

# Texas Register

Volume 15, Number 2, January 5, 1990

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## 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—summaries 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Withdrawn Sections—sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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—notices 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 accumulative 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 2402 of Volume 6 (1981) is cited as follows: 6 TexReg 2402.

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* office, Room 245, James Earl Rudder Building, 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).



## Texas Register Publications

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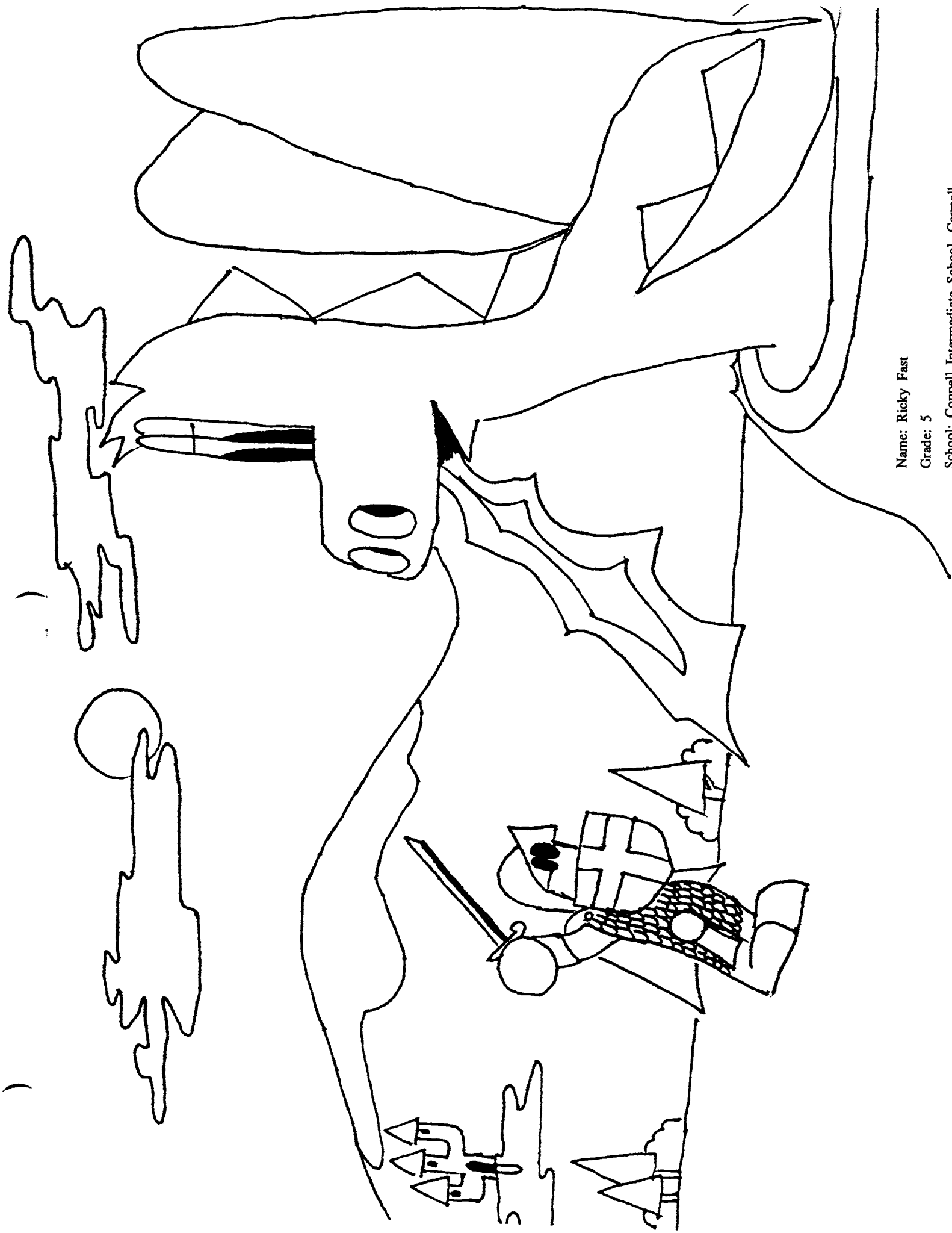
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Roberta Knight

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Dana Blanton

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Name: Ricky Fast  
Grade: 5

School: Coppell Intermediate School, Coppell



Name: Misti Espinoza

Grade: 5

School: Connell Intermediate School Connell

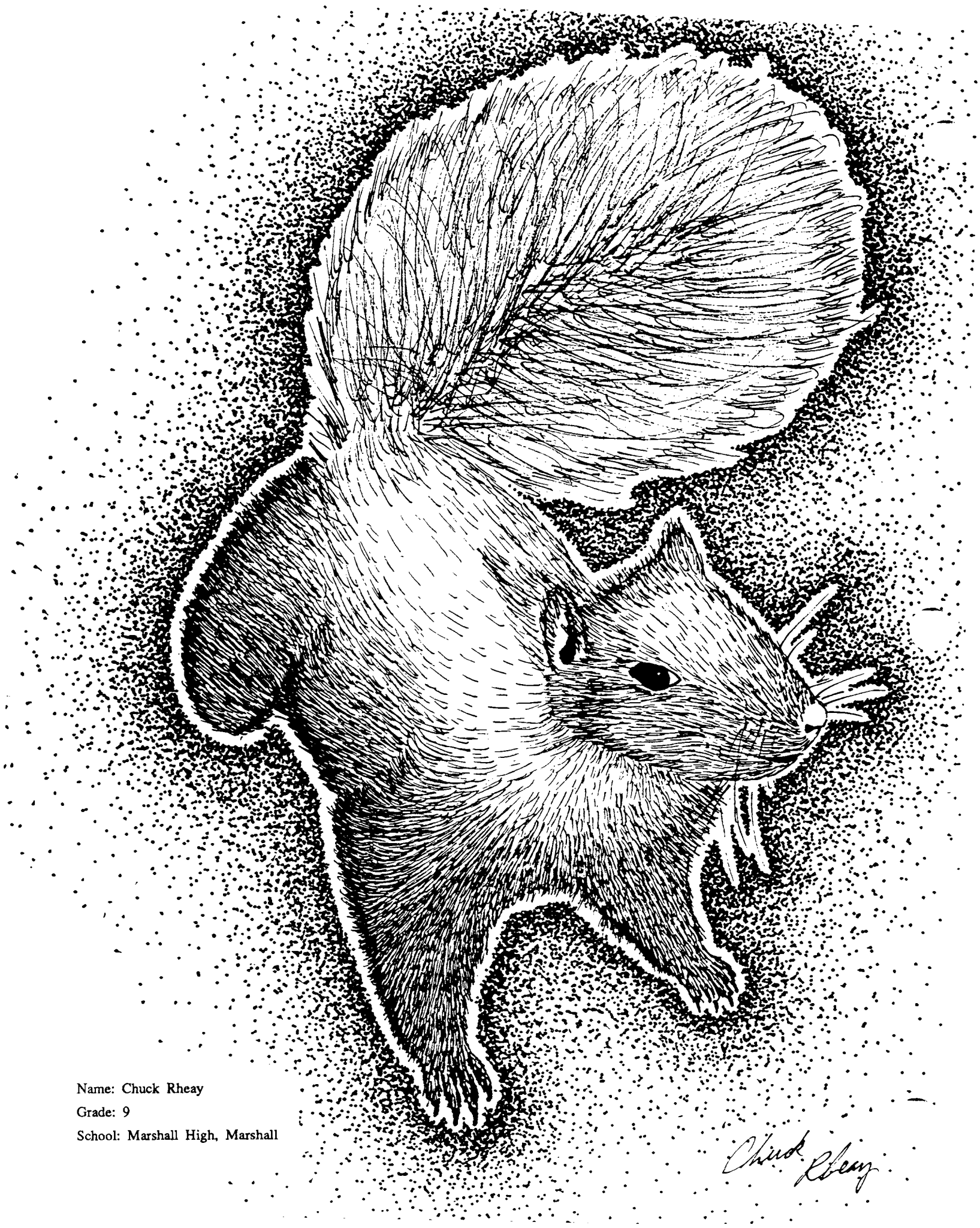


Name: Donnie Powell

Grade: 8

School: Haltom Middle School, Birdville





Name: Chuck Rheay  
Grade: 9  
School: Marshall High, Marshall

*Chuck Rheay*

# TAC Titles Affected

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## TAC Titles Affected—January

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

### TITLE 1. ADMINISTRATION

#### *Part IV. Office of the Secretary of State*

1 TAC §§102.1, 102.10, 102.20, 102.30, 102.40, 102.41, 102.70, 102.71, 102.72, 102.73, 102.80, 102.90, 102.91—21

1 TAC §§103.1, 103.2, 103.10, 103.21—21

1 TAC §§104.1, 104.10—21

### TITLE 4. AGRICULTURE

#### *Part II. Animal Health Commission*

4 TAC §§55.5—81

### TITLE 10. COMMUNITY DEVELOPMENT

#### *Part V. Texas Department of Commerce*

10 TAC §§165.1-165.3, 165.5-165.7—21

### TITLE 16. ECONOMIC REGULATION

#### *Part IV. Texas Department of Licensing and Regulation*

16 TAC §§78.1, 78.10, 78.20, 78.30, 78.40, 78.60, 78.70-78.74, 78.80-78.82, 78.90-78.94, 78.100—73, 81

#### *Part VIII. Texas Racing Commission*

16 TAC §307.223—25

16 TAC §307.261—13, 15

16 TAC §309.25—25

16 TAC §309.56—25

16 TAC §309.58—25

16 TAC §309.61—26

16 TAC §309.68—26

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16 TAC §309.114—26

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16 TAC §311.106—27

16 TAC §311.156—27

16 TAC §311.201—27

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16 TAC §313.406—28

16 TAC §319.4—28

16 TAC §319.306—13, 15

16 TAC §319.365—28

### TITLE 22. EXAMINING BOARDS

#### *Part XXI. Texas State Board of Examiners of Psychologists*

22 TAC §465.10—28

#### *Part XXII. Texas State Board of Public Accountancy*

22 TAC §511.163—29

### TITLE 25. HEALTH SERVICES

#### *Part I. Texas Department of Health*

25 TAC §37.86—15

25 TAC §37.90—16

25 TAC §§115.5, 115.8, 115.17—17

25 TAC §125.6—29

### TITLE 28. INSURANCE

#### *Part I. State Board of Insurance*

28 TAC §7.58—69,

28 TAC §7.1008—70

28 TAC §§7.1601-7.1613—13

28 TAC §§7.1601-7.1622—13

28 TAC §21.704—13

28 TAC §25.714—71

28 TAC §§33.1-33.3—14

28 TAC §33.107, §33.108—14

28 TAC §§33.401, 33.404, 33.405—14

28 TAC §§33.505, 33.506—14

### TITLE 31. NATURAL RESOURCES AND CONSERVATION

#### *Part III. Texas Air Control Board*

31 TAC §§101.1, 101.7, 101.24, 101.25, 101.26—17

**Part IX. Water Rates**

31 TAC §§291.131-291.136—14

**TITLE 34. PUBLIC FINANCE**

**Part I. Comptroller of Public Accounts**

34 TAC §3.8—19

**Part IV. Employees Retirement System of Texas**

34 TAC §§67.97—83

34 TAC §81.3—71, 79

**Part VI. Texas Municipal Retirement System**

34 TAC §121.6—38

34 TAC §123.1-123.3, 123.5—38

34 TAC §125.7—38

34 TAC §127.2—39

34 TAC §129.2, §129.12—39

**Part XII. State Auditor's Office**

34 TAC §351.1—39

**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

**Part I. Texas Department of Human Services**

40 TAC §3.2207—39

40 TAC §16.1513—40

**TITLE 43. TRANSPORTATION**

**Part I. State Department of Highways and Public Transportation**

43 TAC §25.81—71





# 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 28. INSURANCE

### Part I. State Board of Insurance

#### Chapter 7. Corporate and Financial Regulation

##### Subchapter A. Examination and Corporate Custodian and Tax

###### • 28 TAC §7.58

The State Board of Insurance adopts on an emergency basis new §7.58, concerning corporate and financial regulation. Section 7.58 concerns forms and instructions for the preparation and filing of tax returns for insurers and other entities required to file tax returns with the State Board of Insurance for the 1989 calendar year or required to file quarterly premium tax returns with the board during the 1990 calendar year. This new section is necessary to provide forms and instructions which will facilitate compliance with statutory requirements for reporting and payment of taxes to the State Board of Insurance. The annual gross premium tax return is required by statute to be filed either on or before March 1, 1990, or the date the annual statement for the carrier is required to be filed with the board. Quarterly tax returns are required to be filed four times per year: the first quarter is due and payable March 1, 1990 (or the date the annual statement for such carrier is required to be filed with the State Board of Insurance); the second quarter is due and payable May 15, 1990; the third quarter is due and payable August 15, 1990; and the fourth quarter is due and payable November 15, 1990. The forms and instructions include requirements for information respecting gross premium taxes, maintenance taxes, other taxes, and certain incidental fees, and provide a form to be used in determining and reporting the amount owed. It is the board's opinion and the board finds that an imminent peril to the public welfare requires that §7.58 be adopted on an emergency basis in order to continue the proper functioning of administrative regulation of the business of insurance in Texas. An imminent peril to the public welfare requires adoption of this new section on an emergency basis in order to enable the board to provide insurers and other entities with forms and instructions in sufficient time for affected entities to file tax returns on or before the statutory due date. Timely and accurate payment of the taxes is necessary for support of regulatory functions of the State Board of Insurance. Adoption of this section on an emergency basis includes adoption by reference of forms and instructions. The board has filed copies of these forms and instructions with the Secretary of State's Of-

fice, Texas Register Division. Persons desiring copies of the forms and instructions can obtain copies from the Tax Collection Section of the Administrative Services Division of the State Board of Insurance, Three Republic Plaza, Room 284, 333 Guadalupe, Austin.

The new section is adopted on an emergency basis under the Texas Insurance Code, Articles 1.04, 1.10, §9, 1.14-1, 1.14-2, 1.35B, 4.07, 4.10, 4.11, 4.11A, 4.11B, 4.11C, 4.17, 5.12, 5.24, 5.49, 5.68, 9.46, 9.59, 21.07-5, 21.07-6, 21.54, and 23.08; the Texas Health Maintenance Organization Act, §22 and §33; and Texas Civil Statutes, Article 6252-13a, §4, and Article 8306, §28. The Insurance Code, Article 1.04, places original jurisdiction for the adoption of rules in the State Board of Insurance. Article 1.10, §9, requires the board to furnish, to companies required to report to the board, statement blanks for the statements required. Article 4.07 specifies the charges for certain fees. The Insurance Code, Articles 4.10, 4.11, 9.59, and 21.54; Texas Civil Statutes, Article 8306, §28; and the Texas Health Maintenance Organization Act, §33, require the payment of taxes on gross premiums by entities regulated by the board or on gross amounts of similar revenue by health maintenance organizations. The Insurance Code, Article 4.11A requires the payment of taxes on the gross amount of administrative or service fees received by an insurance carrier. The Insurance Code, Articles 4.17, 5.12, 5.24, 5.49, 5.68, 9.46, 21.07-5, 21.07-6, and 23.08, requires the payment of maintenance taxes by certain entities regulated by the board. The Insurance Code, Articles 4.10, 4.11, and 4.11A, gives the board rulemaking authority. The Texas Health Maintenance Organization Act, §22, gives the board rulemaking authority. Texas Civil Statutes, Article 6252-13a, §4, require and authorize the board to adopt rules of practice setting forth the nature and requirements of all procedures available.

**§7.58. Preparation of 1989 Tax Returns.** Forms and instructions for the preparation of tax returns and certain fees for insurance companies and other principals for the 1989 calendar year are adopted by reference. These instructions and forms are published by the State Board of Insurance and may be obtained from the Tax Collection Section of the Administrative Services Division of the State Board of Insurance, Three Republic Plaza, Room 284, 333 Guadalupe, Austin, Texas 78701. Each insurer or other entity shall follow such instructions and use and report on such forms as appropriate to its operation. The instructions and forms are more particularly identified as follows:

(1) a form identified as the 1989 General Instructions for Filing Texas Annual Tax Returns for All Texas Licensed Insurance Carriers;

(2) a form identified as the 1989 Specific Instructions for Completing the Texas Annual Tax Return, for Domestic, Foreign, and Alien Life, Health and Accident Carriers;

(3) a form identified as the 1989 Texas Annual Tax Return for Domestic, Foreign, and Alien Life, Health and Accident Companies Doing Business in the State of Texas;

(4) a form identified as the 1989 Specific Instructions for Completing the Texas Annual Tax Return for Domestic, Foreign, and Alien Companies transacting Property and/or Casualty Business in Texas;

(5) a form identified as the 1989 Texas Annual Tax Return for Domestic, Foreign, and Alien Companies, Lloyds, Reciprocal, and Miscellaneous Organizations Transacting Property and Casualty Business;

(6) a form identified as the 1989 Texas Specific Instructions for Completing the Texas Annual Tax Return for Health Maintenance Organizations;

(7) a form identified as the 1989 Texas Annual Tax Return for Health Maintenance Organizations;

(8) a form identified as the 1989 Texas Annual Tax Return, including instructions, for nonprofit prepaid legal services corporations;

(9) a form identified as the 1989 Texas Annual Tax Return, including instructions, for local mutual aid associations;

(10) a form identified as the 1990 Specific Instructions for Preparing and Filing Texas Quarterly Premium Tax Return for Life, Health, and Accident Business;

(11) a form identified as the 1990 Texas Quarterly Premium Tax Return for Life, Health, and Accident Business;

(12) a form identified as the 1990 Specific Instructions for Preparing and Filing Texas Quarterly Premium Tax Return for Property and Casualty Business;

(13) a form identified as the 1990 Texas Quarterly Premium Tax Return for Property and Casualty Business;

(14) a form identified as the 1990 Specific Instructions for Preparing and Filing Texas Quarterly Premium Tax Return for Health Maintenance Organizations;

(15) a form identified as the 1990 Texas Quarterly Premium Tax Return for Health Maintenance Organizations;

(16) a form identified as the 1990 Specific Instructions for Preparing and Filing Texas Quarterly Premium Tax Return for Title Business;

(17) a form identified as the 1990 Texas Quarterly Premium Tax Return for Title Business;

(18) a form identified as the 1989 General Instructions for Completing Texas Annual Tax Return, for companies under the provisions of the Texas Insurance Code, Articles 3.25 and 3.59;

(19) a form identified as the 1989 Texas Annual Tax Return, for Foreign and Alien Life, Health, and Accident Insurance Carriers operating under the provisions of the Texas Insurance Code, Articles 3.25 and 3.59;

(20) a form identified as the 1989 General Instructions for Filing the 1989 Maintenance Tax Returns for Third Party Administrators;

(21) a form identified as the 1989 Annual Texas Maintenance Tax Return for Third Party Administrators;

(22) a form identified as the 1990 Specific Instructions for Preparing and Filing the Texas Quarterly Administrative Services Tax Return;

(23) a form identified as the 1990 Quarterly Texas Tax Return for Administrative Services;

(24) a form identified as the Specific Instructions for Completing the 1989 Texas Annual Tax Return for Administrative Services;

(25) a form identified as the General Instructions for Filing the 1989 Administrative Services Tax Return;

(26) a form identified as the 1989 Annual Texas Tax Return for Administrative Services;

(27) a form identified as the Specific Instructions for Completing the 1989 Texas Annual Tax Return for Title Business;

(28) a form identified as the 1989 Texas Annual Tax Return for Domestic and Foreign Title Companies.

(29) a form identified as the Surplus Lines Agents' Semi-Annual Tax report of Insurance Placed With Unlicensed Insurers;

(30) a form identified as Instructions for Filing the Surplus Lines Agents' Semi-Annual Tax Report;

(31) a form identified as the 1989 Annual Tax Report of Insured Applicable to Independently Procured Insurance (FT-1);

(32) a form identified as the Instructions for Filing the 1989 Annual Tax Report of Insured Applicable to Independently Procured Insurance (FT-1);

(33) a form identified as the Report of Unauthorized Insurance and Instructions for Filing Report of Unauthorized Insurance; and

(34) a form identified as the Annual Purchasing Group Premium Tax Report and Instructions for Filing the Annual Purchasing Group Premium Tax Report.

Issued in Austin, Texas, on December 28, 1989.

TRD-8912411 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: December 29, 1989

Expiration date: April 28, 1990

For further information, please call: (512) 463-6327

◆ ◆ ◆  
**Subchapter J. Examination  
Expenses and Assessments**

• 28 TAC §7.1008

The State Board of Insurance adopts on an emergency basis new §7.1008, concerning rates of assessments and charges to meet the expenses of examining insurance companies in 1990. An imminent peril to the public welfare requires adoption of this new section on an emergency basis in order to provide rates of assessment and charges sufficient to meet the expenses of performing the board's statutory responsibilities for examining insurance companies. Under the new section, the board levies rates of assessment and collects from each domestic insurance company on the basis of admitted assets and gross premium receipts for the 1989 calendar year, and from each foreign insurance company under examination during the 1990 calendar year, and from each foreign insurance company under examination during the 1990 calendar year on the basis of a percentage of the gross salary the board paid to an examiner for each month or part of a month during the examination. The expenses and charges assessed under authority of this section are additional to and not in lieu of any other charge which may be made under law, including the Insurance Code, Article 1.16. The commissioner of insurance has certified the rates of assessment and charges set out in this section to be just and reasonable.

The new section is adopted on an emergency basis under the Insurance Code, Article 1.16, which authorizes and requires the State Board of Insurance to make assessments and charges to meet all expenses and disbursements required by law and necessary, to comply with the provisions of the Insurance Code, Articles 1.16-1.18, relating to the examination of insurance companies.

§7.1008. Domestic and Foreign Insurance Company Examination Expenses and Assessments, 1990.

(a) Foreign insurance companies examined during the 1990 calendar year shall pay for examination expenses according to the overhead rate of assessment specified in this subsection in addition to all other payments required by law including, but not limited to, the Insurance Code, Article 1.16. Each foreign insurance company examined shall pay 38% of the gross salary paid to each examiner for each month or partial month of the examination in order to cover the examiner's longevity pay, state contributions to retirement and social security matching expenses, and the state-paid portion of insurance premiums and vacation and sick leave accrual. The overhead assessment will be levied with each month's billing.

(b) Domestic insurance companies shall pay according to this subsection and rates of assessment herein for examination expenses as provided in the Insurance Code, Article 1.16.

(1) The actual salaries and expenses of the examiners allocable to such examination shall be paid. The annual salary of each examiner is to be divided by the total number of working days in a year, and the company is to be assessed that part of the annual salary attributable to each working day the examiner is examining the company. The expenses assessed shall be those actually incurred by the examiner to the extent permitted by law.

(2) An overhead charge to cover the cost of administrative departmental expenses attributable to examination of companies shall be paid and computed as follows:

(A) 0.00606 of 1.0% of the admitted assets of the company as of December 31, 1989; and

(B) 0.01709 of 1.0% of the gross premium receipts of the company for the year 1989.

(3) If the overhead charge, as computed under paragraph (2)(A) and (B) of this subsection, produces an overhead assessment of less than \$25, a minimum overhead assessment of \$25 shall be levied and collected.

(4) The overhead assessments are based on the assets and premium receipts reported in the annual statements, except where there has been an understating of assets and/or premium receipts.

Issued in Austin, Texas, on December 28, 1989.

TRD-8912412 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: December 29, 1989

Expiration date: April 28, 1990

For further information, please call: (512) 463-6327

## Chapter 25. Insurance Premium Finance

### Subchapter H. Annual Reports, Examinations, and Assessments

#### • 28 TAC §25.714

The State Board of Insurance adopts on an emergency basis new §25.714, concerning assessment of insurance premium finance companies in 1990. This new section is necessary to provide a rate of assessment sufficient to meet the expenses of performing the board's statutory responsibilities for examining, investigating, and regulating insurance premium finance companies. Under new §25.714, the board levies a rate of assessment for 1990 to cover general administrative expense and collects from each insurance premium finance company on the basis of a percentage of total loan dollar volume for the 1989 calendar year. An imminent peril to the public welfare requires that the section be adopted on an emergency basis in order to continue the proper functioning of administrative regulation of insurance premium finance companies in Texas. The rate of assessment has been recently determined, and companies must know the amount of assessment to pay before the due date. Timely payment of assessments is necessary for adequate support of regulation of insurance premium finance companies by the State Board of Insurance.

The new section is adopted on an emergency basis under the Insurance Code, Article 24.06(c), and Article 24.09. Article 24.06(c), provides that each insurance premium finance company licensed by the board shall pay an amount assessed by the board to cover the direct and indirect cost of examinations and investigations and a proportionate share of general expense attributable to regulation of insurance premium finance companies. Article 24.09 authorizes the State Board of Insurance to adopt and enforce rules necessary to carry out provisions of the Insurance Code concerning the regulation of insurance premium finance companies.

*§25.714. General Administrative Expense Assessment, 1990.* On or before April 1, 1990, each insurance premium finance company holding a license issued by the State Board of Insurance under the Insurance Code, Chapter 24, shall pay to the Texas State Board of Insurance an overhead charge which the board shall assess to cover the general administrative expense attributable to the regulation of insurance premium finance companies. Payment shall be by check, which shall be filed with the report required by the Insurance Code, Article 24.10(b), at the offices of the State Board of Insurance at 1110 San Jacinto Boulevard, Austin, Texas 78701-1998. The assessment to cover general administrative expense shall be computed and paid as follows.

(1) Payment shall be in the amount of 0.01528 of 1.0% of the total loan dollar volume of the company for the calendar year 1989.

(2) Should the overhead charge, as computed under paragraph (1) of this section, produce an overhead assessment of less than \$250, a minimum overhead assessment of \$250 shall be levied and collected.

(3) The overhead assessments are to be based on the total dollar volume which the insurance premium finance company has reported to the board, except where there has been an understating of total loan dollar volume.

Issued in Austin, Texas, on December 28, 1989.

TRD-8912410 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: December 29, 1989

Expiration date: April 28, 1990

For further information, please call: (512) 463-6327

## TITLE 34. PUBLIC FINANCE

### Part IV. Employees Retirement System of Texas

#### Chapter 81. Insurance

##### • 34 TAC §81.3

The Employees Retirement System of Texas adopts on an emergency basis an amendment to §81.3, concerning HMO standardized benefits. This emergency was necessary in order to furnish the standardized benefits to HMOs who will make application to contract with the Employees Retirement System of Texas to provide benefits to state employees for fiscal year 1991. The HMO benefits are adopted by reference in this section.

The amendment is adopted on an emergency basis under the Texas Insurance Code, Article 3.50-2, §4, as amended, which provides the Board of Trustees of the Employees Retirement System of Texas with the authority to adopt rules as it shall deem necessary to insure the proper administration of the Texas Employees Uniform Group Insurance Benefits Act. This Act, §5(e), further authorizes the Board of Trustees of the Employees Retirement System of Texas to select and to contract for services proposed by health maintenance organizations which are approved by the federal government or the State of Texas to offer health care services to eligible employees and annuitants in a specific area of the state.

##### *§81.3. Administration.*

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

(c) Health maintenance organizations.

(1) (No change.)

(2) An HMO seeking board approval must satisfy the following conditions.

(A)-(F) (No change.)

(G) The board of trustees hereby adopts standardized HMO benefits. The benefits are prescribed in the document entitled "Summary of HMO Benefits" (September 1, 1989-August 31, 1990), which is adopted by reference in this section. The benefits for fiscal year 1991 are prescribed in the document entitled "Summary of HMO Benefits" (September 1, 1990-August 31, 1991) which is adopted by reference in this section. This document, which is to be considered a part of this section for all purposes, may be obtained from the executive director, Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711-3207.

(3)-(5) (No change.)

(d) (No change.)

Issued in Austin, Texas, on December 27, 1989.

TRD-8912374 Clayton T. Garrison  
Executive Director  
Employees Retirement System of Texas

Effective date: December 27, 1989

Expiration date: April 26, 1990

For further information, please call: (512) 476-6431, ext. 213

## TITLE 43. TRANSPORTATION

### Part I. State Department of Highways and Public Transportation

#### Chapter 25. Maintenance and Operations Division

##### • 43 TAC §25.81

The State Department of Highways and Public Transportation is renewing the effectiveness of the emergency adoption of new §25.81, for a 60-day period effective December 30, 1989. The text of new §25.81 was originally published in the September 8, 1989, issue of the *Texas Register* (14 TexReg 4578).

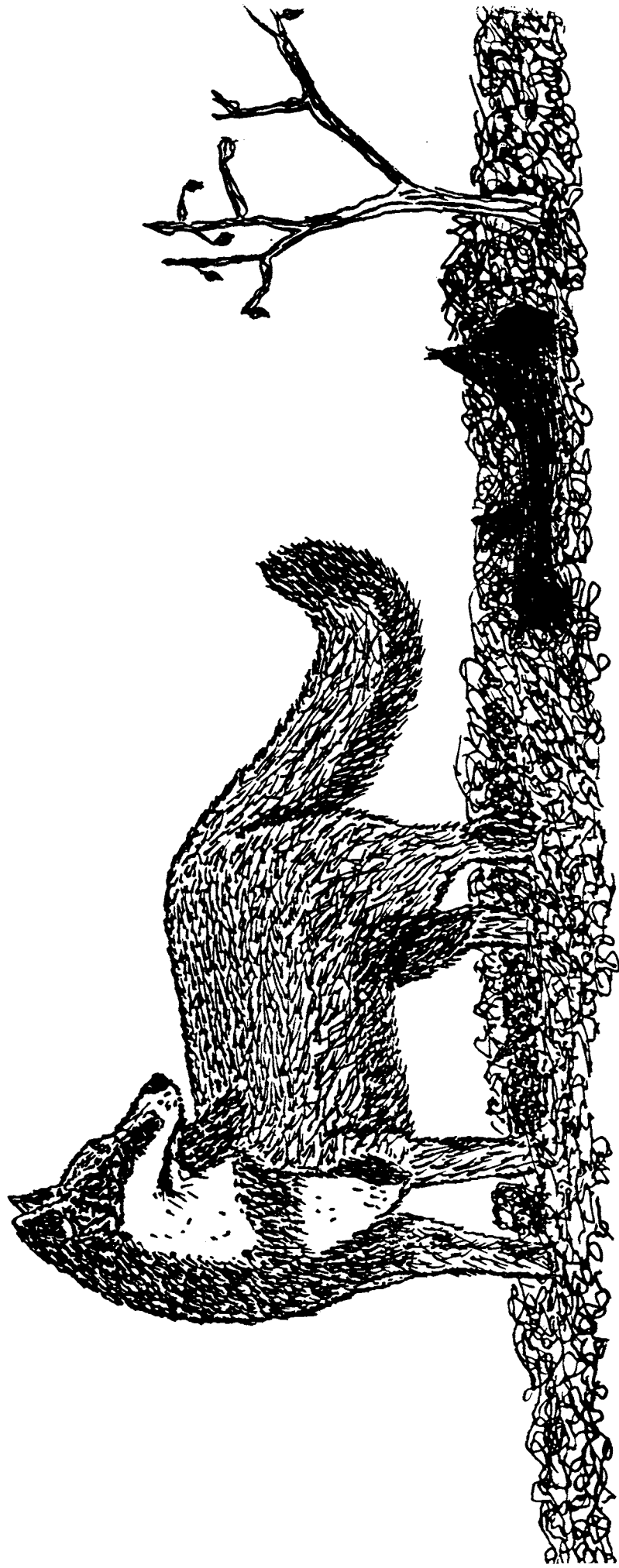
Issued in Austin, Texas, on December 27, 1989.

TRD-8912360 Robert E. Shaddock  
General Counsel  
State Department of Highways and Public Transportation

Effective date: December 30, 1989

Expiration date: February 28, 1990

For further information, please call: (512) 463-8630



Anthony Anderson

# 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 16. ECONOMIC REGULATION

### Part IV. Texas Department of Licensing and Regulation

#### Chapter 78. Talent Agencies

- 16 TAC §§78.1, 78.10, 78.20, 78.21, 78.30, 78.40, 78.60, 78.70-78.76, 78.80-78.82, 78.90-78.94

The Texas Department of Licensing and Regulation proposes new §§78.1, 78.10, 78.20, 78.21, 78.30, 78.40, 78.60, 78.70-78.76, 78.80-78.82, and 78.90-78.94, concerning authority, definitions, registration requirements, exemptions, bond requirements, department and registrant responsibilities, fees, sanctions, and technical requirements as they relate to talent agencies. These sections are new rules necessary to administer the Texas Talent Agency Act passed by the 71st Legislature. This proposal also reflects changes to previously proposed new sections based upon comments received by the department from the industry.

Michael E. Yuhr, acting director, Program Management Division, has determined that for the first five-year period the 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. Yuhr 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 increased disclosure as to the true nature and substance of the services offered by a talent agency and disclosure of rights to consumers transacting business with a talent agency.

The effect on small businesses as a result of enforcing the sections will be the registration fee and cost of obtaining a bond. The cost of compliance will be the same regardless of the size of the business. 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 Michael E. Yuhr, Acting Director, Program Management Division, Department of Licensing and Regulation, P. O. Box 12157, Austin, Texas 78711.

The new sections are proposed under Texas Civil Statutes, Article 5221a-9, which provides the department with the authority to adopt rules as necessary to implement the act.

#### §78.1. Authority.

(a) These rules are promulgated under the authority of the Texas Talent Agency Act (Texas Civil Statutes, Article 5221a-9) and the Texas Department of Licensing and Regulation Act (Texas Civil Statutes, Article 9100).

(b) If any section, paragraph, sentence, clause, or word of these rules is held to be invalid, the invalidity does not affect other provisions of these rules which can be given effect without the invalid portion.

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

**The Act**—The Texas Talent Agency Act, Texas Civil Statutes, Article 5221a-9, relating to talent agencies.

**Artist**—Includes an actor who performs or seeks to perform in a motion picture, theatrical, radio, television, or other entertainment production or a model who renders analogous professional services in a motion picture, theatrical, radio, television, or other entertainment production.

**Commission**—The Texas Commission of Licensing and Regulation.

**Commissioner**—The commissioner of the Texas Department of Licensing and Regulation.

**Department**—The Texas Department of Licensing and Regulation.

**Fee**—Includes any of the following:

(A) any money or other valuable consideration paid or promised to be paid for services rendered by any person conducting the business of a talent agency;

(B) any money received by a talent agency in excess of the amount paid by the talent agency for transportation, transfer of baggage, or board and lodging for any applicant for employment as an artist;

(C) the difference between the amount of compensation received by a talent agency that furnishes, or causes to be furnished, an artist for an entertainment production, exhibition, or performance and the amount paid by the talent agency to the artist;

(D) anything of value, including money or other valuable consideration or services, or the promise of any of the foregoing, received by a talent agency from or on behalf of any person seeking employment or employees, in payment for any service rendered, either directly or indirectly.

**Model**—An individual who renders or seeks to render professional services as a fashion model, as a model for commercial photography or demonstration of products for advertising purposes, or as a host for a convention or other special event.

**Person**—An individual, corporation, organization, business trust, estate, trust, partnership, association, or any other private legal entity.

**Talent agency**—A person who engages in the business of directly or indirectly obtaining or attempting to obtain employment for artists. This term includes an entity that counsels or directs an artist in the development of the artist's professional career.

#### §78.20. Registration Requirements.

(a) Unless otherwise exempted by a provision herein, all talent agencies that have a place of business in Texas; advertise in Texas and obtain or attempt to obtain employment for artists in Texas; or recruit artists from a temporary location in Texas, must obtain a certificate of registration in order to operate a talent agency.

(b) Each location of the talent agency must be registered separately. A certificate of registration is not assignable or transferable.

(c) Each certificate of registration issued under this Act shall be valid for one year from the issue date. If the talent agency continues to do business, the certificate must be renewed annually.

#### §78.21. Certificate of Registration Application Process.

(a) A person desiring to operate a talent agency shall file a written application with the department annually on a form provided by the department for that purpose. No initial or renewal application will be considered filed until all registration requirements have been met and received by the department.

(b) The written application must be signed by the applicant. If the applicant is a corporation, the application must be signed by each officer. If the applicant is an association or partnership, the application must be signed by each associate or partner.

(1) An initial application must contain:

(A) the name under which the talent agency is operated;

(B) the talent agency's street address, including the county in which it is located;

(C) the talent agency's mailing address if different from its street address;

(D) the talent agency's telephone number;

(E) the address of each location at which the applicant for registration operates a talent agency;

(F) the names of all persons owning 10 or more percent of the talent agency. If the talent agency is a partnership, the names of all partners must be included. If the talent agency is a limited partnership, the names of all general and limited partners must be included, along with the name and address of the registered agent. If the talent agency is a corporation, the names of the corporate president, vice president, secretary, and treasurer must be included. The percent ownership interest must be indicated in all cases;

(G) each owner's social security number;

(H) each listed owner's address, including county;

(I) each owner's telephone number;

(J) names of any talent agency owners who have a financial interest in any company involved in the casting, production and/or distribution of motion pictures or television motion pictures, independent video production companies, recording studios, photography studios, or any other companies or firms which would hire artists from time to time. This disclosure shall include the company or companies in which he or she has a financial interest, and the percent of ownership in each company listed. Such an interest shall not, in and of itself, be grounds for registration denial, suspension, or revocation;

(K) names of any talent agency owners who have a financial interest in any school or course of instruction which is primarily intended for the professional study of acting and/or modeling. This disclosure shall include the school or course name and the percent of ownership held. Any person owning and/or operating a modeling or acting school must comply with the provisions of the Texas Proprietary School Act, Chapter 32, Texas Education Code and the State Board of Education rules for proprietary schools as they appear in 19 Texas Administrative Code, Chapter 69;

(L) a description of the type of services offered;

(M) full and complete disclosure of any litigation relating to the operation of a talent agency brought against the talent agency, or and owner, officer, or director, that was completed within three years before the date the application is mailed to the department or that is pending as of the date the application is mailed;

(N) a schedule of commissions and/or fees charged.

(2) A renewal application must contain:

(A) any changes in information contained in the initial or subsequent renewal applications;

(B) the current department certificate of authority number;

(C) the appropriate renewal fee.

(c) Both initial and renewal applications shall include a statement indicating the owner has read and is familiar with the provisions of the Act.

(d) Before a certificate of registration can be issued or renewed for anyone using an assumed name they must have first complied with the Assumed Business or Professional Name Act, Chapter 36, the Texas Business and Commerce Code. If the talent agency is incorporated, compliance with the Texas Business Corporation Act, §2.05, is also required. Proof of the talent agency's compliance with the statutes cited in this subsection will be required on the application by a certification from the clerk of the county in which the assume a name record is filed. The certification should state the exact assumed name and the date it was filed.

(e) If the applicant is a corporation, both initial and renewal applications shall include a certification that the corporation is in good standing with the State Comptroller's Office and the Secretary of State's Office.

(f) Both initial and renewal applications must meet the security requirements (see §78.40 of this title (relating to Security Requirements)) and the required registration fee (see §78.80 of this title (relating to Fees-Original Registration)).

(g) If a renewal application is not postmarked before midnight of the 30th day after a certificate of registration expires, the certificate will not be renewed. Immediate reapplication may be made through the original application process, except as provided by subsection (h) of this section. If a renewal application is postmarked before midnight of the 30th day after a certificate of registration expires, it may be renewed on payment of the renewal fee and a \$25 late fee.

(h) A person whose certificate of registration has been revoked may not apply for a new certificate of registration until one year after the date of the revocation and the person has requested a hearing before the Texas Department of Licensing and Regulation to show cause why such registration should be issued.

#### §78.30. Exemptions.

(a) The term "talent agency" does not apply to a person who obtains or attempts to obtain employment for him/herself.

(b) The term "talent agency" does not apply to a union that represents artists and whose efforts to obtain or attempt to obtain employment for its members is casual in nature only.

(c) The term "talent agency" does not apply to a person who, without assessing a fee, operates a talent agency in conjunction with the person's own business, or as the authorized representative for a bona fide employer, for the exclusive purpose of employing artists for use in or for that business, or by that employer.

(d) The term "talent agency" does not apply to attorneys licensed to practice who represent artists, strictly as legal advisors and not as managers.

(e) The term "talent agency" applies only to persons who, for a fee, obtain or attempt to obtain employment for: an actor who performs in a motion picture, theatrical, radio, television, or other entertainment production; and/or a model, as that term is defined herein. Based upon a review of the specific language throughout the entire statute, it is the department's interpretation that the legislation was intended to apply only to talent agencies dealing with those types of artists as described herein. While there is a reference to other types of artists in the statute, the department finds application of the statute to those other artists in conflict with the apparent legislative intent as it is expressed in specific provisions throughout the statute. In the alterna-

tive, and without waiving the position stated, there is insufficient legislative guidance to promulgate administrative rules regarding those other types of artists. Therefore, talent agencies representing such artists are not required to comply with the requirements of the Act.

*§78.40. Security Requirements.*

(a) Each application for registration as a talent agency must be accompanied by a surety bond in the amount of \$10,000, payable to the State of Texas and conditioned on faithful compliance with the Act.

(b) The bond shall be continuous and shall provide for the issuing company to give the department 30 days' written notice of cancellation.

(c) The registrant shall maintain the bond until the expiration of two years after the date on which the registrant ceased to operate as a talent agency in this state.

(d) The surety bond shall be issued by a company authorized to do business in the State of Texas, conform to the Texas

Insurance Code, and be on a form provided by the department.

(e) An owner may deposit a cash performance alternative of \$10,000 in lieu of the bond. The cash performance alternative shall be an irrevocable assignment of security issued by a national or state bank, or savings and loan association, subject to the express approval of the commissioner. Each assignment or cash deposit shall remain in effect for a period of three years, beginning with the date of issuance of the certificate of registration. Forms for filing an assignment of security shall be provided by the department upon request.

(f) The surety bond or assignment of security shall be maintained in full during the entire time the certificate of registration is in effect. Failure to do so will be cause for the commissioner to call an administrative hearing to suspend or revoke the talent agency's certificate of registration.

*§78.60. Responsibilities of the Department.*

(a) The department shall notify each registrant in writing of the pending

expiration of its certificate of registration not later than the 30th day before the date on which the certificate of registration expires.

(b) The department shall issue a certificate of registration to all applicants who comply with all provisions of the Act and department rules.

(c) Any person may file a complaint with the commissioner by affidavit alleging a violation of the Act. The commissioner shall investigate the alleged violation upon receipt of the complaint.

(d) The commissioner shall enforce this Act and may investigate any talent agency as necessary.

*§78.70. Responsibilities of the Registrant-General.*

(a) Each talent agency shall post the following notice in a conspicuous public place in the office where it conducts business. The notice must be printed on paper stock at least five inch by seven inch with the word "notice" printed in letters at least 3/4 inch high.

**NOTICE**

**This talent agency is registered with the Texas Department of Licensing and Regulation in accordance with the Texas Talent Agency Act. Registration with the Department does not imply approval or endorsement by the State of Texas of the competence of the talent agency or of the specific terms and/or conditions of its contract(s). You do however, have certain rights under that Act. If you have questions about this talent agency's registration, you may contact the Texas Department of Licensing and Regulation at**

P.O. Box 12157, Austin, Texas, 78711; telephone (512) 463-5522. If you wish to file a complaint or have questions as to your rights under the Act and its rules, you may contact the Department at the address given above or telephone 512-463-9940.

There are true and complete copies of the Texas Talent Agency Act and Department of Licensing and Regulation rules and this talent agency's registration statement and fee/commission schedule on the premises. This information is available for you to review on request.

(b) Each talent agency shall display its certificate of registration in a conspicuous public place in the office in which it conducts business.

(c) All talent agency publications (including, but not limited to, advertisements in circulars, newspapers, periodicals, brochures, and receipts) shall be printed and contain the registered name, address, and registration number of the talent agency. This rule, except for advertisements in circulars, newspapers, and periodicals, becomes effective February 1, 1991. With respect to advertisements in circulars, newspapers, and periodicals, this rule is effective February 1, 1990.

(d) Once services called for under a contract have been delivered by the talent agency, a contract may not be canceled by an artist under the Act, §12. This does not in any way inhibit, restrict, reduce, or otherwise limit alternative civil remedies avail-

able to parties to a contract.

*§78.71. Responsibilities of the Registrant—Schedules of Commissions and Fees.*

(a) Every talent agency shall file with the department a schedule of all commissions and/or fees they charge and collect from artists and/or clients employing those artists.

(b) If any information on the schedule changes, the talent agency must forward a new schedule to the department within five working days of the change. In no event may a change in fees or commissions be effective until it has been forwarded as required.

(c) Every talent agency shall keep a current copy of its fee and commission schedule available in its place of business. The talent agency shall allow an artist who uses the services of the talent agency, or is considering using the services of the talent

agency, to inspect the fee and commission schedule on request. The talent agency shall also make the schedule available to the department on request from the department.

(d) In addition to subsection (c) of this section, a talent agency must disclose in writing to the artist the existence and terms of all other agreements, if any, between the agency and the client involved and which relate to the services to be provided by the artist. Such disclosure shall take place within 48 hours of the talent agency entering into such agreement. It is the intent of this subsection to require disclosure of agents' fees received in connection with the employment of an artist.

*§78.72. Responsibilities of Registrant—Treatment of Monies.*

(a) A talent agency that receives any payment of monies on behalf of an artist shall, within five banking days, de-



posit that amount in an account maintained by the talent agency in a federally insured financial institution. This subsection does not prohibit the practice of "check swapping" as that term is commonly used in the talent agency industry.

(b) Unless a written contract to the contrary exists, all monies received on behalf of an artist must be disbursed to that artist no later than 10 banking days after receipt by the talent agency.

(c) The talent agency shall maintain records of all funds received. These records shall include the date of receipt, the remitter's name, on whose behalf the funds were received, dates when funds were disbursed, and names of all persons, including the talent agency itself, to whom those funds were disbursed.

**§78.73. Responsibilities of the Registrant—Financial Recordkeeping.** Every talent agency shall adopt either an artist-based or a client-based financial recordkeeping system. A talent agency may not use an artist-based financial recordkeeping system for some files and a client-based financial recordkeeping system for others. A talent agency may, however, use both systems so long as all files are kept in both the artist-based system and the client based system.

(1) If a talent agency uses an artist-based financial recordkeeping system, it shall keep the following information on each of its artists:

(A) artist's name;

(B) artist's address;

(C) dates and amounts of all fees received on behalf of the artist, as well as from whom the funds were received;

(D) all amounts earned by the talent agency from the artist, including the dates each amount is earned and received;

(E) a copy of each contract and/or agreement between the talent agency and the artist;

(F) the clients for whom the artist has worked while represented by the talent agency.

(2) If a talent agency uses a client-based financial recordkeeping system, it shall keep the following information on each of its clients:

(A) client's name;

(B) client's address;

(C) dates and amounts of all fees received and on whose behalf they were received;

(D) a copy of each contract and/or agreement between the artists working for the client and the talent agency;

(E) the artists who have worked for the client while represented by the talent agency;

(F) all amounts earned by the talent agency from the client, including the dates each amount was earned and received.

(3) All records kept under this section shall be kept for a period of at least two years. Records required under this section must be kept at the business location for at least one year. Following that, they must be kept at a location providing the department with access to them within one working day of a request to be provided access thereto.

**§78.74. Responsibilities of the Registrant—Inspection of Records.** A talent agency must allow the department, as part of an inspection or investigation, to enter the business premises during regular business hours and examine and copy any records that relate directly or indirectly to the inspection or investigation being conducted. The department may ask to inspect all records and documents whether paper or electronic, books, and other papers pertaining to the talent agency's operation.

**§78.75. Responsibilities of the Registrant—Registration Statement.**

(a) The talent agency shall update its registration statement whenever a change occurs in the information on file no later than 30 days after the change occurs.

(b) The talent agency shall notify the department if a legal action relating to the operation of the talent agency is brought against the talent agency or an owner, officer, or director. The talent agency shall notify the department in writing not later than the 10th day after the date on which the defendant talent agency receives notice of the action.

(c) Each talent agency shall maintain a copy of its registration statement in the records of the talent agency. The talent agency shall allow an artist who uses the services of the talent agency, or is considering using the services of the talent agency, to inspect the registration statement on request.

(d) If any information that appears on the face of the certificate of registration changes, the talent agency must obtain a duplicate certificate of registration showing the correct information.

**§78.76. Responsibilities of the Registrant—Prohibited Acts.**

(a) A talent agency may not charge, as a condition of registering any applicant or representing any artist, a registration or advance fee and may not require the applicant or artist to subscribe to or use the service of any specific publication, video, or audio tape producer, post card service, advertisement service, resume service, photographer, or acting or modeling school or workshop or similar service.

(b) A talent agency may not split or share fees with any person who is required to be but is not registered under the Act as a talent agency.

(c) A talent agency may not, regardless of its refund policy, assess an artist any fee or charge other than reimbursements, before the artist has accepted an offer of employment which resulted from an employment referral made by the talent agency. An agency may require an artist to reimburse it for legitimate expenses owed to third parties and incurred as a result of efforts made on the behalf of the artist by the talent agency. However, if this practice is engaged in, the artist must receive, at the time he or she is billed for the expenses, an itemized statement detailing the nature of the charges and with a copy of the invoice or receipt enclosed to evidence the expense the talent agency has incurred. In addition, the talent agency must permit the artist to make payment directly to the third party billing or invoicing the talent agency. Finally, the talent agency must obtain in writing the express permission of the artist to incur such expenses. It is not the intent of this section that expenses such as utility costs, local telephone service, and other similar indirect costs be recovered hereunder.

**§78.80. Fees—Original Registration.**

(a) The fee for an original talent agency certificate of registration is \$100.

(b) This fee is not refundable.

**§78.81. Fees—Renewal Registration.**

(a) The annual renewal fee for a talent agency certificate of registration is \$50.

(b) A late fee of \$25 will be charged for renewal applications post-marked between midnight of the day the current certificate of registration expires and midnight of the 30th day after the expiration.

(c) These fees are not refundable.

**§78.82. Fees—Duplicate Registration.**

(a) A \$25 fee will be charged for issuing a duplicate certificate of registration.

(b) This fee is not refundable.

**§78.90. Sanctions—Administrative Sanctions.**

(a) The commissioner may deny, suspend, or revoke a talent agency certificate of registration if it is determined that:

(1) the talent agency, or a talent agency employee, engages in any act or omission in violation of the Texas Deceptive Trade Practices Act.

(2) the talent agency has published, or caused to be published, any false, fraudulent, or misleading information, notice, or advertisement.

(3) the talent agency has engaged in any false, fraudulent, or misleading activity.

(4) the talent agency has failed to meet any requirements set forth in the department's rules promulgated under the Act.

(5) the talent agency, or a talent agency employee, has violated the Act or any department rule promulgated under the Act.

(6) the talent agency, or a talent agency employee, has violated any statute administered or rule promulgated by the department.

(7) the talent agency's place of business unduly endangers the health, safety, or welfare of the artist.

(8) the talent agency supplied false or incomplete information on the registration statement.

(9) an owner, officer, or director of the talent agency has been convicted of a felony, or a misdemeanor for which the maximum punishment is confinement in jail or a fine exceeding \$500, which directly relates to the operation of a talent agency.

(b) If a person violates the Act, or a rule or order adopted or issued by the commission and/or commissioner relating to the Act, the commissioner may also:

(1) issue written reprimand to the person that specifies the violation;

(2) revoke or suspend the person's license; or

(3) place on probation a person whose license has been suspended.

(c) If a suspension is probated, the commissioner may require the person to:

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

(2) limit practice to the areas prescribed by the commissioner.

(d) If, after investigation of a possible violation and the facts surrounding that possible violation, the commissioner deter-

mines that a violation has occurred, the commissioner shall issue a preliminary report stating the facts on which the conclusion that a violation occurred is based, recommending that an administrative sanction be imposed on the person charged, and recommending the precise nature and conditions, if any, of that proposed sanction. The commissioner shall base the recommended sanction, and any accompanying conditions, on the following factors:

(1) the seriousness of the violation;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) efforts made to correct the violation; and

(5) any other matters that justice may require.

(e) Not later than the 14th day after the day on which the preliminary report is issued, the commissioner shall give written notice of the violation to the person charged. The notice shall include:

(1) a brief summary of the charges;

(2) a statement of the proposed sanction, and any accompanying conditions; and

(3) a statement of the right of the person charged to a hearing on the occurrence of the violation and the sanction and any terms thereof.

(f) Not later than the 20th day after the date on which the notice is received, the person charged may accept the determination of the commissioner made under this section, including the recommended sanction and all accompanying conditions, or make a written request for a hearing on that determination.

(g) If the person charged with the violation accepts the determination of the commissioner, the commission shall issue an order approving the determination and ordering that the recommended sanction and accompanying conditions be imposed upon that person.

(h) If the person charged fails to respond in a timely manner to the notice, or if the person requests a hearing, the commissioner shall set a hearing, give written notice of the hearing to the person, and designate a hearings examiner to conduct the hearing.

(i) If an administrative hearing is held, and the person wishes to dispute the administrative sanction imposed, not later than the 30th day after the date on which the decision is final as provided by the Administrative Procedure and Texas Register Act, §16(c) (Texas Civil Statutes, Article 6252-13a), the person charged shall file

a petition for judicial review contesting the fact of the violation and/or the administrative sanction. Judicial review is subject to the substantial evidence rule and shall be instituted by filing a petition with a Travis County district court as provided by the Administrative Procedure and Texas Register Act, §19 (Texas Civil Statutes, Article 6252-13a).

**§78.91. Sanctions—Administrative Penalty/Fine.**

(a) If a person violates the Act, or a rule or order adopted or issued by the commission and/or commissioner relating to the Act, the commission may, in addition to or in lieu of a sanction imposed under §78.90 of this title (relating to Sanctions—Administrative Sanctions), assess an administrative penalty in an amount not to exceed \$1,000 for each violation.

(b) A penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund.

(c) If, after investigation of a possible violation and the facts surrounding that possible violation, the commissioner determines that a violation has occurred, the commissioner may issue a preliminary report stating the facts on which the conclusion that a violation occurred is based, recommending that an administrative penalty not to exceed \$1,000 for each violation be imposed on the person charged, and recommending the amount of that proposed penalty. The commissioner shall base the recommended amount of the proposed penalty on the following factors:

(1) the seriousness of the violation;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) efforts made to correct the violation; and

(5) any other matters that justice may require.

(d) Not later than the 14th day after the day on which the preliminary report is issued, the commissioner shall give written notice of the violation to the person charged. The notice shall include:

(1) a brief summary of the charges;

(2) a statement of the amount of the penalty recommended; and

(3) a statement of the right of the person charged to a hearing on the occurrence of the violation and the amount of the penalty.

(e) Not later than the 20th day after the date on which the notice is received, the person charged may accept the determina-

tion of the commissioner made under this section, including the recommended penalty, or make a written request for a hearing on that determination.

(f) If the person charged with the violation accepts the determination of the commissioner, the commission shall issue an order approving the determination and ordering that the person pay the recommended penalty.

(g) If the person charged fails to respond in a timely manner to the notice, or if the person requests a hearing, the commissioner shall set a hearing, give written notice of the hearing to the person, and designate a hearings examiner to conduct the hearing.

(h) If an administrative hearing is held, not later than the 30th day after the date on which the decision is final as provided by the Administrative Procedure and Texas Register Act, §16(c) (Texas Civil Statutes, Article 6252-13a), the person charged shall:

- (1) pay the penalty in full; or
- (2) file a petition for judicial review contesting the fact of the violation and/or the administrative penalty/fine. Judicial review is subject to the substantial evidence rule and shall be instituted by filing a petition with a Travis County district court as provided by the Administrative Procedure and Texas Register Act, §19 (Texas Civil Statutes, Article 6252-13a). If this petition for judicial review is filed, the person must forward the amount of the administrative penalty/fine to the department for deposit in an escrow account, or post a supersedeas bond with the department in the amount of the penalty/fine, until judicial review is final.

(i) A person charged with a penalty who is financially unable to comply with subsection (h)(2) of this section is entitled to judicial review if the person files with the court, as part of the person's petition for judicial review, a sworn statement that the person is unable to meet the requirements of that subsection.

(j) Except as provided by subsection (i) of this section, failure to forward the amount assessed or post the bond with the department, in the manner and within the period prescribed by the department, results in a waiver of legal rights to judicial review. If the person charged fails to forward the amount assessed or post the bond, the department or the attorney general may bring an action for the collection of the penalty.

**§78.92. Sanctions—Injunctive Relief and Civil Penalty.** If it appears that a person is in violation of, or is threatening to violate, the Act or a rule or order of the commission and/or commissioner related to the Act, the attorney general or the commissioner may institute an action for injunctive relief to

restrain the person from continuing the violation and for civil penalties not exceeding \$1,000 for each violation and not exceeding \$250,000 in the aggregate.

**§78.93. Sanctions—Criminal Penalty.**

(a) A person commits an offense if the person knowingly or intentionally violates a provision of this Act or a rule adopted under this Act.

(b) An offense under this section is a Class A misdemeanor.

**§78.94. Sanctions—Revocation or Suspension because of a Criminal Conviction.**

(a) Pursuant to Texas Civil Statutes, Article 6252-13c, the commissioner, after a hearing, may suspend or revoke an existing certificate of registration, or disqualify a person from receiving a certificate of registration, because that person has a felony or misdemeanor conviction that directly relates to the duties and responsibilities involved in operating a talent agency. The commissioner may also, after hearing, suspend, revoke, or deny a certificate of registration because of a person's felony probation revocation, parole revocation, or revocation of mandatory supervision.

(b) In determining whether a criminal conviction directly relates to the operation of a talent agency, the commissioner shall consider:

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the operation and insuring of a talent agency;
- (3) the extent to which a certificate of registration might offer an opportunity to engage in further criminal activity of the same type as that in which the person was previously involved; and
- (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of operating a talent agency.

(c) In determining the present fitness of a person who has been convicted of a crime, the commissioner shall also consider:

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the person at the time of the commission of the crime;
- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person prior to and following the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and

(6) other evidence of the person's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; the sheriff and chief of police in the community where the person resides; and any other persons in contact with the convicted person.

(d) It shall be the responsibility of the applicant, to the extent possible, to secure and provide the commissioner the recommendations of the prosecution, law enforcement, and correctional authorities as required.

(e) The applicant shall also furnish proof, in such form as may be required by the commissioner, that he or she has maintained a record of steady employment, has supported his or her dependents per court order, has otherwise maintained a record of good conduct, and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he or she has been convicted.

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 27, 1989.

TRD-8912363

Larry E. Kosta  
Acting Executive Director  
Department of Licensing  
and Regulation

Earliest possible date of adoption: February 5, 1990

For further information, please call: (512) 463-3127

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**TITLE 34. PUBLIC FINANCE**  
**Part IV. Employees Retirement System of Texas**

**Chapter 81. Insurance**

**• 34 TAC §81.3**

*(Editor's Note: The Employees Retirement System of Texas proposes for permanent adoption the new sections it adopts on an emergency basis in this issue. The text of the new sections is in the Emergency Rules section of this issue.)*

The Employees Retirement System of Texas proposes an amendment to §81.3, concerning HMO standardized benefits. The Employees Retirement System of Texas Board of Trustees adopted standardized HMO benefits in February, 1989 for fiscal year 1990. The board now adopts standardized HMO benefits for fiscal year 1991. The HMO benefits are adopted by reference in this section.

William S. Nail, general counsel, 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. Nail 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 as proposed will be that HMO benefits for state employees will be consistent throughout the state and be more easily understood by the employees.

There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to William S. Nail, General Counsel, Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711-3207.

The amendment is proposed under the Texas Insurance Code, Article 3.50-2, §4, which provides The Board of Trustees of the Employees Retirement System of Texas with the authority to promulgate all rules, regulations, plans, procedures, and orders reasonably necessary to implement and carry out the purposes and provisions of the Texas Employees Uniform Group Insurance Benefits Act.

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 27, 1989.

TRD-8912373

Clayton T. Garrison  
Executive Director  
Employees Retirement  
System of Texas

Earliest possible date of adoption: February 5, 1990

For further information, please call: (512) 476-6431, ext. 213

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# 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 4. AGRICULTURE Part II. Animal Health Commission Chapter 55. Swine

### • 4 TAC §55.5

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed amendment to §55.5, submitted by the Animal Health Commission has been automatically withdrawn, effective December 28, 1989. The amendment as proposed appeared in the June 17, 1989, issue of the *Texas Register* (14 TexReg 3137).

TRD-8912385



## TITLE 16. ECONOMIC REGULATION Part IV. Texas Department of Licensing and Regulation

### Chapter 78. Talent Agencies

### • 16 TAC §§78.1, 78.10, 78.20, 78.30, 78.40, 78.60, 78.70-78.74, 78.80-78.82, 78.90-78.94, 78.100

The Texas Department of Licensing and Regulation has withdrawn from consideration for permanent adoption a proposed new §§78.1, 78.10, 78.20, 78. 30, 78.40, 78.60, 78.70-78.74, 78.80-78.82, 78.90-78.94, 78.100 which appeared in the October 6, 1989, issue

of the *Texas Register* (14 TexReg 5323). The effective date of this withdrawal is December 27, 1989.

Issued in Austin, Texas, on December 27, 1989

TRD-8912364

Elvis Schulze  
Acting General Counsel  
Texas Department of  
Licensing and  
Regulation

Effective date: December 27, 1989

For further information, please call: (512) 463-3127





Name: Anitra Pilot  
Grade: 11  
School: Marshall High, Marshall

*Anitra Pilot*

# Adopted Sections

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

## TITLE 34. PUBLIC FINANCE

### Part IV. Employees Retirement Systems of Texas

#### Chapter 67. Hearings on Disputed Claims

##### • 34 TAC §67.97

The Employees Retirement System of Texas adopts an amendment to §67.97, without changes to the proposed text as published in the November 10, 1989, issue of the *Texas Register* (14 TexReg 5915).

The present section concerning motions for rehearing in contested cases is being

amended to comply with amendments to the Administrative Procedure and Texas Register Act (APTRA) by Senate Bill 1197, 71st Legislature, 1989.

Parties in contested cases will have additional time to file motions for rehearing.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Insurance Code, Article 3.50-2, §4; the Government Code, §815.102, which provides the Board of Trustees of the Employees Retirement System of Texas with the authority to promulgate rules, regulations, plans, procedures, and orders reasonably necessary to carry out the purposes of this 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 December 27, 1989.

TRD-8912375

Clayton T. Garrison  
Executive Director  
Employees Retirement  
System of Texas

Effective date: January 17, 1990

Proposal publication date: November 10, 1989

For further information, please call: (512) 476-6431, ext. 213

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## State Board of Insurance Exempt Filing

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

*Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.*

*These actions become effective 15 days after the date of publication or on a later specified date.*

*The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)*

The State Board of Insurance has adopted amendments to the *Texas Automobile Manual*.

The board has adopted adjusted physical damage rating symbols for certain 1989, 1988, and 1986 model private passenger automobiles. The symbols adopted were developed from manufacturers list price data and adjusted in accordance with the prescribed vehicle series rating rule contained in the Symbol and Identification Section of the *Texas Automobile Manual* for 1982 to 1989 model private passenger automobiles. The amendments are effective at 12:01 on the 60th day after notice of this action is published in the *Texas Register*.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register 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 December 28, 1989

TRD-8912409

Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: March 6, 1990

For further information, please call: (512) 463-6327

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The State Board of Insurance has adopted a filing submitted by the Texas Racing Commission of a pari-mutuel racetrack surety bond.

In accordance with the provisions of the Texas Insurance Code, Article 5.97, a text of the proposed filing has been filed in the Office of the Chief Clerk of the State Board of Insurance. The proposed filing has been available for public inspection for 15 days and a public hearing was not requested by any party.

The pari-mutuel racetrack surety bond has been developed to comply with provisions of the Texas Racing Act (Texas Civil Statutes, Article 179e) and the rules adopted by the Texas Racing Commission. The Act, §6.04 and §305.10 of the commission's rules of racing require that an applicant for a license to conduct race meetings, at which pari-mutuel wagering will occur, must file a surety

bond with the commission. The penal amount of the bond is \$100,000 payable to the state and is conditioned on the licensee's faithful compliance with the requirements and duties of the Act and the rules of the commission.

The State Board of Insurance has adopted a rate of \$10 per M per Annum for this bond. The classification code is 475.

This bond form and rate filing becomes effective at 12:01 a.m. on the 15th date after notice of this action is published in the *Texas Register*. Upon the effective date, adoption hereunder supersedes emergency action by the board under Board Order Number 55231, dated October 3, 1989.

This notice is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register 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 December 28, 1989.

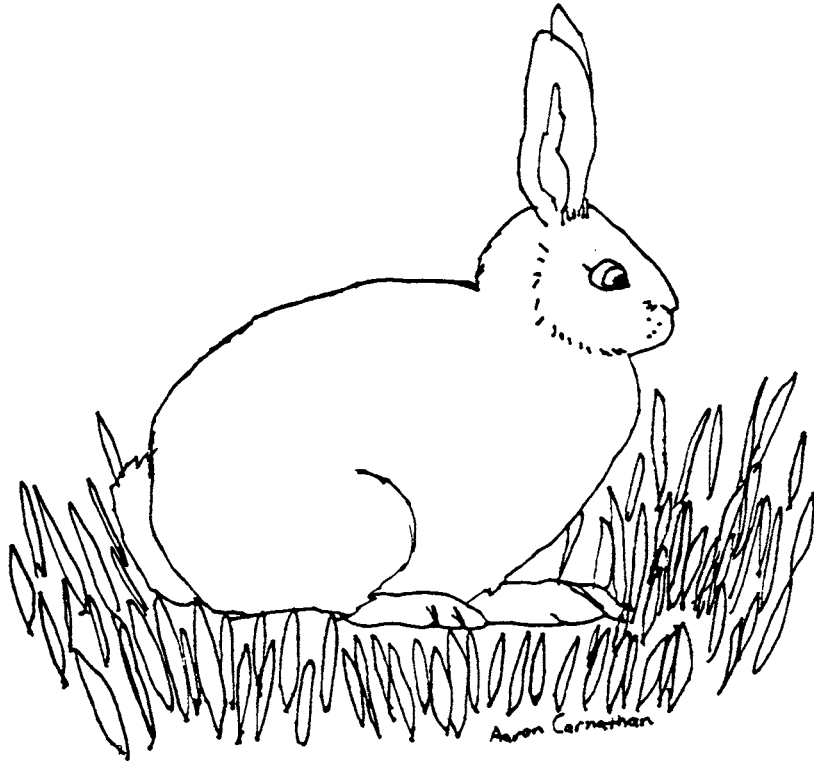
TRD-8912408

Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: January 20, 1990

For further information, please call: (512) 463-6327

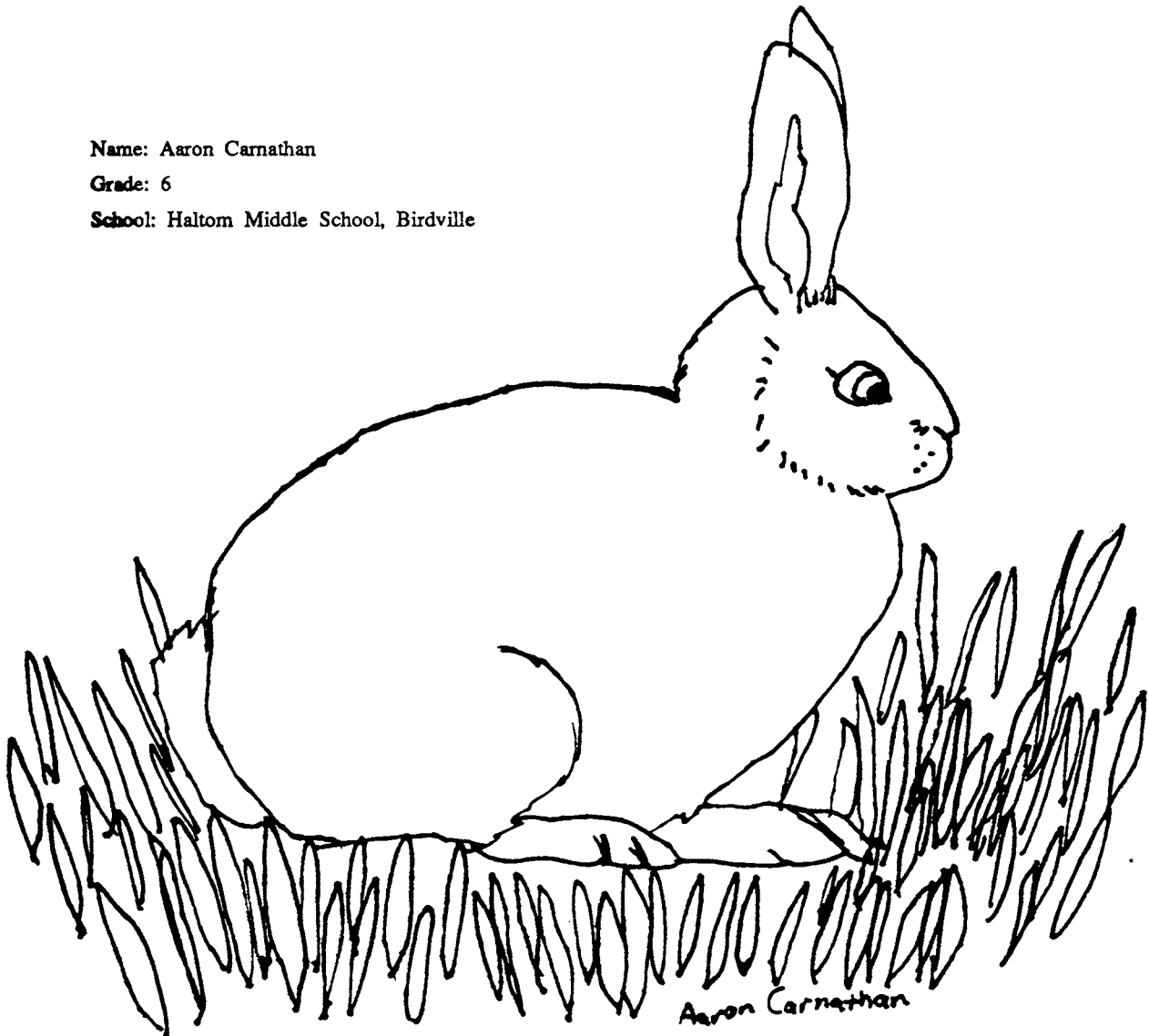
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**Name:** Aaron Carnathan

**Grade:** 6

**School:** Haltom Middle School, Birdville





# 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*.

## Battleship Texas Advisory Board

**Wednesday, January 10, 1990, 4 p.m.** The Battleship Texas Advisory Board will meet in the Offices of Liddell, Sapp, Zivley, Hill and LaBoon, 3200 Texas Commerce Tower, 600 Travis, 32nd Floor Conference Room, Houston. According to the agenda, the board will discuss various items with respect to the Battleship Texas restoration project and fundraising activities in connection therewith.

**Contact:** Robert D. Miller, 3200 Texas Commerce Tower, Houston, Texas 77002, (713) 226-1186.

**Filed:** December 29, 1989, 10:17 a.m.

TRD-8912417

## Texas Employment Commission

**Tuesday, January 9, 1989, 8:30 a.m.** The Texas Employment Commission will discuss prior meeting notes; executive session to discuss Robin K. Jafarzadeh v. Ernst & Whinney and Texas Employment Commission; actions, if any, resulting from executive session; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on commission docket 2; and set date of next meeting.

**Contact:** C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

**Filed:** December 29, 1989, 3:10 p.m.

TRD-8912439

## Texas Health and Human Services Coordinating Council

**Tuesday, January 9, 1990, 9 a.m.** The Ad-Hoc Outreach Subcommittee of the Texas Health and Human Services Coordinating Council will meet at the Texas Department

of Health, Room M-117, 1100 West 49th Street, Austin. According to the agenda, the subcommittee will call to order, approve minutes of December 13, 1989 meeting, hear reports on Review of Literature and up-date on legislation, hear suggestions pros and cons for outreach plan, and adoption of recommendations.

**Contact:** Marguerite Rivera Houze, 311-A East 14th Street, Austin, Texas 78701, (512) 463-2195.

**Filed:** December 28, 1989, 4:44 p.m.

TRD-8912402

**Thursday, January 11, 1990 9 a.m.** The Advisory Committee on Immigration of the Texas Health and Human Services Coordinating Council will meet at the Texas Juvenile Probation Commission Board Room, 2104 South IH 35, Austin. According to the agenda, the committee will approve minutes, discuss federal legislation update, presentation on 1990 census outreach, review of status of SLLAG funds, discuss SLLAG spending funds, SLLAG annual report, report from Ad Hoc Committee on Outreach, discuss program utilization report, old business, and new business.

**Contact:** Marguerite Rivera Houze, 311-A East 14th Street, Austin, Texas 78701, (512) 463-2195.

**Filed:** December 28, 1989, 4:44 p.m.

TRD-8912401

## House of Representatives

**Wednesday, January 10, 1990, 11 a.m.** The Texas Veterans Memorial Committee of the House of Representatives will meet at the John H. Reagan Building, Room G-B, 105 West 15th Street, Austin. According to the agenda, the committee will discuss general review and update of project; financial report; and general discussion.

**Contact:** C. J. Parham, Representative Collazo's Office, State Capitol Building, Austin, Texas, (512) 463-0494.

**Filed:** December 29, 1989, 8:48 a.m.

TRD-8912419

## Industrial Accident Board

**Tuesday, January 2, 1990, 9:30 a.m.** The Industrial Accident Board met at 200 East Riverside Drive, First Floor, Room 107, Austin. According to the agenda, the board held a public meeting to discuss the following: executive session - litigation - hospital fee guidelines lawsuit; litigation - hospital fee guidelines lawsuit.

**Contact:** George Chapman, 200 East Riverside Drive, First Floor, Austin, Texas 78704, (512) 448-7962.

**Filed:** December 29, 1989, 3:54 p.m.

TRD-8912443

## State Board of Insurance

**Friday, January 5, 1990, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the commission will conduct a public hearing on docket number 10668 to consider the application of Sun Alliance Group plc, London, England, to acquire control of CU Lloyd's of Texas, Dallas.

**Contact:** James W. Norman, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** December 28, 1989, 4:14 p.m.

TRD-8912389

**Friday, January 5, 1990, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 353, 1110 San Jacinto Street, Austin. According to the agenda, the commission will conduct a public hearing on docket number 10630 to consider whether disciplinary action should be taken against Terry C. Denny, Houston, who holds a group I, legal reserve life insurance agent's license and a group II, insurance agent's license.

**Contact:** Earl Corbitt, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** December 28, 1989, 4:13 p.m.

TRD-8912390

**Friday, January 5, 1990, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 460, 1110 San Jacinto Street, Austin. According to the agenda, the commission will conduct a public hearing on docket number 10666 to consider the renewal application of Faris Boyd Croxen, Phoenix, Arizona, for a group I, non-resident legal reserve life insurance agent's license.

**Contact:** Will McCann, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** December 28, 1989, 4:13 p.m.

TRD-8912391

**Friday, January 5, 1990 1:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 460, 1110 San Jacinto Street, Austin. According to the agenda, the commission will conduct a public hearing on docket number 10656 to consider whether disciplinary action should be taken against Texas Central Life Insurance Company, Dallas, who holds a certificate of authority.

**Contact:** O.A. Cassity, III, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** December 28, 1989, 4:13 p.m.

TRD-8912392

**Monday, January 8, 1990, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 460, 1110 San Jacinto Street, Austin. According to the agenda, the commission will conduct a public hearing on docket number 10629 to consider whether disciplinary action should be taken against Billy Wayne Holcomb, Denison, who holds a group I, legal reserve life insurance agent's license.

**Contact:** James W. Norman, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** December 28, 1989, 4:14 p.m.

TRD-8912393

**Tuesday, January 9, 1990, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 460, 1110 San Jacinto Street, Austin. According to the agenda, the commission will conduct a public hearing on docket number 10661 to consider whether disciplinary action should be taken against Philip Lynn Milford, Winnsboro, who holds a group I, legal reserve life insurance agent's license and a local recording agent's license; and to consider the renewal application for a group I, legal reserve life insurance agent's license; and to consider the application for a group II insurance agent's license.

**Contact:** Earl Corbitt, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** December 28, 1989, 4:13 p.m.

TRD-8912395

**Tuesday, January 9, 1990, 1 p.m.** The State Board of Insurance will meet in Room

414, 1110 San Jacinto Street, Austin. According to the agenda, the board will discuss the report by agents' conduct advisory committee. Amendments to the Texas Automobile Manual and Standard Provisions for Automobile Insurance Policies. Final action and emergency action on 28 TAC §7.74. Extension of emergency effectiveness of 28 TAC §§1.901-1.911. Motion for rehearing in docket number G-89-4. Announcement of selection of General Counsel. Board orders on several different matters as itemized on the complete agenda. Personnel matters. Pending and contemplated litigation. Solvency matters.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas, 78701-1998, (512) 463-6328.

**Filed:** December 29, 1989, 2:41 p.m.

TRD-8912438

**Tuesday, January 9, 1990, 1:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 460, 1110 San Jacinto Street, Austin. According to the agenda, the commission will conduct a public hearing on docket number 10617 to consider whether disciplinary action should be taken against Thomas Ray Hunter, College Station, who holds a group I, legal reserve life insurance agent's license, a variable contract agent's license and a local recording agent's license.

**Contact:** James W. Norman, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** December 28, 1989, 4:13 p.m.

TRD-8912394

**Wednesday, January 10, 1990, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 460, 1110 San Jacinto Street, Austin. According to the agenda, the commission will conduct a public hearing on docket number 10622 to consider whether disciplinary action should be taken against Robert Jerry Martin, Dallas/Houston, who holds a group I, legal reserve life insurance agent's.

**Contact:** James W. Norman, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** December 28, 1989, 4:12 p.m.

TRD-8912396

**Wednesday, January 10, 1990 1:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in the commissioner's conference room, 1110 San Jacinto Street, Austin. According to the agenda, the commission will conduct a public hearing on docket number 10602 to consider the application of David M. Terek, Dallas, to acquire control of Enterprise Life Insurance Company and Enterprise Fire and Casualty Company, Arlington, pursuant to the provisions of Texas Insurance Code, Article 21.49-1, Section 5.

**Contact:** Lisa Lyons, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** December 28, 1989, 4:12 p.m.

TRD-8912397

**Friday, January 12, 1990, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the commission will conduct a public hearing on docket number 10669 to consider whether disciplinary action should be taken against Rodney Drue Cross, Irving, who holds a group I, legal reserve life insurance agent's license.

**Contact:** Wendy L. Ingham, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** December 28, 1989, 4:12 p.m.

TRD-8912398

**Friday, January 12, 1990 1:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the commission will conduct a public hearing on docket number 10674 to consider the application of Home Lloyds Insurance Company of Texas for approval of Attorney-in-Fact.

**Contact:** Earl Corbitt, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** December 28, 1989, 4:12 p.m.

TRD-8912399

**Monday, January 15, 1990, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the commission will conduct a public hearing on docket number 10667 to consider whether disciplinary action should be taken against Bertha Minix, Beaumont, who holds a group I, legal reserve life insurance agent's license, a group II insurance agent's license and a local recording agent's license.

**Contact:** Earl Corbitt, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** December 28, 1989, 4:12 p.m.

TRD-8912400

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## Texas Board of Professional Land Surveying

**Thursday-Friday, January 11-12, 1990, 8 a.m.** The First Regular Meeting of 1990 of the Texas Board of Professional Land Surveying will meet at 7701 North Lamar, Suite 400, Austin. According to the agenda, the board will meet to approve the minutes of the previous meeting, review new applications, reconsider old applications, discuss correspondence, hear committee reports, verify scores from the October, 1989 examination, adopt the amendment to rule 663.9

published November 10, 1989 and conduct two formal hearings on complaints 89-10 and 89-20.

**Contact:** Betty J. Pope, 7701 North Lamar, Suite 400, Austin, Texas 78752, (512) 452-9427.

**Filed:** December 29, 1989, 10:34 a.m.

TRD-8912416

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**Texas Department of  
Licensing and Regulation**

**Monday, January 8, 1990, 9 a.m.** The Manufactured Housing Division of the Texas Department of Licensing and Regulation will meet at 920 Colorado, E. O. Thompson Building, 10th Floor Conference Room, Austin. According to the agenda, the division will include proceedings to consider issuance of title to a mobile home in the matter of Heart O' Texas Mobile Home Sales.

**Contact:** Elvis G. Schulze, 920 Colorado, Austin, Texas 78711, (512) 463-3127.

**Filed:** December 28, 1989, 4:49 p.m.

TRD-8912405

**Wednesday, January 10, 1990, 9 a.m.** The Vehicle Storage Facility Division of the Texas Department of Licensing and Regulation will meet at 920 Colorado, E. O. Thompson Building, 10th Floor Conference Room, Austin. According to the agenda, the division will include proceedings to consider suspension, revocation or denial of respondent's, Phillip Eric Elam doing business as Interstate Vehicle Storage Facility, license/registration for violation of Article 6687-9A of Texas Civil Statutes and the Department's Vehicle Storage Facility rules and regulations.

**Contact:** Elvis G. Schulze, 920 Colorado, Austin, Texas, 78711, (512) 463-3127.

**Filed:** December 28, 1989, 4:50 p.m.

TRD-8912404

**Thursday, January 11, 1990, 9 a.m.** The Auctioneer Division of the Texas Department of Licensing and Regulation will meet at 920 Colorado, E. O. Thompson Building, 10th Floor Conference Room, Austin. According to the agenda, the division will include proceedings to consider suspension, revocation, or denial of respondent's Aubrey Carroll, license/registration for violation of the department's auctioneer rules and regulations.

**Contact:** Jack E. Shriver, 920 Colorado, Austin, Texas 78711, (512) 463-7332.

**Filed:** December 28, 1989, 4:50 p.m.

TRD-8912403

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**Board of Pardons and  
Paroles**

**Monday-Friday, January 8-12, 1990, 1:30 p.m. daily except on Friday, at 11 a.m.** A Board Panel (3 Board Members) of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the panel will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate action.

**Contact:** K. Armstrong, 8610 Shoal Creek Boulevard, Austin, Texas, 78758, (512) 459-2713.

**Filed:** December 29, 1989, 10:31 a.m.

TRD-8912414

**Tuesday, January 9, 1990, 1:30 p.m.** The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will meet to consider executive clemency recommendations and related actions (other than out of country conditional pardons), including: full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; other reprieves, remissions and executive clemency actions.

**Contact:** Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

**Filed:** December 29, 1989, 10:31 a.m.

TRD-8912415

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**Railroad Commission of  
Texas**

**Monday, January 8, 1990, 9 a.m.** The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. Agendas follow.

The commission will consider and act on the Administrative Services Division director's report on division administration, budget, procedure, and personnel matters. Discussion of the development of a natural gas clearing house that would match companies that need gas to fuel new plants with producers that have gas to sell-possible action.

**Contact:** Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7257.

**Filed:** December 29, 1989, 11:01 a.m.

TRD-8912423

**Monday, January 8, 1990, 9 a.m.** The commission will discuss state-funded plugging of the Stuart & Fish A. T. Cox lease, well number 1, Beeville, North Field, Bee County, Texas.

**Contact:** Willis Steed, P. O. Drawer 12967, Austin, Texas 78711, (512) 463-6830.

**Filed:** December 29, 1989, 4:19 p.m.

TRD-8912447

The commission will consider and act on the Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

**Contact:** Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7251.

**Filed:** December 29, 1989, 11:00 a.m.

TRD-8912425

The commission will consider and act on the executive director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. Consider reorganization of various commission divisions; consolidation of positions; and appointment, reassignment and/or termination of various positions, including division directors. Consideration of reorganization of the well plugging program. The commission will meet in executive session to consider the appointment, employment, evaluation, reassignment, duties, discipline and/or dismissal of personnel.

**Contact:** Cril Payne, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7274.

**Filed:** December 29, 1989, 11:01 a.m.

TRD-8912424

The commission will consider and act on the Office of Information Services/Office of Research and Statistical Analysis Director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78753, (512) 463-6710.

**Filed:** December 29, 1989, 11:00 a.m.

TRD-8912426

The commission will consider and act on the Investigation Division director's report on division administration, investigations, budget, and personnel matters.

**Contact:** Mary Anne Wiley, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6828.

**Filed:** December 29, 1989, 11:00 a.m.

TRD-8912427

The commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in its entirety or for particular action at a future time of date.

**Contact:** Cue Boykin, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6921.

Filed: December 29, 1989, 11:02 a.m.

TRD-8912428

The commission will consider category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Margie L. Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: December 29, 1989, 11:01 a.m.

TRD-8912422

The commission will consider and act on the Personnel Division director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline, and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6981.

Filed: December 29, 1989, 10:27 a.m.

TRD-8912421

**Thursday, January 18, 1990, 10 a.m.** The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. The commission will hold a statewide hearing on oil and gas.

Contact: Paula Middleton, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6729.

Filed: December 29, 1989, 11:02 a.m.

TRD-8912420

### Office of the Secretary of State

**Friday, January 12, 1990, 10 a.m.** The Elections Advisory Committee of the Office of the Secretary of State, will meet in the House Appropriations meeting room, Room 309, State Capitol, Austin. According to the agenda, the committee will recap the November 7, 1989 Constitutional Amendment Election procedures; review the Operations Manual for the upcoming March 13th, 1990 Primary Elections; and discuss preparations and possible enhancements to the system for the upcoming March 13th, 1990 Primary Elections.

Contact: Tom Harrison, P. O. Box, 12060, Austin, Texas 78711, (512) 463-5650.

Filed: December 29, 1989, 4:07 p.m.

TRD-8912448

### Structural Pest Control Board

**Tuesday, January 8, 1990, 8:30 a.m.** The Structural Pest Control Board will meet at

9101 Burnet Road, Suite 201, Austin. According to the agenda, the board will hold election of officers for 1990; approve minutes; hold a public hearing at 9 a.m.; consider adoption of proposed regulations on administrative penalties; Gailon Darrell Douglass doing business as Doug's Pest Control; Frank R. Summers, Jr., doing business as Oak Haven Enterprises Roy Jones doing business as Orkin Exterminating Company; executive director's report; discussion of Sunset Commission's report; executive session and miscellaneous.

Contact: David A. Ivie or Benny M. Mathis, 9101 Burnet Road, # 201, Austin, Texas 78758, (512) 835-4066.

Filed: December 29, 1989, 4:12 p.m.

TRD-8912446

### Texas Water Commission

**Wednesday, February 7, 1990, 9 a.m.** The Texas Water Commission will meet at Texas A & M Research and Extension Service Auditorium, Highway 44, approximately 6 miles east of Robstown and 10 miles west of Corpus Christi. According to the agenda, the commission will discuss application for hazardous industrial waste disposal well permits WDW-278 and WDW-279 by Texas Ecologists, Inc. The purpose of the hearing will be to receive evidence on the conditions, if any, under which a permit may be issued. The company property is approximately one-half mile southeast of the intersection of FM 892 and FM 2826, and three miles east of SH 16 near Robstown, Nueces County, Texas. The injection zone is in the upper Frio formation at the approximate subsurface depths of 4150 to 5200 feet below ground level.

Contact: Jim Haley, Staff Attorney, P. O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: December 29, 1989, 10:42 a.m.

TRD-8912418

### Regional Meetings

Meetings Filed December 29, 1989

The Angellna Neches River Authority met at the Fredonia Hotel, 200 North Fredonia Street, Nacogdoches, January 4, 1990, at 10 a.m. Information may be obtained from Pete Styner, P.O. Box 387, Lufkin, Texas 75902-0387, (409) 632-7795.

The Dallas Area Rapid Transit Planning and Development Committee met at 601 Pacific Avenue, Board Room, Dallas, January 3, 1990, at 3:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 659-6237.

The Dallas Central Appraisal District Board of Directors met at 1420 West Mockingbird Lane, Suite 500, Dallas, January 3, 1990, at 11 a.m. Information may be obtained from Rick L. Kuehler, 1420 West Mockingbird Lane, Suite 500, Dallas, Texas 75247, (214) 631-0520.

The Grand Parkway Association met at 5757 Woodway, 140 East Wing, Houston, January 3, 1990, at 8:15 a.m. Information may be obtained from Larry W. Nettles, 2823 First City Tower, 1001 Fannin, Houston, Texas 77002-6760, (713) 654-4586.

The Lower Colorado River Authority Board of Directors met at 3700 Lake Austin Boulevard, Austin, January 4, 1990, at 2 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78703, (512) 473-3283.

The South Texas Development Council Sted Corporation Board of Trustees will meet at Commissioners Courtroom, Courthouse Annex, Zapata, January 11, 1990, 10 a.m. Information may be obtained from Robert Mendiola, P.O. Box 2187, Laredo, Texas 78044-2187, (512) 722-3995.

The Tarrant Appraisal District Board of Directors will meet at 2301 Gravel Road, Ft. Worth, January 5, 1990, at 9 a.m. Information may be obtained from Olive Miller, 2301 Gravel Road, Fort Worth, Texas 76118, (817) 595-6005.

TRD-8912406

### Meetings Filed January 2, 1990

The Carson County Appraisal District Board of Directors will meet at 102 Main, Panhandle, January 10, 1990, at 10 a.m. Information may be obtained from Dianne Lavake, Box 970, Panhandle, Texas 79068-0970, (806) 537-3569.

The Deep East Texas Private Industry Council, Inc. will meet at the Best Western Inn, Highway 59 South, Lufkin, January 10, 1990, at 2 p.m. Information may be obtained from Charlene Meadows, P.O. Box 1423, Lufkin, Texas 75901, (409) 634-2247.

The Erath County Appraisal District Board of Directors will meet in the Board Room, 1390 Harbin Drive, Stephenville, January 10, 1990, at 9 a.m. Information may be obtained from Jerry Lee, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434.

The Fisher County Appraisal District Board of Directors will meet at the Fisher County Appraisal/Tax Office, Fisher County Courthouse, Roby, January 9, 1990, at 7:30 p.m. Information may be obtained from Teddy Kral, P.O. Box 516, Roby, Texas 79543, (915) 776-2733.

The Garza County Appraisal District Board of Directors will meet in the Ap-

praisal Office, 124 East Main, Post, January 11, 1990, at 9 a.m. Information may be obtained from Jean M. Westfall, P.O. Drawer F, Post, Texas 79356, (806) 495-3518.

The Martin County Appraisal District Board of Directors will meet at 708 West St. Anna, Stanton, January 9, 1990, at 7 p.m. Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2823.

The Martin County Appraisal District Appraisal Review Board had an emergency meeting at 708 West St. Anna, Stanton, January 4, 1990, at 7 p.m. The emergency status was necessary because of the need to get new members sworn in. Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2823.

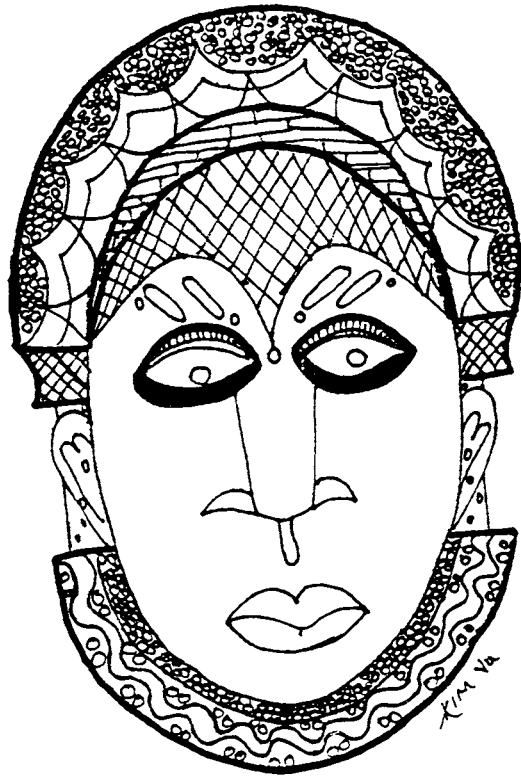
The Texas Political Subdivisions Workers' Compensation Joint Insurance Fund Board of Trustees will meet at the Texas

Employers Insurance Building, 1301 Young Street, Dallas, January 8, 1990, at 10 a.m. Information may be obtained from Thomas P. Vick, P.O. Box 2759, Dallas, Texas 75221, (214) 760-6183.

The Wheeler County Appraisal District Board of Directors will meet at the District's Office, County Courthouse Square, Wheeler, January 15, 1990, at 2 p.m. Information may be obtained from Larry M. Schoenhals, P.O. Box 1200, Wheeler, Texas 79096, (806) 826-5900.

TRD-8912449





Name: Kim Vu

Grade: 8

School: Haltom Middle School, Birdville



# 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 Banking Notice of Application

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a trust company to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular trust company. A hearing may be held if the application is denied by the commissioner.

On December 21, 1989, the banking commissioner received an application to acquire control of the Southwest Guaranty Trust Company, Houston, by William E. Mercer, Houston.

Additional information may be obtained from: William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas, on December 21, 1989.

TRD-8912361

William F. Aldridge  
Director of Corporate Affairs  
Texas Department of Banking

Filed: December 27, 1989

For further information, please call: (512) 479-1200

## 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).

<u>Type of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer<sup>(3)</sup>/Agri- cultural/Commercial<sup>(4)</sup> thru \$250,000</u>	<u>Commercial<sup>(4)</sup> over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	01/01/90-01/07/90	18.00%	18.00%
Monthly Rate <sup>(1)</sup> Art. 1.04(c)	01/01/90-01/31/90	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	01/01/90-03/31/90	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 <sup>(3)</sup>	01/01/90-03/31/90	18.00%	N.A.
Lender Credit Card Quar- terly Rate - Art. 15.02(d) <sup>(3)</sup>	01/01/90-03/31/90	15.19%	N.A.

Standard Annual Rate - Art. 1.04(a)(2) <sup>(2)</sup>	01/01/90-03/31/90	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 <sup>(3)</sup>	01/01/90-03/31/90	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from:	01/01/90-03/31/90	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	01/01/90-01/31/90	10.00%	10.00%

- (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 December 26, 1989.

TRD-8912388      Al Endsley  
Consumer Credit Commissioner

Filed: December 28, 1989

For further information, please call: (512) 479-1280

◆      ◆      ◆

**Texas Department of Health**  
**Radioactive Material License Amendment**

Notice is hereby given by the Texas Department of Health that it has granted an amendment to the following radioactive material license:

Radioactive Material License Number LO3910, issued to Syncor International Corporation for their facility located in Austin. (mailing address: Syncor International Corporation, 6448 Highway 290 East, Building F, Suite 102, Austin, Texas 78723).

The amendment to this license changes the Radiation Safety Officer from Phil Laurence to Philip Rushing.

The Division of Licensing, Registration and Standards has determined that the licensee has met the standards appropriate to this amendment the licensee is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with the *Texas Regulations for Control of Radiation* (TRCR) in such a manner as to minimize danger to public health and safety or property; the licensee's equipment, facilities and procedures are adequate to minimize danger to public health and safety or property; the issuance of the license amendment will not be inimical to the health and safety of the public; and the licensee satisfies any applicable special requirements of Part 41 of the TRCR.

This notice affords the opportunity for a public hearing upon written request within thirty days of the date of publication of this notice by a person affected as required by the Health and Safety Code, §401.116, and as set out in TRCR 13.6. A person affected is defined as a person who is a resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demon-



strate that he has suffered or will suffer actual injury or economic damage. A person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. Any request for a hearing must contain the name and address of the person who considers himself affected by Agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated. Should no request for a public hearing be timely filed, the amendment will remain in effect.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin. Information relative to the amendment of this specific radioactive material license may be obtained by contacting David K. Lacker, Chief, Bureau of Radiation Control, (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 835-7000.

Issued in Austin, Texas, on December 20, 1989.

TRD-8912366 Robert A. MacLean, M.D.  
Deputy Commissioner for Professional  
Services  
Texas Department of Health

Filed: December 27, 1989

For further information, please call: (512) 835-7000

◆ ◆ ◆  
**Texas Water Commission**  
**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 Guardsman Products, Inc., on December 20, 1989, assessing \$27,600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Lisa Montgomery, staff attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on December 21, 1989.

TRD-8912369 Gloria A. Vasquez  
Notices Coordinator  
Texas Water Commission

Filed: December 27, 1989

For further information, please call: (512) 463-7906

◆ ◆ ◆  
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 Harris County WCID Number 84, Permit Number 10558-01 on December 20, 1989, assessing \$15,000 in administrative penalties, and imposing stipulated penalties.

Information concerning any aspect of this order may be obtained by contacting Sharon J. Smith, staff attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on December 21, 1989.

TRD-8912368 Gloria A. Vasquez  
Notices Coordinator  
Texas Water Commission

Filed: December 27, 1989

For further information, please call: (512) 463-7906

◆ ◆ ◆  
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 Texas Utilities Electric Company-Comanche Peak Facility, SWR Number 33306 on December 20, 1989, assessing \$16,000 in administrative penalties (\$6,000 deferred and waived pending compliance).

Information concerning any aspect of this order may be obtained by contacting Michelle A. McFaddin, staff attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on December 21, 1989.

TRD-8912367 Gloria A. Vasquez  
Notices Coordinator  
Texas Water Commission

Filed: December 27, 1989

For further information, please call: (512) 463-7906

◆ ◆ ◆  
**Texas Water Development Board**  
**Request for Proposals**

The Texas Water Development Board (TWDB) requests, pursuant to 31 Texas Administrative Code (TAC) §355.34(a), the submission of proposals from political subdivisions leading to the possible award of a contract for fiscal years 1990 and 1991 to develop a feasibility-level coastal flood protection and shoreline erosion control plan for Galveston County. The plan is intended to identify alternatives that are capable of reducing the increasing level of flooding damages caused by coastal erosion.

In order to be eligible to receive a grant, the applicant must have the legal authority to plan for and abate flooding and must participate in the National Flood Insurance Program.

**Description of Planning Objectives.** The purpose of the project is to develop a feasibility-level plan that will lead to the implementation of engineering or management techniques capable of reducing flood damages that result from coastal erosion. Planning for flood protection will include organizing and coordinating with a state-level advisory committee, identifying and prioritizing coastal erosion and flooding problem areas, researching engineering and management techniques for shoreline flood protection, recommending the most feasible alternative(s) for established problem areas, preparing an overall implementation schedule and individual capital and O&M cost estimates and designs for all implementation and maintenance phases, evaluating funding programs for implementation, conduct-

ing public meetings, and preparing project reports. Most importantly, planning must be conducted to ensure that results are transferable to other coastal counties and suitable for incorporation in the Texas shoreline plan being prepared by the General Land Office.

**Description of Planning Objectives.** The board will provide funding from the research and planning fund not to exceed 50% of the local costs for a state amount of up to \$100,000.

In the event that no acceptable proposal is submitted, the board retains the right to make no award of contract funds as authorized by 31 TAC §355.34(a)(3). The selected applicant will have 90 days from the date of board approval of an application to execute a contract and demonstrate to the executive administrator of the board that it has the local matching share committed and available.

**Review Criteria and Procedure.** The board's procedures for evaluating and selecting proposals for assistance awards are set forth in 31 TAC §355.38.

**Guidelines for Proposal Contents.** All proposals must conform to all of the requirements in 31 TAC §§355.31-355.40.

**Deadlines and Contact Person for Additional Information.** Ten copies of the flood protection planning proposal must be filed with the board prior to 5 p.m., January 16,

1990. A contract must be completed and work must be underway within 90 days after board approval of an application. A final feasibility level report covering the work must be submitted to the board by August 31, 1991, unless this requirement is extended at a later date by the board. Flood protection planning proposals must be directed to G. E. Kretzschmar, Executive Administrator, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231.

Requests for information, flood protection planning objectives, and applicable planning rules in accordance with 31 TAC §§355.31-355.40 may be directed to T. James Fries at the preceding address or (512) 463-7926.

**Statement of Contract Terms and Required Completion Date.** Procedures for awarding contracts shall comply with Texas Civil Statutes, Article 6252-11c, and Article 664-4, where applicable, and with 31 TAC §§355.31-355.40. Contractual agreements and associated funding will terminate on August 31, 1991. Completion date: August 31, 1991.

Issued in Austin, Texas, on December 27, 1989.

TRD-8912407            Suzanne Schwartz  
                                  General Counsel  
                                  Texas Water Development Board

Filed: December 29, 1989

For further information, please call: (512) 463-7981



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