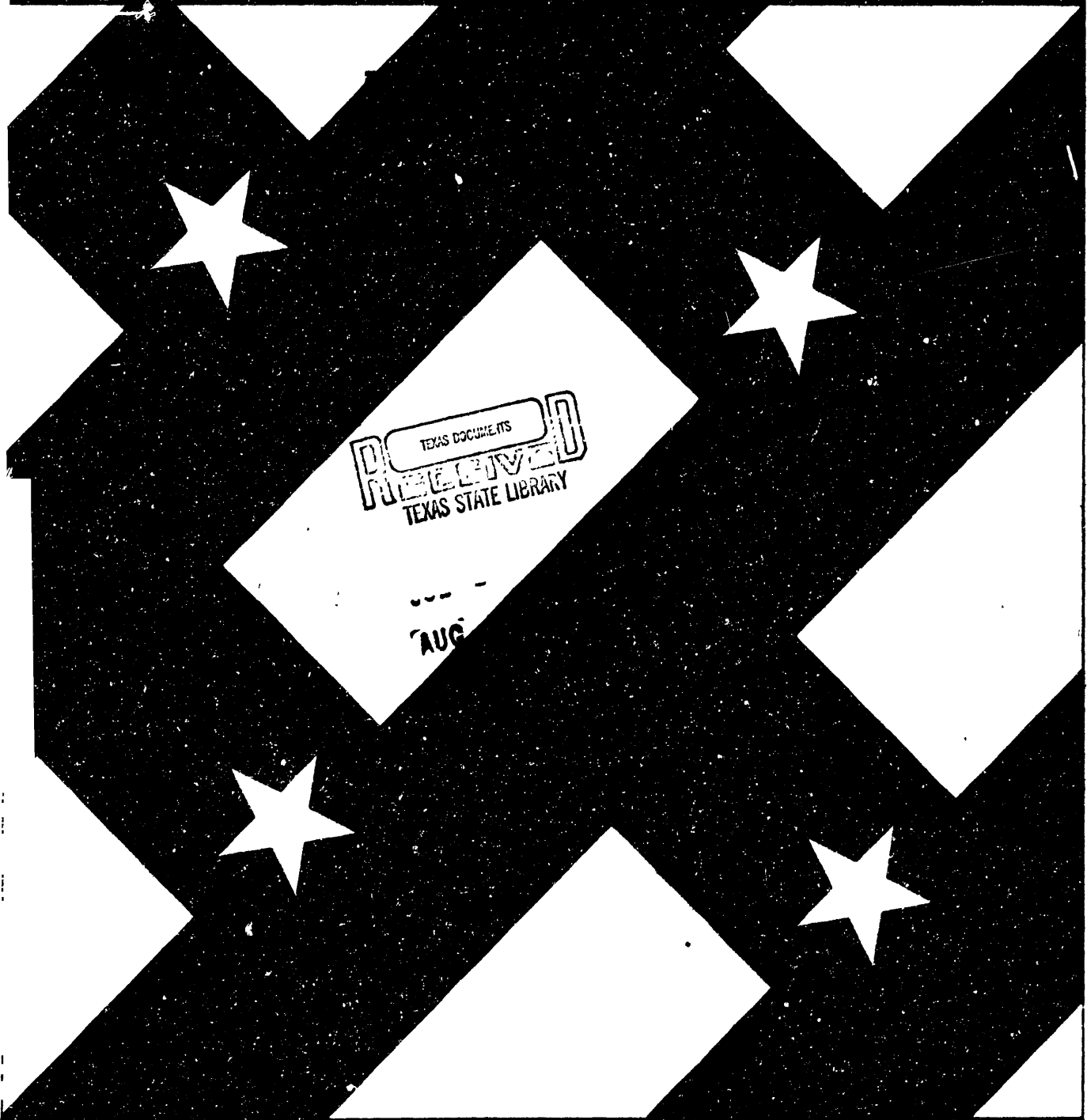


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Texas Register

Volume 10, Number 58, August 6, 1985

Pages 2489 - 2578



Highlights

The **Texas Housing Agency** adopts emergency new sections concerning the 1985 Single Family Mortgage Purchase Program. Effective date - July 24..... **page 2496**

The **Texas Department of Labor and Standards** proposes new sections concerning the

Health Spa Act. Earliest possible date of adoption - August 30..... **page 25221**

The **Texas Department of Agriculture** adopts with changes amendments to sections concerning pesticides. Effective date - August 16..... **page 2536**

**Office of
the Secretary
of State**

Texas Register

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Information Available: The 11 sections of the *Register* represent various facets of state government. Documents contained within them include:

- Governor—appointments, executive orders, and proclamations
- Secretary of State—summaries of opinions based on election laws
- State Ethics Advisory Commission—summaries of requests for opinions and opinions
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
- Proposed Rules—rules proposed for adoption
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Open Meetings—notices of open meetings
- The Legislature—bills submitted to, signed by, and vetoed by the Governor and bills that are submitted to the Governor and enacted without his signature
- In Addition—miscellaneous information required to be published by statute or provided as a public service

Specific explanations on the contents of each section can be found on the beginning page of the section. The division also publishes monthly, 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: "10 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 10 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, 503E Sam Houston Building, Austin. Material can be found by using *Register* indexes, the *Texas Administrative Code*, rule 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 rule 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 the rule (27 indicates that the rule is under Chapter 27 of Title 1; 15 represents the individual rule within the chapter).



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The Governor

As required by Texas Civil Statutes, Article 6252-13a, §6, the *Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 475-3021.

Appointment Made July 22 Radiation Advisory Board

For a term to expire April 16, 1989:

E. Linn Draper, Jr., Ph.D.
1190 Dowlen Road
Beaumont, Texas 77706

Dr. Draper is replacing Dr. James R. Sumpster of Houston, whose term expired.

Issued in Austin, Texas, on July 22, 1985.

TRD-856841 Mark White
Governor of Texas

Appointments Made July 23

Advisory Commission on State Emergency Communications

For terms to expire May 31, 1987:

Caryll F. Beer
State Coordinator, 911 Emergency
Services—Marketing
Southwestern Bell Telephone Company
P.O. Box 4650
Houston, Texas 77210

Rodger G. Hill
Network Future Services Administrator
General Telephone Company
P.O. Box 1001
San Angelo, Texas 76902-1001

George E. Cook
Senior Traffic Engineer
Continental Telephone Company
P.O. Box 679003
Dallas, Texas 75367-9003

Mary A. Boyd
Supervisor, E911 Operations
City of Austin
Police Department
Austin, Texas 78701

William Garrett Morris
Attorney
1640 First City Bank Tower
Fort Worth, Texas 76102

Russell S. Rau
Director of Governmental Affairs
The Russo Companies
7500 San Felipe
Houston, Texas 77063-1799

These members are appointed pursuant to House Bill 1655, 69th Legislature, 1985.

State Highway and Public Transportation Commission

For a term to expire February 15, 1991:

Ray C. Stoker, Jr.
1435 Sweetbriar
Odessa, Texas 79761

Mr. Stoker is replacing Robert H. Dedman of Dallas, whose term expired.

Issued in Austin, Texas, on July 23, 1985.

TRD-856841 Mark White
Governor of Texas

★ ★ ★

Appointments Made July 24

Stephen F. Austin State University

To the Board of Regents for terms to expire January 31, 1991:

Richard C. Hile
P.O. Box 670
Jasper, Texas 75951

Mr. Hile is replacing Mrs. George P. Culum, Jr., of Dallas, whose term expired.

Dan Haynes
1002 North Boundary
Burnet, Texas 78611

Mr. Haynes is replacing Ted Bowen of Houston, whose term expired.

Real Estate Research Advisory Committee

For a term to expire January 31, 1991:

David L. Stirton
3615 Amherst
Houston, Texas 77005

Mr. Stirton is replacing George A. McCause of Houston, whose term expired.

Texas Advisory Board of Occupational Therapy

For terms to expire February 1, 1991:

Marianne L. Punched
Route 3, Box 88
Mart, Texas 76664

Ms. Punched is being reappointed.

Peggy L. Pickens
16526 Royal Mile
Houston, Texas 77084

Ms. Pickens is being reappointed.

Home Health Services Advisory Council

For terms to expire January 31, 1987:

Eddie Bernice Johnson
6305 Elder Grove Drive
Dallas, Texas 75232

Ms. Johnson is being reappointed.

Essie L. Bellfield
812 Mill Street
Orange, Texas 77630

Ms. Bellfield is being reappointed.

Dr. Ruth L. Constant
2206 East Loma Vista
Victoria, Texas 77901

Dr. Constant is being reappointed.

Advisory Board of Athletic Trainers

For a term to expire January 31, 1991:

Wilford Frank Pickard, Jr.
2901 Oakside
Bryan, Texas 77802

Mr. Pickard is being reappointed.

Issued in Austin, Texas, on July 24, 1985.

TRD-856755 Mark White
Governor of Texas

★ ★ ★

Appointments Made July 25

Stephen F. Austin State University

To the Board of Regents for a term to expire January 31, 1991:

John O. Sutton
817 Crooked Creek Drive
Nacogdoches, Texas 75961

Mr. Sutton is replacing Glenn W. Justice of Dallas, whose term expired.

**State Highway and Public
Transportation Commission**

For a term to expire February 15, 1987:

Thomas Mayborn Dunning
5510 Nakoma
Dallas, Texas 75209

Mr. Dunning is replacing John R. Butler,
Jr., of Houston, who resigned.

Issued in Austin, Texas, on July 25, 1985.

TRD-856825 Mark White
 Governor of Texas

Appointment Made July 26

361st Judicial District

To be judge of the 361st Judicial District
Court, Brazos County, effective September
1, 1985, until the next general election and
until her successor shall be duly elected and
qualified:

Carolyn Ruffino
Brazos County Courthouse
Bryan, Texas 77801

Judge Ruffino is being appointed pursuant
to Senate Bill 465.

Issued in Austin, Texas, on July 26, 1985.

TRD-856825 Mark White
 Governor of Texas

★ ★ ★



Secretary of State

Under provisions of the Texas Election Code (Article 1.03), the secretary of state is authorized to issue opinions based on the election laws. Under provisions of Texas Civil Statutes (Article 6252-9c, §14A), the secretary of state is authorized to issue advisory opinions in response to written requests based on a real or hypothetical situation that relates to Article 6252-9c.

Questions on particular submissions should be addressed to the Office of the Secretary of State, Elections Division, P.O. Box 12887, Austin, Texas 78711, 1 (800) 252-9602 or (512) 475-3091

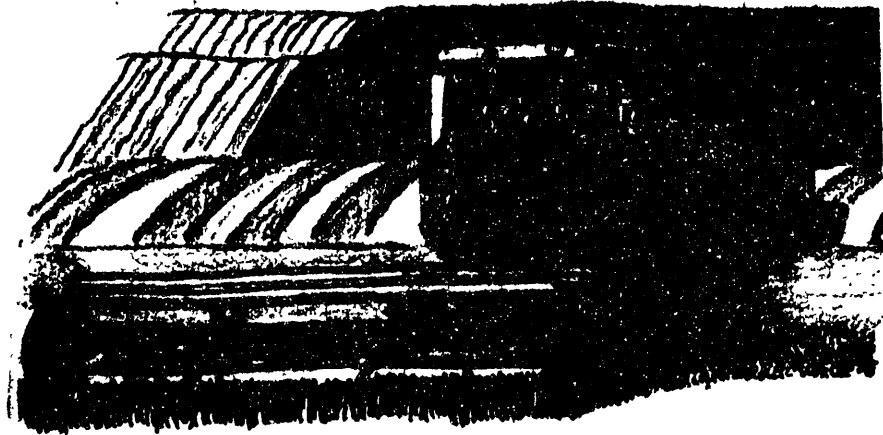
Opinion Issued July 12

Election Law Opinion MAM-6. Request from John Sharp, state senator, regarding the use of political contributions to defray legal expenses of an officeholder arising from a libel suit.

Summary. A member of the legislature may use political contributions to defray ordinary and necessary legal expenses resulting from a libel suit filed against the member, when the cause of action arose as a direct consequence of performing an activity of office.

TRD-856640

★ ★ ★



Emergency

Rules An agency may adopt a new or amended rule, or repeal an existing rule on an emergency basis, if it determines that such action is necessary for the public health, safety, or welfare of this state. The rule 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 rules. New language added to an existing rule is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a rule.

(Editor's note: A notice appeared in the July 30, 1985, issue of the Texas Register indicating that the following emergency adoption by the Texas Housing Agency would be serialized in this issue. Effective date for the document is July 24, 1985.)

TITLE 10. COMMUNITY DEVELOPMENT

Part IV. Texas Housing Agency

Chapter 147. 1985 Single Family Mortgage Purchase Program

★ 10 TAC §§147.1-147.22

The Texas Housing Agency adopts on an emergency basis new §§147.1-147.22, concerning program guidelines for the agency's Single Family Mortgage Purchase Program.

These new sections are adopted on an emergency basis because the shortage of sanitary and safe residential housing that is available at prices or rentals that persons and families of low income and families of moderate income can afford has caused and continues to cause substandard, hazardous, and unsanitary living conditions, creating an imminent peril to the public health, safety, and welfare. To alleviate the effects of those conditions, the agency must act as quickly as possible. The agency also simultaneously proposes these rules for permanent adoption.

The new sections are adopted on an emergency basis under the Texas Housing Agency Act, Texas Civil Statutes, Article 12691-6, which authorizes the Texas Housing Agency to adopt rules governing the administration of the agency and its programs.

§147.1. Introduction. The Texas Housing Agency intends to issue bonds and use the proceeds to, among other purposes, acquire single family mortgage loans. Sections 141.1-141.22 are subject to the terms of the origination, sale, and servicing agreement, including the agency's origination and servicing manuals, as executed in final form by the agency with participating lenders.

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

Act—The Texas Housing Agency Act, Texas Civil Statutes, Article 12691-6, as it may be amended from time to time.

Agency—The Texas Housing Agency.

Agreement—The origination, sale, and servicing agreement between a participant, the trustee, and the agency, and all exhibits, amendments, supplements, and all appropriate manuals, forms, and reports prescribed by the agency.

Bonds—The agency's single family mortgage revenue bonds, issued in series pursuant to an indenture between the agency and the trustee, to provide financing for single family residences located in Texas.

Commitment—A binding written commitment, as customarily used by a participant, issued to a particular eligible borrower to finance the purchase of a particular residence with a mortgage loan.

Conventional mortgage loan—A mortgage loan which is not insured by the FHA or guaranteed by the VA.

FDIC—The Federal Deposit Insurance Corporation, or any successor thereto.

FHA—The Federal Housing Administration of the Department of Housing and Urban Development of the United States of America, or any successor thereto.

FHLMC—The Federal Home Loan Mortgage Corporation, or any successor thereto.

FNMA—The Federal National Mortgage Association, or any successor thereto.

Indenture—That certain trust indenture by and between the agency and the trustee, pursuant to which the bonds are authorized to be issued and secured, as the same may be amended and supplemented from time to time.

Agency's manual—One or more handbooks, as amended and supplemented, prepared by the agency and distributed to participating lenders that explain the program, prescribe origination, servicing, and other procedures, and provide reporting and other forms relating to the program.

Mortgage loan—A loan evidenced by a mortgage note, secured by a mortgage or deed of trust, made to finance an eligible borrower's purchase of a qualifying residence.

Nontargeted area—An area other than a targeted area.

Participants—The applicants accepted by the agency to participate as lenders in the program.

Program—The agency's single family mortgage purchase program, with respect to one or more series of bonds, pursuant to which the agency will issue revenue obligations used to purchase qualifying mortgage loans from participating lenders.

Program participation fee—The fee equal to a percentage of each participant's allocation which is paid by said participant to the agency.

Targeted area—A qualified census tract or an area of chronic economic distress.

Tax code—The Internal Revenue Code of 1954, as amended, including applicable regulations.

Trustee—The financial institution or other entity, including its successors in trust, performing the trustee functions under the indenture pertaining to a particular series of bonds.

VA—The Veterans Administration of the United States of America, or any successor thereto.

§141.3. Eligible Lending Institutions.

(a) To participate in the program, lending institutions must have maintained an office in Texas for approximately one year, as specified in the applicable agreement.

(b) To be eligible to originate and service loans under the program, the lender must be fully qualified by FNMA, FHLMC, FHA, or VA, as applicable, for the type of mortgage loans it intends to originate.

(c) To be eligible for an initial allocation, each lender must have delivered to the agency all required documents, including its corporate check in an amount equal to the program participation fee for its maximum loan origination offer.

§147.4. Allocation Procedures. The agency intends to allocate the lendable proceeds of the bonds by taking into account, among other things, the ability of the lender to originate mortgage loans to eligible borrowers in targeted areas, and the overall demand for allocations. Allocations may be made to specific branch offices, but limited to one branch office per county, of a par-

participant if the agency determines that such a procedure may help ensure appropriate geographic dispersion of mortgage loans.

§147.5. Commitment and Origination Periods.

(a) Nontargeted areas. All mortgage loans in nontargeted areas must be originated by participants and purchased by the agency within the time provided in the agreement. Subject to the terms of the agreement, the agency reserves the right to transfer a participant's unused and uncommitted nontargeted allocation.

(b) Targeted areas. As required by U.S. Treasury regulations, the agency must reserve 20% of the lendable proceeds of the bond issue, for at least one year after the issuance date of the bonds, for mortgage loans to be made for property in targeted areas. All mortgage loans in targeted areas must be originated by participants and purchased by the agency within the time provided in the agreement. Subject to the terms of the agreement, the agency reserves the right to transfer a participant's unused and uncommitted targeted allocation.

(c) Program participation fees. The agency will retain program participation fees for allocations not used by a participant, except as provided in the agreement. Program participation fees paid for allocations subsequently transferred will be refunded to the transferor participant only to the extent provided in the agreement.

§147.6. Eligible Borrowers and Loans.

(a) Maximum income. The adjusted gross income, as defined by the agency, of the eligible mortgage loan applicants may not exceed the current limitations established by the agency. Adjusted gross income currently includes the income of an eligible borrower together with the income of all members of such person's household intending to reside with such person in the applicable residence. Evidence of eligibility currently is the adjusted gross income shown on the federal income tax return of the borrower(s), or other evidence acceptable to the agency.

(b) Maximum mortgage loan. The amount of any conventional mortgage loan may not exceed 95%, or such other percentage set forth in the agreement, of the lesser of the sales price or appraised value of a residence. A conventional mortgage loan with a loan-to-value ratio in excess of 80%, or such other amount set forth in the agreement, must be covered by a private mortgage insurance policy in accordance with the agreement. The maximum amount of any mortgage loan is also limited by the underwriting standards specified in the agreement, as of the commitment date of the mortgage loan.

(c) Cosigners and guarantors. Participants may accept cosigners and guarantors on behalf of eligible borrowers in accordance with the agreement and provided the:

(1) cosigner guarantor is acting solely to provide additional security for the mortgage loan;

(2) cosigner guarantor has no other financial interest in the residence;

(3) cosigner guarantor will not occupy the residence as a permanent residence;

(4) eligible borrower has sufficient income to make at least 60% (or such other amount set forth in the agreement) of the monthly payment on the mortgage loan, including taxes and insurance, and calculated as set forth in the mortgage note; and

(5) borrower and the cosigner or guarantor meet the special income-to-debt ratio requirements of the FHA, VA, or private mortgage insurer, as applicable, and the mortgage pool insurer.

(d) Interest rate buy-downs. Participants may permit a seller to buy down the interest rate on a mortgage loan, subject to the terms of the agreement and the program. The agency may limit the percentage of each lender's aggregate allocation that may carry a buy-down.

(e) Public purpose initiatives. The agency may implement additional restrictions on the use of bond proceeds in order to enhance the public purpose initiatives of the program.

§147.7. Federal Mortgage Eligibility Requirements.

(a) Principal residence requirement.

(1) At the time the mortgage loan is executed, the residence must reasonably be expected to become the principal residence of the eligible borrower within a reasonable time after financing is provided. Whether a residence is used as a principal residence depends upon all the facts and circumstances of each case, including the good faith of the eligible borrower. This requirement may normally be met, however, if the eligible borrower executes an affidavit stating an intent to use the residence as a principal residence within 60 days after financing. A residence primarily intended for use in trade or business will not satisfy the principal residence requirement. Further, a residence used as an investment property or a recreational home does not satisfy the principal residence requirement.

(2) A residence financed with a mortgage loan must consist of real property, and improvements permanently affixed thereon, which are located in Texas.

(b) Three-year requirement.

(1) At least 90% of the aggregate of mortgage loans originated in nontargeted area must be made to eligible borrowers who had no present ownership interest in a principal residence at any time during the three years prior to execution of the mortgage loan. Each individual or family member applicant must be an eligible borrower who meets the three-year requirement. However, a person who cosigns or guarantees a mortgage note, but does not take an interest in the residence, need not meet the

three-year requirement. Borrowers will generally be required to provide federal income tax returns, for the preceding three years, which show no interest or property tax deductions on a principal residence.

(2) A loan applicant with a present ownership interest (within the three-year period) in a mobile home or other factory-made housing permanently affixed to real property owned by the loan applicant constitutes a present ownership interest in a principal residence that will violate the three-year requirement.

(3) The three-year requirement does not apply to a mortgage loan for a residence in a targeted area.

(c) Maximum acquisition cost limitation. Under federal law, the acquisition cost of each financed residence must not exceed the maximum acquisition cost limitations, as computed by using the average area purchase price data published by the Department of the Treasury and available on request from the agency. The acquisition cost limitations apply to both newly constructed and existing housing. The agency reserves the right to revise these limitations by notice to the participants. In general, the applicable limitations are those in effect on the date of the commitment to provide financing to the eligible borrower.

(d) New mortgage requirement. Each mortgage loan must be made to an eligible borrower who did not have a mortgage (whether or not paid off) on the residence securing the mortgage loan at any time prior to the execution of the mortgage loan. An existing mortgage includes a deed of trust, contract for deed, conditional sales contract, pledge, agreement to hold title in escrow, or any other form of owner financing, but does not include the replacement of a construction period loan, bridge loan, or similar temporary initial financing with a term not exceeding 24 months.

(e) Mortgage loan assumptions. Assumptions require prior approval from the agency, the pool insurer, and, when applicable, the private mortgage insurer, as well as satisfaction of all requirements of the Tax Code, including the principal residence requirement, the three-year requirement in nontargeted areas and the maximum acquisition cost limitations. The prescribed rider to the mortgage loan accelerates the mortgage loan if the mortgagor fails to occupy the residence as a principal residence or sells, rents or otherwise transfers any interest in the property without the prior approval of the agency.

(f) Cooperation with agency. Participants must cooperate with the reasonable requests of the agency, including cooperation relating to the agency's obligations to credit or rebate excess investment earnings to eligible borrowers pursuant to the agreement.

§147.8. Types of Loans. Subject to the limits set forth in the agreement, mortgage

loans may be FHA insured, VA guaranteed, or conventional.

§147.9. Term, Amortization, and Interest Rate of Mortgage Loans. Each mortgage loan is anticipated to have a fixed term at a fixed mortgage rate and to contain level monthly payment provisions.

§147.10. Prepayment Rights. Mortgage loans may be prepaid, in whole or in part, at any time. The lender and the agency may require a reasonable fee associated with the prepayment.

§147.11. Loan Origination Guidelines. Each participant must originate all mortgage loans for purchase by the agency in accordance with the agreement, the agency's lender's manual and the loan origination, eligibility and credit underwriting standards in effect during the origination period (collectively referred to as "sellers' guides"), with the exceptions as specifically noted herein or in the agreement. The submission of forms prescribed by the sellers' guides generally will not be required. All references in the sellers' guides to FNMA or FHLMC, or other mortgage purchaser, will be deemed to refer to the agency. The acceptance of each mortgage loan by the agency is subject in all respects to the terms of the agreement, which provides that a participant must repurchase a mortgage loan under certain circumstances.

§147.12. Mortgage Loan Fees. Participants may charge each borrower the program participation fee and the origination fee as defined and set forth in the agreement. Participants may also collect reasonable and customary charges incurred by them, as provided in the agreement.

§147.13. Reservation of Allocations; Application Procedure. Subject to the terms of the agreement, a participant may reserve a specified portion of its allocation to any entity or person for the origination of mortgage loans to eligible borrowers. At the time of allocation, the participant may recover, from the entity or person receiving a reservation, the portion of its program participation fee allocable to the reserved amount. Except as provided in the preceding sentence or in the agreement, the total amounts of each participant's allocation must be made available to eligible borrowers on a first-come, first-served basis. The terms of any remaining reservation of a participant's allocation expires as set forth in the agreement.

§147.14. Qualifying Residences.

(a) Each residence must be a single family owner-occupied attached or detached structure, a single family condominium unit, or a single unit in a planned unit development. Attached structures must meet the requirements of the FNMA home mortgage selling contract supplement or other applicable document. Duplexes, tri-

plexes, and fourplexes may not be financed under the program.

(b) As set forth in the agreement, certain additional limitations apply to any residence that is a unit of a condominium development or of a planned unit development, as defined in the agreement. In addition, no mortgage loan may be made with respect to such a unit unless a qualified private mortgage insurer has approved the applicable condominium or planned unit development; provided, however, for a *de minimis* planned unit development as defined in the agreement, the agency may waive the restrictions in this subsection.

§147.15. Target Area Residences. The agency will reserve for at least one year up to 20% of the lendable proceeds of its bond issue for mortgage loans in specified targeted areas. The agency intends to advertise the availability of funds for mortgage loans in targeted areas, and may refer applicants for mortgage loans to any participant. Participants must exercise diligence in seeking to finance residences in targeted areas. A list of targeted areas is available on request from the agency.

§147.16. Permitted Encumbrances. A first lien on the residence must secure all mortgage loans. Permitted encumbrances include those liens, covenants, conditions, and restrictions, right of ways, easements, and other matters of public record permitted under the applicable sellers' guides.

§147.17. Qualified Mortgage Insurers. To be a qualified mortgage insurer requires approval by the agency. A list of approved and qualified mortgage insurers is available on request from the agency.

§147.18. Mortgage Document Delivery Procedures.

(a) The agency's lender's manual details the specific documents that a participant must submit with each mortgage loan to be purchased by the agency. Prior to issuing a commitment to an eligible borrower, the loan must be approved for primary mortgage insurance, if necessary, and the agency's program compliance agent (pool insurer), if applicable.

(b) If the agency considers any documents constituting the mortgage loan file materially defective or inaccurate, the participant must cure the defect within 60 days after notice. If not so cured, the participant must repurchase the mortgage loan from the agency, in accordance with the terms of the agreement.

§147.19. Purchase Price and Dates. The agency expects to purchase mortgage loans every two weeks on the dates specified in the calendar of purchase dates provided to participants in the agency's origination manual.

§147.20. Servicing Fees. Participants may retain a monthly servicing fee, as specified and authorized in the agreement,

computed on the unpaid principal balance of each mortgage loan as of the day preceding the last day on which a scheduled payment of principal was made. Participants may collect and retain late charges, as specified in the agreement, for delinquent mortgage loans.

§147.21. Loan Servicing Guidelines. Participants must service mortgage loans in accordance with the servicing standards set forth in the FNMA home mortgage servicer's contract supplement or the FHLMC servicer's guide or other applicable document, (collectively the "servicing guides") in effect during the term of the program, except as may be specifically modified in the agreement or in the agency's origination or servicing manuals. Participants must provide consolidated reports to the agency covering all loans originated under the program, irrespective of which branch office of the participant originated the mortgage loan. A participant may, in accordance with the agreement and with the consent of the agency, transfer all its servicing under the program to another participant. Participants need not prepare or file any forms or other documents required by the servicing guides, except as specifically required in the agreement or as the agency may reasonably request. All references in the servicing guides to FNMA or FHLMC, or other mortgage purchaser, will be deemed to refer to the agency. Each participant must perform all of its duties in servicing mortgage loans for the agency with due care, diligence, and reasonable promptness, and shall use at least the same degree of care as it would employ in servicing mortgage loans on behalf of FNMA or FHLMC.

§147.22. Late Charges by Agency. As provided in the agreement, the agency reserves the right to impose late charges on participants who fail to remit timely mortgage loan reports or receipts.

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TRD-856633

Earline Jewett
Executive Administrator
Texas Housing Agency

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For further information, please call
(512) 475-0812.



TITLE 19. EDUCATION
Part II. Texas Education
Agency
Chapter 89. Adaptations for
Special Populations
Subchapter E. General Educational
Development

★ 19 TAC §§89.111, 89.112,
89.116-89.118

The Texas Education Agency adopts on an emergency basis amendments to §§89.111, 89.112, and 89.116-89.118, concerning general educational development (GED) certificates. Legislative action requires that a fee be established for the issuance and reissuance of GED certificates. The recommended fee has been derived by examining the costs of this function and dividing by the number of certificates issued. The GED department issues approximately 45,000 new certificates annually and reissues approximately 5,000 additional certificates.

The amendment to §89.111 changes references to the Texas Education Agency to the Central Education Agency and provides that this is the only agency in Texas authorized to issue a certificate of high school equivalency on the basis of the GED tests.

The amendment to §89.112 allows education service centers to also be test centers; however, education service centers are not required to add this function. References to the Texas Education Agency have been changed to the Central Education Agency.

The amendments to §89.116 and §89.117 change references to the name of the Texas Education Agency to the Central Education Agency.

The amendment to §89.118, concerning issuance of the certificate, provides for a nonrefundable fee of \$5.00 to be assessed for issuance and reissuance of certificates and for transcripts. Fees for issuance and reissuance of certificates and for transcripts shall be waived for residents and inmates of city, county, state, and federal health and correctional facilities.

These amendments are adopted on an emergency basis so that agency practice concerning issuance of GED certificates will be in compliance with current law.

The amendments are adopted on an emergency basis under the Texas Education Code, §11.35, which directs the State Board of Education to provide for the administration of high school equivalency examinations and to fix and require payment of a fee for issuance of a certificate.

§89.111. Policy. The Central [Texas] Education Agency shall be the only agency

in Texas authorized to issue a certificate of high school equivalency on the basis of the general educational development (GED) tests. Tests shall be administered by authorized contracted testing centers in accordance with applicable state law, and rules of the American Council on Education and the State Board of Education.

§89.112. Official Testing Centers.

(a) When authorized by the Central [Texas] Education Agency, official testing centers shall be established by annual contract with an accredited school district, [or] institution of higher education, or education service center. The center must be located at a high school in an accredited district, an adult learning center, [or] an accredited institution of higher learning, or education service center. The chief administrative officer of a school, [or] institution, or education service center desiring to provide the GED testing service to residents in the community must request authorization to do so from the Central [Texas] Education Agency. If the need for a testing center in the location exists, the appropriate agency official, in writing, shall inform the American Council on Education that the establishment of an official testing center is authorized at that particular institution. The center will be sent four copies of an annual contract by the American Council on Education, together with order forms and other material relating to the operation of the testing center. The contract forms must be signed by the chief administrative officer of the school, [or] institution, or education service center.

(b) The chief administrative officer of the school, [or] institution, or education service center at which an official testing center is established must agree to maintain test records permanently and to provide appropriate storage for restricted test materials and a suitable place for administering the test. Each center is responsible for selection and ordering of test materials.

(c) The administrative officer of a school district, or education service center, must designate a certified counselor and the officer of an institution of higher education must designate a professional person with a background in testing and counseling to serve as chief examiner. The person designated chief examiner shall not be involved in the preparation of persons for the examinations. The chief administrative officer must obtain prior authorization from the Central [Texas] Education Agency to change the chief examiner or the location of a testing center.

(d) Testing centers may transport restricted test material to county, state, or municipal correctional and health facilities if authorization to do so has been obtained. The chief administrative office of an institution housing an official testing center and the administrator of the correctional or health facility must request authorization to provide the testing services from the Cen-

tral [Texas] Education Agency. Only the exact number of tests needed at a test session may be transported, and the scoring and reporting of test results must be done at the official test center site. Testing services at correctional or health facilities shall be limited to inmates or patients of the facility, and the tests must be administered by an employee of the school district, [or] institution of higher learning, or education service center housing the test center.

(e) The authorization to function as an official testing center may be withdrawn by the Central [Texas] Education Agency when a center has failed to maintain the integrity of the testing program. The agency may suspend testing at a center if restricted test material is reported missing or if the test center does not properly identify applicants to be tested.

(f) Official testing centers may charge a fee for test administration. The amount of the fee shall be determined by the administration or by the board of the school district, [or] institution, or education service center.

(g) (No change.)

§89.116. Testing the Handicapped.

(a) (No change.)

(b) Severely handicapped or ill persons who cannot travel to the test center may be administered the tests at home. Prior approval to transport the tests shall be requested from the Central [Texas] Education Agency by the chief examiner.

(c) Applicants who are unable to take the printed form of the test may be administered a taped version of the test upon written authorization of the Central [Texas] Education Agency. A request by the chief examiner must be accompanied by certification by a physician that verifies a medical diagnosis of the disability which renders the potential examinee unable to take the printed form of the test.

(d) Applicants who are visually handicapped may take the test in a braille, large print, or taped version. Versions of the test in these forms are available from the Central [Texas] Education Agency.

§89.117. Reporting Test Scores.

(a) Test centers shall send a report of test results to the Central [Texas] Education Agency for all persons who pass the test.

(b) (No change.)

(c) The official report of test results, a signed GEDTS Form 30, shall be used only to report scores to an official test center, to the Central [Texas] Education Agency, or to another state department of education.

§89.118. Issuance of the Certificate.

(a) (No change.)

(b) Following review for eligibility and approval, certificates will be issued directly to client. A nonrefundable fee of \$5.00 will be assessed for issuance and reissuance of certificates and for transcripts. Fees for issuance and reissuance of certifi-

ates and for transcripts shall be waived for residents and inmates of city, county, state, and federal health and correctional facilities. [No fee will be assessed for issuance or reissuance of certificates.] A permanent file will be maintained for all certificates issued.

(c)-(f) (No change.)

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W. N. Kirby
Commissioner of
Education

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For further information, please call
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★ ★ ★



Chapter 133. Pupil-School Relations

Subchapter B. Discipline Management

★ 19 TAC §§133.26-133.28

The Texas Education Agency adopts on an emergency basis new §§133.26-133.28, concerning removal of incorrigible pupils, alternative education program, and discipline of handicapped students.

These new sections implement the Texas Education Code, §21.301 and §21.3011. The Texas Education Code, §21.301, provides that, upon finding a student guilty of incorrigible conduct, the board of trustees of a school district or the board's designee may remove the student to an alternative education program. Types of alternative programs which may be used are listed in the statute. The district must make a reasonable effort to provide for the continuing education of students removed to an alternative education program. The term of removal to an alternative education program may not exceed the end of the semester in which the conduct which caused the removal occurred, except that for conduct which occurred during the last six-week period in a semester, the removal may not extend beyond the end of the following semester.

New §133.26 provides additional clarification to school districts concerning implementation of the Texas Education

Code, §21.301. Terms used in the statute are defined. The definition of the term "home-based instruction" specifies that the student is to be given assignments to be completed at home, and that instructional services shall be provided to the student. Placement in home-based instruction should be used only when there is no reasonable alternative less severe and shall not exceed 10 consecutive days except as specified in subsection (c)(4)(C). The term "school property" is defined to include property visited by students in connection with a school-sponsored activity. "Serious offenses" are defined to include, without being limited to, assaulting a teacher; selling, giving, or delivering to another person, or possessing or using marijuana or a controlled substance, a dangerous drug, a firearm, illegal knife, club, or other prohibited weapon, as each of these is defined in law, or an alcoholic beverage; being under the influence of one of these substances; or committing arson.

Subsection (b) permits school districts to remove a student from class or from school district premises for nondisciplinary reasons when a compelling reason exists for doing so. For example, if the student is under the influence of alcohol or drugs, highly agitated, or suffering from any other condition which temporarily threatens his or her welfare, or that of others or the efficient operation of the school. School districts are encouraged to adopt strict guidelines for using this option to remove a student from campus. In most cases the student should be able to return by the next day. Any removal under these provisions of more than three days is discouraged, although not prohibited by the section.

Subsection (c) describes the hearing procedures to be used in determining whether a student is incorrigible and should be removed to an alternative education program. No hearing is required prior to the use of any discipline management technique which does not constitute expulsion or removal to an alternative education program.

Section 133.27, concerning expulsion, implements the Texas Education Code, §21.3011. Expulsion is the total deprivation of educational services, as distinguished from home-based instruction, which is an alternative education program. Students may be expelled only under the following two kinds of conditions: a student has assaulted a teacher or other individual on school property and the continued presence of the student presents a clear and present danger; or the student has engaged in continued incorrigible conduct which hinders the school's ability to deliver an education to other students and no further reasonable efforts to provide for the student's continuing education can be made. School districts may expel a student for up to the remainder of the school year, or up to the end of the following semes-

ter if the conduct occurred during the last six weeks of the school year.

Section 133.27 sets out due process requirements for the expulsion process, including requirements for notice of charges; the right to a hearing with legal counsel or other adult assistance; and the opportunity to testify, present evidence and witnesses, and examine the evidence and witnesses presented by the administration.

Section 133.28, concerning discipline for handicapped students, clarifies that a handicapped student may be disciplined in accordance with the same rules and guidelines followed for nonhandicapped students provided it has been determined that the misconduct in question is not related to the student's handicapping condition or to an inappropriate placement. If the disciplinary action being considered would be an assignment of less than 10 days to an alternative education program, the determination of the behavior-handicap connection may be made by a group of three professionals defined in the section. If this group determines there is no connection, the disciplinary action can proceed as it would for a nonhandicapped student. If, however, the group believes there is a link between the student's behavior and handicapping condition or placement, or if the disciplinary action being considered is placement for 10 or more days in an alternative education program or expulsion, then the question of linkage and the appropriate disciplinary action must be considered by an admission, review, and dismissal (ARD) committee.

A provision for removal of handicapped students in emergency situations for compelling reasons other than to an alternative education program, similar to that in §133.26 for nonhandicapped students, is also included for handicapped students. Again, this procedure may only be used for compelling reasons, as defined in §133.26(b)(1). For handicapped students the removal under this provision shall not exceed five consecutive school days.

These sections are adopted on an emergency basis to ensure that school district have guidance concerning requirements for student discipline as they begin their planning and conduct their inservice training for the start of the 1985-1986 school year.

These new sections are adopted on an emergency basis under the Texas Education Code, §21.701, which directs the Central Education Agency to review and approve or reject discipline management programs developed by school districts and requires the agency to monitor, through the accreditation process, the development, implementation, and enforcement of discipline management programs.

§133.26. Removal of Incurable Pupils; Alternative Education Program.

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

(1) Class disruption—Any behavior, including tardiness, which violates the rules of a particular classroom and interferes with the teacher's opportunity to present material or the other students' opportunity to concentrate on the material or their assignments.

(2) Community-based alternative school—A program for students who have been removed from the students' assigned campus for incorrigible conduct and placed in a supervised educational setting operated by a school district in cooperation with other school districts, juvenile agencies, or other governmental entities.

(3) Discipline management technique—Any action which is intended to promote proper behavior and/or discourage misconduct other than expulsion or removal to an alternative education program, including, but not limited to, student-teacher conferences, suspension of extracurricular activities, detention, etc.

(4) Expulsion/suspension—The total deprivation of educational services for disciplinary reasons except as modified for handicapped students outlined in §133.28 of this title (relating to Discipline of Handicapped Students).

(5) Home-based instruction—An unsupervised educational setting whereby a student removed for incorrigible conduct is given assignments to be completed at home. Instructional services shall be provided and may include access to school facilities.

(6) In-school suspension program—An on-campus setting for students who commit disciplinary infractions, where the student continues to receive instruction in each course to the extent possible.

(7) Parents—Includes single parent, legal guardian, or person in lawful control.

(8) Proceeding—Any hearing required by law which may result in a student's expulsion or removal to an alternative education program.

(9) Reassignment of classes—The removal of a student for incorrigible conduct from his or her assigned classroom to another class on the same campus. To the extent possible, the student should continue to receive instruction in the courses he or she was enrolled in when the removal became effective.

(10) School-community guidance center—A program that meets the requirements for school-community guidance centers as specified under the Texas Education Code, §§21.601-21.606.

(11) School property—Any property owned by the school district or over which the school district or its personnel exert lawful authority, including property vis-

ited by students in connection with school-sponsored activity, such as a field trip or extracurricular activity.

(12) Serious offenses on school property—Serious offenses include, but are not limited to:

(A) assaulting a teacher or other individual;

(B) selling, giving, or delivering to another person or possessing or using:

(i) marijuana or a controlled substance, as defined by the Texas Controlled Substances Act, Texas Civil Statutes, Article 4476-15, or by 21 United States Code §801 *et seq*;

(ii) a dangerous drug, as defined by the Texas dangerous drug law, Texas Civil Statutes, Article 4476-14; or

(iii) a firearm as defined by the Penal Code, §46.01(3); an illegal knife as defined by the Penal Code, §46.01(6); a club as defined by the Penal Code, §46.01(1); or a weapon listed as a prohibited weapon under the Penal Code, §46.06; or

(iv) an alcoholic beverage, as defined by the Alcoholic Beverage Code, §1.04, or commits a serious act or offense while under the influence of alcohol.

(C) being under the influence of any of the substances listed in subsections (s)(12)(B)(i), (ii), and (iv) of this section. A student need not be legally intoxicated to be considered "under the influence," but the student's faculties must be impaired to a noticeable extent; or

(D) committing arson as defined by the Penal Code, §28.02.

(13) Transfer to a different school campus—The removal of a student for incorrigible conduct from his or her assigned campus to another campus within the same school district.

(14) Unsupervised educational setting—For the purpose of this section an unsupervised educational setting shall be home-based instruction.

(b) Removal from class for reasons other than removal to an alternative education program.

(1) The board of trustees or its designee may remove a student from his or her regular classes or from school district premises for nondisciplinary reasons whenever the board or its designee determines that a compelling reason exists for doing so. Reasons which may be considered compelling include, but are not limited to, the fact that the student is under the influence of alcohol or drugs, highly agitated, or suffering from any other condition which temporarily threatens his or her welfare, other individuals' welfare, or the efficient operation of the school. Any student who is removed from school premises pursuant to this subsection and who is in a condition that threatens his own welfare or the welfare of others must be released to the student's parent, a representative of the parent, or other proper authority, including, but not

limited to, law enforcement officers and medical personnel.

(2) The board of trustees or its designee may remove a student from his or her regular classes or school premises pending any hearing required by law. Such removal must be for as short a time as is reasonable under the circumstances.

(3) Prior to removing a student from school premises under this subsection, the student shall be informed of the reason for the removal and given an opportunity to state any objections to such action.

(4) The district shall make reasonable efforts to notify the parent prior to removing a student from school premises under this subsection. If the parent cannot be notified prior to removal, the parent must be notified as soon as possible after the removal and the reasons for it.

(5) A teacher may remove any student from class for a serious class disruption or for repeated class disruptions. Each school district shall develop procedures in its discipline management program for the removal of students from class for reasons other than to place a student in an alternative education program. These procedures shall include methods to allow teacher recommendations; at the teacher's request, may provide for conferences between the teacher, the student, the student's parents, or an appointed administrator; and shall provide a process to allow a teacher to appeal administrative action placing a student back in class after repeated removals.

(6) A student who is removed from his or her regular classes pursuant to this section must be allowed to perform his or her regular assignments as if the removal had not occurred and shall not receive an unexcused absence.

(7) No removal pursuant to this section shall be considered a removal to an alternative education program.

(c) Removal to an alternative education program.

(1) Removal permitted. The board of trustees or its designee may conclude that a student is incorrigible if the student, on school property, has committed one or more serious offenses listed in subsection (a)(12)(A)-(D) of this section.

(2) Procedure at the hearing.

(A) No hearing is required prior to the use of any discipline management technique which does not constitute expulsion or removal to an alternative education program.

(B) Prior to the imposition of any removal to an alternative education program, a hearing must be conducted, at which the following minimum requirements must be met:

(i) the student shall be advised of the conduct with which he or she is charged;

(ii) the student shall be given the opportunity to explain his or her version of the incident; and

(iii) the pupil's parents, guardian, or a representative designated by rules adopted by the board of trustees is entitled to notice of and to participate in a disciplinary proceeding under this section.

(C) Any hearing may be recorded using any reliable means by any party to the proceeding.

(3) Appeals. Where an initial decision to remove a student to an alternative education program is made by the board's designee, the decision may be appealed to the board of trustees.

(4) Assessment.

(A) Placement in home-based instruction should be used only when there is no reasonable alternative less severe and shall not exceed 10 consecutive school days in any one semester.

(B) The removal of a student to an alternative education program may not exceed the end of the semester in which the conduct occurred, unless the conduct occurred during the final six weeks of a semester, in which case the removal may not exceed the end of the following semester. If the conduct occurred during the final six weeks of the school year, the removal may not exceed the end of the following fall semester.

(C) As an exception to subsection (c)(4)(A) of this section, placement in home-based instruction shall be considered appropriate for the maximum term of removal set forth in subsection (c)(4)(B) of this section for the students who engage in the following incorrigible conduct on school property:

(i) assaults a teacher or other individual;

(ii) sells, gives, or delivers to another person or possesses or uses a prohibited weapon as defined in subsection (a)(12) of this section;

(iii) sells, gives, or delivers to another person or possesses with the intent to sell or distribute alcohol, marijuana, controlled substance, or a dangerous drug as defined in subsection (a)(12) of this section;

(iv) repeatedly possesses for personal use or uses alcohol, marijuana, controlled substance, or a dangerous drug as defined in subsection (a)(12) of this section; or

(v) commits arson as defined in subsection (a)(12) of this section.

(D) School districts may not impose scholastic penalties against students for disciplinary infractions under this section.

(5) Removal during appeal. During the pendency of any appeal to the state commissioner of education, a removal to an alternative education program by the board of trustees may be effected.

§133.27. Expulsion.

(a) Definition. The definitions set forth in §133.26 of this title (relating to Removal of Incurrigible Pupils; Alternative Education Program) are applicable to this section.

(b) Expulsion proceeding.

(1) The student may only be expelled by written order setting the term of the expulsion.

(2) Before the expulsion, the board or its designee must provide the student a hearing at which the student is afforded requisite due process which shall include the following:

(A) prior notice of the charges and the proposed sanctions as to afford a reasonable opportunity for preparation;

(B) right to a full and fair hearing before a competent forum;

(C) right to an adult representative or legal counsel;

(D) opportunity to testify and to present evidence and witnesses in his or her defense; and

(E) opportunity to examine the evidence presented by the school administration and to question the administration's witnesses.

(c) Student's status pending appeal.

A student may be denied the privileges of his or her home campus pending appeal of an expulsion, provided that he or she is not charged with unexcused absences during such time and is allowed to remain current on all coursework. However, if the student's appeal is denied, he or she need not be given credit for any coursework performed during the pendency of the appeal.

(d) Duration of expulsion. A student who is expelled may be expelled for the remainder of the school year. The expulsion may not extend beyond the end of the school year, unless the conduct for which the expulsion was assessed occurred during the final six weeks of the school year, in which case the expulsion may not extend beyond the end of the following fall semester.

§133.28. Discipline of Handicapped Students. Disciplinary actions regarding handicapped students shall be in accordance with §133.26 of this title (relating to Removal of Incurrigible Pupils; Alternative Education Program) and §133.27 of this title (relating to Expulsion), except as noted in this section.

(1) Handicapped student. For the purpose of this section, a handicapped student is a student who has been evaluated in accordance with 34 Code of Federal Regulations §§300.530-300.533, and §89.233 of this title (relating to Comprehensive Individual Assessment) and determined by an admission, review, and dismissal (ARD) committee as being orthopedically handicapped, other health impaired, auditorially handicapped, visually handicapped, deaf-blind, mentally retarded, emotionally disturbed, learning disabled, speech handicapped, autistic, multiply handicapped, or pregnant, who because of those impairments needs special education and related services.

(2) Removal to an alternative education program.

(A) Removal to an alternative education program for a period not to exceed 10 consecutive school days may be effected if a qualified group of professionals first determines that the alleged behavior in question was not related to the handicapping condition or an inappropriate placement. The qualified group of professionals must consist of at least the following members:

(i) a special education teacher who is familiar with the student and the student's individual educational plan (IEP) and is reasonably available;

(ii) a special education support person (all reasonable efforts shall be made to ensure that the person chosen is qualified to interpret assessment data relative to the behavior-handicap-placement link in the case of the individual student being considered); and

(iii) the designated building administrator.

(B) If the qualified group of professionals determines there is a connection, the ARD Committee must review the decision and determine what action is appropriate.

(C) The term of a handicapped student's removal to an alternative education program shall be assessed in accordance with the requirements of §133.26(c)(4) of this title (relating to Removal of Incurrigible Pupils; Alternative Education Program). However, removal for more than 10 consecutive school days may be effected only through ARD committee action.

(3) Removal for reasons other than to an alternative education program.

(A) Removal of a handicapped student from a class or school for reasons other than to an alternative education program may only be done for compelling reasons as noted in §133.26(b)(1) of this title (relating to Removal of Incurrigible Pupils; Alternative Education Program) and shall not exceed five consecutive school days. Any student who is removed from school premises pursuant to this subsection and who is in a condition that threatens his own welfare or the welfare of others must be released to the student's parent, a representative of the parent, or other proper authority, including, but not limited to, law enforcement officers and medical personnel.

(B) Removal under this section is intended to be used in emergency situations only and consecutive five school day removals are prohibited.

(C) Prior to removing a student from school premises under this subsection, the student shall be informed of the reason for the removal and given an opportunity to state any objections to such action.

(D) The district shall make reasonable efforts to notify the parent prior to removing a student from school premises under this subsection. If the parent cannot be notified prior to removal, the parent

must be notified as soon as possible after the removal and the reasons for it.

(4) Removals totaling 15 school days. When the total number of days a handicapped student is removed to an alternative education program, or removed from class for reasons other than removal to an alternative education program, or both totals 15 school days in any one school year, an ARD committee review of the student's IEP shall be conducted unless such removal is warranted in the student's discipline management plan specified in the student's IEP.

(5) Sanctions specified in students' IEP. The requirements of §133.26 of this title (relating to Removal of Incurable Pupils; Alternative Education Programs), §133.27 of this title (relating to Expulsion), and paragraph (2) and paragraph (3) of this subsection shall not apply to disciplinary sanctions implemented in accordance with specifications in the student's IEP.

(6) Expulsion of handicapped students.

(A) Expulsion may be effected for a handicapped student who is engaging in conduct which would warrant such action for nonhandicapped student under §133.27 of this title (relating to Expulsion) only if the ARD committee determines the misconduct is not related to the handicapping condition or inappropriate placement.

(B) In determining whether a student's disruptive behavior was related to a student's handicapping condition, the ARD committee shall base its decision on current evaluation and assessment data and on review of the current IEP documentation rather than on established eligibility or previous committee decisions. The committee shall consider whether the student's behavior indicates the need for new assessment or evaluation data.

(C) The ARD committee shall determine the educational services to be provided during the time of expulsion. The student's IEP shall include goals and objectives designed to assist in returning the student to school and preventing significant regression.

(D) If the ARD committee determines that the student's disruptive behavior is related to the handicapping condition or inappropriate placement, the student shall not be expelled. If the disruptive behavior on the part of the student indicates an inappropriate placement, the ARD committee shall review the placement and recommend alternatives.

(7) The provisions of §89.222(d) of this title (relating to Parent Participation in ARD Committee Meetings) are applicable in circumstances arising under this section.

(8) Local officials should be aware that persistent discipline problems or disruptive conduct exhibited by a student who has not previously been a discipline problem might warrant referral for assessment. However, a regular education student

is not entitled to avoid disciplinary action pending any assessment.

(9) The exclusion of a handicapped student from his or her home campus pending appeal of an expulsion may not exceed 10 days without ARD Committee action to determine appropriate services in the interim.

Issued in Austin, Texas, on July 26, 1985.

TRD-856823

W. N. Kirby
Commissioner of
Education

Effective date: July 29, 1985
Expiration date: November 26, 1985
For further information, please call
(512) 475-7077.

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 115. Home Health Care Agencies

Licensing and Regulation

★25 TAC §115.14

The Texas Department of Health adopts on an emergency basis new §115.14, concerning licensing fees for home health care agencies. This section is also proposed for permanent adoption in this issue of the *Texas Register*. The department is adopting the section on an emergency basis to implement the requirements of Senate Bill 957, 89th Legislature, 1985, which became effective on June 15, 1985. This bill requires that the Texas Board of Health establish, by rule, licensing fees for home health care agencies. Since this law is now in effect, the board has adopted §115.14 on an emergency basis to begin implementing the statutory mandate immediately.

This new section is adopted on an emergency basis under Texas Civil Statutes, Article 4447u, §8, as amended by Senate Bill 957, 89th Legislature, 1985, effective June 15, 1985, which authorize the Texas Board of Health to set home health services licensing fees, and §4, which authorizes the board to adopt rules covering home health care agencies; and Article 6252-13a, §5(d), which authorizes the agency to adopt rules on an emergency basis.

§115.14. Licensing Fees.

(a) The schedule of fees for licensure as a Class A and B home health agency is as follows:

- (1) initial license fee—\$450;
- (2) renewal license fee—\$450;
- (3) initial branch office license fee—\$200;

(4) renewal branch office license fee—\$200.

(b) The department will not consider an application as officially submitted until the applicant pays the application fee. The fee must accompany the application form.

(c) Fees paid to the department are not refundable.

(d) Any remittance submitted to the department in payment of a required fee must be in the form of a certified check, money order, or personal check made out to the Texas Department of Health.

Issued in Austin, Texas, on July 22, 1985.

TRD-856872

Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Effective date: July 31, 1985
Expiration date: November 28, 1985
For further information, please call
(512) 458-7245.

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TITLE 28. INSURANCE

Part I. State Board of Insurance

(Editor's note: Because the State Board of Insurance's rules have not yet been published in the Texas Administrative Code (TAC), they do not have designated TAC numbers. For the time being, the rules will continue to be published under their Texas Register numbers. However, the rules will be published under the agency's correct title and part.)

Taxes and Fees

Fees, Charges, and Costs

★059.04.07.014

The State Board of Insurance adopts on an emergency basis an amendment to Rule 059.04.07.014, concerning a charge for the compilation of insurance-related legislation. This compilation is prepared after each legislative session for use by the board's staff and other interested persons, pending publication by the board of an updated bound volume of the Insurance Code and pending updating of laws in other volumes such as Texas Civil Statutes.

It is the board's opinion that an imminent peril to the public welfare requires that the rule be amended on an emergency basis to increase the charge for the compilation. Statutory law requires that the charge cover the board's cost of production. It is extremely important that the public be informed and aware of statutory law changes to comply with applicable law. This creates an imminent peril

to the public welfare which requires that the proper charge be adopted immediately, so that the compilation of insurance-related legislation may be distributed to the public.

The amendment is adopted on an emergency basis under the Insurance Code, Article 4.07, which requires the board to collect a sales charge for making copies of materials within its jurisdiction in an amount deemed sufficient to reimburse the state for its actual expense.

.014. Charge for Insurance-Related Legislation. Subsequent to each legislative session, the board publishes copies of insurance-related legislation. The charge for the 1985 publication is \$10 [\$5.00] plus applicable sales tax.

Issued in Austin, Texas, on July 25, 1985.

TRD-856718

James W. Norman
Chief Clerk
State Board of
Insurance

Effective date: July 25, 1985

Expiration date: November 22, 1985

For further information, please call
(512) 475-2950.

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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration Subchapter Q. Franchise Tax

★ 34 TAC §3.403

The Comptroller of Public Accounts adopts on an emergency basis amendments to §3.403, concerning gross receipts and determining percent of Texas business. One amendment reflects a change to the Franchise Tax Act made by the 68th Legislature, Second Called Session, 1984. The new throwback rule legislation provides that each sale of tangible personal property shipped from Texas to a purchaser in another state will be considered a Texas receipt when the seller is not subject to taxation in the state to which the property is shipped. The amendment dealing with the throwback rule clarifies the term "subject to taxation" by specifying that a corporation which performs any of the activities listed in §3.406(c), concerning foreign corporations doing business in Texas and liability for franchise tax, in the state of delivery will be considered subject to taxation in that state. A related amendment makes it clear that receipts from the sale of goods delivered to a third-party carrier for delivery to a purchaser outside Texas will be "thrown back" to Texas and con-

sidered Texas receipts, if the seller is not subject to taxation in the state of delivery. A subsection also is amended to reflect a change in the method for reporting a corporation's income from a partnership or joint venture in which it is a partner or joint venturer. Another amendment results from legislation passed during the 1984 special session and clarifies the fact that the allocation of dividends and interest received by banking corporations differs from that for all other corporations and is specifically addressed in §3.411, concerning banking corporations. Two entire subsections and part of a third are deleted because they are addressed in other sections.

The amendments are adopted on an emergency basis to give guidance to affected taxpayers in the area of the new throwback legislation. Current provisions do not fully address all the questions which have arisen, and inquiries from taxpayers and from auditors have demonstrated a need for immediate action. Further, questions and confusion in the area of the new bank franchise tax have demonstrated a need for immediate adoption of the amendments in the section pertaining to allocation of dividends and interest received by banking corporations.

These amendments are adopted on an emergency basis under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the franchise tax.

§3.403. Gross Receipts: Determining Percent of Texas Business.

(a) **Definitions.** The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise. [The portion of a corporation's "taxable capital" as that term is defined in Article 12.01, that is allocated and apportioned to Texas is determined by multiplying such taxable capital by an allocation percentage, which is the percentage relationship which the gross receipts from its business done in Texas bear to the total gross receipts of the corporation from its entire business, both within and outside the State of Texas. The terms "gross receipts from its business done in Texas" and "total gross receipts of the corporation from its entire business" are defined in Article 12.02. The only exception from the foregoing is special reporting method granted to a corporation by the comptroller under the provisions of §3.393 of this title (relating to Special Reporting Procedures—Texas Civil Statutes, Article 1202, Chapter 12, Title 122A). In this section, the phrases "Texas receipts" and "business done in Texas" are synonymous and use interchangeably]

(1) Gross receipts from business done in this state (Texas receipts and gross receipts from business done in this state are

synonymous and may be used interchangeably)—the sum of a corporation's receipts from:

(A) each sale of tangible personal property if the property is delivered or shipped to a purchaser in this state regardless of the F.O.B. point or other conditions of the sale;

(B) for reports due on or after October 2, 1984, each sale of tangible personal property shipped from this state to a purchaser in another state in which the seller is not subject to taxation;

(i) another state—a state of the United States, the District of Columbia, Puerto Rico, or any territory or possession of the United States;

(ii) subject to taxation—constitutional nexus. The seller must have sufficient contact with the other state that it could impose tax on the seller; however, the seller need not actually pay tax in the other state. If the seller is doing business, has a certificate of authority, is incorporated or required to pay tax in another state, the seller is subject to taxation in that state. Voluntarily collecting or paying a tax to another state, by itself, is not enough contact to make sales to the other state non-Texas receipts. A corporation which performs any of the activities listed in §3.406(c) of this title (relating to Foreign Corporations Doing Business in Texas: Liability for Franchise Tax) in the other state will be considered subject to taxation in the other state. The selling corporation must have nexus in the other state during the accounting year upon which the franchise tax is based in order to have non-Texas receipts during that year;

(C) each service performed in this state;

(D) each rental of property situated in this state;

(E) that portion of each royalty for the use of a patent or copyright in this state; and

(F) other business done within this state.

(2) Gross receipts from its entire business—The sum of a corporation's receipts from:

(A) each sale of the corporation's tangible personal property;

(B) each service, rental, or royalty;

(C) other business.

(b) Determining the amount of taxable capital allocated to this state. The part of a corporation's taxable capital used to determine the amount of franchise tax due this state is obtained by multiplying the corporation's taxable capital by an allocation fraction, the numerator of which is the corporation's gross receipts from business done in this state, and the denominator of which is the corporation's gross receipts from its entire business. A corporation must use this allocation method unless it is granted permission to use a special reporting method

by the comptroller under the provisions of §3.393 of this title (relating to Special Reporting Procedures).

(c)(b) General rules of application.

(1) (No change.)

(2) Receipts of a car company subject to the Gross Receipts Tax, Texas Taxation General Annotated, Chapter 11, which are not based on its car company operations are not exempt from the franchise tax.]

(2)(3) An occupation tax, or other similar excise tax, may not be deducted from the sales price charged to customers in determining gross receipts in franchise tax calculations.

(3)(4) For the purpose of determining whether a particular transaction constitutes business done in this state [Texas], the dividing line between Texas waters and international waters is established at 10.359 statute miles, or nine nautical miles from the Texas coastline.

(4)(5) In long-term construction contracts, actual monies received must be used in calculating receipts for franchise tax purposes, as distinguished from the amounts that are billed or from recognition of income.

(5)(6) Insurance payments received on fire and casualty claims to repair or replace damaged or destroyed property are not receipts in franchise tax calculations. However, business interruption insurance payments are gross receipts for franchise tax purposes when the proceeds are to replace lost net profits.

(6)(7) Amounts received from subleases are reportable as gross receipts.

(7)(8) When a corporation changes its accounting year, gross receipts for the 12-month period ending with the new accounting year end must be used in calculating the percentage of business in Texas.

(8)(9) Advance rentals paid by a lessee are receipts which must be allocated to the years for which the rentals are paid.

(9)(10) Gains on the sale of real property are allocated to the state in which the realty is located.

(10)(11) Net gains and losses rather than gross sales price from the sales of investments and capital assets shall be added together to determine the total receipts from such transactions. If there is a net loss, the corporation must report zero receipts from such transactions. If only part of such transactions are Texas sales, for the purpose of allocating the receipts under the Texas Tax Code, §§171.103- 171.106 and 171.108 [Article 12.02], a separate calculation must be made of the net gains and losses of the Texas sales.

(11)(12) Regardless of the method of accounting for investments in subsidiaries and affiliated corporations, dividends paid, rather than earnings of the subsidiary or investee, constitute gross receipts in the

accounting year in which received by the parent or investor.

(12)(13) In the absence of an election to report under one of the two optional reporting methods referred to in this paragraph, a transportation company is required to report as Texas receipts only those receipts derived from the transportation of goods or passengers in intrastate commerce (wholly within Texas).

(A) Optional methods: Transportation companies transporting goods or passengers in interstate commerce may determine their percentage of business in Texas using:

(i) total mileage inside the borders of Texas and total mileage everywhere; or

(ii) total mileage in transporting goods or passengers picked up and delivered within Texas and total mileage everywhere.

(B) The taxpayer must maintain adequate records to validate the percentage of business in Texas determined under this paragraph. Should the taxpayer report using one of the alternative methods allowable under this paragraph, such action will constitute an irrevocable election of the alternate reporting method for the reporting period. A prospective election for a different reporting method may be made at any time.

(13)(14) The fact that sales to the federal government are completed on a federal enclave [government reservation] does not remove the receipts from such sales from franchise tax calculations. [A corporation is not relieved from payment of the franchise tax by reason of residing in a federal reservation and receiving income from sales and services completed in the reservation.]

(14)(15) Deliveries of oil and gas pursuant to written exchange agreements between oil and gas companies do not result in receipts for franchise tax calculations.

(15)(16) A sale to an out-of-state purchaser with delivery or transfer of possession to the purchaser occurring within Texas, constitutes gross receipts from business done in this state [Texas], regardless of F.O.B. point or other conditions of the sale.

(16)(17) Receipts from intercorporate sales and charges for services rendered between parent and subsidiary, or between other related corporations, constitute gross receipts for franchise tax calculations, as a parent and its subsidiaries, or other affiliated corporations, are separate legal entities. The foregoing applies even though the sales or services are centralized in one of the corporations and reimbursement to it is based on the actual cost expended in behalf of the other corporations.

(17)(18) Commissions of a stock broker for services performed in buying and selling on the stock exchanges are allocated on the basis of the percentage of such ser-

vices performed in Texas and the percentage performed in other states.

(18)(19) A corporation's share of the gross receipts [net profit] from a partnership or joint venture in which the corporation is a partner or joint venturer constitutes receipts to the corporation. [If the partnership or joint venture operates at a net loss, the corporation's share of the loss results in zero receipts for franchise tax calculations.] For the purpose of allocating receipts under the Texas Tax Code, §§171.103-171.106 and 171.108 [Article 12.02], receipts from partnerships or joint ventures having their principal place of business in Texas are considered Texas receipts.

(19)(20) The "location of payor" test is used in determining whether dividends and interest are attributable as receipts from business done in Texas. In accordance with that test, dividends and interest paid by a domestic corporation are includible in gross receipts from business done in this state [Texas], whereas dividends and interest paid by a foreign corporation do not constitute Texas [gross] receipts. (See §3.411 of this title (relating to Banking Corporations) for allocation dividends and interest received by banking corporations.) Consequently:

(A) dividends and interest paid by a bank organized under the Banking Code of Texas are includible in gross receipts from business done in this state [Texas], and

(B) dividends and interest paid on or after January 1, 1983, by a national bank whose principal office is located within Texas are includible in gross receipts from business done in this state [Texas].

(20)(21) Gross receipts coming into the hands of the receiver of a corporation in receivership are gross receipts of the corporation.

(21)(22) For franchise tax purposes, a [DISC] (domestic international sales corporation) is treated the same as any other corporation doing business in Texas, except that a commission DISC, if it desires to do so, may use the percentage of Texas business of its parent which does business in Texas.

(22)(23) Where a seller prepays freight charges for goods and merchandise shipped to a customer and enters the charges as a separate item in the sales invoice, the reimbursement of the freight charges by the customer does not give rise to gross receipts in the seller's franchise tax calculations.

(23)(24) A Federal Power Commission ruling which requires refunds of price increases by a gas public utility results in a reduction in receipts rather than an expense to the utility. Adjustments as may be required to gross receipts, percentage of business in Texas, and surplus must be made for each year during which the increase was in effect, depending on whether the price increase is carried on the corporate books as receipts or as a liability.

(24)[(25)] Charges made by a hotel, motel, or other lodging facility for local telephone calls at a fixed charge per call or per rental unit are gross receipts for franchise tax calculations. However, charges for long distance charges are not gross receipts if the lodging facility charges the same amount billed by the telephone company for the call.

(25)[(26)] State or federal tax refunds do not constitute gross receipts.

(26)[(27)] Bad debt recoveries do not constitute gross receipts.

(27)[(28)] Installment sales. (For the period in which receipts from installment sales are includible, see §3.405 of this title (relating to Surplus and Undivided Profits).)

(28)[(29)] If a corporation's books and records do not accurately reflect a division between Texas and out-of-state receipts, the comptroller may project an allocation of Texas receipts based upon any information available.

(d)[(c)] Transactions not resulting in Texas [gross] receipts.

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

(3) The sale of oil, goods, or merchandise delivered to a third-party carrier for delivery outside the State of Texas, does not constitute gross receipts from business done in this state [Texas], regardless of F.O.B. designation, unless it is established that the oil, goods, or merchandise were delivered to a purchaser in Texas, or unless subsection (a)(1)(B) of this section applies.

(4)-(5) (No change.)

(6) The Texas Tax Code, §171.104 [Article 12.02(1)(c)], allows a deduction from Texas receipts based on sales of drugs, medicines, or other products exempted under the Texas Tax Code, §151.313 and §151.314(a) [Section (M) Article 20.04 of Texas Taxation General Annotated (Vernon 1969)], to the extent such sales are shipped from outside the State of Texas. The sale of drugs, medicines, or other products are exempt under §151.313 [(M)] only when prescribed or dispensed for humans or animals by a licensed practitioner of the healing arts. Consequently, the deduction in the Texas Tax Code, §171.104 [Article 12.02(1)(c)] is allowable for drugs, medicines, or other products shipped into Texas from outside the state only when prescribed for humans or animals by a licensed practitioner.

(e)[(d)] Transactions resulting in Texas [gross] receipts.

(1) The sale of oil or gas by a Texas producer to an interstate pipeline company, with delivery and passage of title and possession in Texas, results in receipts from business done in this state [Texas].

(2) (No change.)

(3) The delivery in Texas of petroleum products into barges leased or owned by the purchaser constitutes delivery to the purchaser in Texas, and, consequently, re-

sults in gross receipts from business done in this state [Texas].

(4) (No change.)

(5) All revenues of a radio or television operation which broadcasts or transmits from stations within Texas constitute Texas receipts, even though some of the listening and viewing audiences are outside the state, except revenues from programs filmed or otherwise developed by a station in Texas which are [is] sold or leased to a national media for broadcasting or transmitting by the national media.

(6) A lease of personal property contracted in Texas may, depending upon the legal situs of the personal property at the time of the lease, constitute business done in Texas without regard to where the property is used.]

Issued in Austin, Texas, on July 29, 1985.

TRD-856769

Bob Bullock
Comptroller of Public
Accounts

Effective date: August 4, 1985

Expiration date: December 2, 1985

For further information, please call
(512) 475-1913.

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TITLE 43.

TRANSPORTATION Part I. State Department of Highways and Public Transportation

Chapter 25. Maintenance Division

Oversize and/or Overweight Permits for Certain Oil Well Related Vehicles

The State Department of Highways and Public Transportation adopts on an emergency basis the repeal of existing §25.91 and §25.92, new §25.91 and §25.92, and an amendment to §25.95, concerning permits for certain oil well related vehicles, fees for oil well vehicles and equipment, and oil well servicing equipment permits.

The repeal is adopted simultaneously with the emergency adoption of new sections governing the same matters. The emergency status is necessary because of the need to regulate and control the movement of these oil well servicing vehicles, which will provide protection for the traveling public and the state's investment in the highway system.

★43 TAC §25.91, §25.92

(Editor's note: The text of the following rules repealed on an emergency basis will not be published. The rules may be examined in the offices of the State Depart-

ment of Highways and Public Transportation, 11th and Brazos Streets, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is adopted on an emergency basis under Texas Civil Statutes, Article 6666 and Article 6701d-16, which provide the State Highway and Public Transportation Commission with the authority to establish rules for the conduct of the work of the department and, specifically, for the movement of oversize-overweight oil well servicing vehicles.

§25.91. *Permits for Certain Oil Well Related Vehicles.*

§25.92. *Fees for Oil Well Vehicles and Equipment.*

Issued in Austin, Texas, on July 29, 1985.

TRD-856827

Diane L. Northam
Administrative
Technician
State Department of
Highways and Public
Transportation

Effective date: July 30, 1985

Expiration date: November 27, 1985

For further information, please call
(512) 475-2141.

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These new sections are adopted on an emergency basis under Texas Civil Statutes, Article 6666 and Article 6701d-16, which provide the State Highway and Public Transportation Commission with authority to establish rules for the conduct of the work of the department and specifically for the movement of oversize-overweight oil well servicing vehicles.

§25.91. *Permits for Certain Oil Well Related Vehicles.* Oversize and/or overweight permits may be issued to permit movement of oil well servicing, oil well clean out, and/or oil well drilling machinery and equipment in compliance with the following:

(1) Only oil well servicing, oil well clean out, and/or oil well drilling machinery or equipment constructed as a machine used solely for servicing, cleaning out, and/or drilling oil wells, and consisting in general of a mast, an engine for power, a draw works, and a chassis permanently constructed or assembled for such purposes shall be eligible for the \$5.00 permit license plate.

(2) All vehicles or equipment of the previously specified classification using the public highways of the State of Texas must be either legally registered in accordance with regular registration procedures for motor vehicles or licensed with a permit license plate before they can obtain the special oversize/overweight permits described in Texas Civil Statutes, Article 6701d-16.

(3) Vehicles or equipment of the previously specified classification that consist of a combination truck-tractor and trailer shall be provided with regular truck-tractor registration for the truck-tractor portion and a \$5.00 permit license plate for the trailer.

(4) Legal vehicles may be licensed with a permit plate but must also have an annual permit at a fee of \$75 per axle per year. This permit shall be concurrent with the Texas registration year and shall be prorated.

(5) All vehicles other than legal, operating under time permits, shall be charged a minimum fee of \$35 per axle for 90 days or \$12 per axle for 30 days.

(6) A vehicle operating on the public streets or highways of this state with a permit license plate must also have on the vehicle and available for inspection to law enforcement officers, a time or trip permit issued under authority of Texas Civil Statutes, Article 6701d-16. The permit must be in full force and effect and any such vehicle operating without such permit shall be deemed to be operating unregistered and unlicensed and the owner or operator thereof, as provided by applicable statutes, shall be required to purchase regular Texas registration for the full registration year plus 20% penalty as provided by Texas Civil Statutes, Article 6675a-3a. It is further provided that if such vehicle is found to be operating not in accordance with the provisions of the permit it shall also be considered to be operating unregistered and unlicensed and such vehicle shall be required, as provided by applicable statutes, to be registered with regular commercial registration for the full registration year plus 20% penalty.

(7) Vehicles operating under a valid time permit may for special single trips obtain a special single trip permit for a fee of \$20.

(8) Vehicles not exceeding nine feet wide, legal height, and/or 55 feet long shall be allowed 24 hour continuous movement but not in excess of the time limit stated on the permit.

(9) Vehicles displaying machinery license plates which are overweight and/or oversize may be issued only single trip permits under provisions of Texas Civil Statutes, Article 6701a.

(10) When an applicant desires to move an unregistered oil well servicing, drilling and/or clean out vehicle, such vehicle shall be issued a 72 hour temporary registration permit and a single trip permit issued under provisions of Texas Civil Statutes, Article 6701d-16.

(11) Vehicles having a width over 12 feet and/or length over 95 feet shall not be eligible for time permits but shall be permitted to move only on single trip permits issued under the provisions of Texas Civil Statutes, Article 6701d-16.

(12) Permit fees under provision of Texas Civil Statutes, Article 6701d-16, shall be in accordance with the schedule in §25.92 of this title (relating to Fees for Oil Well Vehicles and Equipment) implemented if necessary to cover machinery or equipment not anticipated by said schedule.

(13) The maximum weight for any single axle or any axle within an axle group shall not exceed 25,000 pounds, and such weight shall not exceed 650 pounds per inch of tire width using low pressure tires.

(14) The requirement for property damage insurance is cancelled.

§25.92. Fees for Oil Well Vehicles and Equipment.

(a) Fees for permits for vehicles and equipment described in §25.91 of this title (relating to Permits for Certain Oil Well Related Vehicles) with \$5.00 permit license plates or full registration shall provide payment of a base fee of \$.015 per mile for each 1,000 pounds (or fraction thereof) above legal gross load; \$.06 per mile for each foot (or fraction thereof) above legal width; \$.04 per mile for each foot (or fraction thereof) above legal length of 40 feet on single unit equipment or above 57 feet length for semi-trailers. The base fee per mile for each 1,000 pounds (or fraction thereof) above maximum legal axle weight or maximum legal tandem axle weight shall be based upon the following chart:

Number of Axles	Weight Range (in pounds)	Fee/1,000# Per Mile
Single	20,001 to 25,000	\$.04
2 Axle Group	34,001 to 40,000	\$.04
	40,001 to 45,000	\$.06
	45,001 to 50,000	\$.10
3 Axle Group	42,001 to 50,000	\$.04
	50,001 to 60,000	\$.06
	60,001 to 70,000	\$.10
	70,001 to 75,000	\$.16
4 Axle Group	50,001 to 60,000	\$.04
	60,001 to 70,000	\$.06
	70,001 to 80,000	\$.10
	80,001 to 90,000	\$.16
	90,001 to 100,000	\$.22

(b) In addition to the base fee for each permit, the issuance fee shall be \$20 for single trip permits, \$40 for 30-day permits, and \$80 for 90-day permits. There is no issuance fee for annual permits.

(c) For time permits the mileage upon which fees are computed shall be a percentage of the total mileage of all highway routes selected by the permittee considering the total mileage of the selected routes to the nearest 10 miles. For 30-day and 90-day time permits this percentage shall be 30%. For single trip permits, the mileage upon which fees are computed shall be based on the mileage of the permitted movement. Annual permits do not have a mileage use rate.

(d) The total permit fee for 30-day time permits and 90-day time permits shall be the sum of the basic fee plus the issuance

fee or the total minimum fee, whichever is the greater amount. The total permit fee for single trip permits shall be the sum of the basic fee plus the issuance fee.

(e) Permit fees for unladen lift equipment motor vehicles displaying full registration shall receive a registration reduction of 25% in the computation of the basic fee. Vehicles displaying a machinery license plate do not receive a registration reduction.

(f) Time permits for truck-tractor semitrailer units for which the truck-tractor only is fully registered shall be issued for the semitrailer and the rates as previously stated for vehicles with \$5.00 permit license plates shall govern except that any load above the legal load on the rear axles of the truck-tractor shall be disregarded in computing the basic fee. The length and gross weight fee calculations shall be based on the combined unit.

Issued in Austin, Texas, on July 29, 1985.

TRD-856826

Diane L. Northam
Administrative
Technician
State Department of
Highways and Public
Transportation

Effective date: July 30, 1985
Expiration date: November 27, 1985
For further information, please call
(512) 475-2141.

★ ★ ★

★43 TAC §25.95

The amendments are adopted on an emergency basis under Texas Civil Statutes, Article 6688 and Article 6701d-16, which provide the State Highway and Public Transportation Commission with the authority to establish rules for the conduct of the work of the department and, specifically, for the movement of oversize-overweight oil well servicing vehicles.

§25.95. (Oilwell Servicing Equipment) Permits for Vehicles Transporting Liquid Fracing Products, Liquid Waste Products, and Unrefined Liquid Petroleum Products.

(a) Truck-tractor and semitrailer tankers, which are legal size and legal weight and registered for maximum legal gross weight, and specifically designed with a tank and pump unit for transporting liquid fracing products used in fracturing oil wells and/or vehicles designed to transport unrefined liquid petroleum [oil well waste] products or any [unrefined] liquid waste product [petroleum products] from oil wells not connected to a pipeline, may secure annual permits to haul their loads over all state maintained highways. These loads shall not cross any load zoned bridge. These permits shall run concurrently with the registration year, April 1 through the following March 31, and may be prorated. The fee for these

permits is applied to the axles [tandem axle group] of the semitrailer portion only. These fees are prorated on a monthly basis. The fee for these permits is listed as follows:

(1) \$50 [\$100] per axle [tandem]—to haul liquid [oil well] waste products or unrefined liquid petroleum products from wells not connected by a pipeline and return empty;

(2) \$50 [\$100] per axle [tandem]—to haul liquid fracing products to a well and return empty;

(3) \$100 [\$200] per axle [tandem]—to haul liquid fracing products

to a well and return with liquid [oil well] waste products or unrefined liquid petroleum products from a well not connected to a pipeline.

(b) Only one semitrailer can be listed on a permit, and it shall not exceed 57 feet in length, legal width, legal height, and shall not exceed legal weight limits. [The requirements of regular registration and evidence of property damage insurance in the amount of \$50,000 shall be met prior to issuance of the permit.]

Issued in Austin, Texas, on July 29, 1985.

TRD-856828

Diane L. Northam
Administrative
Technician
State Department of
Highways and Public
Transportation

Effective date: July 30, 1985
Expiration date: November 27, 1985
For further information, please call
(512) 475-2141.

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Proposed Rules

Before an agency may permanently adopt a new or amended rule, or repeal an existing rule, a proposal detailing the action must be published in the *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 rule. Also, in the case of substantive rules, 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 rule is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a rule.

TITLE 1.

ADMINISTRATION

Part III. Office of the Attorney General

Chapter 57. Rental-Purchase Act Compliance

★ 1 TAC §57.1

The Office of the Attorney General proposes new §57.1, concerning a form rental-purchase agreement, which rental-purchase companies may elect to use to satisfy the requirements of an agreement under the Texas Business and Commercial Code, §35.71, *et seq.* The Office of the Attorney General proposes to adopt by reference this section consisting of a form agreement and explanatory notes on how to use the form agreement.

Stephen Gardner, assistant attorney general, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

The cost for compliance with the rule for small businesses will be approximately \$.10 in reproduction costs each time the form agreement is used. Assuming there are 600 transactions per year, the cost of compliance is \$60 annually. Based on cost per \$100 of sales, the cost of compliance for small businesses will be the same as the cost of compliance for the largest businesses affected by the rule.

Mr. Gardner also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is increased consumer awareness of rights and responsibilities under the law and, therefore, more informed decisions regarding rental-purchase agreements.

The anticipated economic cost to individuals who are required to comply with the rule as proposed, based on a projected 600 transactions per year at a reproduction cost of \$.10 per transaction, is \$200 in 1985 and \$600 in each year in 1986-1989.

Comments on the proposal may be submitted to Stephen Gardner, Assistant Attorney General, 714 Jackson Street, Suite 700, Dallas, Texas 75202-4506.

The new section is proposed under the Texas Business and Commerce Code, §35.72(b), which provides the Office of the Attorney General with the authority to provide a form agreement that may be used to satisfy the requirements of agreement under the Business and Commerce Code, Chapter 35, Subchapter F.

§57.1. Rental-Purchase Form Agreement. The Office of the Attorney General adopts by reference a rental-purchase form agreement which can be obtained from Stephen Gardner, 714 Jackson Street, Suite 700, Dallas, Texas 75202.

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 July 29, 1985.

TRD-856800

Rick Gilpin
Chairman, Opinion
Committee
Office of the Attorney
General

Earliest possible date of adoption:
September 6, 1985
For further information, please call
(512) 475-5445.

★ ★ ★

TITLE 7. BANKING AND SECURITIES

Part I. State Finance Commission

Chapter 3. Banking Section Subchapter A. Securities Activities and Subsidiaries

★ 7 TAC §3.6

The State Finance Commission proposes new §3.6, concerning purchase of stock issued by corporations organized solely to make agriculture loans. The new section sets forth provisions for a state-chartered bank to purchase for its own account shares of stock issued by a corporation organized solely to make loans to farmers and ranchers for agriculture purposes.

Jorge A. Gutierrez, general counsel, has determined that for the first five-year period the rule will be in effect there will

be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Mr. Gutierrez also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule as proposed is competitive equality in the dual banking system. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Jorge A. Gutierrez, 2601 North Lamar, Austin, Texas 78705.

The new section is proposed under Texas Civil Statutes, Article 342-113, which provide the State Finance Commission with the authority to promulgate rules not inconsistent with the constitution and statutes of the state.

§3.6. Purchase by State-Chartered Bank of Stock Issued by Corporations Organized Solely for the Purpose of Making Agriculture Loans. A state-chartered bank may purchase for its own account shares of stock issued by a corporation organized solely for the purpose of making loans to farmers and ranchers for agriculture purposes, including the breeding, raising, fattening, or marketing of livestock. However, unless the bank owns at least 80% of the stock of such agricultural credit corporation the amount invested by the bank at any one time in the stock of such corporation shall not exceed 20% of the unimpaired capital and surplus of the bank. State-chartered banks shall have the same rights and privileges to make such investments that are or may be granted to national banks of the United States domiciled in this state.

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 July 28, 1985.

TRD-856784

Jorge A. Gutierrez
General Counsel
State Finance
Commission

Earliest possible date of adoption:
September 6, 1985
For further information, please call
(512) 475-4451.

★ ★ ★

(Editor's note: A notice appeared in the July 30, 1985, issue of the Texas Register indicating that the following proposals by the Texas Savings and Loan Department would appear in this issue. Earliest possible date of adoption for the documents is August 30, 1985.)

Part IV. Texas Savings and Loan Department Chapter 65. Loans and Investments

★ 7 TAC §§65.1-65.13

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Savings and Loan Department, 2601 North Lamar Boulevard, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Savings and Loan Department proposes the repeal of §§65.1-65.13, concerning loans and investments. The proposed repeal is made in conjunction with the proposal of an entirely rewritten Chapter 65.

L. L. Bowman III, Texas savings and loan commissioner, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Bowman also has determined that for each year of the first five years the repeal is in effect there is no public benefit anticipated as a result of the repeal. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to L. L. Bowman III, Savings and Loan Commissioner, Finance Commission Building, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705.

The repeal is proposed under Texas Civil Statutes, Article 342-114, which provide the Savings and Loan Section of the State Finance Commission with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend the same.

- §65.1. *Definitions of Improved Real Estate, Home, and Business Property.*
- §65.2. *Real Estate Loans.*
- §65.3. *Wrap-Around Mortgage.*
- §65.4. *Enlargement of Powers.*
- §65.5. *Leasehold Interests Loans.*
- §65.6. *Commercial, Consumer, and Manufactured Home Loans.*
- §65.7. *General Provisions.*
- §65.8. *Letters of Credit.*
- §65.9. *Net Worth Requirement.*

- §65.10. *Loans to Officers and Directors.*
- §65.11. *Loan Approval.*
- §65.12. *Association Investment in Real Property.*
- §65.13. *Investment in Deferred Payment Obligations*

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 July 22, 1985.

TRD-856570 L. L. Bowman III
Commissioner
Texas Savings and Loan
Department

Earliest possible date of adoption:
August 30, 1985
For further information, please call,
(512) 475-1250.

★ ★ ★

★ 7 TAC §§65.1-65.16

The Texas Savings and Loan Department proposes new §§65.1-65.16, concerning types of loans, letters of credit, and investments authorized; definitions; limitation on loans to one borrower; residential real estate loans; commercial real estate loans; unimproved real estate loans; personal property loans; oil and gas loans; wrap-around real estate loans; loans to officers, directors, and employees; unsecured loans; loan documentation; letters of credit; investments in real property; investments in deferred payment obligations, and investment in securities.

L. L. Bowman III, Texas savings and loan commissioner, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

Mr. Bowman also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is the clarification of current rules. In most cases, current standards have been maintained. Changes have been made to security requirements for making loans, loan to one borrower restrictions on certain types of loans, and loan documentation. All of these changes promote the sound regulation of savings and loan institutions in Texas. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to L. L. Bowman III, Savings and Loan Commissioner, Finance Commission Building, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705.

The new sections are proposed under Texas Civil Statutes, Article 342-114,

which provide the Savings and Loan Section of the State Finance Commission with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend same.

§65.1. *Types of Loans, Letters of Credit, and Investments Authorized.*

(a) An association may make, commit to make, purchase, or commit to purchase any loan or investment it could make if it were incorporated and operating as a federal association domiciled in this state.

(b) An association may make, commit to make, purchase, or commit to purchase the following types of loans or participations:

(1) residential real estate loans, in accordance with §65.4 of this title (relating to Residential Real Estate Loans);

(2) commercial real estate loans, in accordance with §65.5 of this title (relating to Commercial Real Estate Loans);

(3) unimproved real estate loans, in accordance with §65.6 of this title (relating to Unimproved Real Estate Loans);

(4) personal property loans, in accordance with §65.7 of this title (relating to Personal Property Loans);

(5) oil and gas loans, in accordance with §65.8(a) of this title (relating to Oil and Gas Loans);

(6) wrap-around real estate loans, in accordance with §65.9 of this title (relating to Wrap-Around Real Estate Loans);

(7) loans to officers, directors, or employees of the association, in accordance with §65.10 of this title (relating to Loans to Officers, Directors, and Employees); and

(8) unsecured loans, in accordance with §65.11 to this title (relating to Unsecured Loans).

(c) A loan secured by a first lien on a leasehold interest in real property and improvements situated thereon shall be considered a residential or commercial real estate loan, as applicable under this chapter, provided, if the term of the loan is five years or less, then the unexpired term of the leasehold estate must extend or be automatically renewable for a period equal to twice the term of the loan, and if the term of the loan is more than five years, the unexpired term of the leasehold estate must extend or be automatically renewable for a period of at least five years beyond the duration of the loan.

(d) An association may sell, with or without recourse, any loan the association may make under this chapter.

(e) An association may service any loans sold by the association.

(f) An association may issue and honor letters of credit in accordance with §65.13 of this title (relating to Letters of Credit).

(g) An association may purchase the following types of investments:

(1) interests in real property, in accordance with §65.14 of this title (relating

to Investment in Real Property);

(2) interests in deferred payment obligations, in accordance with §65.15 of this title (relating to Investment in Deferred Payment Obligations); and

(3) interests in securities, in accordance with §65.16 of this title (relating to Investment in Securities).

§65.2. Definitions. The following words and terms, when used in this chapter, shall have the following meanings:

Commercial real estate—Land on which structures or improvements which do not qualify the property as residential real estate are located, or land on which such nonresidential structures or improvements will be constructed, using proceeds of the loan in question.

Home—A structure designed and used as a residence by one family, or a structure designed and used for occupancy for one to four family units if one of such units is owner-occupied or the borrower in good faith intends to occupy. The term also includes common areas, around town houses or condominium units, which are incidental to ownership of the residence.

Loans—The total amounts of funds advanced under a loan agreement or commitment plus any additional advances and interest due and unpaid, less repayments. The term also includes credit extended in the form of finance leases; potential liabilities under standby letters of credit, lines of credit, and guarantee or suretyship obligations, except to the extent the institution has recourse to cash or a segregated deposit account of its customer to indemnify it against such liabilities; undisbursed loan proceeds, unless the loan is subject to an overline purchase commitment of another financial institution; and investments in commercial paper and corporate debt obligations. The term does not include a loan or participation interest sold without recourse, a loan secured by a first lien on real estate subject to an annual contributions contract under the former United States Housing Act of 1937, §23, as amended, a loan on the security of the institution's deposit amounts, or a deposit or a loan of unsecured day(s) funds. The amount of an outstanding wrap-around loan is determined by the amount of funds advanced by the institution, except to the extent the institution has become liable to pay an obligation secured by a lien on the security property prior to its own.

One-borrower—Any person or entity that is, or that upon the making of a loan will become, obligor on a loan; nominees of such obligor; all persons, trusts, syndicates, partnerships, and corporations of which such obligor is a nominee, a beneficiary, a member, a general partner, a limited partner owning an interest of 10% or more (based on the value of his contribution), or a record or beneficial stockholder owning 10% or more of the capital stock; and if such obligor is a trust, syndicate, partner-

ship, or corporation, all trusts, syndicates, partnerships, and corporations of which any beneficiary, member, general partner, limited partner owning an interest of 10% or more, or record or beneficial stockholder owning 10% or more of the capital stock, is also a beneficiary, member, general partner, limited partner owning an interest of 10% or more, or record or beneficial stockholder owning 10% or more of the capital stock of such obligor. In the case of a loan that has been assumed by a third party with the consent of the lending institution, the former debtor shall not be deemed an obligor.

Personal property—Tangible and intangible property which is not real property, including the following items as defined in the Texas Business and Commerce Code: consumer goods, equipment, farm products, inventory, accounts, instruments, chattel paper, documents, general intangibles, cash proceeds and noncash proceeds.

Residential real estate—Land on which a house, a home, or an apartment house is located, or on which such structures will be constructed or placed, using proceeds of the loan in question.

Unimproved real estate—Land which has no structures or substantial improvements, and no utilities. All other real estate shall be considered residential real estate or commercial real estate.

§65.3. Limitations on Loans to One Borrower. No association shall make a loan or loans pursuant to this chapter to any one borrower which, in the aggregate, exceed \$50,000, or the association's net worth as defined in Chapter 64 of this title (relating to Books, Records, Accounting Practices, Financial Statements, Reserves, Net Worth), whichever is greater.

§65.4. Residential Real Estate Loans.

(a) An association may make loans or purchase participations in loans secured by a mortgage, deed of trust, or other instrument creating or constituting a first and prior lien on residential real estate, in the amount of 100% of the appraised value of the security property, or if the loan is for the purchase of the property, the purchase price, whichever is less, on the terms set out in this section.

(b) An association may make loans or purchase participations in loans secured by a mortgage, deed of trust, or other instrument constituting or creating a second lien on residential real estate, in an amount not to exceed 100% of the appraised value of the security property, or if the loan is for the purchase of the property, the purchase price, whichever is less, less the amount of the first lien indebtedness, on the terms set out in this section.

(c) Residential real estate loans may provide for variable interest rates, so long as the provisions for adjustments to the interest rate and payments comply with applicable provisions of the rules and regula-

tions for federal associations, 12 Code of Federal Regulations §545.33(e), promulgated by the Federal Home Loan Bank Board, and provided the term of the loan does not exceed 40 years.

(d) All residential real estate loans shall be repayable in monthly installments of principal and interest within a period not to exceed 40 years from the date the loan is made, unless other terms and repayment periods are allowed as specified in subsection (e) of this section.

(e) Monthly repayment of principal and interest is not required under the following circumstances:

(1) when the loan is repayable in quarterly, semiannual, or annual installments, provided such installments are in an amount sufficient to retire the debt, both interest and principal, within 20 years;

(2) when loan payments do not amortize principal, provided interest is payable at least semiannually and the term of the loan does not exceed five years;

(3) when the loan is an interim construction loan and the interest is payable at least semiannually, provided the loan matures and all principal and interest becomes payable within 36 months from the date the loan is made; or

(4) when the loan is on a home and provides for graduated monthly payments during a period not to exceed the first 10 years of the loan, provided the 40-year repayment provision of subsection (c) of this section is met, and provided:

(A) monthly payments during the first five years of the loan are in an amount sufficient to pay all interest due on the loan and all prorated taxes, insurance, and governmental charges assessable for the payment period; and any payments in excess of such amounts shall be credited to prepaid interest, principal, or escrow for taxes and insurance, at the borrower's option;

(B) monthly payments for years six-nine of the loan term are in an amount sufficient to pay all items stated in subparagraph (A) of this paragraph for the payment period, together with a principal payment sufficient to amortize the entire principal balance of the loan within a period not to exceed 50 years; and

(C) monthly payments after 10 years from the original date of the loan are in an amount sufficient to pay all items stated in subparagraph (A) of this paragraph, together with a principal payment sufficient to amortize the entire principal balance of the loan within a period not to exceed the next 30 years.

(f) Prior to funding a loan under this section, an association shall have in its loan file its loan file the documents and records required by §65.12(a) of this title (relating to Loan Documentation).

§65.5. Commercial Real Estate Loans.

(a) An association may make loans or purchase participations in loans secured by

a mortgage, deed of trust, or other instrument creating or constituting a first and prior lien on commercial real estate, in the amount of 100% of the appraised value of the security property or the purchase price, whichever is less, on the terms set out in this section.

(b) An association may make loans or purchase participations in loans secured by a mortgage, deed of trust, or other instrument constituting or creating a second lien on commercial real estate, in an amount not to exceed 100% of the appraised value of the security property, or if the loan is for the purchase of the property, the purchase price, whichever is less, less the amount of the first lien indebtedness, on the terms set out in this section.

(c) All commercial real estate loans shall be repayable in the same manner provided for residential real estate loans in §65.4 of this title (relating to Residential Real Estate Loans), except §65.4(e)(4).

(d) No loan made under this section shall include amounts to pay interest on the loan.

(e) Prior to funding a loan under this section, an association shall have in its loan file the documents and records required by §65.12(a).

§65.6. *Unimproved Real Estate Loans.*

(a) An association may make loans or purchase participations in loans secured by a mortgage, deed of trust, or other instrument creating or constituting a first and prior lien on unimproved real estate, in the amount of 100% of the appraised value of the security property, or if the loan is for the purchase of the property, the purchase price, whichever is less, on the terms set out in this section.

(b) An association may make loans or purchase participations in loans secured by a mortgage, deed of trust, or other instrument constituting or creating a second lien on unimproved real estate, in an amount not to exceed 100% of the appraised value of the security property, or if the loan is for the purchase of the property, the purchase price, whichever is less, less the amount of the first lien indebtedness, on the terms set out in this section.

(c) Any such loan must be repayable in the same manner provided for residential real estate loans in §65.4 of this title (relating to Residential Real Estate Loans), except §65.4(e)(4).

(d) No loan made under this section shall include amounts to pay interest on the loan.

(e) Prior to funding a loan under this section, an association shall have in its loan file the documents and records required by §65.12(a) of this title (relating to Loan Documentation).

§65.7. *Personal Property Loans.*

(a) An association may make loans or purchase participations in loans secured by

perfected first lien security interests in personal property as provided in the Texas Business and Commercial Code, in the amount of 100% of the appraised, or market value of the security property, or if the loan is for the purchase of the property, the purchase price, whichever is less, on the terms set out in this section.

(b) The aggregate amount of any such loans to one borrower shall not exceed \$50,000 or 25% of the association's net worth, whichever is greater.

(c) Any such loan must mature and become payable within 60 months from the date the loan is made, and interest must be payable at least semiannually.

(d) No loan made under this section shall include amounts to pay interest on the loan.

(e) Prior to funding a loan under this section, an association shall have in its loan file the documents and records required by §65.12(a)(1)-(8) of this title (relating to Loan Documentation). If other property (for example, residential or commercial real estate) is provided as security for the loan, the loan shall contain all additional documentation required by §65.12(a) of this title (relating to Loan Documentation) as though it were a loan secured solely by such other property.

§65.8. *Oil and Gas Loans.*

(a) An association may make loans or purchase participations in loans secured by a mortgage, deed of trust, or other instrument creating or constituting a first and prior lien on oil and gas reserves and other minerals in place and before they have been extracted from the ground. However, no other provision of this chapter shall be utilized to make loans or purchase participations in loans secured by oil and gas or other minerals.

(b) The aggregate amount of any such loans to one borrower shall not exceed \$50,000 or 10% of the association's net worth, whichever is greater.

(c) Any such loan must mature and become payable within 12 months from the date the loan is made, and interest must be payable at least semiannually.

(d) Any such loan may be in an amount not to exceed 100% of the appraised value of the security.

(e) Prior to funding a loan under this section, an association shall have in its loan file the documents and records required by §65.12(a) of this title (relating to Loan Documentation).

§65.9. *Wrap-around Real Estate Loans.*

(a) An association may make loans or purchase participations in wrap-around real estate loans provided that:

(1) the loan is secured by a lien on residential or commercial real estate on which there exists only one prior lien;

(2) the loan is evidenced by a note or bond which:

(A) principal amount equals the aggregate of the outstanding prior indebtedness plus the additional funds advanced by the wrap-around lender;

(B) requires payments by the wrap-around borrower to the wrap-around lender of periodic installments at least sufficient to make required current payments on the prior indebtedness; and

(C) requires the wrap-around lender to make the payments due on the prior indebtedness as long as installments are received from such borrower.

(b) Any such loan to be wrapped must also meet the terms for residential or commercial real estate loans, as applicable, set out in this chapter.

(c) Prior to funding a loan under this section, an association shall have its loan file the documents and records required by §65.12(a) of this title (relating to Loan Documentation).

§65.10. *Loans to Officers, Directors and Employees.*

(a) An association may make loans authorized by this chapter to any officer, director, or employee of the association on the following terms:

(1) prior to funding, the loan must be approved by all disinterested members of the board of directors, with the vote of each director reflected in the minutes, at a duly constituted meeting; and

(2) the loan shall be at an interest rate not less than the association's cost of funds and shall be on other terms no more favorable to the borrower than if the borrower were not an officer, director, or employee of the association.

(b) Prior to funding a loan under this section, an association shall have in its loan file the documents and records required by §65.12 of this title (relating to Loan Documentation), as applicable to the type of loan in question.

(c) All such loans shall fully comply with the applicable provisions of this chapter.

§65.11. *Unsecured Loans.*

(a) An association may make unsecured loans or purchase participations in unsecured loans, provided that the aggregate amount of such unsecured loans to one borrower shall not exceed \$50,000 or 10% of the association's net worth, whichever is greater.

(b) All such loans shall be repayable in substantially equal monthly installments of principal and interest within a period not to exceed five years from the date the loan is made, unless other terms and repayment periods are allowed in subsection (c) of this section.

(c) Such loans may provide for repayment of interest only, not less than quarterly, so long as the loan fully matures and becomes payable within 24 months from the date the loan is made, or such loans may provide for repayment of interest only, not

less than semiannually, so long as the loan fully matures and becomes payable with 12 months from the date the loan is made.

(d) Prior to funding a loan under this section, an association shall have in its loan file the documents and records required by §65.12(b) of this title (relating to Loan Documentation).

§65.12. Loan Documentation.

(a) Prior to funding any type of secured loan made or purchased under this chapter, an association shall have one permanent file for such loan at its home office (duplicate files may be maintained elsewhere) which shall contain the following documents and records before funding:

(1) an application for the loan, signed by the borrower or his agent, (if the borrower is a corporation, a board of directors resolution authorizing the loan) which discloses the purpose for which the loan is sought and the identity of the security property;

(2) a statement signed by the borrower or his agent disclosing the price at which the security is being purchased by the borrower, if the loan is made for the purpose of financing purchase of the security for the loan;

(3) a current financial statement signed by the borrower and a current documented credit report disclosing the financial ability of the borrower for these purposes (current is defined as a date within 90 days before the application is filed);

(4) a loan approval sheet, indicating the amount and terms of the loan, the date of loan approval, by whom approved, the signatures of the persons approving the loan, any conditions of approval, and certifying that the persons approving the loan have confirmed that applicable loan-to-one-borrower limitations are met;

(5) a loan disbursement statement, indicating the date, amount, and ultimate recipient of every disbursement of the proceeds of such loan (this requirement is not met by showing one or more disbursements to a title company or other escrow agent);

(6) a loan settlement statement, indicating in detail the expenses, fees, and charges the borrower or borrowers have paid in connection with such loan;

(7) a promissory note;

(8) indicia that the association has secured a first or a second lien on the property described in the mortgage, deed of trust, or other instrument creating or constituting such lien;

(9) an abstract of title with an attorney's opinion letter or a policy of title insurance, or binder of same, issued by a title company authorized to insure titles in this state showing that the lien securing such loan meets the requirements of the preceding subsection;

(10) evidence that the insurable improvements of the real estate are insured

against loss by a fire and extended coverage policy or its equivalent issued by an insurance company authorized to do business in this state and naming the association as a co-insured, as its interest may appear;

(11) a professional appraisal report by an appraiser or committee or appraisers appointed by the board of directors. Reappraisals may be required by the commissioner on real estate securing loans, at the expense of the association, when the commissioner has reason to believe the value of the security is overstated for any reason. The appraisal report shall be in writing and in a form approved by the American Institute of Real Estate Appraisers or the Society of Real Estate Appraisers and shall be signed by the appraiser or committee of appraisers. In the case of renewal of a loan, a written certification of current value by the original appraiser or an acceptable substitute shall satisfy this subsection.

(b) Prior to funding any unsecured loan under this chapter, an association shall have a single permanent file for such loan at its home office (duplicate files may be maintained elsewhere), which shall contain the documents and records required in subsection (a)(1)-(7) of this section.

(c) The permanent loan file required by this section shall be located at the association's home office or other location authorized by the commission. Other files containing loan documentation not required by this section may be maintained at the association's discretion.

(d) The permanent loan file shall contain evidence that the association obtained the prompt recording in the proper records of every mortgage, deed of trust, or other instrument creating, constituting, or transferring any lien securing in whole or part any loan made under this chapter, or the association's interest therein.

(e) The records of the association shall reflect that the board of directors has by appropriate resolution established procedures for the approval of all loans made by the association and specifically fixing the authority and responsibility for preliminary loan approval by officers and employees of the association. Loans originating in branch offices, loan offices, or agencies shall be approved in the same manner as loans originating in the principal office. The board of directors shall review and approve all real estate loans, and all other loans, except loans secured by savings accounts of the association and loans of less than \$10,000.

§65.13. *Letters of Credit.* An association may issue letters of credit in accordance with the terms and conditions of the Uniform Commercial Code of the State of Texas and in conformity with the following conditions:

(1) the association shall maintain a letter of credit register containing name of customer, address, amount of credit extended, and identifying number;

(2) each letter of credit shall conspicuously state that it is a letter of credit or shall be conspicuously entitled as such;

(3) the association's undertaking shall contain a specific expiration date or be for a definite term and be limited in amount;

(4) the association's obligation to pay shall arise only upon presentation of a draft or other documents as specified in the letter of credit and there shall be no obligation on the part of the association to determine questions of fact or law at issue between the account party and the beneficiary;

(5) the association shall obtain an unqualified obligation from its customer to reimburse it for payments made under the letter of credit;

(6) the amount of each letter of credit shall not exceed statutory and/or regulatory loan limitations in effect at the time of issuance, and letters of credit shall be included in computing loan limitations to one borrower; and

(7) an appropriate fee may be collected for each letter of credit issued.

§65.14. *Investment in Real Property.* An association may purchase, sell, own, rent, lease, manage, subdivide, develop, improve, operate for income, or otherwise deal in and with real property, whether improved or unimproved (excluding any investment of any nature in an oil and gas drilling venture whether such investment be in the stock of a corporate entity or in the partnership of joint venture interest of any entity making purchases or investments in oil and gas drilling ventures). Investments of an association under this section shall not at any one time aggregate more than an amount equal to 100% of an association's net worth. All investments in real property under the authority of this section shall be subject to the following conditions.

(1) All expenditures in connection with the purchase, construction, modernization, or improvement of such real property shall be charged to the capital account of such real estate.

(2) Net profit realized from the exercise of the authority granted herein shall be determined by the use of generally accepted accounting practices and principles as approved by the commissioner.

(3) Loans.

(A) An association may lend an amount not to exceed otherwise applicable lending limitations under the rules and regulations for loans on real estate, to finance the sale by it of real property, or portions thereof, acquired under the authority of this section, which loans shall be secured by the real property sold and the terms of such loans shall be in accordance with otherwise applicable lending rules and regulations.

(B) An association selling raw land or developed building sites, or any project permitted under this section, may receive as a part of the consideration a pro-

missory note which provides for complete payment within the terms and limits established by the applicable section of this chapter. In the event an appraisal was secured at the time of original investment, which supported the amount of the investment, then no appraisal shall be required as to the value of the real property sold if the sale exceeds the association's investment in said real property. Upon consummation of the sale, the real property sold shall no longer be used in calculating the amounts allowed to be invested by the association under the authority of this section, but in the event of foreclosure, then the property shall become foreclosed real estate.

(4) No investment pursuant to the authority granted in this section shall be held by an association more than five years, unless the commissioner shall have extended in writing the time in which such disposition shall be made.

(5) No director, officer, or employee of an association or any of their associates shall have any interest in the proceeds of an investment made by the association to acquire real property under this section or to construct or modernize improvements on such real property, unless full disclosure of all relevant factors of such relationship is made to the board of directors of the association and unanimously approved by the board of directors prior to the making of such investment; and further provided, that full disclosure of all relevant factors pertaining to such relationship together with the results of the board of directors' action, be forwarded to the savings and loan commissioner and his consent obtained before the making of any such investment. The associates of an officer, director, or employee shall mean his immediate family members; his parents, spouse, brother, sisters, children, and anyone married to one of the foregoing persons; any corporation of which the officer, director, or employee is an officer, director, or owner of more than 10% of the outstanding voting securities; and trust of which the officer, director, or employee is a trustee or beneficiary; and any partnership of which the officer, director, or employee is a general partner or limited partner owning an interest of 10% or more.

(6) If the commissioner finds that an association has abused or is abusing the authority granted in this section, he may, at his discretion, deny such association the right to future exercise thereof until such abuse or abuses have been corrected.

(7) A state chartered savings association, domiciled and authorized to do business in Texas, or its wholly owned subsidiary, may participate in the purchase, investment in, and the development and improvement of real property as provided in this section, with other state-chartered savings associations, federal savings and loan associations, commercial banks or mutual banks insured by the FDIC, the wholly

owned subsidiaries of the foregoing, or an individual, firm, or corporation.

(8) An association may not invest more in office buildings occupied by the association than an amount equal to its net worth as reflected by its books at the time of such investment unless the investment of a greater amount is authorized by the commissioner in writing.

(9) No association shall carry any real estate on its books at a sum in excess of the total amount invested by such association on account of such real estate, including advances, costs and improvements, but excluding accrued but uncollected interest unless the commissioner has specifically approved in writing a higher valuation. An association selling real estate under a contract of sale may carry the amount due the association under the terms of such contract as an asset upon its books; provided, that at no time shall the contract be considered as having an asset value greater in amount than the sales price agreed upon in the contract, or greater in amount than the value at which such property so sold was permitted to be carried upon the books of the association.

(10) An association shall appraise every parcel of real estate at the time of acquisition and upon completion of any permanent improvements. The report of such appraisal shall be in writing and kept in the records of the association.

§65.15. Investment in Deferred Payment Obligations. Any association may invest its funds in deferred payment obligations, either secured or unsecured, arising out of loans made by others, and in deferred payment obligations arising out of installment sales contracts, provided, in respect to each obligation, that:

(1) the obligation is in the form of a promissory note and, the association is indemnified against any and all claims and defenses the debtor may assert against the association for defects, misrepresentation, breach of warranty, nondelivery, common law fraud, and lack of or failure of consideration;

(2) as to any obligation arising under subtitle one of the Consumer Credit Code, Texas Civil Statutes, Article 5069, and any amendments to or revisions thereof, the investing association is indemnified against any and all claims and defenses the debtor may assert against the association for defects, misrepresentation, breach of warranty, nondelivery, common law fraud, and lack of or failure of consideration.

(3) as to all obligations subject to the Consumer Credit Code, the requirements of the Code have been fully met;

(4) all obligations purported to be secured by personal property are accompanied by a security agreement and a financing statement capable of perfecting a security interest in said property in the holder;

(5) all obligations purported to be

secured, arising out of transactions concerning improvements to real property, shall be accompanied by either a security agreement and a financing statement capable of perfecting a security interest in the holder in any fixtures constituting security or any instrument creating a valid lien on the real estate improved, whichever is appropriate to the transaction;

(6) the investing association could have made a direct loan to the obligor for the amount of the cash advance or principal balance of the obligation and for the repayment period thereof under this chapter.

§65.16. Investment in Securities.

(a) An association shall have power to invest in obligations of, or guaranteed as to principal and interest by, the United States or this state; in stock of a federal home loan bank of which it is eligible to be a member, and in any obligations or consolidated obligations of any federal home loan bank or banks; in stock or obligations of the Federal Savings and Loan Insurance Corporation; in stock or obligations of a national mortgage association created by federal law or any successor or successors thereto; in demand, time, or savings deposits with any bank or trust company the deposits of which are insured by the Federal Deposit Insurance Corporation; in stock or obligations of any corporation or agency of the United States or this state, or in deposits therewith to the extent that such corporation or agency assists in furthering or facilitating the association's purposes or power; in savings accounts of any association operating under the provisions of this Act and of any federal association; in bonds, notes, or other evidences of indebtedness which are a general obligation of any city, town, village, county, school district, or other municipal corporation or political subdivision of this state; and in such other securities or obligations approved by the commissioner. No security owned by an association shall be carried on its books at more than actual cost thereof unless a different treatment is permitted by the commissioner in writing.

(b) An association investing in securities under this section shall insure that the securities are delivered to the association or a bank acting as trustee for the association within one business day after paying for or becoming obligated to pay for the securities. The association may employ as trustee a federal home loan bank, a federal reserve bank or the trust department of a bank which is insured by the Federal Deposit Insurance Corporation. When employing any of the foregoing banks as trustee to accept delivery of the securities, the association shall insure that it receives a trust receipt issued by the bank for the securities within one business day of the bank's receipt of the securities.

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 July 22, 1985.

TRD-856571

L. L. Bowman, III
Commissioner
Texas Savings and Loan
Department

Earliest possible date of adoption.

August 30, 1985

For further information, please call
(512) 475-1250



Part VII. State Securities Board Chapter 101. General Administration

★ 7 TAC §101.2

The State Securities Board proposes an amendment to §101.2, concerning classification of regulatory standards, to reflect amendments to the Texas Securities Act, §35, made by the 69th Legislature, 1985. The statutory amendment allows the board to charge up to \$100 for a legal interpretation by the board's general counsel; the proposed amendment implements the statutory provisions and clarifies how requests for interpretations will be treated.

Richard L. Latham, securities commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule. The fiscal ramifications were addressed by the 69th Legislature, 1985, prior to enactment of the amendment.

Mr. Latham also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the formalization of the process of requesting legal interpretations from the board's general counsel, clarification of the requirements for requesting such an interpretation and clarification of the types of responses by the general counsel. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Denise Voigt Crawford, State

Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendment is proposed under Texas Civil Statutes, Article 581, §28-1 and §35.b, which provide respectively that the board may adopt rules and regulations, classify securities, persons, and matters within its jurisdiction, prescribe different requirements for different classes, and charge a fee of \$100 for legal interpretations of the Securities Act or board rules by the board's general counsel.

§101.2. Classification of Regulatory Standards.

(a)-(e) (No change.)

(f) Interpretations by general counsel [Advice concerning exemptions].

(1) The board's general counsel may respond to inquiries concerning interpretations of the Securities Act or these sections provided sufficient relevant facts are given and the situation is not hypothetical. A nonrefundable fee of \$100 must accompany each inquiry. The general counsel may refuse to respond to any inquiry. Responses to inquiries may take the following forms. [Responses to inquiries concerning the availability of exemptions may take the following forms, providing sufficient relevant facts are furnished and the situation is not hypothetical]:

(A)[(1)] An opinion that no exemption appears available in the specific fact situation.

(B)[(2)] An opinion that the availability of specific exemption(s) is questionable or doubtful in the given fact situation.

(C)[(3)] An opinion that, under the facts as stated by the inquiring party, a specific exemption appears to be available; this opinion must be followed by a caveat that: [the commissioner cannot grant or confer the exemption in question, and that the Securities Act, §37, and §105.7 of this title (relating to Presentation of Evidence), place the burden of proof on the party claiming the exemption.]

(i) the agency does not grant nor confer the exemption in question;

(ii) the exemption in question is statutory and its availability depends entirely upon full compliance with the statutory language;

(iii) the Securities Act, §37, places the burden of proof on the party claiming that exemption; and

(iv) opinions expressed are not binding upon civil litigants in future proceedings.

(D) An explanation of relevant provisions of the Securities Act or board rules.

(E) A statement that no interpretation will be expressed with regard to a given fact situation.

(F) A statement that the staff of the State Securities Board will recommend no action to require registration in the specific fact situation.

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 July 24, 1985.

TRD-856670

Richard D. Latham
Securities
Commissioner

Earliest possible date of adoption:

September 6, 1985

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

★ ★ ★ Chapter 107. Terminology

★ 7 TAC §107.2

The State Securities Board proposes an amendment to §107.2, concerning definitions, to reflect changes to the board's definition of investment adviser. The proposed amendment takes into account the U.S. Supreme Court's decision in *Lowe v. SEC*, 105 S.Ct. 2557

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

Mr. Latham also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the clarification that personalized analyses, advice, and/or recommendations must be present for a person or company to be required to register as an investment adviser. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

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

The amendment is proposed under Texas Civil Statutes, Article 581, §28-1, which provide that the board may adopt rules and regulations governing registration statements and applications and may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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

Investment adviser—Every person or company who for compensation engages in this state in the business of providing personalized analyses, advice, and/or recommendations to others [advising the public], either directly or through publications or writings, [as to the value of securities or] as to the advisability of investing in, pur-

chasing, or selling securities [, or who for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities]. However, this interpretation is deemed not to apply to:

(A)-(B) (No change.)

(C) the publisher of any bona fide newspaper, news magazine, or business and financial publication of general and regular circulation[, except such publications a principal purpose of which is to recommend the purchase and sale of specific securities issues].

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 July 24, 1985.

TRD-856672 Richard D. Latham
Securities
Commissioner

Earliest possible date of adoption:
September 6, 1985
For further information, please call
(512) 474-2233.

★ ★ ★

Chapter 111. Securities Exempt from Registration

★ 7 TAC §111.2

The State Securities Board proposes an amendment to §111.2, concerning listed securities. The amendment defines the term "recognized and responsible stock exchange" for purposes of the Securities Act, §6.F.

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

Mr. Latham also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is increased coordination with federal and other states' law in regard to exemptions for exchange-listed securities. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed

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

The amendment is proposed under Texas Civil Statutes, Article 581, §28-1 and §10-1.A, which provide respectively that the board may adopt rules and regulations governing registration statements and applications and may classify securities, persons, and matters within its jurisdiction, prescribe different re-

quirements for different classes, and maximize coordination with federal and other states' law and administration, particularly with respect to exemptions.

§111.2. Listed Securities.

(a)-(c) (No change.)

(d) In order to implement the general purposes of the Securities Act declared in §10-1.A to maximize coordination with federal and other states' law and administration, particularly with respect to exemptions, the State Securities Board hereby defines the following term: as used in the Act, §6.F, the term "recognized and responsible stock exchange" does not include any organization which is not registered with the United States Securities and Exchange Commission as a national securities exchange pursuant to the Securities Exchange Act of 1934, §6.

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 July 24, 1985.

TRD-856671 Richard D. Latham
Securities
Commissioner

Earliest possible date of adoption:
September 6, 1985
For further information, please call
(512) 474-2233.

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Chapter 115. Dealers and Salesmen

★ 7 TAC §§115.1-115.6

The State Securities Board proposes amendments to §§115.1-115.6, concerning dealers and salesmen. Most of the proposed changes are in the nature of housekeeping amendments intended to lessen confusion regarding the requirements for registration. Also included are proposed amendments which set forth situations in which the board will allow multiple registration and which clarify the procedures for obtaining a multiple registration

Richard D. Latham, securities commissioner, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small busi-

nesses as a result of enforcing or administering the rules. The fiscal ramifications were addressed by the 69th Legislature, 1985, prior to enactment of the amendment.

Mr. Latham also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is the lessening of confusion among applicants seeking registration as a general securities dealer, officer, partner, investment adviser, salesman, or dealer in restricted securities, as well as those seeking multiple registration, as to the requirements for obtaining such a registration. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

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

These amendments are proposed under Texas Civil Statutes, Article 531, §28-1, which provide that the board may adopt rules and regulations governing registration statements and applications and may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

§115.1. General.

(a) Registration.

(1) Application may be made to register a person or company, as those terms are defined in the Texas Securities Act, as:

- (A) (No change.)
- (B) officer [investment adviser];
- (C) partner;
- (D) investment adviser;
- (E)[(C)] salesman; or
- (F)[(D)] dealer in restricted

categories authorized under subsection (b) of this section.

(2) The improper use by an applicant of an assumed name containing "incorporated," "corporation," "associates," "limited," or an abbreviation of one of those words, may be grounds for denying registration of the applicant [a dealer] if such designation is thereby misleading.

(3)-(4) (No change.)

(5) Each office in Texas in which either records are maintained or control over and review of the activities or registered persons exists is a branch office and must be registered as such. A registered officer, partner, salesman, or investment adviser must be named as branch officer manager.

(b) Restricted registration.

(1) Any person or company may apply for, and the commissioner may grant, restricted registration [as dealer or salesman] for the purpose of effecting transactions in a particular type or category of securities, or securities representing interests in one or more types or categories of busi-

nesses. The restricted registrations are as follows:

(A) Registration to deal exclusively in the sale of interests (other than interests in limited partnerships) in oil, gas, and mining leases, fees, or titles or contracts relating thereto. [Such interests are not defined to include limited partnership interest in oil and gas.]

(B) (No change.)

(C) Registration to deal exclusively in real estate syndication interests and/or condominium securities, including interests in real estate limited partnerships.

(D)-(E) (No change.)

(F) Registration for an issuer to deal exclusively in its own securities.

(G)-(H) (No change.)

(I) Registration to deal exclusively in sales of securities in direct participation programs.

(2) In restricted registrations the evidence of registration [license certificate] shall indicate that the holder thereof is entitled to act as a dealer only in the specified issue or category of securities.

(c) (No change.)

(d) Officer registration. Dealer or investment adviser applicants other than individuals must make an application to register an officer or partner in connection with the [dealer] registration, and any such officer [officer(s)] or partner must complete the necessary registration requirements. An applicant may designate as its officer or partner a principal registered on the Central Registration Depository System maintained by the National Association of Securities Dealers. If the officer or partner resigns or is otherwise removed from his position, the firm shall make an application to register another officer or partner immediately.

(e) Multiple registration.

(1) Except for justifiable cause, multiple [dealer or salesman] registration will not be permitted by an individual, partnership, corporation, or more than one business entity substantially controlled by the same persons. However, this rule shall not apply where a salesman is making application in order to reflect transfer from one employer to another

(A) For purposes of this subsection, "substantially controlled by the same persons" shall include situations in which persons or business organizations own, of record or beneficially, any interest amounting to 10% or more of the voting control.

(B) Justifiable cause cannot be established unless such dealer, investment adviser, agent, or salesman shall submit the following:

(i) written notice from each employer stating consent to such proposed multiple registration and further stating that such persons or entities agree to assume joint and several liability with all other employees for any violation of the Texas Securities Act;

(ii) evidence that appropriate procedures have been designed and shall be implemented to correct any conflict of interest arising out of such multiple registration. Such evidence shall include, but not be limited to, evidence of the use of a disclosure document which adequately informs clients of the business affiliations of the dealer, investment adviser, agent, or salesman.

(C) Investment adviser who request multiple registration as a securities dealer or agent of a securities dealer in which the adviser has substantial control, cannot maintain in the advisory business discretionary accounts for any client of the advisor who is also a client of the dealer.

(2) The procedure in paragraph (1)(B) of this subsection shall not be required for the following combinations:

(A) affiliated state or national banks or affiliated state or federal savings and loan associations, where the securities-related activity consists of the following:

(i) acting as a correspondent in a discount brokerage service network coordinated with a separate general dealer;

(ii) acting as a municipal and government securities dealer; and/or

(iii) acting as an investment adviser through a bona fide trust department;

(B) issuer-dealer bank holding companies and affiliated banks offering discount brokerage services, investment advisory services, and/or municipal and government securities;

(C) affiliated firms where the plans of business and business operations in regard to securities-related activities do not significantly overlap;

(D) multiple agent registrations for the sale of securities where different types of securities products are offered pursuant to each registration, and/or where the agent is not a 10% or more owner of the subject dealer or investment adviser; and

(E) dealers and/or investment advisers and affiliated issuer-dealers selling their own securities or rendering investment advice as to their own securities.

(f) (No change.)

(g) Reporting requirements

(1) All registered dealers and investment advisers shall report to the commission within 30 days after its entry, any action by a self-regulatory organization, any state or federal administrative order, criminal conviction, or court judgment, order, or decree described in paragraph (2) of this subsection which is entered against the dealer or any salesman or officer of the dealer. Upon request by the commissioner, the dealer may be required to furnish to the commissioner copies of the order, conviction, or decree, or other documents, as applicable.

(2) The following matters must be reported:

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

(D) any expulsion, bar, suspension, censure, fine, or penalty imposed by a self-regulatory organization.

(E)[(D)] For purposes of this subsection, "dealer" shall include any partners, directors, executive officers, or beneficial owner of 10% or more of any class of the equity securities of the registered dealer or investment adviser (beneficial ownership meaning the power to vote or direct the vote and/or the power to dispose of direct the disposition of such securities.)

§115.2. Application.

(a) (No change.)

(b) All applicants for registration as a securities dealer or investment adviser must furnish:

(1) an agreement for maintenance and inspection of records [to keep the minimum records required by this section];

(2) an agreement for inspection of records;

(2)[(3)] a copy of all of the following which are applicable: articles of incorporation; partnership agreement; articles of association; trust agreement; assumed name certificate; or other documents which indicate the form of organization. All foreign corporations and other nonresident applicants must also file an irrevocable written consent to service of process

(3)[(4)] A balance sheet [financial statement] prepared in accordance with generally accepted accounting practices reflecting the financial condition of the dealer or investment adviser as of a date not more than 90 days prior to the date of such filing. The balance sheet [financial statement] should be prepared by independent certified public accountants or independent public accountants, or must instead be attested by the sworn notarized statement of the applicants' [issuer's] principal financial officer. If attested by the principal financial officer of the applicant [issuer], such officer shall certify as follows:

I am the principal financial officer of (name of dealer). The accompanying balance sheet has [financial statements have] been prepared under my direction and control and presents fairly its financial position on the dates indicated [and the results of its operations and changes in financial position for the periods indicated] to the best of my knowledge, belief, and ability. (Signature and Title)

(c) (No change.)

§115.3. Examination.

(a) Requirement. Written examinations are required to determine the applicants' qualifications and competency to engage in the business of dealing in and selling securities or rendering investment advice [as a dealer or as a salesman, or rendering service as an investment adviser]. Passing score for all [dealer and salesman] applicants is 70%.

(b) Content. Each [dealer or salesman] applicant must satisfy two examina-

tion requirements:

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

(c) Exemptions.

(1) All persons who were registered in Texas [as dealers or salesmen] on August 23, 1963, are not required to take any examinations.

(2) A full waiver of the examination requirements of the Act, §13.D, is granted by the board for the following classes of persons:

(A) issuers offering securities in [and] rights offerings [offering] to their own securities holders;

(B) (No change.)

[(C) issuers as a class proposing to sell securities in connection with employee's plans which are required to be registered under the Act, §7;]

(C)[(D)] issuers restricting distribution of securities to security holders of an affiliate company, a subsidiary, or a parent of the issuer, provided the registration certificate is issued on a temporary basis and terminated immediately after the offering; or

(D) officers and employees of firms which restrict securities activities and acting as brokers between and among principals for the sale of a majority of the stock or equity securities of a privately-held business pursuant to a privately negotiated purchase agreement, where the managerial control of the business will devolve upon the purchaser(s) and where compensation received by the firm will be payable for the brokerage activities only.

(3) A partial waiver of the examination requirements of the Securities Act, §13.D, is granted by the board for the following classes of persons:

(A) applicants seeking registration who have passed an examination administered by the NASD or the State Securities Board, which test their knowledge in a specialized field of securities business, are entitled to waiver of the general securities principles examination provided their registration with the State Securities Board will be restricted, and they will be authorized thereunder to effect transactions only in securities of the type specified. However, these applicants are required to successfully pass an examination on state securities law as required by subsection (b)(2) of this section; [Any person, firm, or corporation making application to deal exclusively in municipal and government securities, if otherwise qualified, shall be eligible to be issued a limited or restricted dealer's license to deal only in such securities if all persons to be licensed thereunder pass a special examination to be prescribed by the commissioner covering the municipal and government securities field and those portions of the Texas Securities Act which relate to transactions in that field.]

(B) applicants who have been continuously registered with the Securities and Exchange Commission, National As-

sociation of Securities Dealers, or New York Stock exchange for 10 years immediately preceding the application for a license in Texas. These applicants are required to successfully pass an examination on state securities law as required by subsection (b)(2) of this section; [Those applicants who have passed an examination administered by the NASDA, which tests their knowledge in a specialized field of securities business, are entitled to waiver of the general securities principles examination provided their registration with the State Securities Board will be restricted, and they will be authorized thereunder to effect transactions only in securities of the type specified.]

(C) (No change.)

(D) applicants [any person] seeking registration [as a securities dealer or salesman] for the purpose of dealing exclusively in real estate syndication interests and/or condominium securities, provided such persons are [person is] not required to take the general securities portion of the examination prescribed by §13.D, but are [is] required to pass an examination on state securities law as required by subsection (b)(2) of this section;

(E) applicants [Any person] seeking registration [as a securities dealer or salesman] for the purpose of dealing exclusively in oil and gas interests (other than interests in limited partnerships). Such persons are [person is] not required to take the general securities portion of the examination prescribed in §13.D, but are [is] required to pass an examination on state securities law as required by subsection (b)(2) of this [the] section. Provided, however, any persons [person] registered prior to January 1, 1976, [as a securities dealer or salesman] for the purpose of dealing exclusively in oil and gas interests, are [is] not required to pass an examination.

(F) applicants who are officers, partners, or employees of an issuer (other than an issuer who is an open-end investment company) if the securities of the issuer will be registered for sale in Texas and if the plan of business [of the dealer or salesman applicant] is restricted to the sale of the securities of the issuer only during the distribution of the securities of the issuer which are being registered. Subh officers, partners, and employees of an issuer are not required to take the general securities portion of the examination prescribed in §13.D, but are required to pass an examination on state securities law as required by subsection (b)(2) of this section. Evidences of registration [licenses] granted pursuant to this subparagraph are restricted to sales of the currently registered securities of the issuer, and [these licenses] must be surrendered to the State Securities Board for cancellation immediately upon completion of the distribution of securities for which the securities and dealer registrations have been obtained.

(G) (No change.)

[(H) Any person seeking registration as a securities dealer or salesman for the purpose of dealing exclusively in options on foreign currencies. Those applicants who have passed an examination administered by the NASD, which tests their knowledge in the field of dealing in options on foreign currencies are entitled to a waiver of the general securities principles examination, but they are required to pass an examination on state securities laws as required by subsection (b)(2) of this section.]

(4) (No change.)

(d) Re-examination. An applicant [A candidate] who fails the examination on the Texas Securities Act may request reexamination. Prior to retaking an examination, the applicant must bring his application up to date.

(e) Time and location. The examination on the Texas Securities Act is given at 9 a.m. on the second and fourth Tuesday of each month, in the office of the State Securities Board, Austin. There is no fee for taking the examination in Austin, and no reservation is required to be made by the applicant [candidate] prior to the examination. The examination may be taken at other locations near principal population centers over the state, and the testing center may charge a small fee for administering the examination. A schedule of these examination centers with additional details may be obtained from the securities board.

(f) (No change.)

§115.4. Evidences of Registration [Licenses].

(a) Issuance. Evidence of registration [A license certificate] shall be issued for each registered dealer or investment adviser reflecting the registered officer or partner [and for each registered branch office]. Evidence of registration shall be issued for each registered branch office reflecting the registered manager. In addition, dealers and investment advisers shall be provided with the names of all registered agents [officer(s) and salesmen].

(b) Amendments. Any change in any of the information reflected on the evidence of registration [a license certificate] must be submitted to the commissioner in order that amendments may be made [an amended license certificate may be issued]. Upon receipt of the amended evidence of registration [certificate,] the dealer or investment adviser must surrender the original to the commissioner. The fee for filing to amend the evidence of registration [certificate of a dealer] is \$10 [§5].

(c) Transfer. An individual [A salesman] who is registered in Texas may transfer his registration to another registered dealer. The transfer application, along with a \$5 fee, must be filed in duplicate. The application must be signed by the [salesman's] new employer, by the individual [salesman], and it must be properly notarized. Any individual registered via the

central registration depository system may effect transfer through that system.

(d) Cancellation [Termination]. The securities dealer or investment adviser is required to notify the commissioner upon termination of any registered agent [salesman] from its employ. Upon receipt of such notification, the commissioner shall cancel the registration.

(e) Renewal.

(1) Notice of renewal for each current registration is sent to each dealer or investment adviser [in October]. Renewal applications should be returned for processing, along with the appropriate fees. Each applicant fulfilling the renewal requirements set forth in the renewal application is registered for the following calendar year.

(2)-(4) (No change.)

(f) Classifications. [Securities] Registrations are classified as follows:

(1) [general] securities dealer—\$70 fee for original or \$35 for renewal;

[(2) individual dealer—\$70 fee for original or \$35 for renewal;

[(3) restricted dealer—\$70 fee for original or \$35 for renewal;

(2)[(4)] investment adviser—\$70 fee for original or \$35 for renewal of dealer/investment adviser and \$30 for original or \$15 for renewal of a salesman/investment adviser;

(3)[(5)] salesman—\$30 fee for original or \$15 for renewal; and

(4)[(6)] officer or partner—\$15 fee for original or \$15 for renewal.

§115.5. Minimum Records.

(a) Dealer records. Dealer records (compliance with the record-keeping requirements of the United States Securities and Exchange Commission (17 Code of Federal Regulations §240.17a-3 and §240.17a-4) will satisfy the following requirements) shall satisfy the following requirements.

(1) Records to be made by certain dealers. A person or company [Persons] registered in Texas as a general securities dealer [or an individual dealer] or a dealer in municipal or government securities shall make and keep current the following minimum records or the equivalent thereof:

(A)-(K) (No change.)

(1)-(4) (No change.)

(b)-(e) (No change.)

§115.6. Registration of Persons with Criminal Backgrounds.

(a) The application for registration [of a dealer or agent or salesman] may be denied, suspended, or revoked if the commissioner finds that the person has been convicted of a felony or misdemeanor offense which directly relates to its [the] duties and responsibilities [of a registered dealer, agent, or salesman]. In determining whether a prior criminal conviction directly relates to such duties and responsibilities, the commissioner shall consider:

(1)-(4) (No change.)

(b)-(e) (No change.)

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

Issued in Austin, Texas, on July 24, 1985.

TRD-856688

Richard D. Latham
Securities
Commissioner

Earliest possible date of adoption:

September 8, 1985

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

★ ★ ★



Chapter 133. Forms

★7 TAC §133.11

The State Securities Board proposes an amendment to §133.11, concerning the sales report form for noncontinuous offerings. The amendment references §133.10, which sets forth the requirement that sales reports be filed, rather than conditions contained in an issuer's permit. As a result of the board's use of computer-generated permits, these conditions are no longer noted on the permits.

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

Mr. Latham also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the clarification that the requirement to file sales reports is contained in §113.10. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

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

The amendment is proposed under Texas Civil Statutes, Article 581, §28-1, which

provides that the State Securities Board may adopt rules and regulations governing registration statements and applications and may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

§133.11. Sales Report Form for Non-Continuous Offerings. The State Securities Board adopts by reference the sales report for noncontinuous offerings, as amended in September 1985. This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

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 July 24, 1985.

TRD-856689

Richard D. Latham
Securities
Commissioner
State Securities Board

Earliest possible date of adoption:

September 8, 1985

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

★ ★ ★

★7 TAC §133.16

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the State Securities Board, 1800 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The State Securities Board proposes the repeal of §133.16, concerning the agreement for inspection of records form, since a new Form 133.16 is proposed to be adopted. The proposed new form consolidates the requirements of Forms 133.16 and 133.23.

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

Mr. Latham also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result the repeal is the reduction of paperwork requirements for applicants seeking registration as securities dealers or investment advisers. Also, it is believed that the proposed new form is more concise and less confusing the existing Form 133.16 and Form 133.23. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Denise Voigt Crawford, State

Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The repeal is proposed under Texas Civil Statutes, Article 581, §28-1, which authorize the State Securities Board to repeal prior rules and regulations.

§133.16. Agreement for Inspection of Records.

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 July 24, 1985

TRD-856666 Richard Latham
Securities Commission
State Securities Board

Earliest possible date of adoption:

September 6, 1985

For further information, please call
(512) 475-2233.

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The State Securities Board proposes new §133.16, which adopts by reference the agreement for maintenance and inspection of records form, which reflects the consolidation of the requirements of current Form 133.16 and Form 133.23 which are proposed to be repealed.

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

Mr. Latham also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the assurance that applicants seeking registration as securities dealers or investment advisers will have one less form to submit to the State Securities Board. Also, it is believed that the new form is more concise and less confusing than existing Form 133.16 and Form 133.23. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

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

The new section is proposed under Texas Civil Statutes, Article 581, 28-1, which provide that the board may adopt rules and regulations governing registration statements and applications and may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

§133.16. Agreement for Maintenance and Inspection of Records. The State Securities Board adopts by reference the agreement for maintenance and inspection of records. This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

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 July 24, 1985.

TRD-856665 Richard D. Latham
Securities
Commissioner
State Securities Board

Earliest possible date of adoption:

September 6, 1985

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

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★7 TAC §133.23

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the State Securities Board, 1800 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The State Securities Board proposes the repeal of §133.23, concerning the requirements of securities dealers in regard to maintenance of records, since a new Form 133.16 is proposed to be adopted. The proposed new form consolidates the requirements of Form 133.16 and Form 133.23.

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

Mr. Latham also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the reduction of paperwork requirements for applicants seeking registration as securities dealers or investment advisers. Also, it is believed that the proposed new form is more concise and less confusing than existing Form 133.16 and Form 133.23. There is no anticipated economic cost to individuals as a result of the repeal.

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

The repeal is proposed under Texas Civil Statutes, Article 581, §28-1, which authorize the State Securities Board to repeal prior rules and regulations.

§133.23. Minimum Record-Keeping Agreement.

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 July 24, 1985.

TRD-856667 Richard D. Latham
Securities
Commissioner
State Securities Board

Earliest possible date of adoption:

September 6, 1985

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

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Chapter 139. Exemptions by Rule or Order

★7 TAC §139.12

The State Securities Board proposes new §139.12, concerning an exemption under the Securities Act, §5.T. The proposed section exempts from the registration requirements of the Act, §7, securities that meet certain conditions including the requirements that they have a public offering price of \$5.00 or more, and that they be subject to a firm commitment underwriting by one or more qualified underwriters as that term is defined in the exemption.

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

Mr. Latham also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is the creation of a new exemption from the securities registration provisions of the Securities Act, §7, that is believed will encourage capital formation, job formation, and free and competitive securities markets and assist in minimizing regulatory burdens on issuers and persons subject to the Act, especially small businesses. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

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

The new section is proposed under Texas Civil Statutes, Article 581, §28-1 and §5.T, which provide respectively that the board may adopt rules and regulations governing registrations statements and applications, may classify securities, persons, and matters within its jurisdiction, pre-

scribe different requirements for different classes, and create new exemptions by rule conditionally or unconditionally.

§139.12. Section 7 Exemption by Notification. In order to effectuate the general purposes of the Securities Act declared in §10.1B to protect investors and consistent with that purpose, to encourage capital formation, job formation, and free and competitive securities markets to minimize regulatory burdens on issuers and persons subject to the Act, especially small businesses, the State Securities Board hereby adopts this §7 exemption by notification pursuant to the Act, §5.T.

(1) **Definition of terms.** The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(A) **Qualified underwriter**—A dealer licensed in this state who is a member of the New York Stock Exchange or the American Stock Exchange and the National Association of Securities Dealers.

(B) **Firm commitment underwriting**—An agreement of the underwriter or underwriters to take and pay for the securities at a closing within 10 business days after the start of the offering, subject only to conditions common in agreements regarded as firm commitments in the securities industry.

(C) **Public offering price of a security**—\$5.00 or more if the security is offered to the public for cash of \$5.00 or more or for other consideration with a fair market value of \$5.00 or more, and the security is not directly or indirectly divisible, convertible into or exchangeable for, and does not include the right to acquire, within one year after the filing of the notification pursuant to this section, one or more other securities at a price of less than \$5.00 each or that are likely to sell at a price of less than \$5.00 each. The making of a public offering of securities pursuant to this section constitutes an implied representation that there is no plan to make a stock or other security dividend or distribution, stock or other security split, rights offering or other transaction the likely effect of which will be to reduce the market price of the security to less than \$5.00. If any of these transactions occurs within one year after the filing of the notification pursuant to this section, it is presumed, subject to rebuttal by clear and convincing evidence, that this exemption was not available for the offering.

(2) **Exemption.** A public offering of securities made in compliance with all of the conditions of this section shall be exempt from the securities registration requirements of the Securities Act, §7.

(3) **Underwriting.** A public offering of securities pursuant to this section shall be by a firm commitment underwriting by one or more qualified underwriters in an amount of \$2 million or more.

(4) **Public offering price.** A public offering of securities pursuant to this section shall be at a public offering price of \$5.00 or more.

(5) **Notification.** In connection with a public offering of securities pursuant to this section a notification shall be filed with the commissioner at least 10 days before the first sale of a security as part of the offering, or such shorter time as the commissioner may approve, which shall contain:

(A) a copy of the prospectus to be used with respect to the offering and a copy of each subsequent amendment of the prospectus;

(B) a copy of the underwriting agreement with respect to the offering;

(C) a copy of the form of security to be offered;

(D) consent to service of process signed by each underwriter, selling security holder and issuer which is not otherwise subject to service of process in this state; and

(E) such further information pertaining to the offering as the board or the commissioner may prescribe by rule.

(6) **Prospectus.** With respect to an offering of securities pursuant to this section a prospectus shall be sent or given to each person to whom an offer of a security is made before or concurrently with whichever of the following occurs first:

(A) the first written offer made to the person, other than by means of a public advertisement, by or for the account of the issuer or any other person on whose behalf the offering is being made, or by any underwriter or broker-dealer who is offering part of an unsold allotment or subscription taken by the person as a participant in the distribution;

(B) the confirmation of any sale made by or for the account of the person;

(C) payment pursuant to such a sale; or

(D) delivery of the security pursuant to such a sale.

(7) **Full disclosure.** The prospectus must fully disclose the material facts about the security, the issuer, and the offering and shall not be incomplete in any material respect, make any untrue statement of any material fact, or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading. If the offering is registered pursuant to the Securities Act of 1933 the prospectus required by this section shall be in the form required by that Act. Otherwise, the prospectus required by this section shall be in the form equivalent to that required by the Securities Act, §9.C, with respect to a registered offering.

(8) **Fee.** Upon filing the notification with respect to an offering pursuant to this section the person or persons making the offering shall pay a fee equal to the fee

that would be required under the Act, §35 and §35-1, if a registration statement with respect to the offering were filed pursuant to the Act, §7.

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 July 29, 1985.

TRD-856791

Lee Polson
Deputy Securities
Commissioner
State Securities Board

Earliest possible date of adoption:

September 6, 1985

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

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TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Community Affairs

Chapter 1. Administration

Subchapter B. Block Grants

★ 10 TAC §1.11, §1.12

The Texas Department of Community Affairs (TDCA) proposes amendments to §1.11 and §1.12, concerning the administration of contracts funded with block grant monies. The amendments govern the nonrenewal and reduction in the amount of funding of such contracts awarded by the TDCA.

Douglas C. Brown, general counsel, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

Mr. Brown also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is compliance with Texas Civil Statutes, Article 6252-13e, by providing specific information concerning the nonrenewal of contracts funded with block grants and the reduction in the amount of funding of such contracts. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Douglas C. Brown, General Counsel, P.O. Box 13186, Austin, Texas 78711.

The amendments are proposed under Texas Civil Statutes, Article 6252-13e, §9(c), which provide the Texas Department of Community Affairs with the au-

thority to promulgate specific rules defining good cause for the nonrenewal of contracts funded with block grants and for the reduction in the amount of funding of such contracts.

§1.11. General Provisions.

(a) Definitions. The following words and terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

(1)-(5) (No change.)

(6) Recipients—Individuals or classes of individuals who are the beneficiaries of a contract.

(7)[(6)] Same geographic area—Substantially the same geographic area as is being served under the existing contract.

(8)[(7)] Similar services—Substantially the same services as are being provided under the existing contract.

(b) (No change.)

§1.12. Nonrenewal of Contracts and Reductions in Funding.

(a) Terms. The department may reduce the amount of funding of any contract or not renew any contract whenever the department determines that:

(1)-(5) (No change.)

(6) the contractor has failed to comply with or is unable to comply with any provision of a federal or state law or regulation;

(7) negative comments received under the Texas review and comment system concerning the contractor cannot be resolved to the satisfaction of the department.

(b) (No change.)

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

Issued in Austin, Texas, on July 26, 1985.

TRD-856756 Douglas C. Brown
General Counsel
Texas Department of
Community Affairs

Earliest possible date of adoption:

September 6, 1985

For further information, please call
(512) 443-4100, ext. 210.

★ ★ ★



(Editor's note: A notice appeared in the July 30, 1985, issue of the Texas Register indicating that the following proposal by the Texas Housing Agency would appear in this issue. Earliest possible date of adoption for the document is August 30, 1985.)

Part IV. Texas Housing

Agency

Chapter 147. 1985 Single Family Mortgage Purchase Program

★ 10 TAC §§147.1-147.22

(Editor's note: The Texas Housing Agency proposes for permanent adoption the new sections it adopts on an emergency basis in this issue. The text of the new sections is published in the Emergency Rules section of this issue.)

The Texas Housing Agency proposes new §§147.1-147.22, concerning program outlines for administering the 1985 Single Family Mortgage Purchase Program. These new sections enable the agency to implement this program to provide home financing to Texas families.

Earline Jewett, executive administrator, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

Ms. Jewett also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is the facilitation of efforts to increase the supply of sanitary and safe housing at affordable prices. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Stan Kantowitz, General Counsel, P.O. Box 13941, Austin, Texas 78711-3941.

The new sections are proposed under the Texas Housing Act, Texas Civil Statutes, Article 12691-6, which provides the Texas Housing Agency with the authority to adopt rules governing the administration of the agency and its programs.

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

Issued in Austin, Texas, on July 23, 1985.

TRD-856632 Earline Jewett
Executive Administrator
Texas Housing Agency

Earliest possible date of adoption

August 30, 1985

For further information, please call
(512) 475-0812.

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(Editor's note: A notice appeared in the July 30, 1985, issue of the Texas Register indicating that the following proposals by the Texas Department of Labor and Standards would appear in this issue. Earliest possible date of adoption for the documents is August 30, 1985.)

TITLE 16. ECONOMIC REGULATION

Part IV. Texas Department of Labor and Standards

Chapter 77. Health Spa Act/Labor, Licensing, and Enforcement Procedures

★ 16 TAC §§77.1, 77.5, 77.9, 77.13, 77.17, 77.21

The Texas Department of Labor and Standards proposes new §§77.1, 77.5, 77.9, 77.13, 77.17, and 77.21, concerning procedures for complying with Texas Civil Statutes, Article 5221e. The 69th Legislature, 1985, enacted Senate Bill 34, which provides for the filing of a registration statement, by health spas in Texas, with the department.

Larry E. Kosta, labor/licensing and enforcement director, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

Mr. Kosta also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is the ability to find in a central place information on health spas in Texas. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Larry E. Kosta, Director, Labor/Licensing Division, Texas Department of Labor and Standards, 920 Colorado Street, Austin, Texas 78711, or by mail at P. O. Box 12157, Austin, Texas 78711. A public hearing to receive comments from the public will be held at 9:30 a.m. on August 13, 1985, at the John H. Reagan Building, 100 West 15th Street, Austin, Texas 78701.

The new sections are proposed under Texas Civil Statutes Article 5221i, §4 and §8, which provide the Texas Department of Labor and Standards with the authority to accept registration statements and to establish procedures for the acceptance of the registration statement.

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

Commissioner—The commissioner of the Texas Department of Labor and Standards.

Contract—An agreement by which one becomes a member of a health club.

Department—The Texas Department of Labor and Standards.

Facilities—Equipment, physical structures, improvements, improvements to leasehold premises, and other tangible property, real, personal, or mixed, used by a health spa at each location to conduct its business, including but not limited to saunas, whirlpool baths, gymnasiums, running tracks, swimming pools, shower areas, racquetball courts, martial arts equipment, and exercise equipment.

Governmental authority—Any city, township, village, county, quasi governmental authority, State of Texas, or any other political subdivision.

Health spa—A business primarily involved in the sale of memberships that provide a members instruction in a program of physical exercise or provide the members use of the facilities of the health spa for a program of physical exercise. The term does not include an organization that is tax exempt under 26 United States Code §501, *et seq.*, a private club owned and operated by its members, an entity primarily operated for the purpose of teaching dance or aerobic exercise, an entity primarily engaged in physical rehabilitation activity related to an individual's injury or disease, an individual or entity engaged in an activity authorized under a valid license issued by this state, or an activity conducted or sanctioned by a school operating under the Education Code. If an entity otherwise exempt by the provisions of Texas Civil Statutes, Article 52211, provides the members instructions in a program of physical exercise or provides the members use of its facilities for a program of physical exercise, then such an entity must comply with the provisions of the Act and its rules and regulations.

Member—A person entitled to the benefits of membership in a health spa.

Membership—The status under a contract between an individual and a health spa that entitles the individual to the use of the services or facilities of the health spa.

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

Prepayment—A payment for all services or for the use of facilities made by members of a health spa before the first day the services or facilities are made available to the members.

Purchaser—A person who purchases a health spa membership.

Seller—A person who owns or operates a health spa or who offers for sale the right to use the facilities or the services of the health spa.

Services—Programs, plans, guidance, or instruction that a health spa pro-

vides for its members, including diet planning, exercise instruction, exercise programs, and instructional classes.

§77.5. Registration Statement.

(a) Each health spa operator shall file a registration statement which shall contain the following information:

(1) the name and location address of the health spa;

(2) the name and address of any person who directly or indirectly owns or controls 10% or more of the issued and outstanding of the voting shares, if the health spa is operated through a corporation;

(3) the name and address of all the partners if the health spa is operated as a general partnership;

(4) the name and address of each general partner if the health spa is operated by a limited partnership;

(5) the name and address of each person deemed to be an owner if the health spa is operated as a sole partnership; and

(6) the name and address of any person or entity holding any indirect ownership of the health spa must be disclosed if a person or entity exercises control of the health spa.

(b) Required facilities disclosures include:

(1) a detail disclosure of the type of proposed facilities and services to be provided; and

(2) the approximate size of the health spa measured in square feet.

(c) The registration statement must also contain either:

(1) a full and complete disclosure of any litigation, or any complaint filed with a governmental authority, relating to the failure to open or the closing of a health spa brought against the owners, officers, or directors of a health spa that was completed within the past two years or is currently pending; or

(2) a notarized statement that states that there has been no litigation, or complaint filed with a governmental authority, relating to the opening or closing of the health spa within the past two years.

(d) The health spa shall file an undertaking with the department to update the registration statement not later than the 90th day after the day on which a change in the information required in the registration statement occurs.

(e) Each registration statement filed with the department must be accompanied by a fee of \$100 payable to the State of Texas and provided in the form of a cashier's check or money order.

(f) Any material change of the registration statement must be filed with the department is considered an amendment and must be accompanied by a fee of \$50 payable to the State of Texas and provided in the form of a cashier's check or money order.

(g) Texas Civil Statutes, Article 52211, §25(b), is construed to mean a health spa that has had their facilities open within 730 days prior to September 1, 1985.

§77.9. Escrow Agent.

(a) Funds to be escrowed pursuant to Texas Civil Statutes, Article 52211, §9, must be escrowed at a financial institution which shall be a state or national bank or savings and loan association.

(b) All prepayments received must be deposited with a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation.

(c) The escrow agreement filed with the financial institution must contain the following provisions:

(1) Prepayments must be deposited at least biweekly.

(2) The first deposit shall be made not later than the 14th day after the receipt of the first prepayment by the health spa.

(3) The escrow agreement must name the department as the fiduciary for the prepayment members.

(4) The escrow agreement must provide that the escrow agreement shall not terminate until the 30th day after the health spa fully opens for business.

(5) The escrow agreement must provide that if the health spa does not fully open for business before the 181st day after the date that it first sells a membership in the health spa or if the spa does not remain open for 30 days, the escrow agreement shall terminate and prepayment deposits shall be refunded to the members. Such refund shall not be subject to expenses or other charges to the member.

(6) If the health spa remains open for 30 days after the date the health spa initially opens for business, the escrow agreement shall terminate and the health spa may withdraw the escrowed funds. Upon the termination of the escrow account the health spa shall file an affidavit with the department certifying that all obligations for which a lien could be claimed under Property Code, Chapter 53, have been paid and if no person is eligible to claim a lien under Property Code, Chapter 53, during the period the health spa accepts prepayment.

(d) The health spa shall file a copy of the escrow agreement which identifies the escrow officer, style of the deposit account, the financial institution, and any other information which will identify the escrow account into which the prepayments have been deposited with the department.

§77.13. Disclosures to Members and Departments.

(a) During the period that the registration statement is on file with the department, each membership plan, which exceeds 90 days in duration and is used by a health spa to enter into agreements with its members, must be filed with the department not

later than 45 days after the membership plan was first offered to a consumer.

(b) The health spa's members' contracts must contain the provisions which are provided in Texas Civil Statutes, Article 52211, §§12-15.

(c) The name, address, and telephone number must be available to the department upon request for personnel charged with the management of each health spa facility.

§77.17. Rules for Hearings. Any violation of the rules of the Texas Department of Labor and Standards relating to health spas will be subject to enforcement by the department in accordance with the Texas Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

§77.21. Forms. Forms shall be provided by the Texas Department of Labor and Standards for purposes of complying with this title. The forms are hereby adopted by reference and may be obtained at the Texas Department of Labor and Standards, Labor of Licensing and Enforcement Division, P.O. Box 12157, Austin, Texas 78711.

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 July 22, 1985.

TRD-856563

Allen Parker, Sr.
Commissioner
Texas Department of
Labor and Standards

Earliest possible date of adoption.

August 30, 1985

For further information, please call
(512) 475-0155.

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Chapter 79. Vehicle Storage Facility Act/Labor, Licensing and Enforcement

★ 16 TAC §§79.1, 79.5, 79.9, 79.13, 79.17, 79.21, 79.25, 79.29, 79.33, 79.37, 79.41

The Texas Department of Labor and Standards proposes new §§79.1, 79.5, 79.9, 79.13, 79.17, 79.21, 79.25, 79.29, 79.33, 79.37, and 79.41, concerning vehicle storage facilities in Texas. The 69th Legislature, 1985, enacted Senate Bill 1388, which regulates vehicle storage facilities in Texas to be administered by the department.

Larry E. Kosta, labor/licensing and enforcement director, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

Mr. Kosta also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is the safeguarding of motor vehicles for consumers in Texas. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Larry E. Kosta, Director, Labor/Licensing and Enforcement Division, Texas Department of Labor and Standards, 920 Colorado Street, Austin, Texas 78711, or P. O. Box 12157, Austin, Texas 78711. A public hearing to receive comments from the public will be held at 2:30 p.m. on August 13, 1985, at the John H. Reagan Building, 100 West 15th Street, Austin.

The new sections are proposed under Texas Civil Statutes, Article 6687-9a, §4, which provide the Texas Department of Labor and Standards with the authority to adopt rules establishing requirements for the licensing of persons to operate vehicle storage facilities to ensure that licensed storage facilities maintain adequate standards for the care of stored vehicles.

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

Commission—The Texas Department of Labor and Standards.

Commissioner—The commissioner of the Texas Department of Labor and Standards.

Department—The Texas Department of Labor and Standards.

Fence—An enclosure about a field or other space of wood, iron, or other materials intended to prevent intrusion from without or straying from within.

Owner of a vehicle—One of the following persons:

(A) a person in whose name the vehicle is registered under the Certificate of Title Act, Texas Civil Statutes, Article 6687-1.

(B) a person in whose name the vehicle is registered under General Laws, Acts of the 41st Legislature, Second Called Session, 1929, Chapter 88, Texas Civil Statutes, Article 6675a-2, §2, or a member of the person's immediate family;

(C) a person who holds the vehicle through a valid lease agreement; or

(D) an unrecorded lienholder whose right to possess the vehicle exists through a chattel mortgage.

Vehicle—A motor vehicle subject to registration under the Certificate of Title Act, Texas Civil Statutes, Article 6687-1, or any other device designed to be self-propelled or transported on a public highway.

Vehicle storage facility—A garage, parking lot, or any type of facility owned

by a person other than a governmental entity for storing and parking ten or more vehicles.

§79.5. Vehicle Storage Facility Requirements. Each vehicle storage facility:

(1) if not currently enclosed by a fence of at least five feet, shall be completely enclosed by a fence of at least six feet in height, with a gate which is locked at all times the licensee or an agent or employee is not at the storage lot;

(2) shall have an all-weather surface that makes delivery and release of vehicles feasible in all weather conditions such as concrete, asphalt, black-top, stone, macadam, limestone, iron ore, gravel or shell;

(3) shall have a sign at the entrance, clearly readable from the street setting out the name of the storage lot, the street address, the hours vehicles will be released to vehicle owners, and the state license number of the storage lot;

(4) shall have a sign setting out the per diem charge for storage and all other fees which may be charged by the storage lot. This sign shall be located so that it is clearly visible to a vehicle owner prior to payment of the fees;

(5) shall have an operable telephone which must be publicly listed, where the licensee can be contacted. If at any time, the number of the telephone is changed from the number set out in the application for authorization to operate as a vehicle storage facility, the licensee shall give written notice of the change to the department prior to the date the new number is used, setting out in such notice the name of the storage lot, its location, its license number, the old telephone number, and the new telephone number; and

(6) for night time release of vehicles, shall maintain adequate illumination levels which shall be not less than five footcandles where the vehicles are maintained; 10 footcandles in the traffic lanes; and 50 footcandles at the entrance.

§79.9. Acceptance of Vehicles for Storage. When the licensee, agent, or employee of a storage lot accepts a vehicle towed without the consent of the vehicle owner, such person shall inspect the vehicle and note as an addition on the wrecker slip or wrecker ticket any differences from the information previously set out thereon, but shall not write over or deface in any manner any prior writing on the slip or ticket. If the license plate number or vehicle identification number on the wrecker ticket or wrecker slip was incorrect, the storage lot shall note on its records the correct number.

§79.13. Vehicle Storage.

(a) No vehicle may be stored or kept on any storage facility authorized to operate as a vehicle storage facility unless it is kept inside the fenced area at all times.

(b) No parts shall be removed from any vehicle, and no vehicle shall be dismantled or wrecked within the fenced area of a private storage lot which is used for the storage of vehicles which were towed without the owner's consent; provided, however, vehicles may be dismantled, or demolished in such fenced area if the storage lot has a certificate of title, a certificate of authority to demolish, a police auction sales receipt, or a transfer document issued by the State of Texas for the vehicle being demolished.

§79.17. Document Inspection. Whenever a person claims ownership or right of possession to a motor vehicle located on the facility such person shall be entitled to inspect the wrecker slip or wrecker ticket for the motor vehicle, and shall not be required to pay any fees or charges prior to inspecting the wrecker slip or wrecker ticket.

§79.21. Vehicle Transfers. When a motor vehicle has been delivered to a storage lot, it may not be moved from that vehicle storage facility without authorization by the vehicle owner; provided, however, the vehicle may be moved to another location after the vehicle has been at the vehicle storage facility for not less than 15 days; if the vehicle storage facility has sent notice to the last known registered owners of the motor vehicle and all lienholders of record, pursuant to the Certificate of Title Act, by certified mail, return receipt requested, at least 10 days prior to the date the vehicle is moved, and the vehicle storage facility has sent a copy of the notice to the department prior to the date the vehicle is moved. Such notice shall state:

(1) the vehicle storage facility where the motor vehicle is located and the hours the vehicle can be released to the vehicle owner from that storage lot;

(2) the amount of all fees which must be paid before the vehicle is released; and

(3) the date on which the vehicle will be moved from the vehicle storage facility if it is not recovered by the vehicle owner prior to that date.

§79.25. Vehicle Transfer Requirements. The licensee of the vehicle storage facility from which a vehicle is moved pursuant to this section shall ensure that the following requirements are met:

(1) that the vehicle owner is not charged any fees greater than those permitted under §79.5 of this title (relating to Vehicle Storage Facility Requirements), after the vehicle is towed to another location without the permission of the vehicle owner;

(2) that the provisions of the Texas Civil Statutes, Article 6701g-3, are fully complied with;

(3) that the vehicle owner can obtain possession of the vehicle upon demonstration of satisfactory evidence to show a

right of possession and payment of all fees at any time between the hours posted on the sign daily on the same basis as is set out at whatever location the vehicle may be;

(4) that the vehicle storage facility from which the vehicle is moved retains records and informs the vehicle owner upon request of the location where the vehicle is at all times from the date on which the vehicle is transferred from the storage facility until such time as the vehicle is recovered by the vehicle owner or there was issued a new certificate of title, a certificate of authority to demolish, a police auction sales receipt, or a transfer document issued by the State of Texas; and

(5) that the vehicle storage facility from which the vehicle is moved maintains, as part of its vehicle storage facility records, a record of the ultimate disposition of the vehicle to include the date and name of the person to whom the vehicle is released if released to the vehicle owner or a description of the document under which the vehicle was sold or demolished.

§79.29. Vehicle Documentation.

(a) Each licensee of a vehicle storage facility authorized to operate as a private vehicle storage facility shall keep written records on each vehicle that is kept or stored on the private storage lot. Such records shall contain the following information:

(1) year, make, color, correct license plate number, state issuing the license, and correct vehicle identification number of the vehicle;

(2) date, time, and location from where the vehicle was towed;

(3) name of wrecker driver, the wrecker license plate number, and company towing the vehicle;

(4) the date the vehicle was released, the name of the individual to whom the vehicle was released, or if the vehicle was transferred to another location, pursuant to §79.25 of this title (relating to Vehicle Transfer Requirements), the address of that location and the name of the wrecker permit holder and the wrecker driver who made that transfer;

(5) if the vehicle ownership has been transferred due to any action of the vehicle storage facility or the vehicle has been disposed of or demolished, a copy of the certificate of title issued after the vehicle came into the possession of the vehicle storage facility, the certificate of authority to demolish, a police auction sales receipt, or transfer document issued by the State of Texas for the vehicle; and

(6) all amounts charged for the storage of the vehicle.

(b) The records required by this section may be kept in the form of wrecker tickets and wrecker slips so long as all information required by this section is kept on the tickets and slips.

(c) The records required by this paragraph shall be made available by the

licensee, his agent, or his employee for inspection and copying upon request of any personnel from the department during the hours the vehicle storage facility must ensure that vehicles may be released to the vehicle owner.

(d) Each record required to be kept by this section shall be kept for two years from the date of the last transaction shown in the record under the care and custody of the licensee.

§79.33. Insurance Required. Each applicant shall file satisfactory proof of garagekeepers' legal liability insurance for the vehicle storage facility for which authorization to operate is sought. Such insurance shall include coverage for comprehensive, specified perils, and collision per incident and shall be issued by a company duly authorized to write such insurance in the State of Texas. Such insurance shall be in an amount of not less than \$9,000 for injury to or destruction of property of others if the vehicle storage facility has space to store not more than 50 motor vehicles; \$18,000 if the vehicle storage facility has space to store more than 50 motor vehicles but less than 100 motor vehicles; and \$25,000 if the vehicle storage facility has space to store more than 100 motor vehicles. Said policy shall provide that the insurance company will give notice to the department at least 30 days prior to any cancellation or expiration of the policy. Such policy shall be kept in full force and effect for the entire duration of the authorization and all renewals thereof.

§79.37. Criminal History Background Denial of License.

(a) The following criterion shall be utilized to determine whether an applicant shall be issued a license if that applicant states in the application for said license that she/he has previously been or is presently under conviction for a criminal offense:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purpose of requiring a license to engage in the occupation or industry;

(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the convicted same or similar type of criminal activity as that in which the applicant previously had been involved;

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the functions and responsibilities of the licensed occupation or industry.

(b) In addition to the factors that may be considered in subsection (a) of this section, the department, in determining the present fitness of a person who has been convicted of a crime, may consider the following:

(1) the extended 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 attempted rehabilitation effort while incarcerated or following release;

(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.

(c) It shall be the responsibility of the applicant to the extent possible to secure and provide the licensing authority the recommendations of the prosecution, law enforcement, and correctional authorities as required by these rules.

(d) The applicants should also furnish proof in any form, as may be required by the licensing authority, that they have maintained a record of steady employment and have otherwise maintained a record of good conduct and have paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which the applicant has been convicted.

(e) If the department suspends or revokes a valid license, or denies a person a license or the opportunity to be examined for a license in accordance with these rules because of the person's prior conviction of a crime and the relationship of the crime to the license, the department shall:

(1) notify the person in writing, stating reasons for the suspension, revocation, denial, or disqualification;

(2) use the review procedure provided by Texas Civil Statutes, Article 6252-13D.

(f) The department will be concerned with those offenses as defined as crimes of moral turpitude by statute or common law, and defined crimes, from Class A misdemeanors, first, second, and third degree felonies carrying fines and/or imprisonment or both.

§79.41. Forms. Forms shall be provided by the Texas Department of Labor and Standards for purposes of complying with this title. The forms are hereby adopted by reference and may be obtained at the Texas Department of Labor and Standards, Labor/Licensing and Enforcement Division, P.O. Box 12157, Austin, Texas 78711.

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 July 22, 1985.

TRD-856584

Allen Parker, Sr.
Commissioner
Texas Department of
Labor and Standards

Earliest possible date of adoption:

August 30, 1985

For further information, please call
(512) 475-0155.

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TITLE 19. EDUCATION

Part II. Texas Education

Agency

Chapter 89. Adaptations for Special Populations

Subchapter E. General Educational Development

★ 19 TAC §§89.111, 89.112, 89.116-89.118

(Editor's note: The Texas Education Agency proposes for permanent adoption the amendments it adopts on an emergency basis in this issue. The text of the amendments is published in the Emergency Rules section of this issue.)

The Texas Education Agency proposes amendments to §§89.111, 89.112, and 89.116-89.118, concerning general educational development (GED) certificates. Legislative action requires that a fee be established for the issuance and reissuance of GED certificates. The recommended fee has been derived by examining the costs of this function and dividing by the number of certificates issued. The GED department issues approximately 45,000 new certificates annually and reissues approximately 5,000 additional certificates.

The proposed amendment to §89.111 changes references to the Texas Education Agency to the Central Education Agency and provides that this is the only agency in Texas authorized to issue a certificate of high school equivalency on the basis of the GED tests.

The proposed amendment to §89.112 allows education service centers to also be test centers; however, education service centers are not required to add this function. References to the Texas Education Agency have been changed to the Central Education Agency.

The proposed amendments to §89.116 and §89.117 change references to the name of the Texas Education Agency to the Central Education Agency.

The proposed amendment to §89.118, concerning issuance of the certificate, provides for a nonrefundable fee of \$5.00 to be assessed for issuance and reissuance of certificates and for transcripts.

Fees for issuance and reissuance of certificates and for transcripts shall be waived for residents and inmates of city, county, state, and federal health and correctional facilities.

These amendments simultaneously are adopted on an emergency basis.

Richard Bennett, associate commissioner for finance, has determined that for the first five-year period the rules will be in effect there will be fiscal implications as a result of enforcing or administering the rules. The anticipated effect for state government is an estimated increase in revenue of \$225,000 each year in 1986-1990, based on a \$5.00 fee for 40,000 new certificates and 5,000 renewals. There is no anticipated effect on local government or small businesses.

Dr. Beverly J. Bardsley, policy development director, and Mr. Bennett have determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is that the function of issuing high school equivalency certificates will be financially supported by those persons who benefit directly from the service. The anticipated economic cost to individuals who are required to comply with the rules as proposed is a \$5.00 nonrefundable fee for issuance of certificates and transcripts, which will be waived for inmates of city, county, state, and federal health and correctional facilities.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §11.35, which directs the State Board of Education to provide for the administration of high school equivalency examinations and to fix and require payment of a fee for issuance of a certificate.

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 July 25, 1985.

TRD-856715

W. N. Kirby
Commissioner of
Education

Proposed date of adoption:

October 12, 1985

For further information, please call
(512) 475-7077.

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Chapter 133. Pupil-School Relations

Subchapter B. Discipline Management

★ 19 TAC §§133.26-133.28

(Editor's note: The Texas Education Agency proposes for permanent adoption the new sections it adopts on an emergency basis in this issue. The text of the new sections is published in the Emergency Rules section of this issue.)

The Texas Education Agency proposes new §§133.26-133.28, concerning removal of incorrigible pupils, alternative education program, and discipline of handicapped students.

These new sections implement the Texas Education Code, §21.301 and §21.3011. The Texas Education Code, §21.301, provides that, upon finding a student guilty of incorrigible conduct, the board of trustees of a school district or the board's designee may remove the student to an alternative education program. Types of alternative programs which may be used are listed in the statute. The district must make a reasonable effort to provide for the continuing education of students removed to an alternative education program. The term of removal to an alternative education program may not exceed the end of the semester in which the conduct which caused the removal occurred, except that for conduct which occurred during the last six-week period in a semester, the removal may not extend beyond the end of the following semester.

New §133.26 provides additional clarification to school districts concerning implementation of the Texas Education Code, §21.301. Terms used in the statute are defined. The definition of the term "home-based instruction" specifies that the student is to be given assignments to be completed at home, and that instructional services shall be provided to the student. Placement in home-based instruction should be used only when there is no reasonable alternative less severe and shall not exceed 10 consecutive days except as specified in subsection (c)(4)(C). The term "school property" is defined to include property visited by students in connection with a school-sponsored activity. "Serious offenses" are defined to include, without being limited to, assaulting a teacher; selling, giving, or delivering to another person, or possessing or using marijuana or a controlled substance, a dangerous drug, a firearm, illegal knife, club, or other prohibited weapon, as each of these is defined in law, or an alcoholic beverage; being under the influence of one of these substances; or committing arson.

Subsection (b) permits school districts to remove a student from class or from school district premises for nondisci-

plinary reasons when a compelling reason exists for doing so. For example, if the student is under the influence of alcohol or drugs, highly agitated, or suffering from any other condition which temporarily threatens his or her welfare, or that of others or the efficient operation of the school. School districts are encouraged to adopt strict guidelines for using this option to remove a student from campus. In most cases the student should be able to return by the next day. Any removal under these provisions of more than three days is discouraged, although not prohibited by the section.

Subsection (c) describes the hearing procedures to be used in determining whether a student is incorrigible and should be removed to an alternative education program. No hearing is required prior to the use of any discipline management technique which does not constitute expulsion or removal to an alternative education program.

Section 133.27, concerning expulsion, implements the Texas Education Code, §21.3011. Expulsion is the total deprivation of educational services, as distinguished from home-based instruction, which is an alternative education program. Students may be expelled only under the following two kinds of conditions: a student has assaulted a teacher or other individual on school property and the continued presence of the student presents a clear and present danger; or the student has engaged in continued incorrigible conduct which hinders the school's ability to deliver an education to other students and no further reasonable efforts to provide for the student's continuing education can be made. School districts may expel a student for up to the remainder of the school year, or up to the end of the following semester if the conduct occurred during the last six weeks of the school year.

Section 133.27 sets out due process requirements for the expulsion process, including requirements for notice of charges; the right to a hearing with legal counsel or other adult assistance; and the opportunity to testify, present evidence and witnesses, and examine the evidence and witnesses presented by the administration.

Section 133.28, concerning discipline for handicapped students, clarifies that a handicapped student may be disciplined in accordance with the same rules and guidelines followed for nonhandicapped students provided it has been determined that the misconduct in question is not related to the student's handicapping condition or to an inappropriate placement. If the disciplinary action being considered would be an assignment of less than 10 days to an alternative education program, the determination of the behavior-handicap connection may be made by a group of three profes-

sionals defined in the section. If this group determines there is no connection, the disciplinary action can proceed as it would for a nonhandicapped student. If, however, the group believes there is a link between the student's behavior and handicapping condition or placement, or if the disciplinary action being considered is placement for 10 or more days in an alternative education program or expulsion, then the question of linkage and the appropriate disciplinary action must be considered by an admission, review, and dismissal (ARD) committee.

A provision for removal of handicapped students in emergency situations for compelling reasons other than to an alternative education program, similar to that in §133.26 for nonhandicapped students is also included for handicapped students. Again, this procedure may only be used for compelling reasons, as defined in §133.26(b)(1). For handicapped students the removal under this provision shall not exceed five consecutive school days.

Richard Bennett, associate commissioner for finance, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

Dr. Beverly J. Bardsley, policy development director, and Mr. Bennett have determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is clarification concerning the requirements for implementation of the student discipline provisions of the Texas Education Code, §21.301 and §21.3011. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

These new sections are proposed under the Texas Education Code, §21.701, which directs the Central Education Agency to review and approve or reject discipline management programs developed by school districts and requires the agency to monitor, through the accreditation process, the development, implementation, and enforcement of discipline management programs.

This agency hereby certifies that the proposal has been reviewed by legal counsel

and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 28, 1985.

TRD-856824 W. N. Kirby
Commissioner of
Education

Proposed date of adoption:
October 12, 1985

For further information, please call
(512) 475-7077.

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TITLE 22. EXAMINING BOARDS

Part XII. Board of Vocational Nurse Examiners

Chapter 231. Administration General Provisions

★ 22 TAC §231.1

The Board of Vocational Nurse Examiners proposes an amendment to §231.1, concerning definitions. The amendment specifies and clarifies meanings of certain words as they appear in the text of the rules and regulations.

Joyce A. Hammer, executive director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Ms. Hammer also has determined that for each year of the first five years the rule is in effect there is no public benefit anticipated as a result of enforcing the rule. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Joyce A. Hammer, Executive Director, Board of Vocational Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 285, Austin, Texas 78752, (512) 835-2071.

The amendment is proposed under Texas Civil Statutes, Article 4528c, §5(g), which provides the Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

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

Direct supervision—The [graduate] vocational nurse holding a temporary permit shall work under the direction of a licensed vocational nurse, registered nurse, or licensed physician who is physically present in the facility.

Directory of licensed vocational nurses—A roster, published annually with the names and addresses of currently licensed vocational nurses [and accredited schools of vocational nursing and any other information deemed pertinent by the board].

Endorsement—Process of recognition of and subsequent granting of licensure to an applicant who meets all Texas requirements and holds a valid license to practice vocational/practical nursing in another state, District of Columbia, or territory of the United States.

Legitimate excuse—A written statement meeting specified hardship criteria.

Petitioner—Any party making a formal written application or request to the board [requesting the adoption of a rule by the agency].

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 July 22, 1985.

TRD-856843 Joyce A. Hammer
Executive Director
Board of Vocational
Nurse Examiners

Earliest possible date of adoption:

September 6, 1985
For further information, please call
(512) 835-2071.

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Chapter 233. Education Definitions

★ 22 TAC §233.1

The Board of Vocational Nurse Examiners proposes an amendment to §233.1, concerning definitions. The amendment specifies and clarifies meanings of certain words as they appear in the text of the rules and regulations.

Joyce A. Hammer, executive director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Ms. Hammer also has determined that for each year of the first five years the rule is in effect there is no public benefit anticipated as a result of enforcing the rule. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Joyce A. Hammer, Executive Director, Board of Vocational Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 285, Austin, Texas 78752, (512) 835-2071.

The amendment is proposed under Texas Civil Statutes, Article 4528c, §5(g), which provide the Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

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

Class hours—Shall be those hours allocated to didactic instruction in each subject and include [includes] testing.

Clinical conferences—Denotes scheduled [student] presentations and discussions of [all] aspects of patient care experiences [experience].

Clinical practice hours—Hours spent in actual patient care assignments, simulated laboratory, observations, clinical conferences, and clinical instruction [incidental bedside teaching].

[Clinical week—Denotes a minimum of 24 hours (three days) of clinical practice.]

Conceptual framework—Theories or concepts giving structure to the curriculum and enabling faculty to make consistent decisions about all aspects of curriculum development, implementation, and evaluation.

Concurrent theory and clinical laboratory experiences—Coincide or operate at the same time to produce a common effect.

Controlling agency—Institution that has ultimate authority and administrative accountability for the total program [Refers to the institution operating a school].

Correlated theory and clinical practice—To have a reciprocal relationship or to mutually respond to each other.

Course—Organized subject matter and related activities, including laboratory experiences, planned to achieve specific objectives within a given time period [A unit or subject of the curriculum].

Curriculum—Course offerings which, in aggregate, make up the total learning activities in a program of study [Subject content, including allocated hours of theory and clinical practice].

Director or coordinator—Denotes the nurse executive directly [Designates nursing person] in charge of and responsible for the program.

Entry-level competencies—Describes the desirable behaviors exhibited by graduates of vocational nursing programs and are in accord with statutes governing nursing care and are loosely organized under the format of assessment, planning, implementation, and evaluation.

[Functional medications—A manner of assignment whereby the student is to only administer medications to a group of patients.]

Instructor—Denotes [Designates] all nursing education [other nurse] personnel employed by the controlling [adminis-

trative] agency to teach in the vocational nursing department.

Nursing process—Serves as an organizational framework for the nurse-patient relationship in nursing education and practice. It encompasses all the steps taken by the nurse in a systematic approach to patient care: assessment, planning, intervention, and evaluation.

Objectives—Clear statements of expected behaviors that are attainable and measurable [Identify the desired behavioral changes in the learner upon successful completion of the program].

(A) **program objectives**—broad statements used to direct overall student learning toward the development of desirable terminal behaviors;

(B) **level objectives**—describe the student behaviors expected at the completion of major stages in the curriculum;

(C) **course objectives**—identifies desired behavioral changes in the learner upon successful completion of specific curriculum content and shall serve as the mechanism for student progression and can be further divided into enroute and terminal categories.

Philosophy—Statement of concepts expressing fundamental beliefs, principles of reality, and of human nature and conduct as they apply to vocational nursing practice and education [Identifies beliefs or concepts pertaining to nursing education].

Program—Comprehensive system of education [format] including development, implementation, and evaluation of policies and curriculum.

Total patient care assignment—Is a manner of assignment whereby the student meets all needs of the patient within the scope of his or her education [preparation].

Traditional curriculum—Curriculum content which includes broad content areas for courses as specified by the Board of Vocational Nurse Examiners, is presented in one [calendar] year, and meets the minimum hourly requirements for classroom and clinical instruction.

Transfer credit—Is credit given for satisfactory completion of [college] courses which are required in vocational nurse curriculum.

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 July 22, 1985.

TRD-850645

Joyce A. Hammer
Executive Director
Board of Vocational
Nurse Examiners

Earliest possible date of adoption:

September 6, 1985

For further information, please call
(512) 835-2071.

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Operation of a Vocational Nursing Program

★ 22 TAC §§233.12, 233.20-233.24, 233.28

The Board of Vocational Nurse Examiners proposes amendments to §§233.12, 233.20-233.24, and 233.28, concerning controlling agency, program proposals, program director qualifications, program instruction qualifications, program designate supervisor qualifications, minimum teaching personnel within a program, and updating program proposals.

Joyce A. Hammer, executive director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Ms. Hammer also has determined that for each year of the first five years the rule is in effect there is no public benefit anticipated as a result of enforcing the rule. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Joyce A. Hammer, Executive Director, Board of Vocational Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 285, Austin, Texas 78752, (512) 835-2071.

The amendments are proposed under Texas Civil Statutes, Article 4528c, §5(g), which provide the Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

§233.12. *Controlling Agency.* The controlling agency shall:

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

(3) select and appoint a qualified licensed nurse director for the program who will be agreeable to the board and other allied agencies;

(4)-(7) (No change.)

[(8) be responsible for admission, probation, and dismissal of students.]

§233.20. *Program Design [Proposal].* Program components are [The initial program proposal shall contain]:

(1) rationale for the program [philosophy and objectives];

(2) philosophy, conceptual framework, objectives, and entry-level competencies [organizational chart indicating lines of authority];

(3) curriculum plan: syllabi reflective of all required content areas, teaching schedule, and clinical rotation schedules [well defined faculty and student policies];

(4) organizational chart indicating lines of authority [curriculum plan, including teaching schedule];

(5) well defined written faculty and student policies [copy of contractual agreement between controlling agency and health care facilities];

(6) copy of contractual agreement between controlling agency and affiliating health care [description of classroom] facilities;

(7) description of classroom facilities, laboratory facilities, and clinical facilities [director and instructor qualifications];

(8) director and instructor job descriptions, including qualifications, performance evaluation criteria [budget];

(9) budget [clinical rotation schedules];

(10) documented systematic plan for on-going evaluation of the curriculum which includes, but is not limited to, implementation of curriculum, congruency of curriculum with needs of society and trends in health care and health care delivery, and revisions of curriculum based on evaluation data [rationale for establishment of a program, include survey of area for proposed student enrollment and resulting impact on existing vocational nursing programs in the same area];

(11) the initial program proposal shall contain a community needs assessment, impact on existing vocational nursing programs in the service area, and estimates of the current/future applicant pool.

§233.21. *Director.* The director shall be a registered nurse licensed to practice in the State of Texas. The director shall have been actively employed in nursing for the past five years, preferably in supervision or teaching. The director shall have a degree or equivalent experience that will demonstrate competency or advanced preparation in nursing education and administration. [at least five years of varied nursing experience, since graduation, preferably in supervision or teaching, and shall have been actively employed in nursing for the past three years.] The director shall have the authority to direct the program in all its phases including approval [advising] on selection of teaching staff, [and] admissions, progression, probation, and dismissal of students. A director qualifications form shall be submitted to the board office for approval prior to hiring [The director shall submit an instructor qualifications form to the board office]. The director shall be employed solely for program development at least eight weeks prior to beginning a new program. The director shall have no other [hospital] responsibilities but the program. The director shall be responsible to the controlling agency.

§233.22. *Instructors.* Instructors shall be nurses licensed to practice in the State of Texas. Instructors shall have been actively employed in nursing for the past three years. Instructors shall have varied nursing

experiences since graduation [at least two years of varied nursing experience since graduation and shall have been actively employed in nursing for the past one year]. **Instructor qualification forms shall be submitted to the board office for approval prior to hiring.** [Instructors shall submit instructor qualification forms to the board office.] Instructors shall have no other [hospital] responsibilities but the program. Instructors shall be responsible for [supervision of] all initial nursing procedures in the clinical area and will ascertain that the student is competent before allowing the student [he or she is allowed] to perform an actual [a] nursing procedure independently. Instructors shall be responsible for developing, implementing, and evaluating curriculum; participating in development of standards for admission, progression, probation, and dismissal of students; and participation in academic guidance and counseling.

§233.23. Designate Supervisors. Designate supervisors shall be nurses licensed to practice in the State of Texas. A designate supervisory shall have been actively employed in nursing for one year. A designate supervisor shall be responsible for providing clinical instruction and/or supervision when faculty is unavailable in clinical sites. The role of the designate supervisor is to augment the clinical instruction provided by the faculty of the school and while acting in that capacity shall be accountable for identified clinical objectives and will participate in student evaluation. It is the responsibility of the faculty to provide written clinical objectives, evaluation criteria, and a written description of expectations to the designate supervisor. [In the absence of faculty, only, designate supervisors shall be responsible for supervision of all initial procedures including administration of medications in the clinical area and ascertain that the student is competent before he or she is allowed to perform a nursing procedure independently.] The designate supervisor is mandatory in health care facilities whose census and number of students cannot support the assignment of a [full-time] faculty member.

§233.24. Minimum Teaching Personnel. From [On] date of enrollment, there shall be a minimum of one full-time nursing instructor for every 15 students. Directors/coordinators without major teaching or clinical responsibilities shall be excluded from the instructor/student ratio. A [full-time] nursing faculty member for each affiliating agency is preferred to a [in lieu of] designate supervisor. Designate supervisors shall be excluded from instructor/student ratio.

§233.28. Updating Program Design [Proposals]. The board office is to be apprised of any program [proposal item] changes.

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 July 22, 1985.

TRD-856646

Joyce A. Hammer
Executive Director
Board of Vocational
Nurse Examiners

Earliest possible date of adoption:

September 6, 1985
For further information, please call
(512) 835-2071

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Vocational Nurse Education Records

★ 22 TAC §233.81

The Board of Vocational Nurse Examiners proposes an amendment to §233.81, concerning student forms. The amendment is necessary because the University of Texas Instructional Materials Center is no longer providing this service.

Joyce A. Hammer, executive director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rule.

Ms. Hammer also has determined that for each year of the first five years the rule is in effect there is no public benefit anticipated as a result of enforcing the rule. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Joyce A. Hammer, Executive Director, Board of Vocational Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 285, Austin, Texas 78752, (512) 835-2071.

The amendment is proposed under Texas Civil Statutes, Article 4528c, §5(g), which provides the Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

§233.81. Student Forms. Student records shall be maintained on all students. Record forms may be developed by an individual school. Hospital employment forms are not to be used for student records. [VN forms may be purchased from the Instructional Material Center, Main Building 2400, The University of Texas at Austin, Austin, Texas 78712.]

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 July 22, 1985.

TRD-856648

Joyce A. Hammer
Executive Director
Board of Vocational
Nurse Examiners

Earliest possible date of adoption:

September 6, 1985
For further information, please call
(512) 835-2071.

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Chapter 235. Licensing Application for Licensure

★ 22 TAC §235.6, §235.15

The Board of Vocational Nurse Examiners proposes amendments to §235.6 and §235.15, concerning licensure by endorsement and out-of-state practical/vocational nurse graduates. Section 235.6 is amended to assure competency and knowledge of current nursing trends prior to licensure in this state. Section 235.15 is amended to provide uniformity in licensure requirements for all applicants.

Joyce A. Hammer, executive director, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the rules.

Ms. Hammer also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is that individuals who have not practiced nursing within the past five years must have a current knowledge base and that all persons must meet the same licensure requirements. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Joyce A. Hammer, Executive Director, Board of Vocational Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 285, Austin, Texas 78752, (512) 835-2071

The amendments are proposed under Texas Civil Statutes, Article 4528c, §5(g), which provides the Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law

§235.6. Application for Licensure by Endorsement. An applicant for licensure in Texas by endorsement shall:

(1) have satisfactorily completed theory and clinical practice as identified in specific provisions of §233.58(d) of this ti-

tie (relating to Curriculum Requirements) as evaluated by professional staff of the Division of Education [obstetric, pediatric, medical, and surgical nursing];

(2) (No change.)

(3) have achieved a score of 350 on the national examination for practical nurses;

(4) (No change.)

(5) show employment in the nursing profession within the past five years or evidence of a completed refresher course, or completion of [an agreement to] supervised employment for a specified period [or agreement to a refresher course];

(6)-(7) (No change.)

§235.15. *Out-of-State Practical/Vocational Nurse Graduate.* An out-of-state graduate shall:

(1) (No change.)

(2) provide evidence of satisfactory completion of curricular content as identified in specific provisions of §233.58(d) of this title (relating to Curriculum Requirements) as evaluated by professional staff of the Division of Education [curricula inclusive of maternal child nursing, medical-surgical nursing, and pharmacology (a grade of C or 70% evidences satisfactory completion)];

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

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

Issued in Austin, Texas, on July 22, 1985

TRD-856649 Joyce A. Hammer
Executive Director
Board of Vocational
Nurse Examiners

Earliest possible date of adoption:

September 8, 1985

For further information, please call
(512) 835-2071.

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 115. Home Health Care Agencies

Licensing and Regulation

★25 TAC §115.14

(Editor's note: The Texas Department of Health proposes for permanent adoption the section it adopts on an emergency basis in this issue. The text of the section is published in the Emergency Rules section of this issue.)

The Texas Department of Health proposes a new §115.14, concerning licensing fees. The new section will cover licensing fees for home health care agencies.

Stephen Seale, chief accountant III, has determined that for the first five-year period the rule will be in effect there will be fiscal implications for state government as a result of enforcing or administering the rule. The anticipated effect on state government is an estimated additional cost of \$47,017 per year and an estimated increase in revenue of \$491,250 per year in 1985-1989. There is no anticipated effect on local government. The cost of compliance with the rule for small businesses will be the home health service license fees established in §115.14. The cost of compliance for small businesses compared with the cost of compliance for the largest businesses affected by the rule is based on the cost per employee. A small Class A home health agency cost is \$56.25 per employee versus a large Class A home health agency cost of \$6.43 per employee. A small Class B home health agency cost is \$75 per employee versus a large Class B agency cost of \$13.24 per employee.

Mr. Seale also has determined that for each year of the first five years the rule as proposed is in effect the public benefits anticipated as a result of enforcing the rule as proposed is the license fees which should allow for a measure of control in the quantity and quality of home health care agencies. There is no anticipated cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Juanita Carrell, R.N., Ed.D., Director, Medicare Certification Division, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7245. Comments will be accepted for 30 days from the date of publication of this proposal in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Article 4447u, §8, which authorize the Texas Board of Health to set home health services license fees, and §4, which authorizes the board to adopt rules covering home health care agencies.

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 July 22, 1985.

TRD-856873 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Proposed date of adoption.

September 14, 1985

For further information, please call
(512) 458-7245.

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration Subchapter Q. Franchise Tax

★34 TAC §3.395

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Comptroller of Public Accounts, LBJ Building, 111 East 17th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Comptroller of Public Accounts proposes the repeal of §3.395, concerning liability prior to certificate of authority. The section is repealed so a substantially revised section dealing with the same subject matter may be adopted.

Billy Hamilton, revenue estimating director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government as a result of the repeal. This repeal is promulgated under the Tax Code, Title 2, and no statement of fiscal implications for small businesses is required.

Mr. Hamilton also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is provision of new information regarding tax responsibilities under changes made by the legislature. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to D. Carolyn Busch, Director, Tax Administration, P.O. Box 13528, Austin, Texas 78711.

The repeal is proposed under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the franchise tax

§3.395. *Liability Prior to Certificate of Authority.*

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 July 29, 1985

TRD-856771 Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption.

September 8, 1985

For further information, please call
(512) 475-1913.

★ ★ ★

The Comptroller of Public Accounts proposes new §3 395, concerning liability prior to certificate of authority, to replace existing §3 395 that is being proposed for repeal. There are some minor changes to make the section conform to some changes in the statutes, and the section has been reorganized to make it easier to follow. The section has been made more specific to clarify areas that previously were vague

Billy Hamilton, director of revenue estimating, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. This rule is promulgated under Title 2 of the Tax Code, and no statement of the fiscal implications for small businesses is required.

Mr. Hamilton also has determined that this change will benefit the public by provision of new information regarding tax responsibilities under changes made by the legislature. There are no additional costs to individuals as a result of enforcing the rules as proposed.

Comments on the proposal may be submitted to D. Carolyn Busch, Director, Tax Administration, P. O. Box 13528, Austin, Texas 78711.

This new section is proposed under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the franchise tax.

§3.395. *Liability Prior to Certificate of Authority.*

(a) **Applicability.** This section applies only to foreign corporations which obtained a certificate of authority before August 26, 1985.

(b) **Franchise tax liability.** Each foreign corporation doing business in Texas prior to the effective date of its certificate of authority to transact business in Texas is liable for franchise tax as though it had obtained a certificate of authority on the day it began doing business in Texas.

(c) **Tax rate prorated.** The tax rate shall be prorated for the last tax period before the corporation obtained its certificate of authority based on the number of days from the beginning of the tax period through the day before the effective date of the certificate of authority. The tax due for any tax period may not be less than the minimum tax provided for that year.

(d) **Initial report periods.** A foreign corporation which obtains a certificate of authority before the end of the periods covered by an initial report must base its tax on the financial condition of the corporation as of the day before the effective date of the certificate of authority. In calculating its percent of Texas business, it must use its receipts from the day it began doing busi-

ness in Texas through the day before the effective date of the certificate of authority. This subsection will control if it conflicts with another subsection of this section.

(e) **Information required.** The comptroller may require the filing of any information he deems necessary for the proper determination of the amount of tax due.

(f) **Determination.** Based on the information furnished pursuant to subsection (e) of this section, the comptroller will issue to the corporation a deficiency determination of the amount of tax, penalty, and interest due, based on the applicable tax rates and on the appropriate allocation and apportionment formulae prescribed in this section and the Texas Tax Code.

(g) **Penalty and interest.** The penalty and interest provision of Texas Tax Code, §171.362 and §111.060, shall apply as if the corporation had obtained its certificate of authority on the day it began doing business in Texas. The penalty provisions of Texas Tax Code, §111.0081, shall apply to any deficiency determination issued after August 25, 1985.

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 July 29, 1985

TRD-856770 Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption:

September 6, 1985
For further information, please call
(512) 475-1913.

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★34 TAC §3.412

The Comptroller of Public Accounts proposes new §3.412, concerning survivors of mergers. The new section reflects changes to the Franchise Tax Act enacted by the recent session of the legislature. The due dates of franchise tax reports and payments and the date upon which the tax is based change for many corporations which are the survivors of mergers.

Billy Hamilton, director of revenue estimating, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. This rule is promulgated under the Tax Code, Title 2, and no statement of the fiscal implication for small businesses is required.

Mr. Hamilton also has determined that this change will benefit the public by provision of new information regarding tax responsibilities under changes made by

the legislature. There are no additional costs to individuals as a result of enforcing the rules as proposed

Comments on the proposal may be submitted to D. Carolyn Busch, Director, Tax Administration, P. O. Box 13528, Austin, Texas 78711.

This section is proposed under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the franchise tax.

§3.412. *Survivors of Mergers.*

(a) **Application.** This section applies only to corporations which are the survivors of mergers occurring after August 25, 1985.

(b) **Day upon which tax is based—**all reports. If a corporation is the survivor of a merger which occurred between the day upon which the tax is based as provided in the Texas Tax Code, §171.153, and May 1 of the year in which payment is due as provided in the Texas Tax Code, §171.152, then the tax will be based on the financial condition of the corporation as of the day after the date of merger. For example, assume a calendar year corporation is the survivor of a merger which occurs January 18, 1988. The 1988 annual franchise tax report will be based on the financial condition of the corporation as of January 19, 1988, not as of December 31, 1987. This is because the merger occurred between December 31, 1987, and May 1, 1988. The report and payment will be due March 15, 1988.

(c) **Initial report—due dates.** If the report affected by subsection (b) of this section is an initial report, the report and payment of the tax will be due 91 days after the date of merger. For example, assume a corporation is chartered November 1, 1985, and is the survivor of a merger which occurs December 1, 1986. Its initial report will be based on the financial condition of the corporation as of December 2, 1986 (because the merger occurred between October 31, 1986, and May 1, 1987). The report and payment will be due March 2, 1987 (91 days after the date of merger), not January 29, 1987 (87 days after the first anniversary date).

(d) **Annual report—due dates.** If the report affected by subsection (b) of this section is an annual report, and if the merger occurred in February, March, or April of the year in which the report is due, the report and payment of the tax shall be due June 15 of the same year, instead of March 15. For example, assume a calendar year corporation is the survivor of a merger which occurs February 18, 1988. The 1988 annual franchise tax report will be based on the financial condition of the corporation as of February 19, 1988, not as of December 31, 1987. The report and payment will be due June 15, 1988, not March 15, 1988.

(e) **Receipts.** The survivor should combine its receipts and the receipts of the

\$445,000 each year in 1986-1990. There is no anticipated fiscal effect on local government or small businesses.

Mr. Dietert also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is the uniform issuance of oversize-overweight permits for extended time periods for oil well servicing vehicles, which will allow the department to exercise better route control of these vehicles, thereby providing greater protection to the traveling public and at the same time providing greater protection to the public's investment in the highway system. The anticipated economic cost to individuals who are required to comply with the rules as proposed is not predictable, because the department is unable to calculate the number of permits that will be issued under this new procedure.

Comments on the proposal may be submitted to Milton M. Dietert, Chief Engineer, Safety and Maintenance Operations Division, State Department of Highways and Public Transportation, 11th and Brazos Streets, Austin, Texas 78701.

★ 43 TAC §25.91, §25.92

(Editor's note: The State Department of Highways and Public Transportation proposes for permanent adoption the repeal it adopts on an emergency basis in this issue. The text of the rules proposed for repeal will not be published. The rules may be examined in the offices of the State Department of Highways and Public Transportation, 11th and Brazos Streets, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is proposed under Texas Civil Statutes, Article 6666 and Article 6701d-16, which provide the State Highway and Public Transportation Commission with the authority to establish rules for the conduct of the work of the department and, specifically, for the movement of oversize-overweight oil well servicing vehicles.

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 July 29, 1985.

TRD-856830 Diane L. Northam
Administrative
Technician
State Department of
Highways and Public
Transportation

Proposed date of adoption:
September 6, 1985
For further information, please call
(512) 475-2141.

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(Editor's note: The State Department of Highways and Public Transportation proposes for permanent adoption the new sections it adopts on an emergency basis in this issue. The text of the new sections is published in the Emergency Rules section of this issue.)

These new sections are proposed Texas Civil Statutes, Article 6666 and Article 6701d-16, which provide the State Highway and Public Transportation Commission with authority to establish rules for the conduct of the work of the department and specifically for the movement of oversize-overweight oil well servicing vehicles.

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 July 29, 1985.

TRD-856829 Diane L. Northam
Administrative
Technician
State Department of
Highways and Public
Transportation

Earliest possible date of adoption:
September 6, 1985
For further information, please call
(512) 475-2141.

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★ 43 TAC §25.95

(Editor's note: The State Department of Highways and Public Transportation proposes for permanent adoption the amendments it adopts on an emergency basis in this issue. The text of the amendments is published in the Emergency Rules section of this issue.)

The State Department of Highways and Public Transportation proposes amendments to §25.95, concerning the issuance of oversize-overweight permits for certain vehicles transporting loads of liquid oil well waste products, liquid fracturing products, and transporting these loads over load zoned roads. The amendments expand the types of liquid loads that can be permitted under Texas Civil Statutes, Article 6701d-16

Milton M. Dietert, safety and maintenance operations chief engineer, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for local government or small businesses as a result of enforcing or administering the rule. The anticipated effect on state government is an estimated increase in revenue of \$5,000 in 1986, \$7,500 in 1987, and \$10,000 each year in 1988-1990.

Mr. Dietert also has determined that for each year of the first five years the rule is in effect the public benefit anticipated

as a result of enforcing the rule is that the public will be able to receive permits for moving legal weight loads of liquid products that are vital to the production of oil wells and will be routed over load zoned roads. This action by the department could possibly reduce the production cost of petroleum by allowing the movement of loads not presently allowed to move. The economic cost to individuals who are required to comply with the rule as proposed is not predictable, because the department is unable to calculate the number of permits that will be issued under this new procedure.

Comments on the proposal may be submitted to Milton M. Dietert, Chief Engineer, Safety and Maintenance Operations Division, State Department of Highways and Public Transportation Commission, 11th and Brazos Streets, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 6666 and Article 6701d-16, which provide the State Highway and Public Transportation Commission with the authority to establish rules for the conduct of the work of the department and, specifically, for the movement of oversize-overweight oil well servicing vehicles.

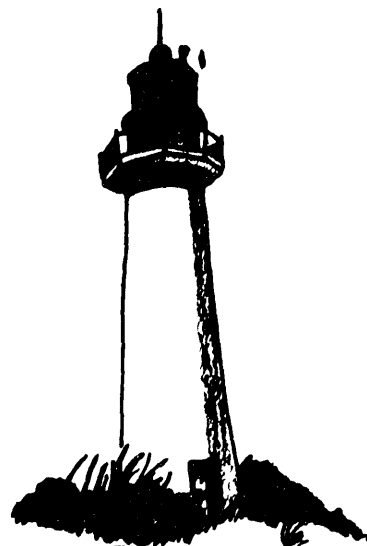
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 29, 1985.

TRD-856831 Diane L. Northam
Administrative
Technician
State Department of
Highways and Public
Transportation

Earliest possible date of adoption:
September 6, 1985
For further information, please call
(512) 475-2141.

★ ★ ★



Withdrawn

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

TITLE 25. HEALTH SERVICES
Part I. Texas Department of Health
Chapter 115. Home Health Care Agencies
Licensing and Regulation
★ 25 TAC §115.14

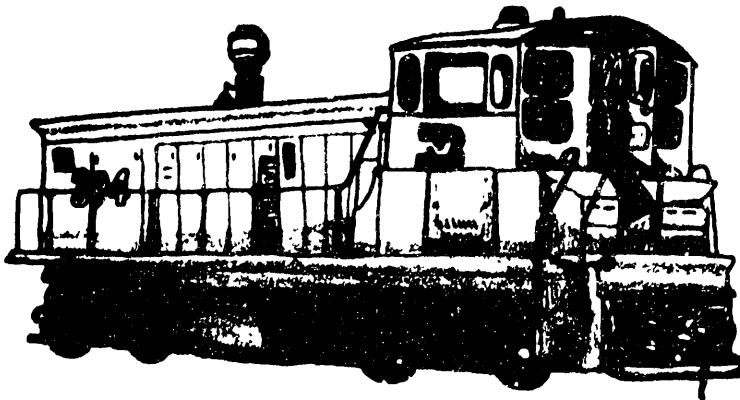
The Texas Department of Health has withdrawn the emergency adoption of new §115.14, concerning licensing fees for home health care agencies. The text of the new section as adopted on an emergency basis originally was published in the July 28, 1985, issue of the *Texas Register* (10 TexReg 2382).

Issued in Austin, Texas, on July 31, 1985.
TRD-856870 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: July 31, 1985
For further information, please call
(512) 458-7238.

★ ★ ★

The Texas Department of Health has withdrawn from consideration for permanent adoption proposed new §115.14, concerning licensing fees for home health care agencies. The text of the new section as proposed appeared in the July 28,



1985, issue of the *Texas Register* (10 Tex-Reg 2400.)

Issued in Austin, Texas, on July 31, 1985.
TRD-856871 Robert A. MacLean
Deputy Commissioner
Professional Services

Filed: July 31, 1985
For further information, please call
(512) 458-7238

★ ★ ★

TITLE 31. NATURAL RESOURCES AND CONSERVATION
Part XVI. Texas Coastal and Marine Council
Chapter 501. Donations
★ 31 TAC §§501.1-501.4

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new §§501.1-501.4 submitted by the Texas Coastal and Marine Council have been automatically withdrawn, effective July 28, 1985. The new sections as proposed appeared in the January 25, 1985, issue of the *Texas Register* (10 Tex-Reg 287).

TRD-856722
Filed: July 28, 1985

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Adopted

Rules

An agency may take final action on a rule 30 days after a proposal has been published in the *Texas Register*. The rule 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 rule 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 rule with changes to the proposed text, the proposal will be republished with the changes.

TITLE 4. AGRICULTURE Part I. Texas Department of Agriculture

Chapter 7. Pesticides

★ 4 TAC §§7.25-7.31

The Texas Department of Agriculture adopts amendments to §§7.25, 7.26, 7.29, and 7.30, with changes to the proposed text published in the June 14, 1985, issue of the *Texas Register* (10 TexReg 1954). Sections 7.27, 7.28, and 7.31 are adopted without changes and will not be republished.

The department proposed amendments to §§7.25-7.31 based upon comments received from affected parties throughout the state after the effective date of the rules on January 21, 1985. These amendments are adopted for clarification of the rules and to facilitate compliance by affected parties.

Section 7.25(d)(9) is adopted with changes. The size of the universal symbol (flag) is reduced to 18 inches by 24 inches. This change was made to correct a typographical error.

Section 7.26(h)(1)(A)(III) is adopted with changes. The first sentence has been changed to read as follows:

The telephone number of the farm operator shall be on or near the flag, and the flag shall be raised on the border of the field at a location to which the public has access for the purpose of reading the telephone number.

The purpose of this provision is to provide a telephone number at which the farm operator may be reached to obtain information about an application. It is paramount that such information be visible or accessible to persons in need of such information.

Section 7.29 is adopted with changes. In paragraph (3), the word "authorization" has been substituted for "authority" in the fifth line.

Section 7.30(c)(5) is adopted with changes. One of the primary purposes of the regulations is to protect workers involved in close contact with foliage and plants where pesticide residue may exist. Comments were submitted to the effect that the focus had changed to crops

instead of worker activities. This clearly was not the intention. Accordingly, this subsection has been changed to make clear that the reentry interval applies to agricultural pesticides when used on crops requiring workers to perform labor intensive activities. In subsection (c)(6), language is added to show that the department shall consider granting an exemption "upon a showing by the submitter that a lesser reentry interval will not impose an unreasonable risk to human health." In subsection (c)(8), the word "designed" has been changed to "designated" to correct a typographical error.

Section 7.25(d)(5) is amended to delete the word "body" from the definition of "labor intensive activities." Subsection (d)(9) is amended to reduce the size of the universal symbol. Subsection (d)(11) defines "farm labor camp."

Section 7.26(c)(1) is amended to require that the structure in which an adjoining neighbor resides or works must be within ¼ mile of the field on which pesticides may be applied. Subsection (c)(2) requires that persons in charge of licensed day-care centers, primary and secondary schools, hospitals, inpatient clinics, or nursing homes request notification if they wish to be notified of pesticide applications within ¼ mile of their facility. This provision also enables the department to require notification upon the request of a parent, where the person in charge of the school has refused to request notification. Subsection (g) requires that the farm operator give notification within 10 days of receipt of the request for notification and allows the department to extend this time period for good cause.

Subsection (h)(1)(A)(I) clarifies where the notification flag should be located. Subsection (h)(1)(A)(III) gives special provisions for placement of the flag in the case of unusually tall crops or limited access fields. Subsection (h)(1)(A)(III) requires that the telephone number of the farm operator be on or near the flag, and the flag raised at a location accessible to the public. Subsection (h)(1)(A)(III) and (IV) are amended to require that the intended date and approximate time of application be given.

Subsection (h)(3) gives the methods by which eligible licensed day-care centers,

primary and secondary schools, hospitals, inpatient clinics, and nursing homes shall be notified. Subsection (h)(4) provides that certain farm labor camps are entitled to notification without requesting it, and provides the method of notification. Subsection (h)(5) makes it a violation of §7.26 to provide false information to the department regarding failure to receive notification.

Section 7.27(b) and (c) are amended to clarify that the prescribed farm operator responsibilities apply to workers who are about to enter a field and not to workers in general. Subsection (d)(1) is amended to delete the requirement that the farm operator's name be on the reentry sign. Subsection (d)(2) is amended to require that reentry signs should be taken down within 24 hours after the expiration of the reentry interval, and not left posted more than 48 hours after the expiration of the reentry interval. Section 7.28(d) is amended by adding the phrase "contained in the warning" which clarifies that the specified information applies to any warnings given pursuant to §7.27(c).

Section 7.29(3) requires that persons employed by the farm operator shall not knowingly enter a field to which pesticides have been applied before the reentry interval has expired without the authorization of the farm operator.

Section 7.30(c)(5)-(10) provide the conditions under which 24-hour reentry intervals will be established for pesticides with registered agricultural uses which are applied to crops which require labor intensive activities. These subsections include documentation to be required of registrants/submitters, criteria to be used to evaluate data submitted, and provide for granting of an exemption by the department upon submission of certain studies.

Section 7.31 provides for the department to establish reentry intervals.

Comments submitted in response to §7.25(d)(5) stated that deletion of the word "body" strengthens worker protection. In response to (d)(9), comments stated that the size of the symbol is important and not the size of the flag. In response to (d)(11), comments stated that the definition of "farm labor camp" clearly defines what facilities are to be cov-

ered by this section, and strengthens worker protection.

Comments submitted in response to §7.26 stated that, in subsection (c)(1), the words "a tract of" should be inserted before "land adjoining" to clarify that in case of a subdivision the regulations apply only to the first row of lots. In subsection (c)(2), comments stated that allowing parents of children to request notification is a good way of remedying the concern that certain school districts may not request notification; schools should not be treated differently and should be required to request notification with no exceptions; parents should be able to request notice where school personnel have not requested notification and should not be contingent upon the school's refusal to request notification; it is not necessary to allow parents to request notification, as school administrators will request notification if parents ask them to do so; adding day-care centers, primary and secondary schools, hospitals, inpatient clinics, and nursing homes to those who may request notification strengthens worker and adjacent resident protection; parents of children at licensed day-care centers, and close family members of patients in hospitals, inpatient clinics, and nursing homes should be allowed to request notification from the department for "good cause" where the person in charge has refused to request notification. Regarding subsection (d), comments suggested changing "must" to "should" to broaden individuals' ability to request notice and that the department need to balance the responsibility of those requesting notification with those providing notice.

Regarding subsection (g), comments suggested there should be a definite cut-off period for submission of requests (early in the calendar year); the 10-day period does not afford farmers sufficient time to prepare pesticide application schedules or notify applicators; a 30-day period may be more satisfactory; where notification is to be given by phone or in writing, notification should begin within three days of receipt of the request, if not immediately, especially in cases involving medically sensitive persons; if notification is given by flag, 10 days is not an unreasonable time (to put up a pole and acquire a flag); an extension should not be given without the department notifying the requesting person to make sure the extension will not harm him or her; the department should balance out the farmer's need for an adequate time to prepare to give notification against the risk of exposure to the requesting person; if farmers are allowed to extend the time to commence notification for "sufficient cause," requesting parties should, upon a showing of sufficient cause, be allowed to request that notification begin before expiration of the 10-day period; and it should be clear that notification should be given within 10 days of an ap-

plication, but there is no duty to notify if no application is made within that period.

Regarding subsection (h)(1)(I)-(III), comments suggested that the notification flag should be 650 yards from the location of the neighbor's (requesting party) structure; the distance of 650 yards is too far for a person to read, and the phrase "from property line" increases the distance; if the sign is in the middle of the field, interested persons will not be able to see or read a telephone number of the name of the chemical; phone numbers on or near the flag are going to be hard to read from a distance, especially if the flag is draped; the phone number on the flag should be easily accessible and clearly visible without entering the field; notification flags should not be posted in the field; signs should be placed where they can be read by requesting parties; the notification flag should be located on or adjacent to the field; the language omitted in clause (III) should have remained; the language concerning unusually tall crops needs to be modified and clarified; and this section should include a requirement that the farm operator provide to the requesting party a statement of the possible immediate and long-term effects of harmful exposure to the pesticide.

Regarding subsection (h)(3), comments suggested that written notification should be allowed.

Regarding subsection (h)(4), comments suggested that farm labor camps should not be treated any differently than other facilities, that farm labor camps should be request notification, and that this provision strengthens worker protection.

Regarding §7.27, comments suggested that, in subsection (b), changing "may" to "must" strengthens and clarifies the duties of the farm operator under this section.

Regarding subsection (d)(2), comments suggested taking down reentry signs after expiration of the reentry interval is reasonable because people will take the signs more seriously if they are not up all the time, and that the provision strengthens worker protection.

Regarding §7.29, comments suggested that in paragraph (2), deletion of the section is an arbitrary decision; there is no compelling reason to delete the provision; deletion of the provision is commendable, as there is no evidence that any farm worker has ever attempted to prevent a lawful application; and prohibition of entry by "any person" is not overly broad.

Regarding paragraph (3), comments suggested that the provision is unclear and should be clarified to show real intent; the language change is an improvement; addition of the provision is helpful, but it is unclear whether the regulations are

strengthened or weakened; restricting unlawful entry to only employees of farm operators, while requiring that the application stop if "any person" enters the field, is an unfair burden on the farm operator; activist groups could use this regulation to disrupt agricultural practice; use of "knowingly" removes the effectiveness of the provision because it allows violators to plead ignorance.

Regarding §7.30, comments suggested that in subsection (c)(5), the provision is arbitrary and unworkable and will impose a hardship on growers as they have no control over data required; amendments weaken the original intent of a 24-hour reentry interval; the 24-hour reentry interval will prevent the required daily harvesting and spraying of some crops; this provision puts farm operators at a disadvantage as it renders them unable to harvest and market successfully; growers don't have the means of getting information required to prevent 24-hour reentry; this section should require studies regarding health effects of dermal absorption and toxicity, foliar residue; and other relevant studies; the term "interim" needs to be clearly defined; farmers need to know whether a 24-hour reentry interval will go into effect on November 1, 1985, or whether a list of pesticides assigned a 24-hour reentry interval will first be published in the *Texas Register*; those using pesticides will be affected as they will have to consult a list of pesticides for which a 24-hour reentry interval has been established; this provision is inconsistent with subsection (c)(5) which refers to labor intensive activities and not labor intensive crops.

Regarding subsection (c)(6)(B), comments suggested that a "core grade" should be defined; the regulations should state what core grade rating will signal that the study is acceptable to the Environmental Protection Agency (EPA); the statement of acceptance of study should come directly to the department from EPA or the registrant/submitter should provide the formal statement from the EPA; as written, this provision could allow the department to rely on a registrant's word that an acceptable study has been made; the department needs to classify for criteria for a risk-benefit analysis; and the process for submitting and evaluating data should be outlined clearly.

Regarding subsection (c)(6)(C), comments suggested that this section makes sense, as it requires the right information and doesn't ask the submitter to make judgments; the department should clarify whether the same risk criteria used in other sections also will be used here; the department needs to strengthen the language covering the granting of exemptions to indicate that exemptions will be granted only upon a clear showing of an interval of less than 24 hours will not

impose unreasonable risk to human health.

Regarding subsection (c)(7), comments suggested that dermatitis should be included in the listing as being a possible adverse effect

Regarding subsection (c)(8), comments suggested that the department should clarify its intention and state the basis used for determining/assessing risks, and that the department should clarify the criteria for a risk-benefit analysis.

Regarding subsection (c)(9), comments suggested that the department needs to indicate whether the existence of a data gap will mean an automatic 24-hour reentry interval.

Regarding §7.31, comments suggested that the department is to be commended for deleting the Technical Advisory Committee, but that the department is still not authorized to set reentry intervals.

Comments submitted in general response to the proposed amendments stated that modification of certain language has made the regulations more workable, clearer, and less liable to misinterpretation; where there are benefits given to farmers/growers, there is not a balancing benefit given to protect farm workers, consumers, or rural residents; the amendments have taken a step backwards in protecting farm workers; the department should make rules to make its administrative process more accessible to those who are being exposed; an education program is needed to advise the public of changes; EPA's requirement of a 24-hour reentry period on pesticides in Toxicity I category is much preferred over the department's approach; and the department does not have sufficient statutory authority to set reentry intervals unless the pesticides have been classified as state-limited use.

Commenting in favor of the amendments were the Texas Center for Rural Studies, the United Farmworkers Union, the Farmworker Health and Safety Project, the National Audubon Society, and the Consumers Union. Comments against the amendments were made by the Texas Agricultural Chemicals Association and the Texas Farm Bureau. Neither for nor against the amendments were the Texas Citrus Mutual, Texas Food Producers Council, and National Agricultural Chemicals Association.

The department disagrees that the size of the symbol counts, and not the size of the flag. The regulations require that the flag contain the universal symbol. Because the flag may be blowing or draped around the pole, it is impossible to rely on one's ability to distinguish the symbol. The notification flag is intended to convey to the observer that the field has been treated in the immediate past or will be treated in the immediate future. Fur-

ther, although the size of the universal symbol was reduced to 18 inches by 24 inches, the size of the lettering and figures remain the same. Thus, except for the portion of the white background, the universal symbol is the same size

The department disagrees that "a tract of" should be added to "land adjoining" in §7.26(c)(1). The language already makes clear that the structure in which the adjoining neighbor resides or works must be within ¼ mile of the field to be treated.

The department disagrees that parents should not be permitted to complain to the department if the person in charge of a school has refused to request prior notification. The purpose of this provision is to afford vulnerable school children protection against pesticide exposure. Where such children are denied notification because the person in charge of such facility has refused to request it, the department should provide a forum for the parent to plead the children's case. It is important to note, however, that the requesting parent must have good cause to request notification. The provision requires the department to make factual findings in support of notification, before requiring a farm operator to notify the person in charge of the school

The department disagrees that persons at licensed day-care centers, nursing homes, and hospitals should be allowed to request notification if the person in charge of such facility refuses to request notice. The decision to allow parents of primary and secondary school children to request notification was in response to comments that some school districts might make the political decision to refuse to request notification, notwithstanding the presence of vulnerable children. The department has not been advised that the other facilities are susceptible to the same exclusion

The department disagrees that the language in §7.26(d) should remain "must" be provided, instead of "should" be provided. Requesting parties who do not have a home and business telephone number cannot be expected to provide both, and some persons will not be reachable at a second number.

The department disagrees that there should be a cut-off date for persons requesting notification. It is both impractical and unreasonable to allow farm operators 30 days after receipt of a request for notification to begin notifying the requesting party. Most farm operators who testified at the public hearings on the regulations adopted in the January 21, 1985, issue of the *Texas Register* stated that virtually all pesticide applications are done on an emergency basis. Therefore, it does not follow that applications may be scheduled a full season in advance. Further, if the department's goal

is to afford reasonable protection against possible human exposure, then the department should allow the farm operator sufficient time to set up a procedure to give notification. The department believes that 10 days is sufficient time to establish such a procedure.

The department disagrees that the flag cannot be seen from 650 yards as provided in §7.26(h)(1)(A)(I)-(III). Based on the department's observation, the notification flag may be seen from that distance if it is two feet above the top of the average crop. In most cases, notification flags, when used, will be posted in the same location. Therefore, the requesting neighbor will know where to look for the flag. Moreover, notification flags will in time become a distinctive symbol with universal meaning. Thus, their presence, even at a substantial distance, will convey notification of an impending pesticide application. The department will watch closely the use of notification flags to make sure that eligible requesting parties are receiving real notification of scheduled pesticide applications.

The department disagrees that farm operators giving notification under §7.26(h)(3) should be allowed to notify in writing. Written notice, if mailed to such facilities, would in many cases arrive after the pesticide application, and thus would not be advance notice of scheduled applications, as intended by these regulations. Written notice delivered to the person in charge of the facility will be treated as notice given in person.

The department disagrees that mandatory notification should not be given to farm labor camps. Such camps have been defined narrowly as those owned, managed, or operated by the farm operator or licensed by the State of Texas. Many farm workers who need advance notice of pesticide applications to protect themselves and their families live in housing which falls into these categories. Comments have been to the effect that such workers will not request notification because of the fear of losing their jobs. Little, if any, hardship is placed on the farm operator, as such workers are employed by him or reside in a camp licensed by the state and located within ¼ mile of his field.

The department disagrees that it should continue to prohibit persons from entering fields without the authorization of the farm operator, as the department is without the legal authority to do so. The department cannot find any connection between this overly broad prohibition and its authority to regulate pesticide use. Further, such persons are prohibited from entering the farm operator's field by criminal trespass laws and common law.

The department disagrees that use of the word "knowingly" removes the effectiveness of the prohibition against work-

ers entering treated fields before the expiration of the reentry interval. The element of knowledge is required in this instance because workers who do not know that a field has been treated should not be deemed in violation of these regulations. Further, workers are often required to rely on the farm operator to advise them that a field has been treated by pesticides. Such workers should not be punished if the farm operator has failed to do so.

The department disagrees that §7.30(c)(5) will work a hardship on growers. The language of this section gives registrants and submitters ample opportunity to submit to the department data demonstrating that a reentry interval of less than 24 hours is appropriate for any specific pesticide. Further, the studies which are deemed acceptable to the department have been required by the EPA under FIFRA. Finally, this provision is based on the department's conclusion that it is the manufacturer's responsibility to prove the product safe, and not the department's responsibility to prove it unsafe. Farm operators who do not plan to keep workers out of a treated field for 24 hours after a pesticide application may legally send workers in by complying with the protective clothing and warning requirements of the regulations. In many cases, this will mean ensuring that the workers are wearing impermeable gloves, in addition to what should be normal work attire. It is not true that farm operators will be prevented from using pesticides which have a 24-hour reentry interval. It is true that farm operators who use such pesticides must ensure that workers who enter the field before the expiration of a applicable 24-hour reentry period are wearing appropriate protective clothing.

The department disagrees that a definition should be provided for core grade. A core grade is assigned by EPA scientists for each study submitted by a pesticide registrant in support of federal registration. The specific core grade is intended to provide an unambiguous measure of the scientific validity and acceptability of a study within EPA's minimum data criteria standards. Since the core study concept has been in routine use by the EPA's Office of Pesticide Programs since 1977, the large majority of chronic toxicology studies have received a core grade following EPA scientific review. The department will utilize the core grade in assuring that studies submitted by registrants in support of federal registration were accepted by the EPA as scientifically valid and usable for registration purposes. The core grades for individual studies are available from EPA, and the department will conduct routine sample audits of exemptions submissions to determine the accuracy of such submissions.

The department disagrees that the proposed amendments weaken the protection afforded farm workers. Indeed, the department believes that the amendments make the regulations more workable and more understandable, and that the end result will be more and better voluntary compliance. The department further disagrees that it does not have the statutory authority to put in place a mechanism to control the setting of adequate and appropriate reentry intervals. Chapter 76.104 grants this department express authority to adopt rules relating to the time, place, manner, method, amount, or concentration of pesticide application, or to the materials used in pesticide application. Indeed, the legislative grant of authority could not be more clearly stated. The department disagrees that the EPA has addressed this problem by establishing a 24-hour reentry interval on Toxicity Category I pesticides. Further, EPA has merely stated the intention to adopt such a provision in an advanced notice of proposed rule making. Actual enforceable regulations are, almost without a doubt, two years away. This EPA categorization is based on highly acute toxicity or potentially serious skin and eye irritation, and does not afford any protection from pesticides with low to moderate toxicity which may cause serious, adverse chronic effects in humans.

The amendments are adopted under the Texas Pesticide Control Act, Texas Agriculture Code, Chapter 76, which provides the Texas Department of Agriculture with the authority to regulate pesticides, including regulation of labeling of pesticide containers, registration of pesticides, licensing of applicators, use and application of pesticides, storage and disposal of pesticides, and enforcement of existing laws and regulations. The department is given the authority to adopt rules governing the application of pesticides, specifically those relating to the time, place, manner, method, amount, or concentration of pesticide application, or to the materials used in pesticide application, by Chapter 76.105(b)(2). The department, under Chapter 76, §76.101(a) and §76.104(a), is also given the authori-

ty to promulgate rules and regulations not inconsistent with the Act as may be necessary to carry out its mandate to regulate pesticide use and application in Texas.

§7.25. Scope of Pesticide Application Standards.

(a)-(c) (No change.)

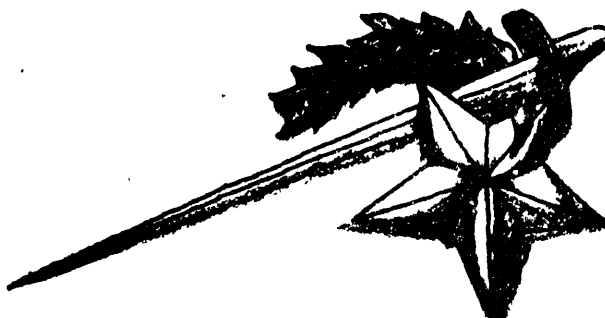
(d) Definitions. In addition to the definitions set out in Texas Agriculture Code, Chapter 76, §76.001 (1981), and §7.1 of this title (relating to Definitions), the following words and terms, when used in these regulations, shall have the following meanings:

(1)-(4) (No change.)

(5) Labor-intensive activities. Labor-intensive activities are those activities requiring a worker to make substantial contact with plants, soil, or other sources of pesticide residue after application of a pesticide but before expiration of the applicable reentry interval. Examples of activities which may require workers to make substantial contact include commonly recognized crop-production, hand-labor activities such as harvesting, detasseling, thinning, weeding, topping, planting, sucker removal, roguing and pruning. Provided, however, walking and/or standing in a treated field shall not be deemed to be substantial contact with soil if the worker is wearing boots or shoes and socks.

(6)-(8) (No change.)

(9) Universal symbol. The meaning of universal symbol is a figure at least 18 inches in width by 24 inches in length in size, white in color, and which is inscribed a 12-inch diameter red circle with a red diagonal bar one inch in width placed from the two o'clock position to the eight o'clock position across the circle. The legend "Danger Pesticides" shall appear in black letters above the circular prohibitory symbol and the words "Peligro Pesticidas" below; lettering must be no less than 1½ inches high. Enclosed within the circular symbol shall be two figures amid rows of crops, all in black. The symbol should appear substantially as follows:





(10) (No change.)

(11) Farm labor camp—Housing used by one or more seasonal, temporary, permanent, or migrant workers and accompanying dependents which are owned, operated, or managed by the farm operator or licensed by the State of Texas.

§7.26. Notification Requirements.

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

(c) Who may request. The following persons may request prior notification of a pesticide application:

(1) any person who works or resides in a building, house, or other structure located on land adjoining and within ¼ mile of a field on which pesticides may be applied;

(2) persons in charge of licensed day-care centers, primary and secondary schools, hospitals, inpatient clinics or nursing homes within ¼ mile of the field on which pesticides are to be applied. The parent of a primary or secondary school student may for good cause request notification from the department if the person in charge of the school has refused to request notification. If the department determines that notification should be given, the department shall notify the farm operator to give notification to the person in charge of the school; and

(3) any person with chemical hypersensitivities, allergies, or other medical conditions which may be aggravated by pesticide exposure and whose residence or place of employment is within ¼ mile of the field on which pesticides are to be applied; provided there is attached to such request a licensed physician's signed confirmation of the medical condition.

(d) Content of request. Requests for prior notification under subsection (c)(1) and (2) of this section shall be made in writing to the farm operator, and should include:

(1) (No change.)

(2) one home and business telephone number at which the person making the request can be reached and the hours that such person is normally at each number;

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

(e) (No change.)

(f) Requests for notification under subsection (c)(3) of this section. These requests shall be filed with the nearest district office or Austin office of the Texas Department of Agriculture. The department shall closely review each request and the supporting documentation for accuracy and validity. If the department approves the request, the department shall promptly notify the appropriate farm operator of the requirement to give prior notification to the requesting person. Requests which are not approved shall be returned to the requesting party with a written statement explaining the reasons for the rejection.

(g) Length of effectiveness and commencement of notification. A request for prior notification shall be in effect through December 31 of the year that the request is received. A farm operator shall commence notifying a requesting party of scheduled pesticide applications within 10 days of receipt of a request for notification. The department may extend the time to begin notifying a requesting party upon a showing of sufficient cause by the farm operator. The department shall notify the requesting party of any such extension.

(h) Notification. The following methods may be used for giving notification of a scheduled pesticide application:

(1) Adjoining neighbor. If the request for notification is made pursuant to subsection (c)(1) of this section, the notification may be made by:

(A) raising a flag.

(i) The universal symbol (flag) shall be raised to a height of at least approx-

imately five feet, with the bottom of such flag always at least two feet above the top of the crop, in or about the field to which pesticides are scheduled to be applied so that the flag is located no farther than 650 yards from the nearest property line of any adjoining neighbor requesting notification.

(ii) In the event of unusually tall crops, such as citrus, corn, and sugar cane, or limited access fields, the farm operator may raise a flag at a distance greater than 650 yards from an adjoining neighbor, if such neighbor is given written notice of the location of such flag and the flag is raised on a permanent pole to a height visible to the adjoining neighbor.

(iii) The telephone number of the farm operator shall be on or near the flag, and the flag shall be raised on the border of the field at a location to which the public has access for the purpose of reading the telephone number. The farm operator shall provide the name of the pesticide and the intended date and approximate time of the scheduled application when requested by the requesting party.

(B) giving notification in writing, in person, or by telephone in English or, when appropriate, Spanish.

(2) Medically affected. If the request for notification is made pursuant to subsection (c)(3) of this section, notification may be given in person or by telephone in English or, when appropriate, Spanish.

(A) If the farm operator is unable to reach a person entitled to notification under this section after making reasonable efforts, the farm operator may immediately notify the department by telephone of the following information:

(i)-(iii) (No change.)

(iv) the intended date and approximate time of the pesticide application; and

(v) (No change.)

(B)-(C) (No change.)

(3) Licensed day-care centers, primary and secondary schools, hospitals, inpatient clinics, nursing homes. If the request for notification is made pursuant to subsection (c)(2) of this section, notification may be given in person or by telephone in English or, when appropriate, Spanish. Alternatively, if mutually agreed by the farm operator and the person in charge of any such facility, notification may be given to such facilities by posting a flag at a designated location.

(4) Farm labor camps. No request is necessary for prior notification of camps owned, managed, or controlled by the farm operator and located on the field; or licensed farm labor camps located on the

field or within ¼ mile of the field on which pesticides are to be applied. Notification shall be provided by telephone or in person to the head of each household. Alternatively, the farm operator may provide notification in writing by placing a written notice on a bulletin board to which the camp has access.

(5) Record of notification. A farm operator may notify the department that he has given or been unable to give a notification by telephone or in person to establish a record of such notice. The department shall maintain a record of such notification from operators to the department. It is a violation of this section to provide false information to the department about efforts to reach a requesting party or about failure to receive such notification.

(i) Content of notice. Notice given in writing, in person, or by telephone shall include:

(1) the intended date and approximate time of application [if available];

(2) the trade and common chemical name, if requested, of the pesticide to be applied; and

(3) (No change.)

(j) Time and receipt of notice. Notice shall be given not later than on the day previous to a scheduled pesticide application.

(1) Notice shall be deemed given pursuant to subsection (h)(1) and (3) of this section:

(A) at the time of delivery (in person, in writing or by telephone) to the requesting person or at the time of delivery to the address provided in the request for prior notification; or

(B) (No change.)

(2) (No change.)

(3) Notice shall be deemed given pursuant to subsection (h)(4) of this section at the time of delivery of notification in person, by telephone, or by posting the required notice.

(k) Emergency. Advance notice need not be given on the day before when an immediate application is required and time does not reasonably allow the giving of notice on the day before a pesticide application. Notice of an emergency application shall be given:

(1) by the method selected pursuant to subsection (h)(1), (3), and (4) of this section as soon as reasonably possible before the application; or

(2) by telephone or in person to medically affected persons as soon as reasonably possible before the application. In no event shall notice of an emergency application to medically affected persons be given less than one hour before the scheduled application. However, an emergency application need not be postponed if after reasonable efforts by the farm operator actual notice cannot be given.

(l) Removal of flags. Flags raised under this section should be removed or

lowered within 24 hours after the application. However, in no event shall such flags be left posted for more than 48 hours after the application. In the event that a pesticide application is not made when scheduled, the flag may be left posted until after the application has been made.

(m) Duty to notify of address change. A person who has requested notice of a pesticide application under this section shall notify the farm operator promptly and in writing of any change of address or telephone number. Notice need not be given at any vacant structure or premises, or at any structure or premises which is not the place of residence or business of a person entitled to notice under this section.

(n) All complaints filed under this section shall be reviewed and investigated by the department in the same manner as any other complaints filed under the Administrative Procedure and Texas Register Act.

§7.29. ForbIDDEN Pesticide Practices. The pesticide applicator shall be responsible for complying with the following standards:

(1) Direct spray forbidden. Pesticides may not be applied if persons not involved with the application of the pesticide are lawfully present in the field.

(2) Duty to stop application. The applicator shall stop the application of a pesticide if any person not wearing appropriate protective clothing lawfully enters the field.

(3) It is a violation of these regulations for any person employed by a farm operator to knowingly enter a field to which pesticides have been applied and the reentry interval has not expired or to which pesticides are being applied without the authorization of the farm operator.

§7.30. Reentry Intervals.

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

(c) Specific reentry intervals. The following reentry intervals are hereby established for pesticides when used on crops requiring workers to perform labor-intensive activities:

(1)-(4) (No change.)

(5) Effective November 1, 1985, an interim 24-hour reentry interval shall be established for all pesticides with registered agricultural uses when used on crops requiring workers to perform labor-intensive activities unless prior to this date the department receives the following information:

(A) documentation that all chronic feeding, oncogenicity, teratogenicity, reproduction, neurotoxicity, and subchronic feeding studies required by 40 Code of Federal Regulations Part 158 have been submitted to the EPA and have been accepted in support of federal registration; and

(B) for all data indicating a possibility of adverse effects, a quantitative risk assessment or a detailed explanation demonstrating that an unreasonable risk to human health will not occur if workers enter

the field within 24 hours after application of the pesticide.

(6) The department shall consider granting an exemption upon a showing by the submitter that a lesser reentry interval will not impose an unreasonable risk to human health when the following information is received regarding the documentation of chronic feeding, oncogenicity, teratogenicity, reproduction, neurotoxicity, and subchronic feeding studies pursuant to subsection (c)(5) of this section:

(A) identification numbers assigned to the submission to EPA by the registrant or EPA;

(B) the core grade assigned by EPA, or in the absence thereof, for each study a statement that EPA judged it acceptable for registration and/or tolerance purposes. In the event that the study has been submitted to EPA, but has not been reviewed by EPA, the submitter should so indicate;

(C) designation of each study demonstrating possible adverse effects; and

(D) a clear indication of the EPA data requirement (from 40 Code of Federal Regulations Part 158) the study was intended to fulfill.

(7) The following criteria shall be used in determining whether data demonstrate possible adverse effects and should be designated in accord with subsection (c)(6)(C) of this section:

(A) oncogenicity, combined oncogenicity/chronic feeding or subchronic feeding study: when compared with controls, treated animals, show any increase in the incidence of neoplasms or decrease time to tumor development;

(B) neurotoxicity, reproduction, or teratology study: a positive effect when compared with controls.

(8) In the event that data submitted in support of federal registration have been designed as demonstrating possible adverse effects, the submitter must provide either a detailed explanation of why the studies do not support the likelihood of the occurrence of adverse effects in humans and/or a quantitative risk assessment acceptable to the department which demonstrates that an unreasonable risk to human health will not occur if workers enter the field within 24 hours after application of the pesticide.

(9) In the event that data requirements specified for the active ingredient in 40 Code of Federal Regulations Part 158 have not been fulfilled, the submitter should provide an explanation detailing the reasons for the apparent data gap.

(10) If the department, on its own motion or at the request of a third party, does not accept the validity of the explanation or risk assessment submitted under this section, the 24-hour interim reentry interval shall remain in effect until a submitter sustains the burden of showing that a lesser

reentry interval will not impose an unreasonable risk to human health.

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 July 26, 1985.

TRD 856743 Dolores Alvarado Hibbs
Hearings Officer
Texas Department of
Agriculture

Effective date: August 16, 1985
Proposal publication date: June 14, 1985
For further information, please call
(512) 463-7583.

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TITLE 7. BANKING AND SECURITIES

Part I. State Finance

Commission

Chapter 3. Banking Section

Subchapter A. Securities Activities and Subsidiaries

★7 TAC §3.1

The State Finance Commission adopts new §3.1, with changes to the proposed text published in the June 11, 1985, issue of the *Texas Register* (10 TexReg 1884).

This new section permits state chartered banks to engage in the activity of private placement of securities as an activity that is incidental to the business of banking and as allowed for national banks in an effort to achieve competitive equality in the dual banking system.

This new section defines private placement transactions and establishes the parameters under which state chartered banks may engage in this activity.

Susan Stewart, attorney, Bracewell and Patterson, commented in favor of the rule, and recommended that the phrase "except as otherwise permitted by the Texas Banking Code" be inserted at the beginning of subsection (b) to take into account any past, pending, or future legislative changes to the Texas Banking Code. The agency agrees with the comment and incorporated the suggested change into the rule.

The new section is adopted under Texas Civil Statutes, Article 342-113, which provide the State Finance Commission, Banking Section, with the authority to promulgate rules not inconsistent with the Constitution and statutes of the state.

§3.1. Private Placement of Securities.

(a) A state chartered bank may engage in private placement transactions by acting as broker and bringing together buy-

ers and sellers of privately placed instruments. The term "private placement transactions" means:

(1) making recommendations regarding the terms and timing of the transaction;

(2) assisting in the preparation of the financing documents;

(3) contacting potential institutional investors;

(4) arranging meetings between the issuer and potential investors; and

(5) assisting in subsequent negotiations involving these parties.

(b) Except as otherwise permitted by the Texas Banking Code, a state chartered bank may not acquire for its own account any equity securities for which it has acted as agent or broker pursuant to this regulation.

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 July 26, 1985

TRD-856785 Jorge A. Gutierrez
General Counsel
State Finance
Commission

Effective date: August 19, 1985
Proposal publication date: June 11, 1985
For further information, please call
(512) 475-4451.

★ ★ ★

★7 TAC §3.2

The State Finance Commission adopts new §3.2, without changes to the proposed text published in the June 11, 1985, issue of the *Texas Register* (10 TexReg 1884).

This new section permits state-chartered banks to provide investment and financial advisory services as an activity that is incidental to banking as presently allowed for national banks in an effort to achieve competitive equality in the dual banking system.

This new section grants authority to state-chartered banks to provide investment and financial advisory services including professional asset management and serve as an advisor in connection with mergers, acquisitions, and divestitures.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 342-113, which provide the State Finance Commission, Banking Section, with the authority to promulgate rules not inconsistent with the Constitution and statutes of the state.

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 July 26, 1985.

TRD-856786 Jorge A. Gutierrez
General Counsel
State Finance
Commission

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For further information, please call
(512) 475-4451.

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★7 TAC §3.3

The State Finance Commission adopts new §3.3, with changes to the proposed text published in the June 11, 1985, issue of the *Texas Register* (10 TexReg 1884).

In an attempt to achieve competitive equality, this new section permits state-chartered banks to engage in securities activities through subsidiaries as an activity incidental to the business of banking and as may be allowed for national banks under the provisions of 12 Code of Federal Regulations Part 337.

The new section defines securities activities and establishes investment ceiling, capitalization, limitations, and notice requirements for state-chartered banks engaging in securities activities through subsidiaries.

A recommendation was made by Susan Stewart, attorney, Bracewell and Patterson, that the phrase "unless otherwise permitted by the Texas Banking Code" be inserted at the beginning of §3.3(3)(A). The agency received comments from John E. Dees, Jr., general counsel, Texas Stock and Bond Dealers Association. He opposed the rule for public policy reasons and because 12 Code of Federal Regulations Part 337 is currently under legal challenge and if it is ultimately voided, then the agency's rule could be voided as well. He also recommended, in the alternative, that state-chartered banks engaging in securities activities through subsidiaries should be subject to the rules and regulations of the Securities and Exchange Commission.

The agency disagrees with Mr. Dees' position suggesting that the rule not be promulgated until litigation in federal court is final because the outcome of such litigation is unknown at this time and the rule should not be delayed based on speculation or the possibility that the federal counterpart rule will be voided. Mr. Dees' alternative recommendation was accepted by the agency as was the recommendation of Ms. Stewart.

The new section is adopted under Texas Civil Statutes, Article 342-113, which pro-

vide the State Finance Commission, Banking Section, with the authority to promulgate rules not inconsistent with the Constitution and statutes of the state.

§3.3. Securities Activities of Subsidiaries of State Banks. Subject to the provisions of 12 Code of Federal Regulations Part 337, a state bank may establish or acquire a subsidiary that engages in securities activities; provided, however, that said subsidiary shall comply with all rules and regulations of the Securities and Exchange Commission applicable to registered brokers-dealers. The term "securities activities" means issuing, underwriting, selling, or distributing, or acting as agent or adviser in the issuing, underwriting, selling, or distributing of stocks, bonds, debentures, notes, or other securities.

(1) **Investment ceiling.** A state bank may invest not more than 10% of its capital and certified surplus nor more than 5.0% of its total assets in subsidiary corporations engaged in securities activities.

(2) **Capitalization.** Any subsidiary corporation engaged in securities activities pursuant to this regulation must comply with any applicable state and federal capital requirements including, but not limited to, those imposed by the Securities and Exchange Commission or the National Association of Securities Dealers.

(3) **Limitations.**

(A) Unless otherwise permitted by the Texas Banking Code, a subsidiary of a state bank must dispose of any equity securities acquired for its own account within 90 days after the day of purchase.

(B) A state bank may not purchase, in its discretion as fiduciary or managing agent, any security underwritten, distributed, or issued by the bank's securities subsidiary or any security issued by an investment company advised by the subsidiary.

(4) **Notice.** A state bank must file with the Texas banking commissioner copies of all notices required to be filed with the Federal Deposit Insurance Corporation under the provisions of 12 Code of Federal Regulations Part 337 or any successor regulation.

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 July 26, 1985.

TRD-856787

Jorge A. Gutierrez
General Counsel
State Finance
Commission

Effective date: August 19, 1985

Proposal publication date: June 11, 1985

For further information, please call
(512) 475-4451.

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★ 7 TAC §3.4

The State Finance Commission adopts new §3.4, with changes to the proposed text published in the June 11, 1985, issue of the *Texas Register* (10 TexReg 1884). (10 TexReg 1884).

This new section permits state chartered banks to establish branches in foreign countries or dependencies or insular possessions of the United States as an activity that is incidental to the business of banking and as allowed for national banks, in an effort to achieve competitive equality in the dual banking system.

This new section sets forth provisions for a state-chartered bank to file an application with the banking commissioner for permission to exercise, under conditions to establish branches in foreign countries, to invest paid-in capital stock and surplus in the stock of other banks or corporations chartered or incorporated under the laws of the United States to require and hold, directly or indirectly, stock or other evidences of ownership in one or more banks organized under the law of a foreign country or a dependency or insular possession of the United States.

Christopher E. Allen, of the law firm Vinson and Elkins, commented for the rule and made the following recommendations: substitute the word "branches" instead of "offices" in §3.4(a) and replace the phrase "outside the State of Texas" with "In foreign countries or dependencies or insular possessions"; and the phrase "if for any reason the granting of such application is deemed inexpedient" be added to §3.4(b).

The agency agrees with Mr. Allen's first comment and has incorporated these recommendations into the rule. The agency disagrees with Mr. Allen's second comment because the addition of such a standard would provide no clear or definitive standard.

The new section is adopted under Texas Civil Statutes, Article 342-113, which provide the State Finance Commission, Banking Section, with the authority to promulgate rules not inconsistent with the Constitution and statutes of the state.

§3.4. Foreign Banking.

(a) Any state-chartered bank possessing a capital and surplus of \$1 million or more may file an application with the banking commissioner for permission to exercise, upon such conditions as may be prescribed by the banking commissioner, the following powers:

(1) to establish branches in foreign countries of dependencies or insular possessions of the United States for the furtherance of foreign commerce and to act as fiscal agent for any governmental entity;

(2) to invest an amount not exceeding in the aggregate 10% of its paid-in

capital stock and surplus in the stock of one or more banks or corporations chartered or incorporated under the laws of the United States or of any state thereof, and principally engaged in international or foreign banking, or banking in a dependency or insular possession of the United States either directly or indirectly; and

(3) to require and hold, directly or indirectly, stock or other evidences of ownership in one or more banks organized under the law of a foreign country or a dependency or insular possession of the United States and not engaged, directly or indirectly, in any activity in the United States except as, in the judgment of the banking commissioner, shall be incidental to the international or foreign business of such foreign bank; and to make loans or extensions of credit to or for the account of such bank in a manner and within limits prescribed by the banking commissioner.

(b) Such application shall specify the name and capital of the state bank filing it, the powers applied for, and the place or places where the banking or financial operations proposed are to be carried on. The banking commissioner shall have the power to approve or reject such application in whole or in part and shall also have the power from time to time to increase or decrease the number of places where such banking operations may be carried on.

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 July 26, 1985

TRD-856788

Jorge A. Gutierrez
General Counsel
State Finance
Commission

Effective date: August 19, 1985

Proposal publication date: June 11, 1985

For further information, please call
(512) 475-4451.

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★ 7 TAC §3.5.

The State Finance Commission adopts new §3.5, without changes to the proposed text published in the June 11, 1985, issue of the *Texas Register* (10 TexReg 1884).

This new section permits state-chartered banks to provide financial valuation and advisory services to its depositors or clients as an activity incidental to the business of banking and as is allowed for national banks in an effort to achieve competitive equality in the dual banking system.

This new section defines financial valuation and advisory services and sets forth

provisions for a state-chartered bank to provide financial evaluation and advisory services to its depositors or clients.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 342-113, which provide the State Finance Commission, Banking Section, with the authority to promulgate rules not inconsistent with the Constitution and statutes of the state.

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.

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TRD-856789

Jorge A. Gutierrez
General Counsel
State Finance
Commission

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Proposal publication date: June 11, 1985

For further information, please call
(512) 475-4451.

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TITLE 19. EDUCATION

Part II. Texas Education

Agency

Chapter 75. Curriculum

Subchapter D. Essential

Elements—Grades 9-12

Essential Elements for English Language Arts; Other Languages; Mathematics; Science; Health; Physical Education; Fine Arts; Social Studies, Texas and United States History; Economics with Emphasis on the Free Enterprise System and Its Benefits; and Business Education

★ 19 TAC §§75.62, 75.66, 75.67

The Texas Education Agency adopts amendments to §§75.62, 75.66, and 75.67, without changes to the proposed text published in the June 4, 1985, issue of the *Texas Register* (10 TexReg 1781).

The amendments clarify that courses in Latin and Greek should emphasize the essential elements for reading in those languages; list dance under both physical education and fine arts, with identical essential elements; and increase the number of units a student may take for credit in art II-IV, to allow students to take an emphasis in a variety of art areas.

Courses in Latin and Greek will emphasize the essential elements for read-

ing in those languages. Students will be able to take dance I-IV as fine arts courses or as physical education courses. Students will be able to take art II-IV in a composite of the specialty areas available or as separate courses, for a maximum of 2 units of art II, and 3 units of art III and 3 units of art IV.

No comments were received regarding adoption of the amendments.

These amendments are adopted under the Texas Education Code, §21.101, which directs the State Board of Education to designate the essential elements for subject areas listed in §21.101(a), Texas Education Code, including physical education, fine arts, and other languages.

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 July 23, 1985.

TRD-856821

W. N. Kirby
Commissioner of
Education

Effective date: August 13, 1985

Proposal publication date: June 4, 1985

For further information, please call
(512) 475-7077.

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Other Courses

★ 19 TAC §75.121, §75.122

The Texas Education Agency adopts the repeal of §75.121 and §75.122, without changes to the proposal published in the June 7, 1985, issue of the *Texas Register* (10 TexReg 1819).

Section 75.121, concerning essential elements for dance, is being deleted as a separate section since these elements are now listed under both fine arts and physical education. Section 75.122, concerning driver education, is being replaced with a new section and is repealed to avoid conflict.

Essential elements for dance courses may now be found in §75.66, concerning physical education, and in §75.67, concerning fine arts. A new §75.121, concerning driver education also is adopted.

No comments were received regarding adoption of the repeal.

This repeal is adopted under the Texas Education Code, §21.101, which directs the State Board of Education to designate the essential elements for a well-balanced curriculum.

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 July 23, 1985.

TRD-856820

W. N. Kirby
Commissioner of
Education

Effective date: August 13, 1985

Proposal publication date: June 7, 1985

For further information, please call
(512) 475-7077.

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★ 19 TAC §§75.121-75.123

The Texas Education Agency adopts new §75.121, concerning the essential elements for courses in driver education; amendments to §75.123, concerning ROTC, which was renumbered to §75.122; and §75.124, concerning computer science, which was renumbered to §75.123. New §75.121 is adopted with changes to the proposed text published in the June 7, 1985, issue of the *Texas Register* (10 TexReg 1819). The amendments to §75.123 and §75.124 are adopted without changes to the proposed text and will not be republished.

In §75.121, while it was proposed that driver education units not be counted for state graduation credit, the rule as adopted does allow such units to be counted for credit toward state graduation requirements. This change required the deletion of the word "not" in the first sentence of subsection (a) and the first sentence of subsection (b). Students may earn state credit for only one of the two courses described in the section. A new catch line has also been added to subsection (c) to identify the content of the subsection.

The Texas Education Code, §21.101, directs the State Board of Education to specify essential elements for those courses which are part of a well-balanced curriculum.

Students may earn state graduation credit (½ unit) for driver education or for driver and safety education. The driver education course includes both classroom and in-car instruction and will provide the student the opportunity to obtain a driver's license. The driver education and safety course includes classroom instruction only and will provide the student the opportunity to obtain a learner's permit to drive.

No comments were received regarding adoption of the new section and the amendments.

The new section and amendments are adopted under the Texas Education Code, §21.101, which directs the State Board of Education to designate essential elements for a well-balanced curriculum.

§75.121. Driver Education.

(a) Driver education (½ unit). Such unit may be counted toward credit for graduation requirements specified in §75.151 of this title (relating to High School Graduation Requirements) and §75.152 of this title (relating to Advanced High School Program). Driver education classroom and in-car instruction shall include the following essential elements.

(1) Driver education classroom. The student shall be provided opportunities to:

(A) understand the unique role of the driver, the passenger, and the pedestrian;

(B) understand the impact of alcohol and other drugs on traffic safety;

(C) explore the essential automobile systems and the importance of preventative maintenance;

(D) become aware of highway characteristics and engineering controls;

(E) identify the effects of physical laws on motor vehicle operation;

(F) demonstrate an understanding of the importance of occupant protection systems;

(G) analyze traffic laws as they relate to the safe operation of a motor vehicle;

(H) study driving strategies important to safe driver performance;

(I) list driving procedures required for the safe operations of a motor vehicle;

(J) identify accident avoidance procedures;

(K) analyze emergency procedures and first aid required at the scene of a traffic accident;

(L) study the roles of the two-wheeled vehicles in the traffic pattern;

(M) attain information concerning effective consumer practices as they relate to motor vehicle ownership; and

(N) explore the effects of the National Highway Safety Act and the Texas Traffic Safety Act and discuss current traffic safety issues and programs;

(2) Driver education in-car. The student shall be provided opportunities to:

(A) demonstrate the proper techniques in starting the engine and performing basic maneuvers;

(B) practice city driving techniques which include entering traffic, parking, turning, cruising, passing, and managing intersections; and

(C) perform rural and/or freeway driving maneuvers which include cruising, passing, parking, and emergency procedures.

(b) Driver and safety education (½ unit). Such unit may be counted toward credit for graduation requirements specified in §75.151 of this title (relating to High School Graduation Requirements) and §75.152 of this title (relating to Advanced High School Program). Driver and safety

education shall include the following essential elements.

(1) Driver education. The student shall be provided opportunities to:

(A) understand the unique role of the driver, the passenger, and the pedestrian;

(B) understand the impact of alcohol and other drugs on traffic safety;

(C) explore the essential automobile systems and the importance of preventative maintenance;

(D) become aware of highway characteristics and engineering controls;

(E) identify the effects of physical laws on motor vehicle operation;

(F) demonstrate an understanding of the importance of occupant protection systems;

(G) analyze traffic laws as they relate to the safe operation of a motor vehicle;

(H) study driving strategies important to safe driver performance;

(I) list driving procedures required for the safe operation of a motor vehicle;

(J) identify accident avoidance procedures;

(K) analyze emergency procedures and first aid required at the scene of a traffic accident;

(L) study the role of the two-wheeled vehicles in the traffic pattern;

(M) attain information concerning effective consumer practices as they relate to motor vehicle ownership; and

(N) explore the effects of the National Highway Safety Act and the Texas Traffic Safety Act and discuss current traffic safety issues and programs.

(2) Safety education. The student shall be provided opportunities to:

(A) understand the concepts of safety and accident prevention;

(B) identify basic fire prevention concepts;

(C) identify the types of accident problems associated with recreational activities;

(D) list the techniques passengers may use to protect themselves and others in motor vehicles;

(E) describe hazards and safety procedures for pedestrians;

(F) identify safe practices for riding buses and other public transportation;

(G) identify safety hazards commonly found in the home and describe techniques for their avoidance;

(H) identify means of coping with natural and man-made disasters; and

(I) describe the components of consumer product safety including packaging of drugs, poison control, and product safety.

(c) Courses to meet standards. Courses described in subsections (a) and (b) of this section shall meet the standards for

an approved course in driver education in Chapter 77, Subchapter W, of this title (relating to Driver Education). The driver education course includes both classroom and in-car instruction and will provide the student the opportunity to obtain a driver's license. The driver education and safety course includes classroom instruction only and will provide the student the opportunity to obtain a learner's permit to drive. Students may earn state credit for only one of the two courses.

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 July 23, 1985.

TRD-856819

W. N. Kirby
Commissioner of
Education

Effective date: August 13, 1985
Proposal publication date: June 7, 1985
For further information, please call
(512) 475-7077.

★ ★ ★



Subchapter F. Graduation Requirements

★ 19 TAC §75.153

The Texas Education Agency adopts amendments to §75.153, without changes to the proposed text published in the June 4, 1985, issue of the *Texas Register* (10 TexReg 1783).

The standard academic achievement record form (transcript) has been revised to include a statement that a passing grade is 70 or above, to change the reference to the statewide testing program from TABS to TEAMS; to add references on the form to advanced placement courses, international baccalaureate courses, and summer school courses; and to add a reference to the high school program in the upper right-hand corner of the form.

All school districts will use the revised academic achievement record form beginning with the 1985-86 school year.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Education Code, §21.257, which directs the State Board of Education to adopt a transcript form which clearly distinguishes those students who have completed an advanced high school program.

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 July 23, 1985.

TRD-856618

W. N. Kirby
Commissioner of
Education

Effective date: August 13
Proposal publication date: June 4, 1985
For further information, please call
(512) 475-7077.

★ ★ ★

Subchapter G. Other Provisions

★ 19 TAC §75.164

The Texas Education Agency adopts an amendment to §75.164, with changes to the proposed text published in the June 4, 1985, issue of the *Texas Register* (10 TexReg 1788). The change will be an addition of the word "shall," which was omitted from the phrase "program shall include" in subsection (c)(2).

The amendment adds a new section on alternative school programs, giving school districts the authority to develop such programs for students who are not able to function in the structure of a regular school setting, to meet the needs of potential drop-outs, or students who are discipline problems.

Alternative school programs may be located within a school or on a separate campus, operate within or outside regular school hours, modify clock hour and unit requirements for students, and modify the method of instruction, pacing, and materials used. Districts must keep documentation of student accomplishments and progress in the program.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Education Code, §21.301, which provides for the establishment of alternative school programs.

§75.164. Experimental Courses, [and] Magnet Programs, and Alternative School Programs.

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

(c) School districts may operate alternative school programs to serve special student populations.

(1) An alternative school program may be designed for students who are:

- (A) not able to function in the structure of a regular school setting;
- (B) potential drop-outs; or
- (C) discipline problems.

(2) Placement of students in the Alternative School Program shall include:

(A) review of all student records such as previous academic experiences and grades, achievement test scores, TEAMS test scores, attendance records, discipline records, parental and student aspirations; and

(B) a meeting of the parent or guardian and appropriate school representatives such as teacher, counselor, and principal to review a student's performance records fully and to consult on the matter.

(3) The Alternative School Program may:

(A) be located within a school or on a separate campus;

(B) operate before, during, or after regular school hours;

(C) modify clock hours requirements for courses;

(D) modify the number of units a student shall take each semester; and

(E) modify the method of instruction, pacing, and materials as appropriate.

(4) The district shall require students to meet the state graduation requirements specified in §75.151 of this title (relating to High School Graduation Requirements) unless modifications are allowed under §75.195 of this title (relating to Alternatives to Social Promotion) or Chapter 89, Subchapter G, of this title (relating to Special Education).

(5) The district shall maintain evidence of student accomplishments and progress in the program.

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 July 23, 1985.

TRD-856617

W. N. Kirby
Commissioner of
Education

Effective date: August 23, 1985
Proposal publication date: June 4, 1985
For further information, please call
(512) 475-7077

★ ★ ★

Chapter 141. Teacher Certification

Subchapter N. Emergency Teaching Permits, Special Assignments Permits, and Temporary Classroom Assignment Permits

★ 19 TAC §141.300

The Texas Education Agency adopts new §141.300 with changes to the proposed text published in the May 28, 1985, issue of the *Texas Register* (10 TexReg 1716). The changes correct subsection (c) by using the word "commission" instead of

"commissioner" and insert the word "file" after the word "personnel."

The Texas Education Code, §13.502, authorizes school district to employ non-certified instructors to teach mathematics, science, computer science, and technology at the secondary level in programs approved by the commissioner of education. The section establishes a procedure to issue teaching permits to instructors in such programs.

The superintendent of a public school district may activate a non-certified instructor's permit for an individual assigned to teach in a technology program under the Texas Education Code, §13.502. The program must have been approved by the commissioner of education. The permit shall be applicable only to the approved program.

No comments were received regarding adoption of the new section.

This new section is adopted under the Texas Education Code, §13.502, which authorizes local school districts to develop and implement programs for employing qualified but noncertified persons to teach mathematics, science, computer science, and technology at the secondary level; and the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for the administration of the Foundation School Program.

§141.30. Noncertified Instructor's Permit.

(a) The superintendent of a public school district may activate a noncertified instructor's permit for an individual assigned to teach in a technology education program as defined in the Texas Education Code, §13.502, provided that a comprehensive plan for the technology education program has been filed with and approved by the commissioner of education.

(b) The permit shall be applicable for use only in the technology program as approved.

(c) Qualifications of persons serving as noncertified instructors shall be included in the comprehensive plan submitted to the commissioner and a copy of the qualifications shall be placed in the personnel file of each instructor.

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 July 25, 1985.

TRD-856718

W. N. Kirby
Commissioner of
Education

Effective date: August 15, 1985
Proposal publication date: May 28, 1985
For further information, please call
(512) 475-7077.

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TITLE 22. EXAMINING BOARDS

Part XVI. Texas State Board of Physical Therapy Examiners

Chapter 321. Definitions

★22 TAC §321.1

The Texas State Board of Physical Therapy Examiners adopts amendments to §321.1, with changes to the proposed text published in the June 18, 1985 issue of the *Texas Register* (10 TexReg 2009).

The amendment will give an interpretation of what records are satisfactory to the board. The word "official" has been added to the proposed rule format. This change was suggested by the state attorney general's office to clarify that the school records must be official.

The amendment will assist readers to understand what education credentials can be considered by the board for approval.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties administering the Act.

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

Evidence satisfactory to the board—Interpreted to mean that should all official school records have been destroyed, sworn affidavits satisfactory to the board must be received from three persons who have personal knowledge of the applicant's physical therapy education and successful completion thereof. These affidavits shall not be used when official school records are available.

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 July 24, 1985.

TRD-856705

Lois M. Smith
Executive Director
Texas State Board of
Physical Therapy
Examiners

Effective date: August 15, 1985
Proposal publication date: June 18, 1985
For further information, please call
(512) 835-1846.

★ ★ ★

Chapter 329. Physical Therapist License

★22 TAC §329.1

The Texas State Board of Physical Therapy Examiners adopts an amendment to §329.1, without changes to the proposed text published in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2009).

The amendment will save the agency and the applicant mailing time and processing time and avoid loss of fees in the mail system.

The applicant will submit all fees at once, then when the examination has been passed, the agency will mail score reports and permanent licenses at the same time.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties administering the 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 July 24, 1985.

TRD-856706

Lois M. Smith
Executive Director
Texas State Board of
Physical Therapy
Examiners

Effective date: August 15, 1985
Proposal publication date: June 18, 1985
For further information, please call
(512) 835-1846.

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Chapter 331. Endorsement Licensure

★22 TAC §331.1

The Texas State Board of Physical Therapy Examiners adopts an amendment to §331.1, without changes to the proposed text published in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2010).

The amendment will clarify the intent of the Act. Applicants may become licensed in Texas by one of two methods, by taking the Texas Examination or by endorsement. An applicant may not comply with part of the provisions of one method and part of the provisions of the other method. Such an application will not be approved by the Texas board. By observing the Act's provisions, applicants will rea-

lize more efficient completion of the application process, thereby saving their money and the agency's and be issued a license sooner to treat Texas patients.

If the applicant has become licensed in another state by having taken the Professional Examination Service (PES) examination, he may not apply for a Texas license by examination but must submit all prerequisites for licensure by endorsement. This rule will clarify that an applicant may not switch from one licensure method to the other.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Act to carry out its duties administering the 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 July 24, 1985.

TRD-856707

Lois M. Smith
Executive Director
Texas State Board of
Physical Therapy
Examiners

Effective date: August 15, 1985
Proposal publication date: June 18, 1985
For further information, please call
(512) 835-1846.

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Chapter 333. Temporary License

★22 TAC §333.1

The Texas State Board of Physical Therapy Examiners adopts an amendment to §333.1, with changes to the proposed text published in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2010).

The amendment will establish minimum score requirements prior to the issuance of a second temporary license.

The amendment will require failing exam candidates to make a score set by the board before they can be issued a second temporary license with which they may practice until the next exam offering.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties administering the Act.

§333.1. Second Temporary License. The examination is not considered complete until the scores have been reported to the candidate. In the event of failure of a part or parts on the first examination, a physical therapist candidate or a physical therapist assistant candidate may be issued, at the discretion of the board, a second temporary license, if the candidate has not more than a combined total of nine raw points score deficit on the part or parts of the examination failed. A candidate who fails any part of the examination for the second time or falls below minimum standards as set out (in this section, for *Texas Register* purposes) under Rule VII A, will not be issued a second temporary license. The candidate will be notified of failure by certified mail, return receipt requested.

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 July 24, 1985.

TRD-856708

Lois M. Smith
Executive Director
Texas State Board of
Physical Therapy
Examiners

Effective date: August 15, 1985
Proposal publication date: June 18, 1985
For further information, please call
(512) 835-1846.

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health Chapter 325. Solid Waste Management

The following adoptions submitted by the Texas Department of Health will be serialized beginning in the August 9, 1985, issue of the *Texas Register*. The effective date for the documents is August 20, 1985.

Subchapter A. General Information
§325.3, §325.5
(amendment)

Subchapter C. Municipal Solid Waste Collection and Transportation
§325.31, §325.32
(amendment)

Subchapter D. Classification of Municipal Solid Waste Sites
§325.42
(amendment)

Subchapter E. Permit Procedures and Design Criteria Permits

§§325.51, 325.52, 325.55,
325.60-325.62
(amendment)

Application and Data Requirements
§§325.71-325.75
(amendment)

Application Review Process
§§325.91-325.95
(amendment)

Subchapter F. Operational Standards for Solid Waste Land Disposal Sites General

§325.111
(amendment)

§§325.114
(new)

Standards for Protection of Ground and Surface Waters
§§325.121-325.124
(amendment)

Other Operational Standards for Types I, II, III, and IV Sites
§§325.133, 325.136, 325.137, 325.140,
325.150, 325.152-325.154
(amendment)

Subchapter G. Operational Standards for Solid Waste Processing and Experimental Sites General

§325.171
(amendment)

Operational Standards for Types V and VI Sites
§325.183
(amendment)

Subchapter H. Surveillance and Enforcement
§325.221, §325.222
(amendment)

TITLE 28. INSURANCE Part I. State Board of Insurance

(Editor's note: Because the State Board of Insurance's rules have not yet been published in the Texas Administrative Code (TAC), they do not have designated TAC numbers. For the time being, the rules will continue to be published under their Texas Register numbers. However, the rules will be published under the agency's correct title and part.)

General Provisions Miscellaneous

★ 059.21.49.007, .009

The State Board of Insurance adopts amendments to Rules 059.21.49.007 and .009, with changes to the proposed text published in the January 29, 1985, issue of the *Texas Register* (10 TexReg 325).

These amendments are revisions to the existing Texas standard policy-windstorm and hail policy form and application form; including the designation of the policy as the Texas catastrophe property insurance policy-windstorm and hail (Rule 059.21.49.007) and revisions to the existing Texas special mobile home windstorm and hail insurance policy deductible coverage policy form and application form (Rule 059.21.49.009). The revisions to the aforementioned policies will streamline the policies by deletion of language inapplicable to the windstorm and hail insurance written by the Texas Catastrophe Property Insurance Association, (T.C.P.I.A.), and language inapplicable to the T.C.P.I.A. because of its status as a statutory entity; will clarify certain language and will conform policy provisions to the requirements of the Insurance Code, Article 21.49, as construed by the Texas courts.

There were several comments on the rules.

A summary of the six opponents' comments follow.

Windstorm and hail policies issued by the T.C.P.I.A. to insure property located in the designated catastrophe area should provide the same coverage and extensions of coverage insureds enjoy under insurance policies issued outside the catastrophe area. There are several areas in the proposed windstorm and hail policies that either remove provisions of the policy that were previously available under the existing windstorm and hail policies or revise provisions of the existing windstorm and hail policy, thereby changing coverage. Those areas of concern are the removal of the platform clause in total from the proposed wind-storm and hail policy, eliminating coverage presently available under the windstorm and hail policy; there would be no coverage available for contents moved and/or located outside and within 100 feet of the insured building; the amending of the dwelling extension provision to provide a 10% extension of the limit of liability to various structures and out-buildings on the premises of a dwelling; the present dwelling extension contained in the windstorm and hail policy provides for the extension to structures and outbuildings on the premises of a dwelling, with the application of the extension applicable to board and rooming houses, fraternity and sorority houses, and apartments. The amending of the dwelling extension to apply only to dwelling premises is a restriction of coverage; that the elimination of the appraisal clause from the proposed windstorm and hail policies removes a long standing provision that allows the determination of a loss by an appraisal process. Because of the statutory appeal process applicable to disagreements involving a loss under a T.C.P.I.A. policy, the appraisal clause is not used to a great degree. It does not,

however, conflict with the statutory appeal process if such appraisal process is done within a 30-day period. It can provide an insured a method of establishing an amount of a loss without using the appeal process. Since the appraisal clause is not in direct conflict with any statutory appeal process, the clause should remain in the windstorm and hail policy; and the revision to the household goods extension limits coverage for household goods, while temporarily off premises, to locations within the designated catastrophe areas only; the current policy forms provide an extension of coverage for household goods, while temporarily located off premises, anywhere within the United States of America, Canada, and Mexico. The limitation to the catastrophe area is a restriction of coverage that currently exists for the insured and would leave the insured without benefit of coverage for the peril of windstorm and hail, when household goods were temporarily located outside the catastrophe area.

The justification and summary of proponents' comments follow.

The revisions to the windstorm and hail policies used by the T.C.P.I.A. were for the purpose of removing provisions that did not apply to windstorm and hail coverage and that were in direct conflict with statutory provisions relating to windstorm and hail insurance written by the T.C.P.I.A. The response to the points raised by the opponents follow:

The presence of the platform clause in a windstorm and hail policy issued by the T.C.P.I.A. is in violation of the Insurance Code, Article 21.49, which specifically limits coverage for corporal personal property to that property within a building. Since the platform clause extends coverage for personal property outside a building, the T.C.P.I.A. would be in violation of the Insurance Code by including the platform clause as part of a windstorm and hail policy.

The revision to the dwelling extension provision eliminates any application of the provision to apartment houses. Dwellings as defined for rating purpose means a structure designed and used as a residence containing not more than two separate apartments and units. This recommendation was made to be consistent with the definition of a dwelling for rating purposes.

The elimination of the appraisal clause from the proposed windstorm and hail policy removes a clause that becomes unworkable, because of time limitation invoked by statute. The T.C.P.I.A. is required by board rule to notify an insured, when it denies a claim in whole or in part, that the insured has 30 days from that date to appeal to the board. The appraisal process, which can take up to 90 days, cannot be accomplished before the appeal has to be filed with the board. Once

an appeal is filed with the board, the appraisal process becomes a duplicative process with the appeal process, in determining the amount of the loss.

The T.C.P.I.A. is established by statute and is authorized to write windstorm and hail insurance in the catastrophe area, as designated by the State Board of Insurance. To write coverage on household goods located outside the catastrophe area is a direct violation of the statutes. The household goods extension must limit coverage to apply only while property is within the designated catastrophe area.

Those persons who commented for the rule are Sam Winters, David Duggins, and Don Manthe, representing the T.C.P.I.A.

Those persons who commented against the rule are Wade Spellman and Richard Marks, representing Independent Insurance Agents of Texas; Jack Hefferman, representing Galveston Insurance Board; Thad McCormick, agent, Galveston; and Lloyd Grove, agent, Corpus Christi.

Based on interim discussions between all parties, the board agreed with the opponents' position and arguments on all items presented to the board. The board on its own motion made further changes by amending the effective date from May 1, 1985, to an effective date of October 1, 1985.

The Insurance Code, Article 21.49, requires the Texas Catastrophe Property Insurance Association to file with the board the policy and endorsement forms proposed to be used and authorizes the board to issue any orders it considers necessary to carry out the purposes of Article 21.49.

.007. *Texas Catastrophe Property Insurance Policy-Windstorm and Hail.* The State Board of Insurance adopts by reference the Texas catastrophe property insurance policy-windstorm and hail as amended October 1, 1985. This document is published by and available from the Texas Catastrophe Property Insurance Association, P. O. Box 2930, Austin, Texas 78769. It may also be obtained by contacting the Property Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

.009. *Texas Special Mobile Home Windstorm and Hail Insurance Policy-Deductible Coverage.* The State Board of Insurance adopts by reference the Texas special mobile home windstorm and hail insurance policy-deductible coverage, as amended effective October 1, 1985. This document is published by and available from the Texas Catastrophe Property Insurance Association, P. O. Box 2930, Austin, Texas 78769. It may also be obtained by contacting the Property Division, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

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 July 25, 1985.

TRD-856720

James W. Norman
Chief Clerk
State Board of
Insurance

Effective date: August 25, 1985
Proposal publication date: January 29, 1985
For further information, please call
(512) 463-6326.

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★ 059.21.49.008

The State Board of Insurance adopts the repeal of Rule 059.21.49.008, without changes to the proposal published in the January 29, 1985, issue of the *Texas Register* (10 TexReg 325).

This rule provides for a standard renewal application for use in conjunction with the Texas catastrophe property insurance policy—windstorm and hail. Since the renewal application has been incorporated into the proposed new standard application form under Rule 059.21.49.007, the renewal application is an unnecessary form.

No comments were received regarding adoption of the repeal.

This repeal is adopted under the Insurance Code, Article 21.49, which allows the board to withdraw approval of policy forms and endorsements and authorizes the board to issue any orders it considers necessary to carry out the purpose of Article 21.49.

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 July 25, 1985.

TRD-856719

James W. Norman
Chief Clerk
State Board of
Insurance

Effective date: August 15, 1985
Proposal publication date: January 29, 1985
For further information, please call
(512) 475-2950.

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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration Subchapter O. State Sales and Use Tax

★34 TAC §3.324

The Comptroller of Public Accounts adopts the repeal of §3.324, without changes to the proposal published in the May 28, 1985, issue of the *Texas Register* (10 TexReg 1717)

The rule is repealed because a change in the sales tax law made the rule obsolete. The amendments were so substantial that it became necessary to repeal this rule and propose an entirely new rule on well servicing.

No comments for or against the repeal were received.

This repeal is adopted under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the sales tax.

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 July 29, 1985.

TRD-856774

Bob Bullock
Comptroller of Public
Accounts

Effective date: August 19, 1985
Proposal publication date: May 28, 1985
For further information, please call
(512) 475-1913.

★ ★ ★

materials associated with both taxable and nontaxable services are taxable. The provider of a service owes tax on the cost of materials.

One comment requesting change to the rule was received from Mobil Administrative Services Company, Inc., of Dallas, Texas. They objected to hot oil and water treatment inside the casing and flow lines being a taxable service. It was their contention that since casing and buried flow lines were improvements to realty, the maintenance of these items should not be taxable.

The comptroller's response was that casing was designated as an improvement to realty only for the purpose of helping industry and comptroller personnel recognize when a taxable service was occurring. In addition, representatives from industry and comptroller personnel have agreed that flow lines, whether buried or above ground, are tangible personal property. Therefore, the comptroller declined to make the requested changes.

This new section is adopted under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the sales tax.

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 July 29, 1985.

TRD-856773

Bob Bullock
Comptroller of Public
Accounts

Effective date: August 19, 1985
Proposal publication date: May 28, 1985
For further information, please call
(512) 475-1913.

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Subchapter Q. Franchise Tax

★34 TAC §3.399

The Comptroller of Public Accounts adopts new §3.324, without changes to the proposed text published in the May 28, 1985, issue of the *Texas Register* (10 TexReg 1717).

Since the charge for labor to repair, remodel, restore, or maintain tangible personal property became subject to sales tax effective February 1, 1985, there is some industry confusion as to when labor charges are taxable. The amendment offers guidelines as to when labor charges are taxable or nontaxable. The charge for labor to work on real property is not taxable. If work begins on tangible personal property and ends up as work on the mineral bearing formation, none of the labor charge will be taxable. Ma-

The Comptroller of Public Accounts adopts an amendment to §3.399, without changes to the proposed text published in the June 11, 1985, issue of the *Texas Register* (10 TexReg 1920). The purpose of the amendment is to reflect a change made to the Franchise Tax Act by the legislature during the 1985 regular session. The exemption of transportation companies contained in the Texas Tax Code, §171.052, was repealed effective August 26, 1985.

No comments for or against the proposal were received.

This amendment is adopted under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe,

adopt, and enforce rules relating to the administration and enforcement of the franchise tax.

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 July 29, 1985.

TRD-856775

Bob Bullock
Comptroller of Public
Accounts

Effective date: August 19, 1985
Proposal publication date: June 11, 1985
For further information, please call
(512) 475-1913.

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part XIV. Commission on Jail Standards

Chapter 259. New Construction Rules

New Jail Design, Construction, and Furnishing Requirements

★37 TAC §259.69

The Commission on Jail Standards adopts an amendment to §259.69, without changes to the proposed text published in the May 28, 1985, issue of the *Texas Register* (10 TexReg 1719).

The current section requires a light as the indicator for door position. There are currently other type indicators in use. This amendment allows those counties to continue use of existing indicator devices by allowing the use of any type of door position indicator.

Sheriff Ernest D. Haynes, Tom Green County, expressed no opposition to the amendment.

The amendment is adopted under Texas Civil Statutes, Title 16, Article 5115.1, which provides the Commission on Jail Standards with authority to promulgate rules affecting county jails.

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 July 29, 1985.

TRD-856842 Robert O. Viterna
Executive Director
Commission on Jail
Standards

Effective date: August 20, 1985
Proposal publication date: May 28, 1985
For further information, please call
(512) 475-2716.

★ ★ ★

New Lock-up Design, Construction, and Furnishing Requirements

★37 TAC §259.164

The Commission on Jail Standards adopts an amendment to §259.164, without changes to the proposed text published in the May 28, 1985, issue of the *Texas Register* (10 TexReg 1719).

The current section requires a light as the indicator for door position. There are currently other type indicators in use. This amendment allows those counties to continue use of existing indicator devices by allowing the use of any type of door position indicator.

Sheriff Ernest D. Haynes, Tom Green County, expressed no opposition to the amendment.

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115.1, which provide the Commission on Jail Standards with the authority to promulgate rules affecting county jails.

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 July 29, 1985.

TRD-856843 Robert O. Viterna
Executive Director
Commission on Jail
Standards

Effective date: August 20, 1985
Proposal publication date: May 28, 1985
For further information, please call
(512) 475-2716.

★ ★ ★

New Low Risk Design, Construction, and Furnishing Requirements

★37 TAC §259.248

The Commission on Jail Standards adopts an amendment to §259.248, with-

out changes to the proposed text published in the May 28, 1985, issue of the *Texas Register* (10 TexReg 1720).

The current section requires a light as the indicator for door position. There are currently other type indicators in use. This amendment allows those counties to continue use of existing indicator devices by allowing the use of any type of door position indicator.

Sheriff Ernest D. Haynes, Tom Green County, expressed no opposition to the amendment.

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115.1, which provide the Commission on Jail Standards with authority to promulgate rules affecting county jails.

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 July 29, 1985.

TRD-856844 Robert O. Viterna
Executive Director
Commission on Jail
Standards

Effective date: August 20, 1985
Proposal publication date: May 28, 1985
For further information, please call
(512) 475-2716.

★ ★ ★

Popular/Direct Supervision Design, Construction, and Furnishing Requirements

★37 TAC §259.358

The Commission on Jail Standards adopts an amendment to §259.358, without changes to the proposed text published in the May 28, 1985, issue of the *Texas Register* (10 TexReg 1720).

The current section requires a light as the indicator for door position. There are currently other type indicators in use. This amendment allows those counties to continue use of existing indicator devices by allowing the use of any type of door position indicator.

Sheriff Ernest D. Haynes, Tom Green County, expressed no opposition to the amendment.

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115.1, which provide the Commission on Jail Standards with authority to promulgate rules affecting county jails.

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 July 29, 1985.

TRD-856845 Robert O. Viterna
Executive Director
Commission on Jail
Standards

Effective date: August 20, 1985
Proposal publication date: May 28, 1985
For further information, please call
(512) 475-2716.

★ ★ ★

Chapter 261. Existing Construction Rules

Existing Jail Design, Construction, and Furnishing Requirements

★37 TAC §261.58

The Commission on Jail Standards adopts an amendment to §261.58, without changes to the proposed text published in the May 28, 1985, issue of the *Texas Register* (10 TexReg 1720).

The current section requires a light as the indicator for door position. There are currently other type indicators in use. This amendment allows those counties to continue use of existing indicator devices by allowing the use of any type of door position indicator.

Sheriff Ernest D. Haynes, Tom Green County, expressed no opposition to the amendment.

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115.1, which provide the Commission on Jail Standards with authority to promulgate rules affecting county jails.

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 July 29, 1985.

TRD-856846 Robert O. Viterna
Executive Director
Commission on Jail
Standards

Effective date: August 20, 1985
Proposal publication date: May 28, 1985
For further information, please call
(512) 475-2716.

★ ★ ★

Existing Lockup Design, Construction, and Furnishing Requirements

★37 TAC §261.153

The Commission on Jail Standards adopts an amendment to §261.153, with-

out changes to the proposed text published in the May 28, 1985, issue of the *Texas Register* (10 TexReg 1721).

The current section requires a light as the indicator for door position. There are currently other type indicators in use. This amendment allows those counties to continue use of existing indicator devices by allowing the use of any type of door position indicator.

Sheriff Ernest D. Haynes, Tom Green County, expressed no opposition to the amendment.

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115.1, which provide the Commission on Jail Standards with authority to promulgate rules affecting county jails.

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 July 29, 1985.

TRD-856847 Robert O. Viterna
Executive Director
Commission on Jail
Standards

Effective date: August 20, 1985
Proposal publication date: May 28, 1985
For further information, please call
(512) 475-2716.

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Existing Low Risk Design, Construction, and Furnishing Requirements

★37 TAC §261.237

The Commission on Jail Standards adopts an amendment to §261.237, without changes to the proposed text published in the May 28, 1985, issue of the *Texas Register* (10 TexReg 1721).

The current section requires a light as the indicator for door position. There are currently other type indicators in use. This amendment allows those counties to continue use of existing indicator devices by allowing the use of any type of door position indicator.

Sheriff Ernest D. Haynes, Tom Green County, expressed no opposition to the amendment.

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115.1, which provide the Commission on Jail Standards with authority to promulgate rules affecting county jails.

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 July 29, 1985.

TRD-856848 Robert O. Viterna
Executive Director
Commission on Jail
Standards

Effective date: August 20, 1985
Proposal publication date: May 28, 1985
For further information, please call
(512) 475-2716.

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Chapter 289 Inmate Work Assignments in County Jails Assignment and Supervision by Corrections Officer

★37 TAC §289.2

The Commission on Jail Standards adopts amendments to §289.2, with changes to the proposed text published in the April 19, 1985, issue of the *Texas Register* (10 TexReg 1260).

It has been observed that some county jails allow inmates to supervise certain inmate activities. The amendment prohibits inmates from supervising inmate activities and recommends inmates not have access to other inmates records, monies, or commissary accounts.

Sheriff Doyne Bailey, Travis County, testified that some bigger jails utilize inmate labor to computerize records and to distribute commissary items and they closely supervise these activities. He requested that the proposed "shall not have access" be changed to "should not have access."

The commission agreed with comments and so changed the text of the rule.

The amendments are adopted under Title 18, Article 5115.1, VACS, which provides the Texas Commission on Jail Standards with authority to promulgate rules affecting county jails.

§289.2. *Assignment and Supervision by Corrections Officer.* Inmate work shall be assigned and supervised by corrections officers and never by inmates. Inmate activities shall be supervised by staff personnel. Inmates should not have access to inmate records, nor handle inmate monies or commissary accounts.

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 July 29, 1985.

TRD-856849 Robert O. Viterna
Executive Director
Texas Commission on
Jail Standards

Effective date: August 29, 1985
Proposal publication date: April 19, 1985
For further information, please call
(512) 475-2716.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources Chapter 11. Commodity Program

Emergency Food Assistance Program

★40 TAC §11.6010

The Texas Department of Human Resources (DHR) adopts new §11.6010, without changes to the proposed text published in the April 26, 1985, issue of the *Texas Register* (10 TexReg 1318).

The new rule concerns advance payment to Emergency Food Assistance Program contractors. It explains when contractors may request advance payments and how DHR recoups these advances, thus helping contractors to serve eligible needy people more efficiently and expeditiously.

No comments were received regarding the adoption of the new rule.

The new section is adopted under the Human Resources Code, Title 2, Chapters 22 and 33, which authorizes the department to administer public assistance programs.

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 July 29, 1985.

TRD-856779 Marlin W. Johneton
Commissioner
Texas Department of
Human Resources

Effective date: August 19, 1985
Proposal publication date: April 26, 1985
For further information, please call
(512) 450-3766.

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State Board of Insurance Exempt Filings

State Board of Insurance 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 considered a request by AMBAC Indemnity Corporation (formerly MGIC Indemnity Corporation), to withdraw their filings of a Special Hazards Credit Insurance Program which was approved by Board Order 36412, on November 29, 1979; Board Order 36719, on January 16, 1980; Board Order 36889, on February 21, 1980; and Board Order 40203, on December 11, 1981.

The company advises that it no longer writes this type of coverage and, therefore, requests its filings be withdrawn as soon as possible.

Issued in Austin, Texas, on July 22, 1985.

TRD-856642 James W. Norman
Chief Clerk
State Board of
Insurance

Effective date: August 24, 1985
For further information, please call
(512) 463-8326.

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The State Board of Insurance considered a filing by Continental Casualty Insurance, concerning Special Hazards Credit Insurance Program forms and rates to be issued in conjunction with the mortgage pool insurance policy.

The special hazards credit insurance policy is designed to be issued in conjunction with mortgage trust insurance policies. A special hazards credit in-

surance policy provides insurance on a pool of mortgages which collateralizes a mortgage backed security and protects against loss from default on the mortgage by reason of damage to mortgaged property caused by certain hazards (including earthquakes, mud flows, and floods) not insured under the standard form of fire insurance policy with extended coverages; and loss from default on the mortgage from partial damage caused by the application of the co-insurance clause contained in hazard insurance policies. The special hazards credit insurance policy will not cover losses occasioned by war, civil insurrection, certain governmental actions, or nuclear re-acton.

The claims are limited by an aggregate loss limit. The aggregate loss limit is a percentage amount of the total initial principal balance of the mortgage agreements.

The special hazards credit insurance policy provides that where there has been damage to property securing a defaulted loan and such damage is not covered by the hazard insurance policy, it will pay the lesser of the cost of repair of such property, or the unpaid principal balance of the mortgage loan at the time of acquisition of such property by foreclosure, or deed in lieu of foreclosure, plus accrued interest to the date of claim settlement and certain expenses incurred in respect to such property, less any net proceeds upon the sale of the property.

Standards' and Poor's has determined that such hazard insurance is a necessary protection for the purchasers of mortgage backed securities.

Continental Casualty Insurance is filing its declaration page and policy conditions and the following additional optional endorsements.

G-11701-A. Declaration page. This is a separate document.

G-11702-A. Additional exclusion—mud flow. The purpose of this endorsement is to exclude mud flow coverage as an insured hazard.

G-11703-A. Additional exclusion—flood. The purpose of this endorsement is to exclude flood coverage as an insured hazard.

G-11704-A. Limits of liability—amendment. This differs from the policy limit of liability provision by eliminating reference to "the total initial principal balances of the insured mortgage agreements; and replaces same with "shall be as indicated on the declarations." The

purpose is to recognize differing methodologies between insureds.

G-11706-A. Additional exclusion—earthquake. The purpose of this endorsement is to exclude earthquake coverage as an insured hazard.

G-11707-A. Limits of liability—amendment. This differs from the policy limit of liability provision by adding the second limitation of twice the largest initial principal balance of any mortgage agreement.

Premium rate

.00025—1.0% Aggregate Loss Limit

A policy of special hazard insurance providing coverage on a pool of mortgages in which more than 50% of the mortgages are secured by real property in Texas shall be considered a Texas policy, and these rates must be charged on the policy.

If there are to be either lower or higher limits of coverage, the following premium factors should be applied to the 1.0% coverage premium rate for special hazard credit insurance with the premium rate rounded to the nearest 1/10th of a basis point. The formula for developing rates for other coverages is:

Premium factor for % of coverage sought

Premium factor for 1.0% coverage		
x Annual premium rate	% of Coverage	Premium Factor
	1.00	1.00
	1.10	1.02
	1.20	1.03
	1.30	1.05
	1.40	1.06
	1.50	1.08
	1.60	1.09
	1.70	1.11
	1.80	1.12
	1.90	1.14
	2.00	1.15
	2.10	1.16
	2.20	1.17
	2.30	1.18
	2.40	1.18
	2.50	1.19
	2.60	1.20
	2.70	1.21
	2.80	1.22
	2.90	1.22
	3.00	1.23
	3.10	1.25
	3.20	1.26
	3.30	1.28
	3.40	1.19
	3.50	1.31
	3.60	1.32
	3.70	1.34
	3.80	1.34

3.00	1.37
4.00	1.38
4.10	1.40
4.20	1.42
4.30	1.43
4.40	1.45
4.50	1.46
4.60	1.48
4.70	1.49
4.80	1.51
4.90	1.52
5.0	1.54
6.0	1.60
7.0	1.66
7.5	1.69
8.0	1.72
9.0	1.78
10.0	1.85
11.0	1.88
12.0	1.91
13.0	1.94
14.0	1.97
15.0	2.00

Premium is calculated by multiplying the appropriate rate times the outstanding principal balances of mortgage loans insured. This rate may be prorated during the fill-up period of a pool.

This filing is effective 15 days after it 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.

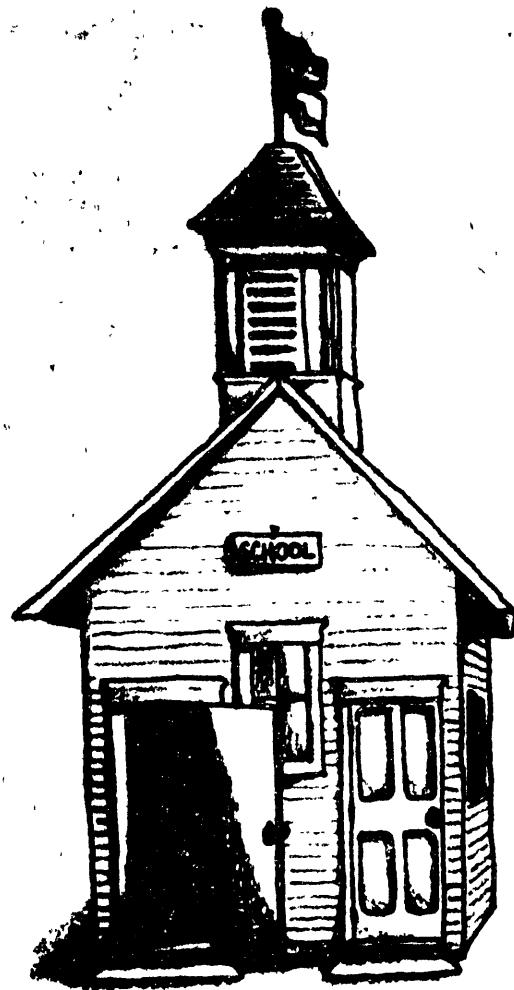
Issued in Austin, Texas, on July 24, 1985.

TRD-856744

James W. Norman
Chief Clerk
State Board of
Insurance

Effective date: August 24, 1985
For further information, please call
(512) 475-2950.

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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 *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 agendas than what is published in the *Register*.

Texas Adult Probation Commission

Friday, August 2, 1985, 9 a.m. The Texas Adult Probation Commission revised the agenda for a meeting held in Suite 600, Building B, 8100 Cameron Road, Austin. According to the revised agenda summary, the commission heard E.L. Farley's oath of office, and discussed a resolution, the executive director's report, legislative issues and updates, a victim impact statement, and the status of Senate Bill 454.

Contact: Virginia Grote, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78753, (512) 834-8188.

Filed: July 25, 1985, 10:55 a.m.
TRD-856674

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Texas Aeronautics Commission

Tuesday, August 6, 1985, 11 a.m. The Texas Aeronautics Commission will meet in the Wine Room, 4140 Governor's Row, Austin. Although no formal action is planned, the commission may discuss items on the meeting agenda scheduled for August 6, 1985, 1:30 p.m.

Contact: Thomas L. Butler, P.O. Box 12607, Austin, Texas 78711, (512) 476-9262.

Filed: July 25, 1985, 1:37 p.m.
TRD-856697

Tuesday, August 6, 1985, 1:30 p.m. The Texas Aeronautics Commission will meet in Room 221, Anson Jones Building, 410 East Fifth Street, Austin. According to the agenda summary, the commission will meet in executive session to consider pending litigation, commission action on pending litigation, the Aviation Facilities Development Program, and the director's report.

Contact: Thomas L. Butler, P.O. Box 12607, Austin, Texas 78711, (512) 476-9262.

Filed: July 25, 1985, 1:36 p.m.
TRD-856699

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State Banking Board

Wednesday, August 7, 1985, 2 p.m. The State Banking Board will meet at 2601 North Lamar Boulevard, Austin. According to the agenda summary, the board will hold a voting session to include approval of previous minutes, application for charter, conversion applications, interim charter applications, domicile change applications, and review of applications approved but not yet open. The board also will meet in executive session to discuss pending litigation.

Contact: William F. Aldridge, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Filed: July 29, 1985, 1:20 p.m.
TRD-856790

Wednesday, August 7, 1985, 2 p.m. The State Banking Board will meet at 2601 North Lamar Boulevard, Austin. According to the agenda, the board will conduct a voting session to include approval of an interim charter application for New Welayan Bank, Houston.

Contact: William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Filed: July 30, 1985, 10:43 a.m.
TRD-856841

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Texas Department of Corrections

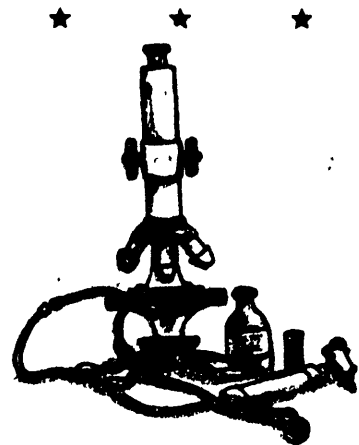
Wednesday, July 31, 1985. The full board and a subcommittee of the Texas Department of Corrections met in emergency sessions in Conference Room 1, Aviall Aviation, Love Field, Dallas. Times and agendas follow.

10 a.m. The Site Selection Subcommittee met in emergency executive session, pursuant to Texas Civil Statutes, Article 6252-17, §2(f), to discuss site selection for a new unit. The emergency status was necessary because agenda items requiring immediate action arose within the seven day posting period.

1 p.m. The full board met in emergency session to consider site designation for a new unit, the proposed reduction in force of all Windham physical education employees, and the authorization for construction and remodeling. The emergency status was necessary because agenda items requiring immediate action arose within the seven-day posting period.

Contact: O. L. McCotter, P.O. Box 99, Huntsville, Texas 77340, (409) 295-6371, ext. 160.

Filed: July 30, 1985, 3:59 p.m.
TRD-856866, 856867



Credit Union Department

Wednesday, August 14, 1985, 10 a.m. The Credit Union Commission of the Credit Union Department will meet at the Westin Hotel, 13340 Dallas Parkway, Dallas. According to the agenda, the commission will discuss and act on rules and reports relating to §91.802, concerning other investments; §91.212, concerning foreign insurers of foreign state credit union branch offices; the TSGCU rules revision; the CUD computer project; commission policies; the fiscal year 1985 budget performance; and the standard bylaws project. The commission also will meet in executive session to consider the Commissioner Search Committee update, the Examination Program, pending litigation, and personnel matters.

tee update, the Examination Program, pending litigation, and personnel matters.

Contact: Harry L. Elliott, 914 East Anderson Lane, Austin, Texas 78752, (512) 837-9236.

Filed: July 31, 1985, 10:38 a.m.
TRD-856877

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Texas Commission for the Deaf

Saturday, August 3, 1985, 9 a.m. The Texas Commission for the Deaf met at 510 South Congress Avenue, Austin. According to the agenda, the commission took action on previous minutes; heard the Board for the Evaluation of Interpreters' report, the director's report, the chairman's report, a staff report, and an operating budget report; considered TDC service contracts; and invited public comment. The commission also met in executive session to discuss personnel matters.

Contact: Larry D. Evans, 510 South Congress Avenue, Austin, Texas 78704, (512) 475-2492.

Filed: July 25, 1985, 11:17 a.m.
TRD-856676

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Interagency Council on Early Childhood Intervention

Thursday, August 8, 1985, 9 a.m. The Interagency Council on Early Childhood Intervention will meet at the YO Ranch, Kerrville. Items on the agenda summary include public comments; the appointment of advisory committee members; approval of the state plan and fiscal year 1986 program priorities and activities; discussion of programmatic and budget issues for fiscal year 1986; the selection of a chairperson and vice-chairperson; and approval of the calendar of events for fiscal year 1986.

Contact: Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 465-2671.

Filed: July 29, 1985, 9:16 a.m.
TRD-856777

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Texas Economic Development Commission

Friday, August 9, 1985, 10 a.m. The Texas Small Business Industrial Development Corporation of the Texas Economic De-

velopment Commission will meet in Room 221, Anson Jones Building, 410 East Fifth Street, Austin. According to the agenda, the corporation will hold a public hearing on the proposed issuance of a Texas Small Business Industrial Development Corporation revenue bond not to exceed \$750,000 to finance the construction and acquisition of an expansion to an existing facility for meat processing and packaging. The facility would consist of approximately 7,076 square feet, to include a boning room, a holding cooler, a grinding and patty making area, a laboratory, and an office area. These facilities and other equipment, including rail systems, refrigeration systems, grinders, patty makers, stuffers, blenders, conveyors, and a truck scale, which are functionally related and subordinate to the facilities, would be owned and operated by All-State Packing Company, 8825 Highway 81 South, Bexar County. All interested persons are invited to attend and express comments regarding the proposed issuance of the bond and project to be financed thereby.

Contact: John H. Kirkley, P.O. Box 12728, Austin, Texas 78711, (512) 472-5059.

Filed: July 25, 1985, 4:34 p.m.
TRD-856717

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Texas Employment Commission

Monday, August 5, 1985, 8:30 p.m. The Texas Employment Commission met in emergency session in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission considered prior meeting notes and internal procedures of commission appeals; considered and acted on tax liability cases and higher level appeals in unemployment compensation cases listed on Docket 32 and Docket 32A; and set the date of the next meeting. The emergency status was necessary because of the need to dispose of the cases in accordance with federal guidelines and the conflicting nature of the commission's calendar.

Contact: Courtenay Browning, TEC Building, 15th Street and Congress Avenue, Austin, Texas 78778, (512) 463-2226.

Filed: August 1, 1985, 9:31 a.m.
TRD-856913

Tuesday, August 6, 1985, 8:30 a.m. The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda, the commission will discuss prior meeting notes, internal procedures of commission appeals, consideration and action on tax liability cases and higher level appeals in unemployment com-

penation cases listed on commission Docket 32, and the date of the next meeting.

Contact: Courtenay Browning, TEC Building, 15th Street and Congress Avenue, Austin, Texas 78778, (512) 463-2226.

Filed: July 29, 1985, 9:57 a.m.
TRD-856776

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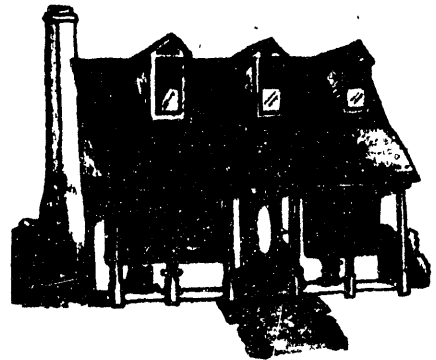
Office of the Governor

Friday, August 16, 1985, 3 p.m. The Texas Commission on Child Support of the Office of the Governor will meet in Room S111, San Angelo Convention Center, 500 Rio Concho Drive, San Angelo. According to the agenda, the commission will hold a public hearing to accept testimony on the development guidelines and standards for determining the child support award, the establishment and enforcement of interstate child support orders, visitation and custody, the availability and cost of child support enforcement services on the state and local level, and automatic wage assignment.

Contact: Mike Kent, P.O. Box 12548, Austin, Texas 78711, (512) 475-5051.

Filed: July 26, 1985, 4:16 p.m.
TRD-856758

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Texas Department of Health

Sunday, August 25, 1985, 9:30 a.m. The Texas Radiation Advisory Board of the Texas Department of Health will meet in the conference room, Bureau of Radiation Control, 1212 East Anderson Lane, Austin. According to the agenda summary, the board will approve the minutes; hear the chairman's report, an update on Texas Low-Level Radioactive Waste Disposal Authority activities, an Executive Committee report, a Public Information Committee report, a Medical Committee report, and a rules and regulatory guide update; discuss program activities from General Activity, Division of Compliance and Inspection, Division of Environmental Programs, and Division of Licensing, Registration and Standards; and determine next meeting date

and location. The board will also meet in executive session.

Contact: David M. Cochran, 1100 West 49th Street, Austin, Texas 78756, (512) 835-7000.

Filed: July 25, 1985, 3:36 p.m.
TRD-856712

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Texas Housing Agency

Tuesday, August 6, 1985, 10 a.m. The Multifamily Review Committee of the Texas Housing Agency (THA) will meet in the THA conference room, Suite 700, 411 West 13th Street, Austin. According to the agenda, the committee will consider and possibly act on revisions to the agency's multifamily program rules, the adoption of documentation regarding statutory findings of need and related matters, and setting a final date for financing grandfathered multifamily developments.

Contact: Earline Jewett, P.O. Box 13941, Austin, Texas 78711, (512) 475-0812.

Filed: July 29, 1985, 4:37 p.m.
TRD-856807

Tuesday, August 6, 1985, 10 a.m. The Multifamily Review Committee of the Texas Housing Agency will meet in emergency rescheduled session in Salon G-H, Marriott Hotel, 6121 IH 35 North, Austin. According to the agenda, the committee will consider and possibly act on revisions to the agency's multifamily program rules, the adoption of documentation regarding statutory findings of need and related matters, and setting a final date for financing grandfathered multifamily developments. The emergency status is necessary because the originally scheduled location will be unavailable on the original date. This meeting cannot be delayed due to the urgency of the bond sale, multifamily program issues, and related matters to be considered and acted upon. A delay in this meeting would damage the agency's ability to meet its statutory objectives and possibly result in legal claims.

Contact: Earline Jewett, P.O. Box 12941, Austin, Texas 78711, (512) 475-0812.

Filed: July 31, 1985, 4:19 p.m.
TRD-856907

Tuesday, August 6, 1985, 11 a.m. The Programs and Legislation Committee of the Texas Housing Agency will meet in the THA conference room, Suite 700, 411 West 13th Street, Austin. According to the agenda summary, the committee will consider and possibly act on revisions to the agency's multifamily program rules, the adoption of documentation regarding statutory findings of need and related matters, setting a final date for financing grandfathered

multifamily developments, resubmission, for attorney general approval of the bond sale financing on the Preston Bend multifamily development, and approval of an FHA-insured multifamily program.

Contact: Earline Jewett, P.O. Box 13941, Austin, Texas 78711, (512) 475-0812.

Filed: July 29, 1985, 4:38 p.m.
TRD-856808

Tuesday, August 6, 1985, 11 a.m. The Programs and Legislation Committee of the Texas Housing Agency will meet in emergency rescheduled session in Salon G-H, Marriott Hotel, 6121 IH 35 North, Austin. According to the agenda summary, the committee will consider and possibly act on revisions to the agency's multifamily program rules, the adoption of documentation regarding statutory findings of need and related matters, setting a final date for financing grandfathered multifamily developments, resubmission, for attorney general approval of the bond sale financing on the Preston Bend multifamily development, and approval of an FHA-insured multifamily program. The emergency status was necessary because the originally scheduled location will be unavailable on the original date. This meeting cannot be delayed due to the urgency of the bond sale, multifamily program issues, and related matters to be considered and acted upon. A delay in this meeting would damage the agency's ability to meet its statutory objectives and possibly result in legal claims.

Contact: Earline Jewett, P.O. Box 13941, Austin, Texas 78711, (512) 475-0812.

Filed: July 31, 1985, 4:19 p.m.
TRD-856908

Tuesday, August 6, 1985, 11:30 a.m. The Board of Directors of the Texas Housing Agency will meet in the THA conference room, 411 West 13th Street, Suite 700, Austin. According to the agenda summary, the board will consider and possibly act on revisions to the agency's multifamily program rules, the adoption of documentation regarding statutory findings of need and related matters, setting a final date for financing grandfathered multifamily developments, resubmission, for attorney general approval, of the bond sale financing on the Preston Bend multifamily development, and approval of an FHA-insured multifamily program.

Contact: Earline Jewett, P.O. Box 13941, Austin, Texas 78711, (512) 475-0812.

Filed: July 29, 1985, 4:38 p.m.
TRD-856809

Tuesday, August 6, 1985, 11:30 a.m. The Board of Directors of the Texas Housing Agency will meet in emergency rescheduled session in Salon G-H, Marriott Hotel, 6121 IH 35 North, Austin. According to the agenda summary, the board will consider and possibly act on revisions to the agen-

cy's multifamily program rules, the adoption of documentation regarding statutory findings of need and related matters, setting a final date for financing grandfathered multifamily developments, resubmission, for attorney general approval, of the bond sale financing on the Preston Bend multifamily development, and approval of an FHA-insured multifamily program. The emergency status was necessary because the originally scheduled location will be unavailable on the original date. This meeting cannot be delayed due to the urgency of the bond sale, multifamily program issues, and related matters to be considered and acted upon. A delay in this meeting would damage the agency's ability to meet its statutory objectives and possibly result in legal claims.

Contact: Earline Jewett, P.O. Box 13941, Austin, Texas 78711, (512) 475-0812.

Filed: July 31, 1985, 4:20 p.m.
TRD-856909

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Texas Department of Human Resources

Friday, August 2, 1985, 8:30 a.m. The Family Violence Advisory Committee of the Texas Department of Human Resources (DHR) met in Classroom I, Second Floor, DHR Staff Development, West Tower, 701 West 51st Street, Austin. According to the agenda summary, the committee discussed the monthly program status, the Texas Council on Family Violence, legislative issues, the work group, public education, policy, criminal justice advocacy, new business, and regional information sharing.

Contact: James C. Marquart, P.O. Box 2960, Austin, Texas 78769, (512) 450-3365.

Filed: July 25, 1985, 3:19 p.m.
TRD-856709

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Texas Commission on Human Rights

Friday and Saturday, August 9 and 10, 1985, 1 p.m. and 9 a.m. respectively. The Texas Commission on Human Rights will meet in Sergeants Committee Room 215, State Capitol, Austin. Items on the agenda include approval of past meeting minutes; administrative reports; personnel matters; equal employment opportunity training for state agencies; commission subcommittee

reports; potential funding for the commission; and commissioner issues.

Contact: William M. Hale, P.O. Box 13493, Austin, Texas 78711, (512) 475-4444.

Filed: July 31, 1985, 2:18 p.m.
TRD-856885

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State Board of Insurance

Tuesday, July 30, 1985, 10 a.m. The State Board of Insurance made an emergency addition to the agenda of a meeting held in Room 414, 1110 San Jacinto Street, Austin. The addition concerned the approval of appointment of members to the Agents Advisory Board. The emergency status was necessary because two members have retired, and replacements should be selected as soon as possible.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: July 29, 1985, 2:22 p.m.
TRD-856795

Tuesday, August 6, 1985, 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 section will conduct a public hearing in Docket 8093—whether disciplinary action should be taken against Dan Raymond Hart, Austin, who holds a group I legal reserve life insurance agent's license issued by the board.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6524.

Filed: July 29, 1985, 10:59 a.m.
TRD-856780

Tuesday, August 6, 1985, 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 section will conduct a public hearing in Docket 9033—approval of the articles of agreement of SWS Lloyd's Insurance Company, Dallas.

Contact: Staci Copelin, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6498.

Filed: July 29, 1985, 10:59 a.m.
TRD-856781

Tuesday, August 6, 1985, 10 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. Items on the agenda include a proposal for decision in the appeal of Odessa B. Hillyer from action of the Texas Catastrophe Property Insurance Association; board orders on several different matters; the fire marshal's report concerning personnel; the commissioner's report concerning litigation and personnel; the Federal Crime Insurance

Program; and legislation from the 69th Legislature.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: July 29, 1985, 2:22 p.m.
TRD-856796

Tuesday, August 6, 1985, 10 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will consider final action on a proposed amendment to Rule 059.09.07.003, published in the July 2, 1985, issue of the *Texas Register*.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: July 29, 1985, 3:29 p.m.
TRD-856803

Wednesday, August 7, 1985, 9 a.m. The State Board of Insurance will meet in Room 101, John H. Reagan Building, 15th Street and Congress Avenue, Austin. According to the agenda, the board will conduct a public hearing to consider rate adjustments for automobile insurance necessitated by the prospective realignment of the Texas automobile insurance rating territories and an increase in the total number of said territories.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: July 29, 1985, 2:22 p.m.
TRD-856797

Wednesday, August 7, 1985, 2 p.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will hear a petition by Edward J. Doherty for a rule regarding disciplinary action for alleged statutory violations by Mexican Casualty Insurance Companies under the insurance Code, Article 8.24.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: July 29, 1985, 2:23 p.m.
TRD-856798

Thursday, August 8, 1985, 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 board will conduct a public hearing in Docket 9031—application of Hochheim Prairie Farm Mutual Insurance Association, Yoakum, to acquire control of New Security Casualty Company, Houston.

Contact: Staci Copelin, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6498.

Filed: July 29, 1985, 10:59 a.m.
TRD-856782

Thursday, August 8, 1985, 9 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will hold a public

hearing to consider a motion to dismiss for want of jurisdiction the appeal of Union National Life Insurance Company from commissioner's Order 85-1274.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: July 29, 1985, 2:23 p.m.
TRD-856799

Thursday, August 8, 1985, 2 p.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will hold a public hearing to consider a proposed rate for endorsement Form 275 B 4/85 to the Texas Legal Protection Plan, Inc.'s group policy Form 42-01A 4/81.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: July 29, 1985, 2:23 p.m.
TRD-856800

Thursday, August 8, 1985, 2:30 p.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will hold a public hearing to consider the appeal of F & G Lloyds of Texas from commissioner's Order 84-2323.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: July 29, 1985, 2:24 p.m.
TRD-856801

Monday, August 12, 1985, 9 a.m. The State Board of Insurance will meet in Room 101, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda summary, the board will hold a public hearing to consider amendments to the *Basic Manual of Rules, Rates, and Forms for the Writing of Life Insurance in the State of State*, Rule 059.09.07.001.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: July 29, 1985, 2:24 p.m.
TRD-856802

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Texas Department of Labor and Standards

Thursday, August 8, 1985, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Suite 209, 4615 North Freeway, Houston. According to the agenda, the division will conduct informal hearings of various consumer complaints in regard to man-

ufactured homes which do not comply with Texas Civil Statutes, Article 5221f.

Contact: Sharon Choate, P.O. Box 12157, Austin, Texas 78711, (512) 475-5712.

Filed: July 31, 1985, 1:14 p.m.
TRD-856878

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Lamar University

Tuesday, August 6, 1985. Committees of the Board of Regents of Lamar University will meet in the Lamar Room, Mary and John Gray Library, Lamar University, Beaumont. Times, committees, and agendas follow.

1 p.m. The Buildings and Grounds Committee will consider matters relating to facilities and campus planning. The committee also will meet in executive session.

1:45 p.m. The Finance/Audit Committee will consider matters relating to administration and finance. The committee also will meet in executive session.

2 p.m. The Campus Liaison Committee will consider matters relating to campus liaison. The committee also will meet in executive session.

2:15 p.m. The Development/Public Relations Committee will consider matters relating to development and public relations. The committee also will meet in executive session.

2:30 p.m. The Personnel Committee will meet in executive session to discuss personnel matters.

Contact: Dr. George McLaughlin, P.O. Box 11915, Beaumont, Texas 77710, (409) 880-2304.

Filed: July 26, 1985, 11:40 a.m.
TRD-856745-856749

Thursday, August 8, 1985, 10 a.m. The Board of Regents of Lamar University will meet in the Gates Library, Lamar University, Port Arthur. According to the agenda, the board will consider the chancellor's report and announcements; approve recommendations from the Finance/Audit Committee, the Buildings and Grounds Committee, the Campus Liaison Committee, the Development/Public Relations Committee, and the Personnel Committee. The board also will meet in executive session.

Contact: Dr. George McLaughlin, P.O. Box 11915, Beaumont, Texas 77710, (409) 880-2304.

Filed: July 26, 1985, 11:40 a.m.
TRD-856750

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Texas Legislative Council

Wednesday, August 28, 1985, 9 a.m. The Texas Legislative Council will meet in Room 309, State Capitol, Austin. Items on the agenda include the executive director's report, consideration of the proposed council operating budget for fiscal year 1986, and other business.

Contact: Robert I. Kelly, P.O. Box 12128, Austin, Texas 78711, (512) 475-2736.

Filed: July 30, 1985, 10:14 a.m.
TRD-856840

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Texas State Board of Medical Examiners

Saturday, August 10, 1985, 9 a.m. The Texas State Board of Medical Examiners submitted a revised agenda for a meeting to be held at the Marriott Hotel, Dallas/Fort Worth Airport, Arlington. According to the revised agenda, the board will discuss the intra-agency career ladder. The board also will meet in executive session.

Contact: Julie Stevens, 1101 Camino LaCosta, Suite 201, Austin, Texas 78701, (512) 452-1078.

Filed: July 31, 1985, 1:55 p.m.
TRD-856886

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Texas Department of Mental Health and Mental Retardation

Thursday, August 1, 1985, 1:15 p.m. The Executive Committee of the Texas Board of Mental Health and Mental Retardation of the Texas Department of Mental Health and Mental Retardation made an emergency revision to the agenda of a meeting that was held in the central office, 909 West 45th Street, Austin. The addition concerned a task force to study current licensing standards of personal care homes, the Citizen's Planning Committee; TRIMS phaseout; and the director of operations. The emergency status was necessary because all aspects of the TRIMS phaseout must be approved by the board. A plan of dissolution and a contract for services must be considered as well as the lease and transfer.

Contact: Gary E. Miller, P.O. Box 12668, Austin, Texas 78711, (512) 465-4588.

Filed: August 1, 1985, 9:08 a.m.
TRD-856911

Friday, August 2, 1985, 9 a.m. The Texas Board of Mental Health and Mental Retardation of the Texas Department of Mental Health and Mental Retardation made an

emergency revision to the agenda for a meeting that was held in the central office, 909 West 45th Street, Austin. The revision concerned approval of the June 14, 1985, minutes; commissioner's calendar; recommendations for board consideration of the Executive Committee, Business Committee, and Personnel Committee; citizens' comments; and the status of pending or contemplated litigation. The emergency status was necessary because all aspects of the TRIMS phaseout must be approved by the board. A plan of dissolution and a contract for services must be considered as well as the lease and transfer.

Contact: Gary E. Miller, P.O. Box 12668, Austin, Texas 78711, (512) 465-4588.

Filed: August 1, 1985, 9:09 a.m.
TRD-856912

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Board of Nurse Examiners

Tuesday and Wednesday, August 13 and 14, 1985, 8 a.m. daily. The Board of Nurse Examiners will meet in the Durango Room, Embassy Suites, 6100 Gateway East, El Paso. Items on the agenda include disciplinary action, reinstatement of license requests, consent orders and other action taken by the hearing officer; the executive secretary's report; education report regarding a request for a new program, discussion of education rules, faculty petitions, and miscellaneous requests; examination and miscellaneous reports.

Contact: Margaret L. Rowland, 1300 East Anderson Lane, Suite C-225, Austin, Texas 78752, (512) 835-4880.

Filed: July 30, 1985, 1:46 p.m.
TRD-856857

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Board of Pardons and Paroles

Monday-Friday, August 5-9, 1985, 1:30 p.m. daily Monday-Thursday, and 11 a.m. Friday. A three-member panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel will receive, review, and consider information and reports concerning prisoners and inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2713.

Filed: July 26, 1985, 10:47 a.m.
TRD-856741

Tuesday, August 6, 1985, 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 consider executive clemency recommendations and related actions, other than out-of-country conditional pardons, including full pardons and restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; and other reprieves, remissions, and executive clemency actions.

Contact: Gladys Sommers, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2704.

Filed: July 26, 1985, 10:48 a.m.
TRD-856742

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Texas Parks and Wildlife Department

Wednesday, July 31, 1985, 9 a.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department made an emergency addition to the agenda of a meeting held in Building B, Parks and Wildlife Headquarters Complex, 4200 Smith School Road, Austin. The addition concerned the status of selenium and fish populations in Martin Creek Lake. The emergency status was necessary due to urgent public necessity to consider the status of Martin Creek Lake.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

Filed: July 30, 1985, 3:22 p.m.
TRD-856865

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Texas Board of Private Investigators and Private Security Agencies

Tuesday, August 6, 1985, 9:30 a.m. The Texas Board of Private Investigators and Private Security Agencies will meet in the J.H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the board will approve the June 4, 1985, meeting minutes; discuss and approve a board rule change reference replica gun, a proposed board rule to implement provisions of House Bill 759, agency operating budget for fiscal year 1986, and certain nonmandatory training programs; approve staff action on new licenses, suspension orders, reinstatement orders, certificates for replacement managers, license terminations, revo-

cations, denials, reprimands, requests for waiver of a board rule, other proposals for decision, and requests for rehearing; discussion and possible action on request for exemption; and election of board officers.

Contact: Clema D. Sanders, 313 East Anderson Lane, Austin, Texas 78711, (512) 475-3944.

Filed: July 26, 1985, 4:49 p.m.
TRD-856761

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Texas Department of Public Safety

Friday, August 9, 1985, 2 p.m. The Public Safety Commission of the Texas Department of Public Safety will meet in the Commission Room, DPS Headquarters, 5805 North Lamar Boulevard, Austin. Items on the agenda include the approval of minutes, budget matters, personnel matters, and other unfinished business.

Contact: James B. Adams, 5805 North Lamar Boulevard, Austin, Texas 78773, (512) 465-2000, ext. 3700.

Filed: July 31, 1985, 9:53 a.m.
TRD-856876

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Public Utility Commission of Texas

Friday, August 2, 1985, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas met in rescheduled session in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division conducted a hearing on the merits in Docket 6321—application of the Shores Utility Water System for a \$43(h) rate increase within Hood County.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 25, 1985, 2:50 p.m.
TRD-856700

Monday, August 5, 1985, 10 a.m. The Hearings Division of the Public Utility Commission of Texas met in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will conduct a prehearing conference in Docket 6325—petition of Central Power and Light Company and Houston Lighting and Power Company for a declaratory order regarding the South Texas Nuclear Project.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 25, 1985, 2:50 p.m.
TRD-856701

Wednesday, August 7, 1985, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will consider Dockets 6027, 5961, 6181, 6255, 5586, 6174, 6326, 6253, 5894, 6115, 4219, 6011, 6246, 6219, 6005, and 6093. The division will also meet in executive session to consider pending litigation and personnel matters.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 30, 1985, 2:45 p.m.
TRD-856858

Wednesday, August 7, 1985, 9 a.m. The Hearings Division of the Public Utility Commission of Texas made an emergency addition to the agenda of a meeting to be held in Suite 450N, 7800 Shoal Creek Boulevard, Austin. The addition concerned Docket 5930—application of the City of Jasper to amend its certificate of convenience and necessity within Jasper County. The emergency status is necessary because timely provision of new service to customers is dependent upon the certification decision reached in this case.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 31, 1985, 2:52 p.m.
TRD-856892

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Dates, times, and dockets follow.

Thursday, August 8, 1985, 1:30 p.m. A prehearing conference in Docket 6343—application of Aqua Pura Water System for a water certification of convenience and necessity within Anderson County.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 26, 1985, 2:51 p.m.
TRD-856754

Addition to the previous agenda:

A prehearing telephone conference in Docket 6360—petition of Utilities Operations, Inc., to terminate service.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 29, 1985, 2:44 p.m.
TRD-856792

Monday, August 12, 1985, 2 p.m. A prehearing conference in Docket 5644—application of Spring River Water Supply for a certificate of convenience and necessity to provide water utility service within Caldwell County.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 30, 1985, 2:45 p.m.
TRD-856859

Tuesday, August 13, 1985, 10 a.m. A prehearing conference in Docket 52373—application of Gera Water Company for a certification of convenience and necessity within Harris County and Docket 5696— inquiry of the commission into the rates charged and services rendered by Gera Water Company.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 29, 1985, 2:44 p.m.
TRD-856793

Monday, August 26, 1985, 10:30 a.m. A hearing on the merits in Docket 6363—petition of Central Texas Electric Cooperatives, Inc., for authority to change rates.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 25, 1985, 2:49 p.m.
TRD-856702

Wednesday, August 28, 1985, 10 a.m. A rescheduled prehearing conference in Docket 6383—complaint of Diane Razor, *et al*, against Mustang Valley Water Supply Corporation. The prehearing was originally scheduled for July 29, 1985, as published at 10 TexReg 56.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 30, 1985, 2:46 p.m.
TRD-856860

Wednesday, August 28, 1985, 1:30 p.m. A hearing on the merits in Docket 6398—petition of Jonestown Improvement Corporation for authority to terminate water utility service.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 30, 1985, 2:44 p.m.
TRD-856861

Tuesday, September 10, 1985, 1:30 p.m. A prehearing conference in Docket 5023—application of Central Power and Light, Houston Lighting and Power and SWEP-CO for a ± 400 kV HVdc transmission line from Walker County station south to the Matagorda station at the South Texas Project.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 29, 1985, 2:43 p.m.
TRD-856794

Monday, September 23, 1985, 10 a.m. A hearing on the merits on remand in Docket 5835—application of Joy Dale Hawley /Clear Creek Water Company for a rate increase within Henderson County.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 26, 1985, 2:52 p.m.
TRD-856753

Addition to the previous agenda:

A hearing on the merits in Docket 6333—application of Hopewell Water Supply Corporation for an amendment to its certificate of convenience and necessity.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 30, 1985, 2:44 p.m.
TRD-856862

Thursday, September 26, 1985, 10 a.m. A hearing on the merits in Docket 6380—application of Upshur-Rural Electric Cooperative Corporation for authority to change rates.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 30, 1985, 2:46 p.m.
TRD-856863

Tuesday, October 8, 1985, 10 a.m. A hearing on the merits in Docket 5616—application of Lake Country Water Company to amend its certificate of convenience and necessity within Denton County and Docket 5859—application of Terra Southwest, Inc., to amend its certificate of convenience and necessity within Denton County.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 25, 1985, 2:49 p.m.
TRD-856703

Friday, October 18, 1985, 10 a.m. A hearing on the merits in Docket 6405—application of United Telephone Company of Texas, Inc., for authority to implement private coin telephone service.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 30, 1985, 2:44 p.m.
TRD-856864

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Railroad Commission of Texas

Monday, July 29, 1984, 9 a.m. The Oil and Gas Division of the Railroad Commission

of Texas submitted an emergency revised agenda for a meeting held in Room 309, 1124 IH 35 South, Austin. According to the revised agenda, the commission considered oil and gas Dockets 7C-84,785, 3—84,145, and 10-83,125. The emergency status was necessary because the matters were properly posted for conference on July 22, 1985, and were passed.

Contact: Walter Davis, Meredith Kawaguchi, or Billy Thomas, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1307, 445-1238, or 445-1289 respectively.

Filed: July 26, 1985, 10:40 a.m.
TRD-856724

Addition to the previous agenda:

The division considered the use of state funds to plug Drillway, Inc., S.A. Lynn Lease, Well 1, Cooke County Regular Field, Cooke County. The emergency status was necessary because the item needed to be considered on less than seven days notice as a matter of urgent public necessity. The well was flowing oil and salt water onto the surface of the ground at a rate of two barrels per day and could be harmful to the public's health, safety, and welfare.

Contact: Willis Steed, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1301.

Filed: July 26, 1985, 10:40 a.m.
TRD-856725

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Monday, August 5, 1985, 9 a.m. The Railroad Commission of Texas will meet in Room 309, 1124 IH 35 South, Austin. The commission will consider and act on division agendas as follows.

The Administrative Services Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1211.

Filed: July 26, 1985, 10:44 a.m.
TRD-856739

The Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters. The commission also will consider interagency contracts with the General Land Office, Texas State Property Board, the Comptroller of Public Accounts, and the University of Texas System Administration University Lands accounting office.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1204.

Filed: July 26, 1985, 10:42 a.m.
TRD-856731

The Flight Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Ken Fossler, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1103.

Filed: July 26, 1985, 10:41 a.m.
TRD-856727

Various matters falling within the Gas Utilities Division's regulatory jurisdiction.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-0461.

Filed: July 26, 1985, 10:44 a.m.
TRD-856738

The Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711.

Filed: July 26, 1985, 10:41 a.m.
TRD-856728

The LP-Gas Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711.

Filed: July 26, 1985, 10:43 a.m.
TRD-856737

Various matters falling within the Oil and Gas Division's regulatory jurisdiction.

Contact: Timothy A. Poe, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1283.

Filed: July 26, 1985, 10:42 a.m.
TRD-856730

Additions to the previous agenda:

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

Contact: Madalyn J. Girvin, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1209.

Filed: July 26, 1985, 10:43 a.m.
TRD-856733

Consideration of whether the commission should respond in any official manner to the action of the FERC in Docket GP84-23-000, the "Stowers Case," and the form and content of any such response.

Contact: Susan Cory, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1285.

Filed: July 26, 1985, 10:41 a.m.
TRD-856729

Consideration of the approval of an interim order allowing restricted production and consideration of a motion for oral argument regarding the interim order on Rule 37, Case 88,523—application of Phillips Oil Company for exception to Statewide Rule 37 for their M. L. Beiler Unit, Well 1, Long Lake Field, Anderson County.

Contact: Don Walker, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1363.

Filed: July 26, 1985, 10:44 a.m.
TRD-856740

Consideration of whether to initiate rulemaking proceedings to amend Statewide Rule 31, 16 TAC §3.31, pertaining to gas well allowables.

Contact: Patrick F. Thompson, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1292.

Filed: July 26, 1985, 4:20 p.m.
TRD-856759

Consideration of whether to amend the interim order in Dockets, 4-83,296, 4-83,308, and 4-83,309, pertaining to the suspension of royalties from wells subject to pending MIPA applications.

Contact: Patrick F. Thompson, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1292.

Filed: July 26, 1985, 4:20 p.m.
TRD-856760

The Personnel Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Mark K. Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1120.

Filed: July 26, 1985, 10:43 a.m.
TRD-856736

The Office of Research and Statistical Analysis director's report on division administration, budget, procedures, and personnel matters.

Contact: Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1391.

Filed: July 26, 1985, 10:43 a.m.
TRD-856734

The Office of the Special Counsel director's report relating to pending litigation, state and federal legislation, and other budget, administrative, and personnel matters.

Contact: Walter Earl Lilie, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1186.

Filed: July 26, 1985, 10:40 a.m.
TRD-856726

The Surface Mining and Reclamation Division director's report on division administration, budget, procedures, and personnel matters.

Contact: J. Randel (Jerry) Hill, 105 West Riverside Drive, Austin, Texas, (512) 475-8751.

Filed: July 26, 1985, 10:43 a.m.
TRD-856735

Consideration of various matters falling within the Transportation Division's regulatory jurisdiction.

Contact: Michael A. James, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1330.

Filed: July 26, 1985, 10:42 a.m.
TRD-856732

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Texas Rehabilitation Commission

Friday, July 26, 1985, 2 p.m. The Governor's Committee for Disabled Persons and Media Relations and Public Information Subcommittee met in executive session via conference call originating in Suite 104, 158 East Riverside Drive, Austin. According to the agenda, the committee and subcommittee considered the date and time of a meeting, the media conference, the Barbara Jordan awards, the bid process, the establishment of a Dallas-based steering committee, and a judging update. The emergency status was necessary to meet the deadline in planning for the site selection for the media conference and the Barbara Jordan awards banquet.

Contact: Virginia Roberts, 158 East Riverside Drive, Austin, Texas, (512) 445-8276.

Filed: July 25, 1985, 1:35 p.m.
TRD-856698

Wednesday, July 31, 1985, 3:30 p.m. The Executive Committee of the Texas Planning Council for Developmental Disabilities of the Texas Rehabilitative Commission met in emergency session in Room 302, 118 East Riverside Drive, Austin. According to the agenda, the committee considered state developmental disabilities funds, the transfer of deaf/blind funds to the Texas Rehabilitation Commission, and a conflict of interest. The emergency status was necessary because the committee did not finish reviewing these items at the last meeting and requested a new emergency meeting.

Filed: July 26, 1985, 1:18 p.m.
TRD-856751

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School Land Board

Tuesday, August 6, 1985, 10 a.m. The School Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda include approval of the previous board meeting minutes; pooling applications; pooling agreement amendments; report on suspended state leases; coastal public lands lease applications; easement

applications; cabin permit assignments; and cabin permit terminations.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 837, Austin, Texas 78701, (512) 475-0219.

Filed: July 29, 1985, 4:20 p.m.
TRD-856805

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State Committee of Examiners for Speech-Language Pathology and Audiology

Monday, August 12, 1985, 9 a.m. The State Committee of Examiners for Speech-Language Pathology and Audiology will meet in Room T-507, 1100 West 49th Street, Austin. According to the agenda summary, the Committee will approve the May 9 and 10 and July 8, 1985, meeting minutes; discuss licensure requirements for licensed aides in speech-language pathology and audiology, continuing education approvals, request for attorney general's opinion on the title "Certified Hearing Aid Audiologist," budget planning for a publication, other matters relating to licensing and regulation of speech-language pathologists and audiologists; review complaint investigations; hear correspondence addressed to the committee, the annual financial report, and the executive secretary's report; and set the next meeting date. The committee will also meet in executive session.

Contact: June Robertson, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7502.

Filed: July 25, 1985, 3:37 p.m.
TRD-856711



Teacher Retirement System of Texas

Friday, August 9, 1985, 9 a.m. The Board of Trustees of the Teacher Retirement System of Texas will meet in the board room, 1001 Trinity, Austin. According to the agenda summary, the board will appoint a committee to nominate officers of the board; consider changes to signature authorization, appointments to the Investment Advisory Committee, appointments to the Insurance Advisory Committee, and the TRS operating budget for fiscal year ending August 31, 1986; select a group health insurance consultant; amend the 1984-1985 operating budget; and estimate

the member contributions for fiscal year ending August 31, 1986.

Contact: Mary Godzik, 1001 Trinity, Austin, Texas 78701, (512) 397-6400.

Filed: July 25, 1985, 11:23 a.m.
TRD-856677

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Texas Southern University

Friday, August 9, 1985, 9 a.m. Committees of Texas Southern University (TSU) will meet in Room 117, Hannah Hall, TSU, 3100 Cleburne Avenue, Houston. Committees and agendas follow.

The Building and Grounds Committee will consider approval of payments for construction contracts; approval/ratification of building contracts; construction change order; improvements to land; sale of improvements; report on central plant expansion and renovation; progress report on ongoing construction projects; special reports on new construction; and receive bids on construction projects.

The Development Committee will receive reports from the administration on the university fund raising efforts and reports on special funds budgets.

The Finance Committee will consider monthly fiscal reports on university operations, approve short-term university investments, and receive and consider bids on contracts involving university sales and services.

The Personnel and Academic Affairs Committee will consider the ratification of appointments of summer school instructional personnel, academic personnel changes, request for lease, and enrollment projects and reports.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: July 30, 1985, 1:47 p.m.
TRD-856852-856855

Friday, August 9, 1985, 1:30 p.m. The Board of Regents of TSU will meet in Room 203, Sterling Student Life Center, TSU, 3100 Cleburne Avenue, Houston. According to the agenda, the board will receive and consider reports from the Finance, Buildings and Grounds, Personnel and Academic Affairs, and Development and Student Affairs Committees and the president. The board will also meet in executive session.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: July 30, 1985, 1:47 p.m.
TRD-856856

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Texas Tech University

Friday, August 2, 1985. Committees of the Texas Tech University Board of Regents and the Texas Tech University Health Sciences Center Board of Regents met jointly in the board suite, Administrative Building, Texas Tech University campus, Lubbock. Times, committees, and agendas follow.

8 a.m. The Finance and Administration Committee of the board of regents discussed March-June budget adjustments; the operating budget for fiscal year 1986; board policy revisions; board policy on tuition and fee install payment options; assessment of installment option fee; general policy to govern the Texas Public Educational Grants Program in fiscal years 1986 and 1987; general policies to govern granting of tuition scholarships in fiscal years 1986 and 1987, tuition scholarships in fiscal years 1986 and 1987, emergency enrollment loans and academic scholarships in fiscal year 1986; natural gas supply contract; transportation of natural gas from suppliers line to Energas; transportation of natural gas to campus; authorized plans for sale of approximately \$36 million in Texas dedicated revenue bonds and select fiscal agent and bond attorney to assist; extended the contract for campus bus service with City of Lubbock; holiday schedule for 1985-1986; and ratified administration actions. The committee also met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: July 25, 1985, 11:22 a.m.
TRD-856678

Emergency addition to the previous agenda:

Approval for the development of a request for proposal for an educational conference center and a research park. The emergency status was necessary because action needed to be taken at the board meeting for the plans to be developed. Postponement until the next board meeting, October 11, 1985, would have slowed efforts to get the projects implemented.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: July 31, 1985, 1:57 p.m.
TRD-856887

8 a.m. The Finance and Administration Committees of the Texas Tech University Health Sciences Center Board of Regents considered the March-June 1986 operating budget; fiscal year 1986 operating budget; board policy revisions; annual education and facility—use costs in affiliate agreement between the school of medicine and Medical Center Hospital, Odessa; general policy to govern the granting of academic scholarships, emergency enrollment loans, tuition scholarships in fiscal years 1986 and 1987, and the Texas Public Education Grants Program; board policy on tuition and fee

installment payment options; installment option fee; residency application evaluation fee; addenda to master agreement between the school of medicine and El Paso County Hospital District for emergency room physician services and resident costs; amended master agreement with Lubbock County Hospital District for changes in space; plans for sale of approximately \$14 million in Texas dedicated revenue bonds and selected fiscal agent and bond attorney to assist; extend snack contract; natural gas supply contract; transportation of natural gas from supplier's line to Energas and campus; holiday schedule; established medical professional liability fund (MPLF); and ratified administrative actions. The committee also met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: July 25, 1985, 11:23 a.m.
TRD-856679

Emergency addition to the previous agenda:

Approval for the development of a request for proposal for an educational conference center and a research park. The emergency status was necessary because action needed to be taken at the board meeting so that the plans might be developed. Postponement until the next board meeting date, October 11, 1985, would have slowed efforts to get the projects implemented.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: July 31, 1985, 1:57 p.m.
TRD-856888

9:30 a.m. The Campus and Building Committee of the Texas Tech University Board of Regents considered relocation of proposed USDA soil moisture and plant stress research lab; approved schematic design and proceed with renovation of Chemistry Building; ratified acceptance dates for Advance Technology Learning Center and Feedmill at Texas Tech University agricultural field labs in Lubbock; and heard reports. The committee also met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: July 25, 1985, 11:22 a.m.
TRD-856681

Emergency addition to the previous agenda:

Authorization to proceed with planning to approve an architectural firm and to develop a lease agreement with the Texas Tech University Foundation to locate a cotton classing facility at the university research center on the east campus. The emergency status was necessary because the next board meeting is scheduled for October 11, 1985, and a delay in action would work a hardship on the planning committee.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: July 31, 1985, 1:57 p.m.
TRD-856889

9:30 a.m. The Campus and Building Committee of the Texas Tech University Health Sciences Center Board of Regents considered approval for Family House Inc., to proceed with construction of a Ronald McDonald House and heard reports. The committee also met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: July 25, 1985, 11:23 a.m.
TRD-856680

10 a.m. The Academic and Student Affairs Committee of the Texas Tech University Board of Regents considered granting of academic tenure with appointment; granting of emeritus status; changing the name of the Department of Engineering Technology to the Department of Technology; changing the existing Bachelor of Science in Engineering Technology degree to Bachelor of Science in Technology; ratified leaves of absence; and heard reports. The committee also met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: July 25, 1985, 11:21 a.m.
TRD-856682

10 a.m. The Academic and Student Affairs Committee of the Texas Tech University Health Sciences Center Board of Regents considered the granting of academic tenure with appointment; changing the name of the Department of Anatomy to the Department of Cell Biology and Anatomy in the School of Medicine; ratified leaves of absence; and rescinded previously approved one semester extension of leave of absence. The committee also met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: July 25, 1985, 11:23 a.m.
TRD-856683

10:30 a.m. The Development Committee of the Texas Tech University Board of Regents considered appointment of new members and reappointment of present members to the board of directors of the Texas Tech University Foundation for three-year terms expiring August 31, 1988; discussed fund raising projects; and heard reports. The committee also met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: July 25, 1985, 11:22 a.m.
TRD-856685

10:30 a.m. The Development Committee of the Texas Tech University Health Sciences Center Board of Regents discussed fund

raising projects and heard reports. The committee also met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: July 25, 1985, 11:23 a.m.
TRD-856684

11:30 a.m. The Athletic Affairs Committee of the Texas Tech University Board of Regents met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: July 25, 1985, 11:22 a.m.
TRD-856686

1:30 p.m. The Board of Regents of Texas Tech University submitted emergency additions to be considered under the Finance and Administration Committees: approval for the development of a request for proposal for an educational conference center and a research park; and to be considered under the Campus and Building Committee: authorization to proceed with planning to approve an architectural firm and to develop a lease agreement with the Texas Tech University Foundation to locate a cotton classing facility at the university research center on the east campus. The emergency status was necessary because action needed to be taken at the board meeting for the plans to be developed. Postponement until the next board meeting of October 11, 1985, would slow efforts to get the project implemented.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: July 31, 1985, 1:56 p.m.
TRD-856890

1:30 p.m. The Texas Tech University Health Services Center Board of Regents heard reports and took action on minutes, Academic and Student Affairs, Finance and Administration, Campus and Building, and Development Committees. The board also met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: July 25, 1985, 11:22 a.m.
TRD-856687

Emergency addition to the previous agenda:

To be considered under the Finance and Administration Committees: approval for the development of a request for proposal for an educational conference center and a research park. The emergency status was necessary because action needed to be taken at the board meeting for the plans to be developed. Postponement until the next October 11, 1985, board meeting would slow efforts to get the projects implemented.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: July 31, 1985, 1:57 p.m.
TRD-856891

4:10 p.m. The Texas Tech University Board of Regents heard reports and took action on the minutes and the Academic and Student Affairs, Finance and Administration, Campus and Building, and Development Committees.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: July 25, 1985, 11:21 a.m.
TRD-856688

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Board for Lease of University Lands

Thursday, August 8, 1985, 8:15 a.m. The Board for Lease of University Lands will meet in the regent's conference room, 201 West Seventh Street, Austin. According to the agenda, the board will approve July 9, 1985, minutes and discuss plans for the next (73rd) auction sale of oil and gas leases on lands of the University of Texas.

Contact: Maxine R. Dean, 210 West Sixth Street, Austin, Texas 78701, (512) 499-4290.

Filed: July 29, 1985, 11:11 a.m.
TRD-856783

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Texas Water Commission

Friday, July 26, 1985, 9 a.m. The Texas Water Commission met in emergency session in Room 128A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission discussed personnel matters associated with agency reorganization. The emergency status was necessary because personnel matters that are involved with the agency reorganization under Senate Bill 249 necessitate action as soon as possible.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: July 25, 1985, 3:52 p.m.
TRD-856710

Tuesday, July 30, 1985, The Texas Water Commission made an emergency addition to a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the addition concerned Harris County Municipal Utility District 120 for approval of the use of \$130,000 in surplus funds. The emergency status was necessary because the district requests emergency consideration of this project as the repairs are needed to prevent potential raw sewage backup into houses and street damage.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: July 29, 1985, 3:58 p.m.
TRD-856804

Tuesday, August 6, 1985, 10 a.m. The Texas Water Commission will meet in

Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will discuss water district bond issues, bond amendment, release of escrowed funds, use of surplus funds, change order and setting of creation hearing date, certification of water right, water quality proposed permits, amendment and renewals, and the filing and setting of a hearing date.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: July 25, 1985, 2:07 p.m.
TRD-856696

Wednesday, August 7, 1985, 3 p.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the application of the City of Austin, P.O. Box 1088, Austin, Texas 78767, to the Texas Department of Water Resources for a temporary order to authorize the discharge of partially treated wastewater at a volume not to exceed an average flow of 26 million gallons per day (60 million daily maximum) from its Govalle Wastewater Treatment Plant, which is located at the intersection of Bolm Road and Howard Lane on the north bank of the Colorado River in Travis County. Under a June 1983 compliance agreement with the Texas Department of Water Resources, the applicant proposes to undertake necessary renovation and improvements at the treatment facility.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: July 26, 1985, 3:49 p.m.
TRD-856757

Wednesday, August 28, 1985, 10 a.m. The Texas Water Commission will meet in the council chamber, 215 East McKinney, Denton. According to the agenda, the commission will consider the application of Denton County Levee Improvement District 1 of Denton and Dallas Counties for approval of a plan of reclamation and approval of a levee improvement project plan.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: July 31, 1985, 3:36 p.m.
TRD-856893

Wednesday, September 11, 1985, 9 a.m. The Texas Water Commission will meet in the community room, Mid-Valley Bank, 500 South Missouri, Weslaco. According to the agenda summary, the commission will conduct a public hearing to receive evidence to determine whether Permit 12755-01, issued to the Military Highway Water Supply Corporation, P.O. Box 1048, Progreso, Texas 78579, on September 12, 1983, should be confirmed, amended, or revoked for cause. Permit 12755-01 authorizes a dis-

charge of treated domestic wastewater effluent at a volume not to exceed an average flow of 200,000 gallons per day from the Progreso Wastewater Treatment Plant, which is located approximately 1.4 miles northeast of the intersection of FM Road 1015 and U.S. Highway 281 in Hidalgo County. The effluent is discharged into an unnamed drainage ditch; then to Arroyo Colorado in Segment 2201 of the Nueces-Rio Grande Coastal Basin.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: July 31, 1985, 3:36 p.m.
TRD-856894

The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Dates, times, rooms, and agendas follow.

Friday, September 13, 1985, 10 a.m. In Room 618, the hearing of Joseph P. Miller and Sarah E. Miller, who seek to amend Certificate of Adjudication 18-2031 to increase the amount of water authorized for diversion and use to 115 acre-feet per annum; to increase the amount of land authorized to be irrigated to 80 acres within the 109-acre tract; and to authorize diversion from any point on their land between the authorized diversion point and a point located at the northeast corner of the Bruce survey, Guadalupe River Basin, Kerr County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: July 31, 1985, 3:36 p.m.
TRD-856895

Addition to the previous agenda:

A hearing on Application 4589—City of Abilene to authorize the maintenance of and the impoundment of state water in an existing off-channel reservoir complex of nine holding ponds with a total capacity of 1,003.5 acre-feet on Deadman Creek, tributary of Clear Fork Brazos River, tributary of Brazos River, Brazos River Basin; and the diversion and secondary use of not to exceed 6,432 acre-feet of water per annum directly from the City of Abilene wastewater treatment plant or from the holding ponds to irrigate city-owned lands and privately-owned lands, in Jones County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: July 31, 1985, 3:36 p.m.
TRD-856896

Monday, September 16, 1985, 10 a.m. In Room 119, a hearing of the City of Dallas to amend Certificate of Adjudication 8-2457 to change the purpose of use of 369 acre-feet of water per annum presently authorized for municipal use to irrigation use and to add two diversion points on the Elm Fork, Trinity River, Trinity River Basin, Dallas County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: July 31, 1985, 3:37 p.m.
TRD-856897

Monday, September 30, 1985, 10 a.m. In Room 119, a hearing on Application 4591—Warren's Turf Nursery, Inc., to divert and use 600 acre-feet of water per annum from Little River, tributary of Barzos River, Brazos River Basin, for irrigation purposes, Milam County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: July 31, 1985, 3:37 p.m.
TRD-856898

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Texas Wheat Producers Board

Tuesday and Wednesday, August 6 and 7, 1985, 1:30 p.m. and 8 a.m., respectively. The Texas Wheat Producers Board of the Texas Department of Agriculture will meet in the Texoma Room, Hilton Inn, 401 Broad Street, Wichita Falls. According to the agenda, the board will discuss wheat rust, consider a report on the Hessian fly, accept the annual audit and financial report, and hear reports on meetings attended by board members and staff.

Contact: Bill Nelson, Suite 625, Texas Commerce Bank, Amarillo, Texas 79109, (806) 352-2191.

Filed: July 25, 1985, 4:25 p.m.
TRD-856713

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Regional Agencies Meetings Filed July 25

The Blanco County Central Appraisal District, Appraisal Review Board, will meet at the Blanco County Courthouse Annex, Johnson City, on August 13-16, 1985, at 4 p.m. daily. Information may be obtained from Hollis Petri, P.O. Box 338, Johnson City, Texas 78636, (512) 868-4624.

The Dallas Area Rapid Transit, Real Estate Committee, met in emergency session at 601 Pacific Avenue, Dallas, on July 26, 1985, at 2 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 638-6237.

The Deep East Texas Private Industry Council, Executive Committee, met in rescheduled executive session in the board room, Angelina College, Lufkin, on July 29, 1985, at 12:45 p.m. The meeting was originally scheduled for July 25. Information

may be obtained from Charlene Meadows, P.O. Box 1463, Lufkin, Texas 75901, (409) 634-4432.

The Deep East Texas Council of Governments met in the DETCOG conference room, Lufkin, on July 31, 1985, at 2 p.m. Information may be obtained from John Markham, P.O. Box 661, Nacogdoches, Texas 75963, (409) 569-0492. The Deep East Texas Council of Governments-Area on Aging Regional Aging Advisory Council also met at the Angelina County Senior Center, 2801 Valley Avenue, Lufkin, on August 2, 1985, at 1:30 p.m. Information may be obtained from Martha Jones, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704.

The Region V Education Service Center, Board of Directors, met at 2295 Delaware Street, Beaumont, on August 1, 1985, at 1:15 p.m. Information may be obtained from Fred J. Waddell, 2295 Delaware Street, Beaumont, Texas 77703, (409) 835-5212.

The Edwards Underground Water District, Board of Directors, met at Centro De Artes, Market Square, Santa Rosa and Commerce Streets, San Antonio, on July 29, 1985, at 6:30 p.m. Information may be obtained from Thomas P. Fox, 1615 North Saint Mary's, San Antonio, Texas 78205, (512) 222-2204.

The Garza County Appraisal District, Appraisal Review Board, met at the Appraisal Office, Courthouse, Post, on August 1, 1985, at 1:30 p.m. Information may be obtained from Jean M. Westfall, P.O. Drawer F, Post, Texas 79356, (806) 495-3518.

The Gillespie County Appraisal District, Board of Review, will meet in City Hall Assembly Room, Fredericksburg, on August 7, 8, and 15, 1985, at 8 a.m. daily. Information may be obtained from Raymond H. Roarick, P.O. Box 429, Fredericksburg, Texas 78624, (512) 997-7655.

The Hunt County Tax Appraisal District, Board of Directors, met in the board room, 4815-B King Street, Greenville, on July 29, 1985, at 9 a.m. Information may be obtained from Henry J. Popp, 4815-B King Street, Greenville, Texas 75401, (214) 454-3510.

The Central Appraisal District of Johnson County, Appraisal Review Board, met in emergency session at 109 North Main, Cleburne, on July 26, 1985, at 9 a.m. Information may be obtained from Jackie Gunter, 109 N. Main, Cleburne, Texas 76031, (817) 645-3987.

The Lee County Appraisal District, Board of Directors, met at 218 East Richmond Street, Giddings, on July 31, 1985, at 9 a.m. Information may be obtained from James

L. Dunham, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

The Middle Rio Grande Development Council, Private Industry Council, revised the agenda for a meeting held in the cafeteria, Asherton Independent Day School, Washington Street, Asherton, on July 31, 1985, at 10 a.m. The Board of Directors revised the agenda for a meeting held at the same location on July 31, 1985, at 2 p.m. Information may be obtained from Armando Herrera, and Mike Patterson, respectively, P.O. Box 702, Carrizo Springs, Texas 78834, (512) 876-3533.

The Wise County Appraisal District, Board of Directors, will meet at 206 South State, Decatur, on August 8, 1985, at 9 a.m. Information may be obtained from Angela Caraway, P.O. Box 509, Decatur, Texas 76234, (817) 627-3081.
TRD-856675

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Meetings Filed July 26

The Blanco County Central Appraisal District, Board of Directors, will meet at the Blanco County Courthouse Annex, Johnson City, on August 12, 1985, at 6 p.m. Information may be obtained from Hollis Petri, P.O. Box 338, Johnson City, Texas 78636, (512) 868-4624.

The Capital Area Rural Transportation System, Board of Directors, met in Suite 100, Capital Area Planning Council, 2520 IH 35 South, Austin, on August 1, 1985, at 9:30 a.m. Information may be obtained from Nancy Kowieski, 2201 Post Road, #103, Austin, Texas 78704, (512) 478-7433.

The Lavaca County Central Appraisal District, Board of Directors, met in 113 North Main Street, Hallettsville, on August 1, 1985, at 10 a.m. Information may be obtained from J.P. Davis, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

The Leon County Central Appraisal District, Board of Directors met in the Leon County Courtroom, Centerville, on July 29, 1985, at 7:30 p.m. Information may be obtained from Tom G. Holmes, P.O. Box 536, Centerville, Texas 75833, (214) 536-2252.

The Middle Rio Grande Development Council, Private Industry Council, met in the cafeteria, Washington Street, Asherton, on July 31, 1985, at 10 a.m. The Board of Directors met at the same location on July 31, 1985, at 2 p.m. Information may be ob-

tained from Juan Pablo Velez and Michael M. Patterson respectively, P.O. Box 702, Carrizo Springs, Texas 78834, (512) 876-3533.

The North Texas Municipal Water District, Board of Directors, rescheduled a meeting to be held at 505 East Brown Street, Wylie, on August 7, 1985, at 4 p.m. Information may be obtained from Carl W. Riehn, P.O. Drawer C, Wylie, Texas 75098, (214) 442-5405.

The South Texas Private Industrial Council, Inc. met at the Zapata County Community Center, U.S. Highway 84, Zapata, on August 1, 1985, at 4 p.m. Information may be obtained from Ruben M. Garcia, P.O. Box 1757, Laredo, Texas 78044-1757.

The Tyler County Tax Appraisal District, Board of Directors, will meet at 103 Pecan, Woodville, on August 6, 1985, at 4 p.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

The Wheeler County Appraisal District, Board of Directors, met at the district office, County Courthouse Square, Wheeler, on August 5, 1985, at 2 p.m. Information may be obtained from Marilyn Copeland, P.O. Box 349, Wheeler, Texas 79096, (806) 826-5900.

TRD-856721

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Meetings Filed July 29

The Bexar County Appraisal District, Appraisal Review Board, met in emergency session at 535 South Main, San Antonio, on August 1, 1985, met in regular session August 2 and 5, 1985, and will meet in regular regular session August 6-8, 12-15, and 19-29, 1985, at 8:30 a.m. daily. Information may be obtained from Bill Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

The Capital Area Planning Council, Governor's Capital Area Regional Review Committee, met in Suite 100, 2520 IH 35 South, Austin, on August 1, 1985, at 10:15 a.m. Information may be obtained from Bruce A. Perryman, 2520 IH 35 South, Austin, Texas 78704, (512) 443-7653.

The East Texas Council of Governments, JPTA Board of Directors, met at K-Bob's Restaurant, Highway 259, Kilgore, on August 1, 1985, at 11 a.m. The Executive Committee met at 3800 Stone Road, Kilgore, on August 1, 1985, at 2 p.m. Information may be obtained from Glynn J. Knight, 3800 Stone Road, Kilgore, Texas 75662, (214) 984-8641.

The Lampasas County Appraisal District met in emergency session at 402 East Second, Lampasas, on July 31, 1985, at 9 a.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058.

The Sabine River Authority of Texas, Board of Directors, met at Sabine River Authority of Texas general office, IH 10 at U.S. Highway 90, Orange, on August 2, 1985, at 9:30 a.m. Information may be obtained from Sam F. Collins, P.O. Box 579, Orange, Texas 77630, (409) 883-2531.

The San Patricio County Appraisal District, Board of Directors, will meet at the Courthouse Annex, Sinton, on August 8, 1985, at 9:30 a.m. Information may be obtained from Bennie L. Stewart, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402.

The Central Tax Authority of Taylor County, Board of Directors, will meet at 340 Hickory Street, Abilene, on August 14, 1985, at 10 a.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381.

The Trinity River Authority of Texas, Devers Advisory Committee, will meet at the Devers Canal Offices, U.S. Highway 90, Devers, on August 7, 1985, at 9:30 a.m. Information may be obtained from Jack C. Worsham, 5300 South Collins, P.O. Box 60, Arlington, Texas 76004-0060, (817) 467-4343.

TRD-856762

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Meetings Filed July 30

The Austin-Travis Country Mental Health and Mental Retardation Center, Executive Committee, met in the boardroom, 1430 Collier Street, Austin, on August 2, 1985, at noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

The Copano Bay Soil and Water Conservation District 329 will meet at Shay Plaza, 106 South Alamo, Refugio, on August 14, 1985, at 8:30 a.m. Information may be obtained from Jim Wales, P.O. Drawer 340, Refugio, Texas 78377, (512) 526-2334.

The Dawson County Central Appraisal District, Board of Directors, will meet at 611 North Dallas Avenue, Lamesa, on August 7, 1985, at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060.

The Gonzales County Appraisal District, Appraisal Review Board, met in emergency session at 928 Saint Paul Street, Gonzales, on August 1, 1985 at 6 p.m. and will meet at the same location on August 6 and

15, 1985, at 6 p.m. and 9 a.m. respectively. The Board of Directors will meet at the same location on August 8, 1985, at 7 p.m. Information may be obtained from Nancy Seitz, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879.

The Texas Political Subdivisions Workers' Compensation Joint Insurance Fund, Board of Trustees, met at the Y. O. Ranch, Kerrville, on August 5, 1985, at 8:30 a.m. Information may be obtained from Thomas P. Vick, P.O. Box 2759, Texas 75221, (214) 760-6183.

TRD-856832

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Meetings Filed July 31

The Bastrop County Appraisal District, Board of Directors, met in emergency session at 1200 Cedar Street, Bastrop, on August 1, 1985, at 7:30 p.m. The Appraisal Review Board will meet at the same location on August 16 and 17, 1985, at 7:30 p.m. and 8 a.m., respectively. Information may be obtained from Lorraine Perry, P.O. Drawer 578, Bastrop, Texas 78602, (512) 321-3925.

The Bell County Appraisal District met in emergency session in the commissioner's courtroom, second floor, Bell County Courthouse, Belton, on July 31, 1985, at 7 p.m. Information may be obtained from Tolly Moore, P.O. Box 390, Texas 76513-0390, (817) 939-3521, ext. 410.

The Bexar-Medina-Atascosa Counties Water Control and Improvement District Number 1, Board of Directors, met at the district office, Highway 81, Natalia, on August 5, 1985, at 10 a.m. Information may be obtained from C. A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132.

The Bosque County Appraisal District, Board, will meet in emergency session in the judges' chambers, Bosque County Courthouse, Meridian, on August 15, 1985, at 7 p.m. Information may be obtained from David G. Cooper, P.O. Box 393, Meridian, Texas 76665, (817) 435-2304.

The Brazos Valley Development Council, Executive Committee, will meet in the council offices, 3006 East 29th Street, Bryan, on August 8, 1985, at 1:30 p.m. Information may be obtained from R. J. Holmgren, P.O. Drawer 4128, Bryan, Texas 77805, (409) 822-7421

The Brown County Appraisal District, Board of Directors, met at 403 Fisk Avenue, Brownwood, on August 5, 1985, at 7 p.m. Information may be obtained from Alvis Sewalt, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676.

The Carson County Appraisal District, Appraisal Review Board, will meet at 102 Main Street, Panhandle, on August 9, 1985, at 10 a.m. The Board of Directors will meet at the same location on August 14, 1985, at 8:30 a.m. and 9:30 a.m. Information may be obtained from Dianne Lavake, P.O. Box 970, Panhandle, Texas 79068, (806) 537-3569.

The Cass County Appraisal District, Board of Review, will meet at 208 West Houston Street, Linden, on August 7, 1985, at 9 a.m. Information may be obtained from Janelle Clements, P.O. Box 167, Linden, Texas 75563, (214) 756-7545.

The Region II Education Service Center, Board of Directors and Joint Committee, will meet jointly at Joe Cotton's Bar-B-Q, Highway 77, Robstown, on August 14, 1985, at 6:30 p.m. Information may be obtained from Gerald V. Cook, 209 North

Water, Corpus Christi, Texas 78401, (512) 883-9288.

The Region IV Education Service Center, Board of Directors, will meet in the board room, Region IV Education Service Center, 7145 Tidwell, Houston, on August 13, 1985, at 5 p.m. Information may be obtained from Tom Pate, Jr., P.O. Box 863, Houston, Texas 77001, (713) 462-7708.

The Region XVIII Education Service Center, Board of Directors, revised the agenda for a meeting to be held at the Region XVIII Education Service Center, La-Force Boulevard, Midland, on August 15, 1985, at 7:30 p.m. Information may be obtained from J. W. Donaldson, P.O. Box 6020, Midland, Texas 79701, (915) 563-2380.

The High Plains Underground Water Conservation District 1, Board of Directors, met

in the conference room, 2930 Avenue Q, Lubbock, on August 5, 1985, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181.

The Wheeler County Appraisal District, Board of Directors, revised the agenda for a meeting held in the district office, County Courthouse Square, Wheeler, on August 5, 1985, at 2 p.m. Information may be obtained from Marilyn Copeland, P.O. Box 349, Wheeler, Texas 79096, (806) 826-5900.

The Wise County Appraisal District, Appraisal Review Board, will meet at 206 South State, Decatur, on August 6, 1985, at 10:30 a.m. Information may be obtained from Angela Caraway, P.O. Box 509, Decatur, Texas 76234, (817) 627-3081.

TRD-856875

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In Addition

The *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 Air Control Board Applications for Construction Permits

The Texas Air Control Board gives notice of applications for construction permits received during the period of July 15-19, 1985.

Information relative to the following applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the Texas Air Control Board at the previously mentioned address, and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the names of the applicants and the cities in which the facilities are located; type of facilities; location of the facilities (if available); permit numbers; and type of application—new source or modification.

Beall Concrete Incorporated, Euless; concrete batch; south end of Tarrant Main Street, Tarrant County; 6585B; modification

Bronco Construction Company, Bedford; trench burner; Tarrant County; 8501B; modification

Kelly Green Commodities, Incorporated, Muleshoe; grain elevator-sunflowers; Bailey County; 1232A; modification

Gulf Chemical and Metallurgical Corporation, Freeport; replace roaster; 302 Midway Road, Brazoria County; 9803; new source

American Chrome and Chemicals, Corpus Christi; second stage kiln; Lawrence Drive; 9804; new source

Mid Plains Pipeline Company, Incorporated, Post; gas sweetening facility; U.S. Highway 84, Garza County; 9805; new source

John's International, Incorporated, Winters; truck tool box manufacturing facility; 305 North Frisco, Runnels County; 9810; new source

Xarxes Corporation, Seguin; fiberglass tank manufacturing facility; 2001 Proform Road; 9811; new source

Amoco Production Company, Raymondville; internal combustion (IC) engine electrical generators; Raymondville, Willacy County; 9823; new source

Issued in Austin, Texas, on July 29, 1985.

TRD-88881

Faul M. Shinkawa
Director of Hearings
Texas Air Control Board

Filed: July 30, 1985

For further information, please call: (512) 451-6711, ext. 364.

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The Texas Air Control Board gives notice of applications for construction permits received during the period of July 22-26, 1985.

Information relative to the following applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the Texas Air Control Board at the previously mentioned address, and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the names of the applicants and the cities in which the facilities are located; type of facilities; location of the facilities (if available); permit numbers; and type of application—new source or modification.

Fina Oil and Chemical Company, Port Arthur; storage tanks; 32nd and Grandview; 2012A; modification

El Paso Natural Gas Company—Midway Lane Plant, Ozona; gas sweetening plant; Midway Lane, Crockett County; 9824; new source

Sadler Ready Mix, Temple; readymix concrete; 3910 Shallow Ford Road, Bell County; 5180A; modification

Cen-Tex Ready Mix Concrete Company, Lampasas; concrete batch plant; Burnet County; 5334B; modification

North Central Oil Corporation, Tool; well test white heir number 1; off of Avant Road; 9826; new source

Charles P. Young, Houston; Harris heat set web printing press; 1616 McGowen, Harris County; 9831; new source

International Minerals and Chemical Corporation, Texas City; bulk materials handling; Galveston County; 9833; new source

Issued in Austin, Texas, on July 29, 1985.

TRD-856850 Paul M. Shinkawa
Director of Hearings
Texas Air Control Board

Filed: July 30, 1985
For further information, please call (512) 461-5711, ext. 364.

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Banking Department of Texas Application to Acquire Control of a State Bank

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

On July 2, 1985, the banking commissioner received an application to acquire control of TexFirst Bancshares, Inc., Houston, by Jerald W. Witten, Boyce V. Jones, and Timothy D. Witten, all of Houston.

On July 24, notice was given that the application would not be denied

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on July 24, 1985.

TRD-856723 William F. Aldridge
Director of Corporate
Activities
Banking Department of
Texas

Filed: July 26, 1985
For further information, please call (512) 475-4451.

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Comptroller of Public Accounts Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the Comptroller of Public Accounts of the State of Texas requests proposals to provide the following consulting services relating to its computer operations, management information systems, and computer assisted audit approaches.

Description of Work. The selected consultant will review, evaluate, and submit a final written report on the operations of the Data Services Division and Audit Division's computer assisted audit approaches, as well as future skills and training needs of auditors performing computer assisted audits. The final report should detail strengths, weaknesses, and opportunities for improvement in the management information system and computer operation functions. The weaknesses and opportunities will be prioritized with an assessment of the cost and benefit considerations. The purpose of the work proposed to be contracted is to evaluate the quality, control, and responsiveness of the management information systems and computer operation functions.

Person to be Contacted. Detailed specifications are contained in the request for proposal (RFP), a copy of which may be obtained on or after August 12, 1985, from the Data Services Division of the Comptroller of Public Accounts, Room 309, LBJ Building, between 8 a.m. and 5 p.m., Monday-Friday. A prospective consultants' conference concerning the RFP will be held for interested parties in Room 209, John H. Reagan Building, 105 West 15th Street, Austin, Texas, at 10 a.m. on August 21, 1985. For additional information, interested persons may contact Larry Crawford, Associate Deputy Comptroller, Room 309, LBJ Building, 111 East 17th Street, Austin, Texas 78774, (512) 475-1912/463-4608.

Closing Date. Proposals to perform these consulting services will be accepted only if in writing and actually received in the office of Larry Crawford, no later than 5 p.m. on September 3, 1985. Proposals should be submitted with an original and six copies. The comptroller reserves the right to reject any or all proposals.

Procedure for Selection of Consultant. Proposals will be judged on the basis of knowledge of management information systems and computer installation, knowledge of computer auditing, ability to perform an independent evaluation and assessment, and ability to provide qualified personnel with a highly professional level of expertise. The consultant firm which best meets these criteria will be selected for contract award. The comptroller will consider all proposals, however, it is the intent of the comptroller to select a consultant which is able to provide an objective analysis of the current systems and operations, and developing systems.

The Comptroller of Public Accounts has the sole discretion and authority to award a contract based upon these criteria, and reserves the right to cancel the request if it is considered in the best interest of the agency to do so.

Issued in Austin, Texas, on July 29, 1985.

TRD-856778 Bob Bullock
Comptroller of Public Accounts

Filed: July 29, 1985
For further information, please call (512) 475-1913.

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Office of Consumer Credit Commissioner

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).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer ⁽¹⁾ /Agricul- tural/Commercial ⁽²⁾ thru \$250,000	Commercial ⁽³⁾ over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 08/05/85-08/12/85	18.00%	18.00%
Monthly Rate— Article 1.04(c)(1) 08/01/85-08/31/85	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 07/01/85-09/30/85	18.00%	18.00%

Retail Credit Card Quarterly Rate— Article 1.11⁽¹⁾ 07/01/85-09/30/85	18.00%	N/A
Lender Credit Card Quarterly Rate— Article 15.02(d)⁽²⁾ 07/01/85-09/30/85	16.50%	N/A
Standard Annual Rate— Article 1.04(a)(2)⁽²⁾ 07/01/85-09/30/85	18.00%	18.00%
Retail Credit Card Annual Rate— Article 1.11⁽³⁾ 07/01/85-09/30/85	18.00%	N/A
Annual Rate Applica- ble to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 06/01/85-09/30/85	18.42%	N/A
Judgment Rate— Article 1.05, §2 08/01/85-08/31/85	10.00%	10.00%

- (1) For variable rate commercial transactions only.
(2) Only for open-end credit as defined in Texas Civil Statutes, Article 3009-1.01(1).
(3) Credit for personal, family, or household use.
(4) Credit for business, commercial, investment, or other similar purposes.

issued in Austin, Texas, on July 29, 1985

TRD-856768 Sam Kelley
Consumer Credit
Commissioner

Filed: July 29, 1985
For further information, please call (512) 479-1280.

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Texas Economic Development Commission Private Activity Bond Allocation Report

Private activity bonds (PABs) which were induced on or after June 19, 1984, are subject to a cap, as stipulated in the Federal Deficit Reduction Act of 1984. This cap is equal to \$150 per capita or approximately \$2.3 billion for the State of Texas for calendar year 1985.

Executive Order MW-27B states that the procedure for allocating this cap will be on a first-come, first-served basis, with the Texas Economic Development Commission (TEDC) being the tracking agency for the program. The information that follows is a summary report of the allocation activity for the week of July 22-26, 1985.

Total allocated principal amount of private activity bonds authorized to be allocated by MW-27B through July 26, 1985:

\$312,878,667.88

Comprehensive listing of bond issues which have received a reservation date as per MW-27B during the week of July 22-26, 1985:

<u>Issuer</u>	<u>User</u>	<u>Amount</u>
El Paso County Industrial Development Corporation	Philips Industries, Inc.	\$3 million
Cooke County Development Authority	Gainsville Associates	\$4.2 million
Harris County Industrial Development Corporation	Interesin Corporation	\$5 million

Total principal amount of private activity bonds issued in accordance with MW-27B through July 26, 1985:
\$275,624,667.88

Comprehensive listing of bonds issued as per MW-27B during the week of July 22-26, 1985:

<u>Issuer</u>	<u>User</u>	<u>Amount</u>
Guadalupe-Blanco River Authority Industrial Development Corporation	Advanced Textiles, Inc.	\$1.5 million

Issued in Austin, Texas, on July 31, 1985.
TRD-856888 Rebecca J. Hefflin
Acting Executive Director
Texas Economic Development
Commission

Filed: July 31, 1985
For further information, please call (512) 472-5060.

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Texas Health and Human Services Coordinating Council Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Health and Human Services Coordinating Council is requesting proposals for consulting services.

Description of Services. The council invites individuals to offer their services on a consulting basis to assist in the implementation of the council's report on Texas children in residential care. Duties of the consultant include assisting in the development of the universal placement document, uniform cost data, and the rate review process.

Contact Person. Further information may be obtained in writing from Lynn H. Leverty, P.O. Box 12428, Austin, Texas 78711.

Evaluation and Selection. To evaluate the offers, the council will consider the knowledge, experience, and education of the applicant, the applicant's ability to complete the project well and in a timely fashion; and the quality of the application. Final selection will be based on the results of the council's evaluation of the listed criteria.

The proposed contract is a continuation of a current program and the council intends to contract with the current consultant unless a substantially better offer is received.

The closing date for receipt of offers is September 3, 1985.

Issued in Austin, Texas, on July 24, 1985.

TRD-856659

Lynn H. Leverty, Ph.D.
Executive Director
Texas Health and Human Services
Coordinating Council

Filed: July 24, 1985

For further information, please call (512) 475-1308.

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Texas Department of Human Resources Consultant Proposal Requests

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Resources (TDHR) is requesting proposals for consulting services.

Description of Services. The proposed contract is to plan, organize, and conduct data collection (including computer data entry) and related training for a research project in progress. Data collected, to date, include approximately 300 data elements from each of 4000 case records. The purpose of the contract is to (a) expand and up-date the existing data base, while maintaining current standards of reliability; and (b) train others to access and use the data base and related software using remote computer terminals across the state. Tasks to be performed also include periodic revision of the data collection instrument and other tasks assigned and supervised by the project director. The subject of this research project is the system of licensed residential programs for children in Texas.

Contract Term. The contract will be from September 4, 1985-August 31, 1986. Payments under the contract are not planned to exceed \$22,516, plus \$3,000 travel and per diem, but may increase or decrease based upon need.

Procedure for Selecting Consultant. The TDHR project director and the program specialist for foster care shall select and award the contract on the basis of demonstrated competence and qualifications, such as, but not limited to, history of similar work, references, and ability to complete the work in the designated time frame.

Contact Person. For additional information, or to notify the department of intent to make a proposal, contact Michael Bruce or Diane Scott, Texas Department of Human Resources, Mail Code 538-W, 701 West 51st Street, P.O. Box 2960, Austin, Texas 78769, (512) 450-3145.

Closing Date. All bids must be received by TDHR no later than 5 p.m. on August 16, 1985. This proposed consulting contract is a continuation of a service previously performed by a private contractor. The department intends to award the contract to the previous contractor unless it receives a better offer.

Issued in Austin, Texas, on July 25, 1985.

TRD-856689

Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Filed: July 25, 1985

For further information, please call (512) 450-3768.

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In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Resources (TDHR) is requesting proposals for consulting services.

Description of Services. The proposed contract is to conduct multivariate statistical analyses and related computer programming. Work includes computer modeling of the processes which decide appropriate programs and reimbursement rates for children who need residential care and treatment. Computer programs and output documents must be designed for use by caseworkers, agency executives, and legislators who have had no previous experience with computers or multivariate statistics. Work to be performed also includes other tasks assigned and supervised by the project director. The subject of this research project is the system of licensed residential programs for children in Texas.

Contract Term. The contract will be from September 4, 1985, through August 31, 1986. Payments under contract are not planned to exceed \$19,556, but may increase or decrease based upon need.

Procedure for Selecting Consultant. The TDHR project director and the program specialist for foster care shall select and award the contract on the basis of demonstrated competence and qualifications, such as, but not limited to, history of similar work, references, and ability to complete the work in the designated time frame. Experts in the areas of computer programming and multivariate statistics may be called upon to assist in the selection process as needed.

Contact Person. For additional information, or to notify the department of intent to make a proposal, contact Michael Bruce or Diane Scott, Texas Department of Human Resources, Mail Code 538-W, 701 West 51st Street, P. O. Box 2960, Austin, Texas 78769; (512) 450-3145.

Closing Date. All bids must be received by TDHR no later than 5 p.m., August 16, 1985. This proposed consulting contract is a continuation of a service previously performed by a private contractor. The department intends to award the contract to the previous contractor unless it receives a better offer.

Issued in Austin, Texas, on July 25, 1985.

TRD-856690

Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Filed: July 25, 1985

For further information, please call (512) 450-3768.

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In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Resources (TDHR) is requesting proposals for consulting services.

Description of Services. The proposed contract is to help plan, organize, and conduct data collection (including computer data entry) and related training for a research project in progress. Data collected, to date, include approximately 300 data elements from each of 4,000 case records. The proposed contract will also:

- (1) expand and up-date the existing data base, while maintaining current standards of reliability; and
- (2) train others to access and use the data base and related software using remote computer terminals across the state.

Tasks also include periodic revision of the data collection instrument and other tasks assigned and supervised by the project director. The subject of this research project is the system of licensed residential programs for children in Texas.

Contract Term. The contract be from September 4, 1985, through August 31, 1986. Payments under the contract are not planned to exceed \$17,928, plus \$3,000 travel and per diem, but may increase or decrease based upon need.

Procedure for Selecting Consultant. The TDHR project director and the program specialist for foster care shall select and award the contract on the basis of demonstrated competence and qualifications, such as, but not limited to, history of similar work, references, and ability to complete the work in the designated time frame.

Contact Person. For additional information, or to notify the department of intent to make a proposal, contact Michael Bruce or Diane Scott, Texas Department of Human Resources, Mail Code 538-W, 701 West 51st Street, P.O. Box 2960, Austin, Texas 78769; (512) 450-3145.

Closing Date. All bids must be received by TDHR no later than 5 p.m., August 16, 1985. This proposed consulting contract is a continuation of a service previously performed by a private contractor. The department intends to award the contract to the previous contractor unless it receives a better offer.

Issued in Austin, Texas, on July 25, 1985.

TRD-856691 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Filed: July 25, 1985
For further information, please call (512) 450-3786.

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In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Resources is requesting proposals for assistance in preparing reports and providing written and oral statements to the Sunset Advisory Commission for its review of the department. The person selected will also provide ongoing counsel and advice on the technical and procedural aspects of the sunset review process and other activities to facilitate the efficient exchange of information between the Sunset Review Commission and the Texas Department of Human Resources.

Selection of a consultant will be based upon the person's qualifications and previous experience working with the sunset review process in Texas.

For additional information, contact Thomas M. Suehs, Associate Commissioner for Budget, Planning and Management Support, Texas Department of Human Resources, Mail Code 000-W, P. O. Box 2960, Austin, Texas 78769, (512) 450-3035. All bids must be received no later than 5 p.m. August 15, 1985.

Issued in Austin, Texas, on July 25, 1985.

TRD-856692 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Filed: July 26, 1985
For further information, please call (512) 450-3786.

Public Meeting

The Texas Department of Human Resources (DHR) will conduct a public meeting to receive comments on the department's proposed Low Income Home Energy Assistance Program state plan for fiscal year 1986. The meeting will be at 10 a.m. on Tuesday, August 20, 1985, in the DHR Public Hearing Room, 701 West 51st Street, Austin.

Copies of the proposed plan will be available at the meeting. Advance copies may be obtained by calling Charles L. Smith at (512) 450-3455.

Written comments may be submitted to Charles L. Smith, Director of Energy Programs, Mail Code 517-W, Income Assistance Services, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769.

Issued in Austin, Texas, on July 31, 1985.

TRD-856889 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Filed: July 31, 1985
For further information, please call (512) 450-3786.

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Texas Department of Mental Health and Mental Retardation Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas Department of Mental Health and Mental Retardation serves notice of invitation for continuation of services currently being performed by Janie Sieberg, R.D./L.D., for the Nutrition and Food Service Section in central office. The department will award the contract to the most qualified contractor to meet the specific project needs.

The consultant's duties shall include, but will not be limited to, the following: assist in monitoring the implementation of programs for nutrition and fitness among state agencies; conduct nutrient analysis on menu for all state agencies involved, (i.e., TDC and TDMHMR); conduct research and report summary on committee projects as needed; assist in coordinating operation improvements of the food service areas of state agencies; and evaluate monetary advantage of joint agency purchasing with single point delivery from vendor and delivery to facilities by TDMHMR central office motor pool. These services will be performed at the direction of the governor of the State of Texas through the Interagency Council on Nutrition and Fitness, and its chairman.

The consultant must have the following qualifications: Bachelor's degree from an accredited university required; advanced degree from an accredited university preferred; registered dietitian, American Dietetic Association; licensed dietitian, State of Texas; minimum five years experience in dietetic services management (no exchange for education); must be knowledgeable with the Texas legislative processes.

The consultant will have access to agency owned computers, word processing equipment, and telecommunications equipment. Office space and appropriate furniture will be provided by the department. As a private consul-

tant, no state paid benefits are included in this contract. No travel, per diem, or other reimbursements will be included.

The consultant will provide all services to meet the goals of the Interagency Council on Nutrition and Fitness and will be reimbursed at a rate of \$2,083 per month, payable on the last working day of each month beginning on September 30, 1985. Services under the contract shall begin on September 1, 1985, and shall continue through August 31, 1986.

Prospective offerors should contact James T. Moore, MS, R.D./L.D., Director of Nutrition and Food Service, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711, (512) 465-4600.

Issued in Austin, Texas, on July 24, 1985.

TRD-856860 Gary E. Miller, M.D.
Commissioner
Texas Department of Mental Health
and Mental Retardation

Filed: July 24, 1985
For further information, please call (512) 465-4591.

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Public Utility Commission of Texas Availability of Proposed Energy Extension Service Plan

The Texas Energy Extension Service (EES) Plan for 1985-1986 has been developed by the Public Utility Commission of Texas (PUC) and is available for review and comment by interested persons within the state. The PUC will be the administering agency for the Texas EES through August 31, 1986.

The EES was formed in June 1977, when Congress enacted the National Energy Extension Service Act (Title V of Public Law 95-39). The Act directed states to design a program using existing organizations to provide small energy users with personalized technical assistance and information on energy conservation matters. The proposed state plan essentially continues programs currently under way and is designed to provide services that complement and supplement but do not duplicate other energy conservation efforts of the state and private sector.

Copies of the state plan are available on request by writing or calling Christina E. Roitsch, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, (512) 458-0231. Public Comment will be received in writing at the same address until August 15, 1985.

Issued in Austin, Texas, on July 23, 1985.

TRD-856851 Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of Texas

Filed: July 24, 1985
For further information, please call (512) 458-0231.

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Consultant Contract Award Amendment

The Public Utility Commission of Texas is amending the consultant contract award that appeared in the May 31, 1985, issue of the *Texas Register* (10 TexReg 1761). The amendment is to increase the original contract amount from \$37,824 to \$126,384. The increase is the result of a major change in the scope of the development project and the inclusion of an interface requirement between the developing project and several existing and development database systems.

Issued in Austin, Texas, on July 26, 1985.

TRD-856752 Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of Texas

Filed: July 26, 1985
For further information, please call (512) 458-0100.

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Texas Savings and Loan Department Application for Change of Control of an Association

Texas Civil Statutes, Article 852a, §11.20, require any person who intends to acquire control of a state-chartered savings and loan association to file an application with the savings and loan commissioner for approval of the transaction. A hearing may be held if the application is denied by the commissioner.

On July 23, 1985, the savings and loan commissioner received an application for approval of the acquisition of control of Irving Savings and Loan Association, Irving, by Wayne Lee Barnhart, Roanoke.

Any inquiries may be directed to the Texas Savings and Loan Department, 1004 Lavaca Street, Austin, Texas 78701, (512) 475-7991.

Issued in Austin, Texas, on July 30, 1985.

TRD-856836 Russell R. Oliver
General Counsel
Texas Savings and Loan
Department

Filed: July 30, 1984
For further information, please call (512) 475-7991.

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Application to Establish A Remote Service Unit

Application has been filed with the savings and loan commissioner of Texas by Richardson Savings and Loan Association, for approval to establish and operate remote service unit(s) at Consierge Center at Valley View Mall, Dallas, Dallas County.

The applicant association asserts that security of the association's funds and that of its account holders will be maintained, and the proposed service will be a substantial convenience to the public.

Anyone desiring to protest the application must file a written protest with the commissioner within 10 days following this notice. The commissioner may dispense with a hearing.

This application is filed pursuant to 7 TAC §§53.11-53.16 of the rules and regulations for savings and loan associations. Such rules are on file with the Office of the Secretary of State, Texas Register, or may be seen at the department's offices in Suite 201, Finance Commission Building, 2601 North Lamar Boulevard, Austin.

Issued in Austin, Texas, on July 30, 1985.

TRD-856839 Russell R. Oliver
 General Counsel
 Texas Savings and Loan
 Department

Filed: July 30, 1985

For further information, please call (512) 475-7991.

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Loan Office Application

Application to establish and operate a loan office has been filed with the Texas savings and loan commissioner as follows:

Docket Number and Application	Applicant's Agent/Attorney
Number 85-071 Meridian Savings Association, Arlington, Dallas County, for 719 Ryan Plaza Drive, Suite 103, Arlington, Dallas County	Carl E. Oates Akin, Gump, Strauss, Hauer, and Feld 2800 RepublicBank Building Dallas, Texas 75201

This application is filed pursuant to the Texas Savings and Loan Act, Texas Civil Statutes, Article 852a, §2.13. The applicable rules of the Texas Savings and Loan Department are 7 TAC §§53.5-53.7, which are published in the department's book entitled *Texas Laws and Regulations for Savings and Loan Associations*. These rules are also published in Title 7 of the Texas Administrative Code, and they are on file with the Secretary of State's Office, Texas Register, Austin.

The applicant association asserts that there is a need for the proposed office; the association has no serious supervisory problems which would affect its ability to properly operate such office; the applicant association will have adequate income to support the proposed operation; and a separate enclosed office area will be provided (such enclosure may be counters or railings of less than ceiling height).

Any association that objects to a loan office application must file its objection in writing with the Texas Savings and Loan Commissioner, 2601 North Lamar, Suite 201, Austin, Texas 78705, within 15 days of the date of this notice, that is no later than August 14, 1985.

An objection should include the docket number of the application, and a copy of the objection should be mailed to the applicant's agent or attorney previously listed.

Issued in Austin, Texas, on July 30, 1985.

TRD-856833 Russell R. Oliver
 General Counsel
 Texas Savings and Loan Department

Filed: July 30, 1985

For further information, please call (512) 475-7991.

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Application to establish and operate a loan office has been filed with the Texas savings and loan commissioner as follows:

Docket Number and Application	Applicant's Agent/Attorney
Number 85-111, First Texas Savings Association Loan Office 2600 South Loop West Suite 210 Houston, Harris County	Joe Epps, Vice President First Texas Savings Association 14951 Dallas Parkway Dallas, Texas 75240

This application is filed pursuant to the Texas Savings and Loan Act, Texas Civil Statutes, Article 852a, §2.13. The applicable rules of the Texas Savings and Loan Department are 7 TAC §§53.5-53.7, which are published in the department's book entitled *Texas Laws and Regulations for Savings and Loan Associations*. These rules are also published in Title 7 of the Texas Administrative Code, and they are on file with the Secretary of State's Office, Texas Register, Austin.

The applicant association asserts that there is a need for the proposed office; the association has no serious supervisory problems which would affect its ability to properly operate such office; the applicant association will have adequate income to support the proposed operation; and a separate enclosed office area will be provided (such enclosure may be counters or railings of less than ceiling height).

Any association that objects to a loan office application must file its objection in writing with the Texas Savings and Loan Commissioner, 2601 North Lamar, Suite 201, Austin, Texas 78705, within 15 days of the date of this notice, that is no later than August 14, 1985.

An objection should include the docket number of the application, and a copy of the objection should be mailed to the applicant's agent or attorney previously listed.

Issued in Austin, Texas, on July 30, 1985.

TRD-856834 Russell R. Oliver
 General Counsel
 Texas Savings and Loan Department

Filed: July 30, 1985

For further information, please call (512) 475-7991.

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Application to establish and operate a loan office has been filed with the Texas savings and loan commissioner as follows:

Docket Number and Application	Applicant's Agent/Attorney
Number 85-110, First Texas Savings Association Loan Office 9821 Katy Freeway Suite 140 Houston, Harris County	Joe Epps, Vice President First Texas Savings Association 14951 Dallas Parkway Dallas, Texas 75240

This application is filed pursuant to the Texas Savings and Loan Act, Texas Civil Statutes, Article 852a, §2.13. The applicable rules of the Texas Savings and Loan Department are 7 TAC §§53.5-53.7, which are published in the department's book entitled *Texas Laws and Regulations for Savings and Loan Associations*. These rules are also published in Title 7 of the Texas Ad-

ministrative Code, and they are on file with the Secretary of State's Office, Texas Register, Austin.

The applicant association asserts that there is a need for the proposed office; the association has no serious supervisory problems which would affect its ability to properly operate such office; the applicant association will have adequate income to support the proposed operation; and a separate enclosed office area will be provided (such enclosure may be counters or railings of less than ceiling height).

Any association that objects to a loan office application must file its objection in writing with the Texas Savings and Loan Commissioner, 2601 North Lamar, Suite 201, Austin, Texas 78705, within 15 days of the date of this notice, that is no later than August 14, 1985.

An objection should include the docket number of the application, and a copy of the objection should be mailed to the applicant's agent or attorney previously listed.

Issued in Austin, Texas, on July 30, 1985.

TRD-856835 Russell R. Oliver
General Counsel
Texas Savings and Loan Department

Filed: July 30, 1985
For further information, please call (512) 475-7991.

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Application to establish and operate a loan office has been filed with the Texas savings and loan commissioner as follows:

Docket Number and Application	Applicant's Agent/Attorney
Number 85-112, First Texas Savings Association Loan Office 4803 Northwest Loop 410 Suite 212 San Antonio, Bexar County	Joe Epps, Vice President First Texas Savings Association 14951 Dallas Parkway Dallas, Texas 75240

This application is filed pursuant to the Texas Savings and Loan Act, Texas Civil Statutes, Article 852a, §2.13. The applicable rules of the Texas Savings and Loan Department are 7 TAC §§53.5-53.7, which are published in the department's book entitled *Texas Laws and Regulations for Savings and Loan Associations*. These rules are also published in Title 7 of the Texas Administrative Code, and they are on file with the Secretary of State's Office, Texas Register, Austin.

The applicant association asserts that there is a need for the proposed office; the association has no serious supervisory problems which would affect its ability to properly operate such office; the applicant association will have adequate income to support the proposed operation; and a separate enclosed office area will be provided (such enclosure may be counters or railings of less than ceiling height).

Any association that objects to a loan office application must file its objection in writing with the Texas Savings and Loan Commissioner, 2601 North Lamar, Suite 201, Austin, Texas 78705, within 15 days of the date of this notice, that is no later than August 14, 1985.

An objection should include the docket number of the application, and a copy of the objection should be mailed to the applicant's agent or attorney previously listed.

Issued in Austin, Texas, on July 30, 1985.

TRD-856837 Russell R. Oliver
General Counsel
Texas Savings and Loan Department

Filed: July 30, 1985
For further information, please call (512) 475-7991.

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Application to establish and operate a loan office has been filed with the Texas savings and loan commissioner as follows:

Docket Number and Application	Applicant's Agent/Attorney
Number 85-108, Killeen Savings and Loan Association Loan Office One North Park East Suite 200 Dallas, Dallas County	Odis E. Pippins President Killeen Savings and Loan Association 616 North Gray Killeen, Texas 76541

This application is filed pursuant to the Texas Savings and Loan Act, Texas Civil Statutes, Article 852a, §2.13. The applicable rules of the Texas Savings and Loan Department are 7 TAC §§53.5-53.7, which are published in the department's book entitled *Texas Laws and Regulations for Savings and Loan Associations*. These rules are also published in Title 7 of the Texas Administrative Code, and they are on file with the Secretary of State's Office, Texas Register, Austin.

The applicant association asserts that there is a need for the proposed office; the association has no serious supervisory problems which would affect its ability to properly operate such office; the applicant association will have adequate income to support the proposed operation; and a separate enclosed office area will be provided (such enclosure may be counters or railings of less than ceiling height).

Any association that objects to a loan office application must file its objection in writing with the Texas Savings and Loan Commissioner, 2601 North Lamar, Suite 201, Austin, Texas 78705, within 15 days of the date of this notice, that is no later than August 14, 1985.

An objection should include the docket number of the application, and a copy of the objection should be mailed to the applicant's agent or attorney previously listed.

Issued in Austin, Texas, on July 30, 1985.

TRD-856838 Russell R. Oliver
General Counsel
Texas Savings and Loan Department

Filed: July 30, 1985
For further information, please call (512) 475-7991.

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WERE OMITTED FROM THE 1985 TEXAS
REGISTER DUE TO A PRINTING ERROR.