to enable the board to discuss and take action on possible legal options to pursue as a result of the recent Supreme Court decision of Edgewood versus Kirby which set the April 1, 1991 deadline to present a school finance plan to the legislature.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: January 30, 1991, 4:05 p.m.

TRD-9101241

Texas Department of Human Services

Wednesday, February 6, 1991, 9 a.m. The Texas Department of Human Services will meet at 701 West 51st Street, Sixth Floor, West Tower, Room 652, Austin. According to the complete agenda, the board will hold a staff briefing regarding Medicaid and child welfare issues. No board action will be taken at this briefing.

Contact: Bill Woods, P.O. Box 149030, Austin, Texas 78714-9030 (512) 450-3047.

Filed: January 29, 1991, 2:50 p.m.

TRD-9101178

Tuesday, February 12, 1991, 1:30 p.m. The Adolescent Pregnancy and Parenthood Advisory Council of the Texas Department of Human Services will meet at 701 West 51st Street, Sixth Floor, West Tower, Conference Room 6W, Austin. According to the complete agenda, the council will call the meeting to order and make introductions; discuss APPAC report to the 72nd legislature human services advocates and interest groups; APPAC report to the 72nd legislature strategies; and wrap-up.

Contact: Liz Silbernagel, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4163.

Filed: January 30, 1991, 11:36 a.m.

TRD-9101215

State Board of Insurance

Thursday, January 31, 1991, 9 a.m. The State Board of Insurance met at the State Insurance Building, 1110 San Jacinto Street, Room 460, Austin. According to the complete emergency revised agenda, the board considered motions for rehearing in Docket Number 1779, revision of premium rates for the writing of Texas Fire and Allied Lines, Homeowners, and Farm and Ranch Owners Insurance. The emergency status was necessary to dispose of this matter in a timely manner in order to maintain the stability of future property insurance rates; consideration of calls for Texas Workers’ Compensation Investment Income and Experience Data, to assure the timely implementation of statistical calls required by Senate Bill 1; consideration of promotion of Deputy Commissioner for Workers’ Compensation; to confirm a previously approved action of the board and commissioner; and to assure the timely implementation of a personnel action.

Contact: Melody Eveland, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3412.

Filed: January 29, 1991, 10:53 a.m.

TRD-9101161

Tuesday, February 12, 1991, 1:30 p.m. The Religious Community Advisory Committee of the Texas Department of Human Services will meet at 701 West 51st Street, Fifth Floor, West Tower, Conference Room 5W, Austin. According to the complete agenda, the committee will welcome guests and make introductions; discuss adolescent pregnancy and parenting advisory council report; committee response to morning session budget presentation; concerns of members; and adjourn.

Contact: Lucy Todd, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3129.

Filed: January 30, 1991, 2:48 p.m.

TRD-9101227

Texas Historical Commission

Saturday, February 9, 1991, 9 a.m. The Christopher Columbus Quincentenary Texas Jubilee Committee of the Texas Historical Commission will meet at the Stephen F. Austin Building, 1701 North Congress Avenue, Room 119, Austin. According to the complete agenda, the committee will call the meeting to order; make introductions; approve minutes; hear regional division of state report-Homer Reynolds and James Boswell; budget and fi-
Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.
Filed: January 30, 1991, 12:07 p.m.

TRD-9101217

Thursday, February 7, 1991, 10:30 a.m. The State Board of Insurance met at the State Insurance Building, 1110 San Jacinto Street, Room 460, Austin. According to the complete agenda, the board will hold a public hearing to consider the appeal of Bald Service Corporation from Commissioner’s Order 91-0083.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.
Filed: January 30, 1991, 12:07 p.m.

TRD-9101218

Monday, February 11, 1991, 2 p.m. The State Board of Insurance will meet at the State Insurance Building, 1110 San Jacinto Street, Room 460, Austin. According to the complete agenda, the board will hold a public hearing to consider an appeal by Walter Homer Schick, Jr., from Commissioner’s Order 90-1876.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.
Filed: January 30, 1991, 12:07 p.m.

TRD-9101219

Texas Department of Licensing and Regulation

Monday, February 11, 1991, 9 a.m. The Boiler and Air Conditioning, A/C Department of the Texas Department of Licensing and Regulation will meet at the E. O. Thompson Building, 920 Colorado Street, 10th Floor, Conference Room, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the assessment of an administrative penalty and denial, suspension or revocation of the respondent’s license for John David Barry for violation of Statutes, Articles 8861, and 9100.

Contact: Imelda Martinez Escobar, 920 Colorado Street, Austin, Texas 78711, (512) 463-7332.
Filed: January 29, 1991, 1:26 p.m.

TRD-9101167

Texas Motor Vehicle Commission

Wednesday, February 6, 1991, 2 p.m. The Texas Motor Vehicle Commission will meet at 815 Brazos Street, Brazos Building, Suite 302, Austin. According to the complete agenda, the commission will call the meeting to order; take roll call; approve minutes of December 5 and 6, 1990; hold a public hearing to receive comments on proposed amendments to commission lemon law rule 16 TAC §107.8(5) concerning calculation of the purchase price of a leased vehicle in lemon law cases where repurchase of vehicle is ordered; discussion and consideration of agency policy regarding processing complaints of advertising rules violations and deferred adjudication of complaints; review for publication in Texas Register, amendments to agency rules of procedure 16 TAC §103.5, concerning time for filing protests of dealer license applications and 16 TAC §101.13, concerning filing of documents by mail as revised and approved at commission meeting December 5, 1990; discussion and consideration of establishment of agency sick leave pool and adoption of rules and procedures; discussion of independent service contract status on bankruptcy of dealer and/or company issuing service contracts; review of consumer complaint redap report; review of agency budget and financial status; review of litigation status report; and schedule future meeting dates.

Contact: Russell Harding, 815 Brazos Street, Suite 300, Austin, Texas 78701, (512) 476-3587.
Filed: January 29, 1991, 2:29 p.m.

TRD-9101177

Thursday, February 7, 1991, 9 a.m. The Texas Motor Vehicle Commission will meet at 815 Brazos Street, Suite 302, Brazos Building, Austin. According to the agenda summary, the commission will call the meeting to order; take roll call; proposals for decision; licensing and enforcement; advertising cases for deferred adjudication; lemon law cases set for oral argument; lemon law case continuations; lemon law cases, no arguments or exceptions; agreed orders, enforcement; settlement orders, consumer complaints; orders of dismissal: consumer complaints; licensing and enforcement; discussion of independent service contract status on bankruptcy of dealer and/or company issuing service contracts; discussion and consideration of adoption of proposed amendments to commission lemon law rule, 16 TAC §107.8(5) concerning the calculation of the purchase price of a leased vehicle in lemon law cases where repurchase of vehicle is ordered.

Contact: Russell Harding, 815 Brazos Street, Austin, Texas 78701, (512) 476-3587.
Filed: January 30, 1991, 3:29 p.m.

TRD-9101228

State Pension Review Board

Tuesday, February 12, 1991, 8:30 a.m. The Legislative Advisory Committee of the State Pension Review Board will meet at the State Capitol Building, Senate Sergeant’s Committee Room, Austin. According to the complete agenda, the committee will review and discuss preparation of impact statements on pension legislation for which actuarial information is available by meeting time, and for which requests have been received from legislative committees.

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.
Filed: January 30, 1991, 8:48 a.m.

TRD-9101203

Tuesday February 19, 1991, 8:30 a.m. The Legislative Advisory Committee of the State Pension Review Board will meet at the State Capitol Building, Senate Sergeant’s Committee Room, Austin. According to the complete agenda, the committee will review and discuss preparation of impact statements on pension legislation for which actuarial information is available by meeting time, and for which requests have been received from legislative committees.

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.
Filed: January 30, 1991, 8:48 a.m.

TRD-9101204

Tuesday, February 26, 1991, 8:30 a.m. The Legislative Advisory Committee of the State Pension Review Board will meet at the State Capitol Building, Senate Sergeant’s Committee Room, Austin. According to the complete agenda, the committee will review and discuss preparation of impact statements on pension legislation for which actuarial information is available by meeting time, and for which requests have been received from legislative committees.

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.
Filed: January 30, 1991, 8:49 a.m.

TRD-9101205

Public Utility Commission of Texas

Wednesday, January 30, 1991, 9:05 a.m. The Public Utility Commission of Texas met at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete emergency revised agenda, the commission will consider approval of contract amendment for additional funding under contract with Reed Consulting Group concerning Docket Number 9300. The emergency status was necessary as funding was necessary prior to next regularly scheduled meeting in order to prevent lapse in funding to ensure consultant is available for preparation for hearing.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.
Filed: January 29, 1991, 3:45 p.m.
TRD-9101194

Tuesday, February 12, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda summary, the division will hold a joint prehearing conference in Docket Number 9980-petition of the General Counsel to inquire into the reasonableness of the rates and services of United Telephone Company of Texas, Inc.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 30, 1991, 3:56 p.m.
TRD-9101193

Tuesday, February 12, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda summary, the division will hold a joint prehearing conference in Docket Number 9981-petition of the General Counsel to inquire into the reasonableness of the rates and services of Central Telephone Company of Texas.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 30, 1991, 3:57 p.m.
TRD-9101237

Tuesday, February 12, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda summary, the division will hold a joint prehearing conference in Docket Number 9985-petition of the General Counsel to inquire into the reasonableness of the rates and services of Attilic Texas, Inc.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 30, 1991, 3:58 p.m.
TRD-9101238

Tuesday, February 12, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda summary, the division will hold a joint prehearing conference in Docket Number 9984-petition of the General Counsel to inquire into the reasonableness of the rates and services of Big Bend Telephone Company, Inc.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 30, 1991, 3:58 p.m.
TRD-9101239

Friday, February 22, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 9960-Southwestern Bell Telephone Company's notice of intent and application pursuant to Substantive Rule 23.27 requesting that the service market for central office based PBX/TYPE service from the 75 to 200 station line be declared subject to significant competition.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 29, 1991, 3:44 p.m.
TRD-9101193

University of Texas Health Center at Tyler

Thursday, February 7, 1991, noon. The Animal Research Committee of the University of Texas Health Center at Tyler will meet at the University of Texas Health Center, Highways 155S and 171 North, Chapel's Conference Room, Tyler. According to the complete agenda, the committee will approve minutes from January meeting; hear the animal report from last meeting-Dr. Peterson; veterinarian's report-Dr. Thedford; and new protocols and addenda: use of sheep in a study of the role of Atrial Natriuretic Factor (ANF) on progression of lung injury.

Contact: Dr. Barry Peterson, P.O. Box 2003, Tyler, Texas 75710, (903) 877-7012.

Filed: January 30, 1991, 4:33 p.m.
TRD-9101245

Texas Water Commission

Tuesday, February 19, 1991, 10 a.m. The Texas Water Commission will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-111, Austin. According to the complete agenda, the commission will consider an application by Water Work Board of Trustees of San Antonio, Application Number 4128A, for an extension of time to commence and complete construction of the Applewhite Reservoir Project authorized by Permit Number 3914.

Contact: Leslie Limes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: January 29, 1991, 3:37 p.m.
TRD-9101191

Tuesday, February 26, 1991, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 119, Austin. According to the agenda summary, the commission will hold a public hearing to consider an application requesting approval of authority to adopt and impose standby fees for Mills Road Municipal Utility District of Harris County.

Contact: William C. Harris, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: January 29, 1991, 3:37 p.m.
TRD-9101190

Thursday, March 28, 1991, 10 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Covington Community Center, FM Road 67, Covington. According to the agenda summary, the hearings examiner will consider an application by Paul Ray Schuman for Proposed Permit Number 03294 authorizing disposal of waste and wastewater from a dairy which consists of a maximum of 600 milking head and a maximum of 650 total.
MeetingsFiledJanuary30, 1991
The Austin-Travis County Mental Health and Mental Retardation Center Board of Trustees will meet at 1430 Collier Street, Board Room, Austin, February 4, 1991, at 7 a.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9101240.
The Bexar-Medina-Atascosa Counties Water Control Seven Board of Directors will meet at the District Office, Highway 81, Natalia, February 4, 1991, at 10 a.m. Information may be obtained from C. A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132. TRD-9101225.
The Gray County Appraisal District Board of Directors will meet at 815 North Summer Street, Pampa, February 4, 1991, at 5 p.m. Information may be obtained from W. Pat Bagley, P.O. Box 836, Pampa, Texas 79066-0836, (806) 665-0791. TRD-9101244.
The Heart of Texas Region Mental Health and Mental Retardation Board of Trustees will meet at the Cameron Building, 110 South 12th Street, Waco, January 31, 1991, at 11:45 a.m. The emergency revised agenda was necessary because of replacement of roof at Groesbeck, Mental Health and Mental Retardation Facility. Information may be obtained from Helen Jasso, 110 South 12th Street, Waco, Texas 76701, (817) 752-3451. TRD-9101214.
The Lavaca County Central Appraisal District Board of Directors will meet at the Lavaca County Central Appraisal District, 113 North Main Street, Hallettsville, February 11, 1991, at 4 p.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396. TRD-9101223.
The San Patricio County Appraisal District Board of Directors will meet at 1146 East Market Street, Sinton, February 7, 1991, at 9:30 a.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402. TRD-9101226.
The Trinity River Industrial Development Authority Board of Directors will meet at 5300 South Collins Street, Arlington, February 5, 1991, at 10:30 a.m. Information may be obtained from Roger C. Hunsaker, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9101212.

MeetingsFiledJanuary31, 1991
The Brazos Valley Development Council Regional Advisory Committee on Aging will meet at the Council Offices, 3006 East 29th Street, Suite Two, Bryan, February 7, 1991, at 2 p.m. Information may be obtained from Roberta Lindquist, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 776-2277. TRD-9101249.
The Dawson County Central Appraisal District Board of Directors will meet at 920 North Dallas Avenue, Lamesa, February 6, 1991, at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060. TRD-9101251.
The Education Service Center, Region XVII Board of Directors will meet at the ERC Region 17, 1111 West Loop 289, Board Room, Lubbock, February 12, 1991, at 9 a.m. Information may be obtained from Weldon E. Day, 1111 West Loop 289, Lubbock, Texas 79416, (806) 793-4802. TRD-9101250.
The Lee County Appraisal District Board of Directors will meet at 218 East Richmond Street, Giddings, Texas 78942, February 6, 1991, at 9 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9101248.

OpenMeetings February 5, 1991 16 TexReg 679
In Addition

The Texas Register is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Department of Aviation
Professional Engineering Services
Contract Award

The following consultant proposal request for providing engineering services is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

The consultants request for professional engineering services was published in the September 11, 1990, issue of the Texas Register (15 TexReg 5193).

The consultant proposals will be for professional engineering services for the design and construction administration phases for the following TDA Projects: 91/17-4-1 Hereford Municipal Airport.

The engineering firm for these services is: McMorries & Associates, Inc. 6300 Canyon Drive, Amarillo, Texas 79109.

The total value of the contract is $66,920 and the contract period starts on January 23, 1991, until the completion of the project.

Issued in Austin, Texas, on January 28, 1991.

TRD-9101172  Lydia Scarbrough
Director, Support and Services
Texas Department of Aviation

Filed: January 29, 1991
For further information, please call: (512) 476-9262

Texas Department of Community Affairs
Public Notice—Emergency Shelter Grants Program

The Texas Department of Community Affairs (TDCA) announces the imminent availability of funds under the Emergency Shelter Grants Program (ESGP). TDCA is applying to the United State Department of Housing and Urban Development (HUD) for $1,910,000 in ESGP funds for FFY 1991. The ESGP is authorized by under the Stewart B. McKinney Homeless Assistance Act of 1987 (Title IV of Public Law 100-77) as amended by Public Law 100-628.

TDCA will award funds to local governments and private nonprofit organizations on a competitive basis for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless, for the payment of certain operating and support service expenses in connection with emergency shelter for the homeless, and for homeless prevention activities. The definition of emergency shelter includes both temporary and transitional shelters. TDCA will accept proposals for transitional housing projects and encourages their submission.

TDCA has set a minimum grant amount of $30,000 and maximum amount of $100,000; however, cities or counties may apply for up to $200,000 if the proposal is on behalf of more than one service provider. ESGP entitlement cities and counties (See 33 FedReg 52,600, December 28, 1988-CHAP Requirements, for a complete list) are eligible for funding under the state program but only up to the amount that represents the difference between the applicable TDCA minimum less their HUD allocations.

To be eligible, an applicant must be: a unit of general local government (county or incorporated city); or a private nonprofit organization providing assistance to the homeless. Nonprofit organizations must obtain a certification from the relevant unit of general local government approving the proposed project. Applicants must plan to utilize ESGP funds for eligible activities as set forth in HUD's implementing regulations (24 Code of Federal Regulations Part 576, 54 FedReg 46,794, November 7, 1989); be able to supplement (match) the ESGP grant amount with an equal amount of funds from other sources; and ensure that all of its grant amount can be obligated within 180 days after grant award from TDCA. Environmental assessment requirements as set forth in 24 Code of Federal Regulations Part 58 apply to ESGP.

TDCA anticipates that the request for proposal (RFP) for this program will be available in mid-February 1991; the proposal due date to TDCA will be late March 1991; and the date for the obligation of ESGP funds will be mid-May 1991. The RFP packet will contain a specific timetable of events and deadlines. Because of the critical deadlines HUD has placed on the obligation of ESGP funds, potential recipients should begin planning  for the possible receipt and obligation of the ESGP funds.

In Addition February 5, 1991 16 TexReg 681
To request a copy of the RFP, write to: Community Services Section, Texas Department of Community Affairs, P.O. Box 13166, Austin, Texas 78711-3166; or call the Community Services Section at (512) 834-6058.

Issued in Austin, Texas, on January 28, 1991.

TRD-9101075 Roger A. Coffield General Counsel Texas Department of Community Affairs

Filed: January 28, 1991
For further information, please call: (512) 834-6010

Comptroller of Public Accounts
Consultant Contract Award

In accordance with the provisions of Texas Civil Statutes, Article 6252-11c, the Comptroller of Public Accounts issued a purchase order to Anderson Consulting to conduct a performance audit of the agency.

The consultant proposal request was published in the December 7, 1990, issue of the Texas Register (15 TexReg 7048).

The consultant will provide a comprehensive review and independent evaluation of the functional operation and management structure of the Office of the Comptroller of Public Accounts. The consultant will create a detailed, balanced, comprehensive report concerning comptroller activities and assess how well these activities are performed.

The contract is awarded to Anderson Consulting, 701 Brazos Street, Suite 1020, Austin, Texas 78701. The total cost of the consultant contract is $230,200. Work will begin on January 28, 1991, and will be completed on June 1, 1991.

Issued in Austin, Texas, on January 20, 1991.

TRD-9101208 Martin Cherry Assistant General Counsel Comptroller of Public Accounts

Filed: January 30, 1991
For further information, please call: (512) 463-4028

Correction of Error

The Comptroller of Public Accounts submitted a proposed amendment to 34 TAC §3.330 for publication in the January 1, 1991, issue of the Texas Register (16 TexReg 37).

The section number in the heading was incorrectly printed as §3.300 rather than §3.330.

Office of Consumer Credit Commissioner
Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

<table>
<thead>
<tr>
<th>Types of Rate Ceilings</th>
<th>Effective Period (Dates are Inclusive)</th>
<th>Consumer (3)/Agricultural/Commercial (4) thru $250,000</th>
<th>Commercial (4) over $250,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indicated (Weekly) Rate - Art. 1.04(a)(1)</td>
<td>02/04/91-02/10/91</td>
<td>18.00%</td>
<td>18.00%</td>
</tr>
<tr>
<td>Monthly Rate - Art. 1.04 (c)(1)</td>
<td>02/01/91-02/28/91</td>
<td>18.00%</td>
<td>18.00%</td>
</tr>
<tr>
<td>Standard Quarterly Rate - Art. 1.04(a)(2)</td>
<td>01/01/91-03/31/91</td>
<td>18.00%</td>
<td>18.00%</td>
</tr>
<tr>
<td>Retail Credit Card Quarterly Rate - Art. 1.11(3)</td>
<td>01/01/91-03/31/91</td>
<td>18.00%</td>
<td>N.A.</td>
</tr>
<tr>
<td>Lender Credit Card Quarterly Rate - Art. 15.02(d)(3)</td>
<td>01/01/91-03/31/91</td>
<td>14.37%</td>
<td>N.A.</td>
</tr>
<tr>
<td>Standard Annual Rate - Art. 1.04(a)(2)(2)</td>
<td>01/01/91-03/31/91</td>
<td>18.00%</td>
<td>18.00%</td>
</tr>
<tr>
<td>Retail Credit Card Annual Rate - Art. 1.11(3)</td>
<td>01/01/91-03/31/91</td>
<td>18.00%</td>
<td>N.A.</td>
</tr>
<tr>
<td>Annual Rate Applicable to Pre-July 1, 1983 Retail and Lender Credit Card Balances with Annual Implementation Dates from:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Judgment Rate - Art. 1.05, Section 2</td>
<td>01/01/91-03/31/91</td>
<td>18.00%</td>
<td>N.A.</td>
</tr>
<tr>
<td></td>
<td>02/01/91-02/28/91</td>
<td>10.00%</td>
<td>10.00%</td>
</tr>
</tbody>
</table>

(1) For variable rate commercial transactions only. (2) Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S. (3) Credit for personal, family or household use. (4) Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on January 28, 1991.

TRD-9101208 Al Endsley Consumer Credit Commissioner

Filed: January 30, 1991
For further information, please call: (512) 479-1280
Texas Education Agency
Call for Proposals

The Texas Education Agency (TEA) is requesting submission of program proposals for the Fourth Annual Texas Conference on At-Risk Students to be held in Austin, at the Doubletree and Red Lion Hotels on March 24-27, 1991. The conference entitled "New Responsibilities for New Realities," will be attended by over 1,500 school district superintendents, at-risk coordinators, education service center and state agency personnel, Job Training Partnership Act service providers, state and local service providers, and others. An advance registration fee of $75 per participant covers all conference activities, including the reception, brunch and keynote luncheons. The registration fee is $100. Questions regarding registration or the proposal format/content should be directed to LaVonne P. Mason, Conference Coordinator, at (512) 463-9633 or at 1-800-828-7475. Completed program proposal forms and attached abstracts should be mailed to: Program Chair, Fourth Annual Texas Conference on At-Risk Students, Texas Education Agency, Texas Dropout Information Clearinghouse, 1701 North Congress Avenue, Austin, Texas 78701-1494 and postmarked by February 11, 1991. Also, two or three page presentation summaries (e.g., text with charts and graphs) that would be suitable for publication in the conference proceedings are to be mailed by the week of the conference to the Program Chair.

Issued in Austin, Texas, on January 23, 1991.

TRD-9101082
W. N. Kirby
Commissioner of Education

Filed: January 28, 1991

For further information, please call: (512) 463-9701

Texas Employment Commission
Consultant Contract Award

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Employment Commission (TEC) furnishes this notice of consultant contract award. The consultant proposal request was published in the October 5, 1990, issue of the Texas Register (15 TexReg 5875) with a correction of error published in the October 12, 1990, issue of the Texas Register (15 TexReg 6037).

Description of Service. The private consultant shall assist the Texas Employment Commission with the review of the expert system development work conducted by the Texas Employment Commission and the projects in Maine, Missouri and Kansas sponsored by UIS under cooperative agreements. This evaluation will address issues of practicality, affordability, exportability, and operational implementation.

Name of Consultant. The consultant selected is Synergistic Solution Technologies, Inc., 7602 Bellflower Cove, Austin, Texas 78759.


Due Dates. The consultant will provide a monthly report of project accomplishment and problems for each month of project operations. A final report will be due at the end of the contract.

Issued in Austin, Texas, on January 28, 1991.

TRD-9101131
C. Ed Davis
Special Counsel
Texas Employment Commission

Texas Department of Health
Annual Report, HIV Services Program

The Texas Department of Health has published the Annual Report, HIV Services Program, for the period of September 1, 1989, through August 31, 1990. The report is required by the Human Immunodeficiency Services Act, Texas Civil Statutes, Article 4419-h, §2.09, and is available to the public. For further information contact the Services Program, HIV Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 458-7207.

Issued in Austin, Texas, on January 28, 1991.

TRD-9101081
Robert A. MacLenn, M.D.
Deputy Commissioner
Texas Department of Health

Filed: January 28, 1991

For further information, please call: (512) 458-7207.

Texas Department of Health
(Interagency Council for Genetic Services)

Correction of Error

The Texas Department of Health (Interagency Council for Genetic Services) submitted a notice of open meeting for publication in the January 1, 1991, issue of the Texas Register (16 TexReg 48).

The meeting was held at 9 a.m. rather than 11 a.m. on January 11.

Texas Higher Education Coordinating Board
Correction of Error

The Texas Higher Education Coordinating Board submitted a proposed amendment to 19 TAC §25.34 for publication in the January 15, 1991, issue of the Texas Register (16 TexReg 217).

A typographical error in subsection (n) changed "Medical" to "Medical". The subsection should read as follows.

"(n) Any institution providing benefits under this plan shall determine benefit payments to employees or retirees on the basis of actual enrollment in Medicare Part A and Part B, not on the basis of eligibility for enrollment [may not require employees or retirees who have not purchased Medicare Part A to purchase such coverage before providing benefits]."

State Department of Highways and Public Transportation

Public Hearing Notice

Pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5, the
State Department of Highways and Public Transportation will hold a series of five public hearings on proposed new §§11: 80-11.90, concerning Environmental and Public involvement for Highway Improvement Projects. Notice of the proposed adoption of the new sections and their text were published in the December 14, 1990, issue of the Texas Register (15 TexReg 7160).

The dates, places, and locations for the respective hearings are as follows: Thursday, February 7, 1991, Memorial High School, 925 Echo Lane, Houston; Thursday, February 14, 1991, Holiday Inn Center, 6201 E. Highway 80, Odessa; Tuesday, February 19, 1991, Corpus Christi Marriott, 707 N. Shoreline Drive, Corpus Christi; Thursday, February 21, 1991, Holiday Inn DFW North, 4441 Highway 114 and Esters Boulevard, Irving; and Monday, February 25, 1991, Camp Mabry, 3500 W. 35th Street, Academy, Building 82 (The Audie Murphy Building) Austin.

Each hearing will convene at 7 p.m. Those desiring to make oral comments or presentations may register starting at 6:30 p.m. Any interested person may appear and offer comments, either orally or in writing, however, questioning of those making presentations will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive comment. Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible.

Comments on the proposed text should include appropriate citations to sections, subsections, paragraphs, etc. for proper reference. Any suggestions or requests for alternative language or other revisions in the proposed text should be submitted in written form.

To assure that all persons who have registered to speak are afforded an opportunity to do so to avoid undue hardship or inconvenience of conducting the proceedings beyond an unreasonable hour, the presiding officer may recess the hearing and reconvene at 7 p.m. the following evening at a location to be announced upon recess, for the limited purpose of receiving those remaining comments.

Written comments may also be submitted to William A. Lancaster, P.E., Chief Engineer, Highway Design Division, 11th and Brazos Streets, Austin, Texas 78701. Copies of the proposed rules are available from the department’s district offices in each of the named cities and from Mr. Lancaster. The deadline for submitting all comments is 5 p.m. on March 31, 1991.

Issued in Austin, Texas, on January 28, 1991.

TRD-9101078  Richard H. Garza  Director of Programs  Texas Housing Agency  Filed: January 28, 1991

For further information, please call: (512) 474-2974

Texas Department of Human Services
Correction of Error


In the preamble to 40 TAC §§41.104, 41.106, 41.108, 41.110, and 41.112, the first paragraph should read as follows.

"The Texas Department of Human Services (DHS) adopts amendments to §§41.104, 41.106, 41.108, 41.109, and 41.112, adopts the repeal of §41.110, and adopts new §41.110. Amended §§41.104, 41.108, and 41.112 and new §41.110 are adopted with changes to the proposed text published in the August 17, 1990, issue of the Texas Register (15 TexReg 4684).

The amendments to §41.106 and §41.109 are adopted without changes to the proposed text, and will not be republished."

Texas Housing Agency
Notice of Public Hearings

Notice is hereby given of public hearings to be held by the Texas Housing Agency on Tuesday, February 12, 1991, 1:30 p.m., at 401 West Sanford, Arlington; Wednesday, February 13, 1991, 1:30 p.m., at Texas Housing Agency, Conference Room, 811 Barton Springs Road, Suite 300, Austin, Travis County; and Friday, February 15, 1991, 1:30 p.m. at 1475 West Gray, Houston; with respect to the agency’s proposed plan for allocation of low-income housing tax credits among projects in Texas as mandated by Congress when it extended the provisions of the Internal Revenue Code of 1986, §42, as amended, concerning low-income tax credits. The proposed state allocation plan prepared by the agency for discussion at the public state allocation plan prepared by the agency for discussion at the public hearings designates, among other things, threshold criteria, evaluation factors, selection criteria, bonus points and final ranking for projects which request an allocation of low-income tax credits in the State of Texas.

All interested persons are invited to attend these public hearings to express their views on the proposed allocation plan in order to establish selection criteria, priorities and procedures for allocating the housing tax credits and to further assist the agency in determining the actual housing needs of families of low and moderate income in the State of Texas. Persons who intend to appear at any of these hearings are encouraged to contact Mr. Richard H. Garza in advance of the hearings.

Questions and requests for a copy of the proposed allocation plan may be directed to: Richard H. Garza, Director of Programs, or Robert Johnson, LITC Manager, Texas Housing Agency, 811 Barton Springs Road, Suite 300, Austin, Texas 78704, (512) 474-2974, extension 160, or 1 (800) 792-1119.

All interested persons unable to attend the hearings may submit their views in writing to Mr. Richard H. Garza by February 15, 1990. All written comments will be made available for review upon request to the agency.

This published notice and the previous-described hearings are held in satisfaction of the requirements of the Internal Revenue Code of 1986, §147(f), as amended.

Issued in Austin, Texas, on January 28, 1991.

TRD-9101078  Richard H. Garza  Director of Programs  Texas Housing Agency  Filed: January 28, 1991

For further information, please call: (512) 474-2974

Texas Department of Human Services

16 TexReg 684  February 5, 1991  Texas Register
Texas Department of Licensing and Regulation

Correction of Error

The Texas Department of Licensing and Regulation's submission for final adoption of 16 TAC §70.100 and §70.101 contained an error in the January 8, 1991, issue of the Texas Register (16 TexReg 114).

In the preamble the date May 13, 1990, should read "May 13, 1991."

Northeast Texas Community College

Invitation to Bidders

You are invited to submit bids on three computerized, integrated assessment systems for Northeast Texas Community College (NTCC), Paris Jr. College (PJC), and Texarkana College (TC).

All bids must be received by Tuesday, February 19, 1991, by 10 a.m. Any proposals received after this date and time will be returned unopened and will not be considered.

Bids are to be submitted in a sealed envelope with the name of firm bidding. Envelopes must be clearly marked: Attention: Bid Enclosed, with time due date. All bids submitted to: Jack Mackin, Northeast Texas Community College, P.O. Box 1307, Mt. Pleasant, Texas 75455, (903) 572-1911.

Any questions concerning this bid should be directed to Sharla Trim at Northeast Texas Community College, (903) 572-1911, ext. 505. Northeast Texas Community College, Paris Jr. College and Texarkana College and the Boards of Trustees reserve the right to accept and/or reject any or all bids, or parts thereof, and to waive all formalities if it is in the best interest of NTCC, PJC, and TC.


TRD-9101178  Pat Talbert
Assessment Specialist
Northeast Texas Community College

Filed: January 29, 1991
For further information, please call: (903) 572-1911

Board of Nurse Examiners

Correction of Error

The Board of Nurse Examiners submitted proposed amendments to 22 TAC §§213.15 for publication in the December 18, 1990, issue of the Texas Register (15 TexReg 7243).

In the section heading §213.15 inadvertently appeared as §212.15 the heading should read as follows. "§213.15. Hearings before Executive Secretary."

Texas Optometry Board

Correction of Error

The Texas Optometry Board submitted a proposed new 22 TAC §279.11 for publication in the January 8, 1991, issue of the Texas Register (16 TexReg 86).

Due to an editing error the term "rule" was changed to "section" in the second to the last sentence.

The sentence should read as follows.

"Failure to comply with this rule shall be deemed as practicing from house-to-house and the improper solicitation of patients in violation of §5. 04(5) of the Act."

In 22 TAC §279.10, the acronym from human immodeiciency virus should read "(HIV)."

Prairie View A&M University

Campus Telecommunication Network

In accordance with Texas Civil Statutes, Article 6252-11c, subsection 1 (1) as enacted by Acts, 1977, 65 Legislature, Chapter 454 the following information is submitted.

Prairie View A&M University is seeking a request for proposal for a study of a Campus Telecommunication Network.

The contact person for this agency will be Nathaniel Johnson, Sr. Director of Information Systems, (409) 857-2525.

The closing date for the receipt of offers of consultant services will be March 11, 1991.

The procedure by which the agency will award the contract for consulting services will be as follows: first, proposals will be examined to eliminate those which do not respond to the stated requirements; those vendors proposing a solution which is selected for further consideration may be requested to provide an opportunity for the University to review the vendor's performance at other sites which serve similar populations to those of Prairie View A&M University.

Evaluation Criteria: presentation of proposals; number of years in business (minutes of 5); surety bond; responses to the scope of work; client references; stated qualifications of project team; financial position; cost; project implementation schedule; functionality.

The contract will be awarded to that vendor whose proposal conforms to the specifications in the request for proposal and is the most advantageous to Prairie View A&M University in terms of price and other evaluation criteria.

Issued in Prairie View, Texas, on January 29, 1991.
TRD-9101175  Phillip M. Jackson
Purchasing Agent
Prairie View A&M University

Filed: January 29, 1991
For further information, please call: (409) 857-2323

Railroad Commission of Texas

Correction of Error

The Railroad Commission of Texas adopted amendments to 16 TAC §7.70 and §7.81. Due to publication errors in the October 30, 1990, issue of the Texas Register (15 TexReg 6243) the sections should be corrected to read as follows.

(1) In the second paragraph of the preamble, second to last sentence, the word does is misspelled.
(2) In the fourth paragraph, the first letter of the word Association should be capitalized.

(3) In the seventh paragraph of the preamble, ninth line, the rest of the sentence should read as follows: "...and to take any other requisite action in accordance with §5(a) of the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. A. §1674(a) (West 1968 and Supplement 1990)."

(4) In §7.70(k)(3), the beginning of (A) is omitted; it should read as follows: Section 192.457 is supplemented: (A) By the following language in subsection (b)(3):

(3) Bare or coated distribution lines.

(5) In §7.70(k)(3), the beginning of (B) is omitted as well; it should read as follows: (B) By the following subsection:

(d) When a condition of active external corrosion... There should also be a period after the word "determinations."

(6) In §7.70(k)(4), it should read as follows: Section 192.465 is supplemented: (A) By the following language after the first sentence of subsection (a): Test points...

(7) In §7.70(k)(4), the beginning of (B) is omitted and should read as follows: Test points (electrode locations) over or near an anode or anodes shall not, by themselves, be considered representative readings;

(B) By the following language in subsection (e):

(e) After the initial evaluation required by paragraphs (b) and (c) of §192.455 and ...

(8) In the second sentence of §7.70(k)(4)(B), the word paragraph is misspelled.

(9) In §7.70(k)(4)(B), there should be a period after the last word, "determinations."

(10) In §7.70(k)(6), the first sentence should read as follows: Section 192.479 is supplemented by the following subsection:

(c) "Atmospheric corrosion..." (not Atmospheric).

In §7.81, the second reference made to 49 Code of Federal Regulations Part 195, Regulations for Transportation of Hazardous Liquids by Pipeline as well as the "and" preceding it should be deleted.

Notice of Hearing

The public hearing on the proposed amendments to Statewide Rules 1 and 14 (16 TAC §3.1 and §3.14) will be held on February 21, 1991, at 9 a.m. in Room 12-126 of the William B. Travis State Office Building, 1701 North Congress Avenue, Austin. If all comments cannot be heard on February 21, the hearing will continue on subsequent working days. The proposed amendments were published in the January 1, 1991, issue of the Texas Register (16 TexReg 32).

Any person may appear and offer comments at the public hearing. Cross-examination of witnesses will not be allowed, although the presiding examiner may ask questions of any person testifying. Comments will not be accepted after the hearing is adjourned.

Please direct your written comments to the attention of Jamie Nielsen. All comments must be in writing in order to insure consideration and a place in the record.

Issued In Austin, Texas, on January 30, 1991.

TRD-9101207 Brenda Loudenmire
Hearings Examiner, Legal Division-General Law
Railroad Commission of Texas

Filed: January 30, 1991
For further information, please call: (512) 463-6864

Texas Southern University
Request To Hire Consultant

In accordance with Texas Civil Statutes, Article 6252-11c, Texas Southern University (TSU) requests all interested parties to submit proposal to access the testing skills of first-year law students.

Description of Services. The scope of work performed will include analysis of data for five first-year courses of law at Thurgood Marshall School of Law; participation in the selection of multiple choice questions for each course; and participation in the development and execution of a final test at the end of the fall semester.

Closing Date. Closing Date for offers to provide these services is January 31, 1991.

Effective Date. The effective date for the contract is on or about February 15, 1991.

Procedure For Selecting Consultant. The Texas Southern University Thurgood Marshall School of Law will select the consultant firm based on the evaluation and recommendations of Dean James M. Douglas and the Faculty Selection Committee chaired by Professor Danny Holley. Selection of a consultant will be based on the following factors: previous testing experience; previous experience in developing testing data; evaluation of the costs submitted; availability of the consultant to the professors providing data.

Terms and Conditions of the Contract. The following terms and conditions must be accepted by all respondents: Texas Southern University reserves the right to reject any and all proposals; all information generated is the exclusive property of Texas Southern University; cost for travel, lodging and other services required by the consultant must be included in the overall costs; the consultant will be required to submit a monthly progress report and participate in progress report meetings, with the time of the meetings to be at the discretion of Texas Southern University.

Contact Person. Any consultant interested in submitting a proposal may obtain a copy of the request for proposal from Professor Danny Holley, Thurgood Marshall School of Law, 3100 Cleburne, Houston, Texas 77004: phone (713) 639-1075.

Issued in Austin, Texas, on December 17, 1990.

TRD-9101006 William H. Harris
President
Texas Southern University

Filed: January 25, 1991
For further information, please call: (512) 527-7011

16 TexReg 686 February 5, 1991 Texas Register ♦
Texas Water Commission
Correction of Errors

The Texas Water Commission submitted proposed new 31 TAC §§601.1-601.5 for publication in the January 22, 1991, Texas Register (16 TexReg 363). Due to publication error, text was omitted from two sections.

In §601.3(B) clause (ii) was omitted. The subparagraph should read as follows.

(B) greater than 10,000 mg/l if it is:

(i) currently extracted for beneficial use such as domestic, industrial, or agricultural purposes; or

(ii) hydrologically connected with, and with the potential for contaminant movement to a surface water body or another zone of groundwater which has a concentration of less than or equal to 10,000 mg/l of dissolved solids.

In §601.5, text is missing from paragraph (2). The section should read follows.

601.5. Joint Groundwater Monitoring and Contamination Report. In conjunction with the Texas Water Commission, the committee shall publish not later than April 1 of each year a joint groundwater monitoring and contamination report covering the activities and findings of the committee made during the previous calendar year. The report must:

(1) describe the current status of groundwater monitoring programs conducted by or required by each agency at regulated facilities or in connection with regulated activities;

(2) contain a description of each case of groundwater contamination documented during the previous calendar year and of each case of groundwater contamination documented during previous years for which enforcement action was incomplete at the time of issuance of the preceding report; and

(3) indicate the status of enforcement action for each case of groundwater contamination that is included in the report.

The Texas Water Commission submitted an adopted amendment to 31 TAC §305.62 which contained an incorrect reference to §305.66 in the October 12, 1990, issue of the Texas Register (15 TexReg 6015).

In subsection (a) the reference to "...§305.66 of this title (relating to Corrections of Permits)...", should read "...§305.65 of this title (relating to Corrections of Permits)..."

Enforcement Orders

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the Texas Register not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Star Enterprise Port Arthur Refinery, (Permit NW-50188), on January 28, 1991, assessing $58,160 in administrative penalties with $19,387 deferred and waived contingent upon compliance.

Information concerning any aspect of this order may be obtained by contacting Robert Renberger, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on January 29, 1991.
TRD-9101160 Gloria A. Vasquez
                      Notice Coordinator
                      Texas Water Commission

Filed: January 29, 1991
For further information, please call: (512) 463-7898

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the Texas Register not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to National Metal Finishing, Inc. (SWR 35454), on January 28, 1991, assessing $184,000 in administrative penalties with the entire amount deferred and waived contingent upon compliance.

Information concerning any aspect of this order may be obtained by contacting Robin Smith, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on January 29, 1991.
TRD-91016181 Gloria A. Vasquez
                      Notice Coordinator
                      Texas Water Commission

Filed: January 29, 1991
For further information, please call: (512) 463-7898

Meeting Notice

A meeting of the Scientific/Technical Advisory Committee of the Galveston Bay National Estuary Program is scheduled for: Thursday, February 7, 1991, 10 a. m., Forest Room-Bayou Building, University of Houston-Clear Lake, 2700 Bay Area Boulevard, Houston.

Final recommendations and proposed budgets will be forwarded to the Management Committee for Characterization Studies to be performed in Fiscal Year 1992. Also, representatives from the Port of Houston Authority will present information regarding beneficial use of dredged material.

Issued in Houston, Texas, on January 24, 1991.
TRD-9101070 Frank S. Shipley, Ph.D.
                      Program Manager
                      Galveston Bay National Estuary Program

Filed: January 28, 1991
For further information, please call: (713) 283-3950

Notice of Application For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of January 21-January 25, 1991.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any
such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

Joe Borges; Dublin; a dairy; approximately five miles west of Lingleville, in Erath County; 03284; new.

Garland Bourge doing business as Circle G Dairy; Rio Vista; a dairy; approximately two miles northwest of the intersection of State Highway 174 and FM Road 916 in Johnson County; 03327; new.

Carter Lake Water Supply Corporation; College Station; wastewater treatment facilities; approximately 2.2 miles northeast of the intersection of Rock Prairie Road and State Highway 6 in Brazos County; 13153-01; renewal.

Edsel Jones; College Station; wastewater treatment plant; approximately two miles south of the intersection of FM Roads 2818 and 2154, approximately one mile southwest of the intersection of North Graham Road and FM Road 2154 in Brazos County; 12015-01; renewal.

City of Houston; wastewater treatment plant; 8545 Scranton Street, due east of William P. Hobby Airport, approximately 0.7 mile southwest of the intersection of Interstate Highway 45 (Gulf Freeway) and Airport Boulevard in Harris County; 10495-65; renewal.

International Business Machines; Austin; electronics manufacturing plant; 11400 Burnet Road in the City of Austin, Travis County; 03321; new.

Jackson County Water Control and Improvement District Number 2; Vanderbilt; wastewater treatment facilities; approximately 1,500 feet east of FM Road 234 and approximately 1,600 feet north of FM Road 616 in Vanderbilt in Jackson County; 10196-01; renewal.

Ohmsted, Inc.; LaPorte; a heat exchanger repair plant; approximately 1/2 mile west of the intersection of State Highway 225 with State Highway 146 in the City of LaPorte, Harris County; 013018; renewal.

City of Olney; wastewater treatment facilities; approximately 1,500 feet southeast of the intersection of FM Road 210 (Spring Creek Road) and State Highway 79 in Young County; 10050-01; renewal.

City of Pinehurst; Orange; wastewater treatment facilities; 3000 Gulf Street in the City of Pinehurst in Orange County; 10597-01; renewal.

Issued in Austin, Texas, on January 29, 1991.

TRD-8101179 · Brenda W. Foster
Chief Clerk
Texas Water Commission

Filed: January 29, 1991

For further information, please call (512) 463-7906

Texas Workers' Compensation Commission

Correction of Errors

The Texas Workers' Compensation Commission submitted an adopted new 28 TAC §132.10 for publication in the December 7, 1990, issue of the Texas Register (15 TexReg 7023).

In the published version of the proposal to §132.10 published August 31, 1990, (15 TexReg 5008) the Register omitted the word "only" in subsection (f). The rule was adopted without change in the December 7, 1990, issue. The subsection should read as follows.

"(f) If no claim for death benefits is filed with the commission on or before the first anniversary of the death of the employee, it shall presumed, for the purpose of this rule and §2.26 of the Act only, that no legal beneficiary survived the deceased employee."


The agency's submission omitted a word in paragraph (5) of subsection (a). The paragraph should read as follows.

"(5) the name and location of the health care provider that has treated the employee for the injury; and"
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