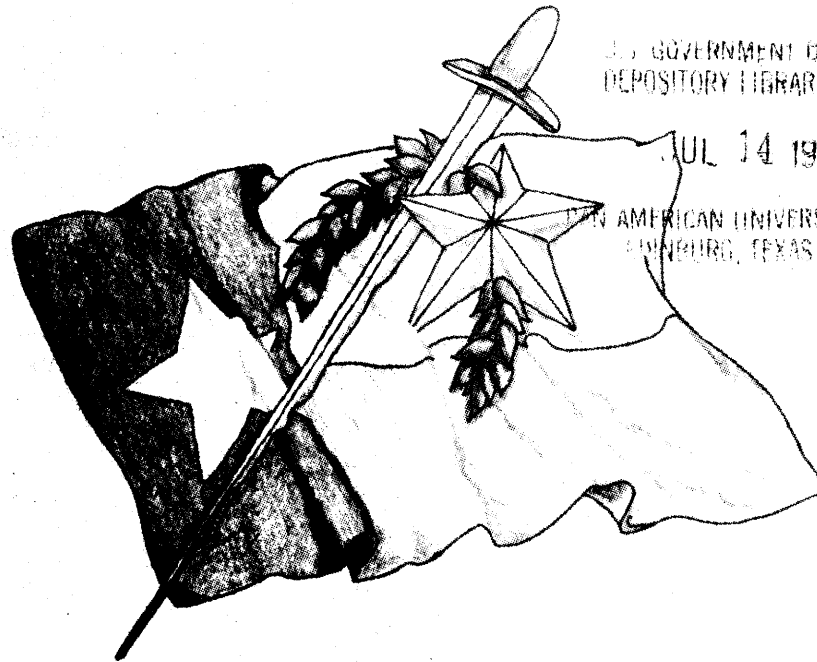


TXD S 500.6 R 263

Texas Register



Highlights

- ★ Comptroller of Public Accounts proposes a new section concerning procedures for investigating the criminal records of applicants for permits for cigarette sale or distribution; proposed date of adoption - August 13 page 2625
- ★ State Board of Insurance proposes a new section concerning the adoption of a Premium Reduction Certificate; proposed date of adoption - August 13 page 2624
- ★ Texas Employment Commission adopts a new section concerning the implementation of an unemployment insurance program; effective date - July 26 page 2630

How To Use the Texas Register

Texas Register

The *Texas Register* (ISN 0362-4781) is published twice a week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1982 with the exception of January 5, April 27, November 16, November 30, and December 28, by the Office of the Secretary of State, 201 East 14th Street, P.O. Box 13824, Austin, Texas 78711-3824, (512) 475-7886.

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- Governor—appointments, executive orders, and proclamations
- Secretary of State—summaries of opinions based on election laws
- 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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register Division six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Open Meetings—notices of open meetings
- In Addition—miscellaneous information required to be published by statute or provided as a public service

Specific 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: page 2 in the lower left-hand corner of this page is written: "7 TexReg 2 issue date," while on the opposite page, in the lower right-hand corner, page 3 is written "issue date 7 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* (explained below), rule number, or TRD number.

Texas Administrative Code

The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules currently being published by Shepard's/McGraw-Hill, in cooperation with this office.

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* (a listing of all the titles appears below);

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).

Latest Texas Code Reporter
(Master Transmittal Sheet): No. 8, February 82

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The Attorney General

Under provisions set out in the Texas Constitution, Texas Civil Statutes (Article 4399), and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies may be held from public disclosure.

Requests for opinions, opinions, and open record decisions are summarized for publication in the *Register*.

Questions on particular submissions, or requests for copies of opinion requests should be addressed to Susan L. Garrison, Opinion Committee chairwoman, Office of the Attorney General, Supreme Court Building, Austin, Texas 78711, (512) 475-5445. Published opinions and open records decisions may be obtained by addressing a letter to the file room, fourth floor, P.O. Box 12548, Austin, Texas 78711-2548, or by telephoning (512) 475-3744. A single opinion is free; additional opinions are \$1.00 a copy.

Requests for Opinions

RQ-873. Request from John W. Shocklee, executive secretary, State Board of Morticians, Austin, concerning whether component or unit pricing exempts a person from the itemization requirement of the Mortuary Laws, Texas Civil Statutes, Article 4582b, §3(H)(23). If so, what constitutes component or unit pricing so as to satisfy the itemization requirement of the Mortuary Laws, Texas Civil Statutes, Article 4582b, §3(H)(23), and more particularly, how does a "discount" apply to such component or unit pricing?

TRD-825466

RQ-874. Request from John M. Knight, acting city attorney, Plano, concerning whether an offense report concerning an aggravated sexual abuse offense is excepted from public disclosure in its entirety by §§3(a)(1), 3(a)(3), 3(a)(8), and 3(a)(11) of the Open Records Act.

TRD-825467

RQ-875. Request from Ernie W. Tullis, administrator, Texas Employment Commission, Austin, concerning whether the Texas Employment Commission may adopt an agency nepotism policy providing that no supervisor, administrator, or manager shall hire or promote anyone related to him within the second degree of affinity or the third degree of consanguinity.

TRD-825468

RQ-876. Request from Mike Driscoll, Harris County attorney, Houston, concerning the following:

(1) Is the county clerk constitutionally authorized to collect the filing fee set forth in Texas Civil Statutes, Article 2328b-5?

(2) If the answer to the first question is in the affirmative, then what is the correct fee to be collected by the county clerk of Harris County, as clerk of the court at the time of filing a "foreign judgment" as stated in Texas Civil Statutes, Article 2328b-5?

(3) If the county clerk collects a fee for filing the foreign judgment under Texas Civil Statutes, Article 2328b-5, can the clerk thereafter collect a fee in connection with such filed foreign judgment for a garnishment action, execution, law library fee, or sheriff's fee? If so, how much should the county clerk collect for each?

TRD-825469

RQ-877. Request from Henry Wade, district attorney, Dallas, concerning the following:

(1) Can the Texas Department of Human Resources, or an employee thereof, or any other state agency, or the State of Texas itself, be alleged as the owner of food stamp benefits in a theft indictment, as "owner" is defined in Texas Penal Code, §1.07(a)(24)?

(2) If it is determined that it is in fact the U.S. Government or one or more federal agency, and not the State of Texas or Texas Department of Human Resources, which is the "owner" of these benefits, can a grand jury allege the U.S. Government as the "owner" in a welfare fraud theft indict-

ment? In the alternative, can the grand jury allege something like "Texas Department of Human Resources, an agency of the State of Texas, which administers the food stamp program for and on behalf of the U.S. Government" as the "owner" of such benefits?

(3) Does a document used by the Texas Department of Human Resources in determining an applicant's eligibility or in otherwise administering the food stamp program "affect property or service or the pecuniary interest" of the Texas Department of Human Resources or the State of Texas, as that phrase is used in Texas Penal Code, §32.46?

(4) Can a recipient, who makes a fraudulent statement regarding employment income in an application for food stamp benefits, be prosecuted under Texas Penal Code, §37.10, Tampering with Governmental Record?

(5) Can a recipient, who either makes a fraudulent statement regarding employment income in an application for food stamp benefits, or who fraudulently induces a Texas Department of Human Resources employee to incorrectly certify the applicant for food stamp benefits, be prosecuted under any subsection of Human Resources Code, §33.011, and if so, under what theory?

(6) If the State of Texas can prosecute such cases under either the theft or securing execution of a document by deception statutes, is §33.011 a more specific statute dealing with false statements to obtain food

stamp benefits such as to bar prosecution under the Texas Penal Code?

TRD-825470

RQ-878. Request from Mike Driscoll, Harris County attorney, Houston, concerning the following:

(1) Does the Harris County Bail Bond Board have the authority to require (by local rule) more collateral than the minimum set by statute or that elected by a licensee? Specifically, can the Harris County Bail Bond Board require all licensees to submit a minimum collateral of \$100,000?

(2) Does the Harris County Bail Bond Board have the jurisdiction or power to require collateral of corporate sureties which have been issued a certificate of authority to do business in the State of Texas by the State Board of Insurance pursuant to the provisions of the Texas Insurance Code?

(3) If a bondsman is licensed under the Act prior to the 1981 amendments, can the Bail Bond Board continue to regulate the bondsman under the old Act? If so, when would the bondsman cease to be regulated under the old Act and begin to be regulated under the new Act?

TRD-825471

RQ-879. Request from Mike Driscoll, Harris County attorney, Houston, and John Holmes, district attorney, Houston, concerning the following:

(1) Is the Harris County Commissioner's Court authorized to appoint successors to the list of justices of the peace and sheriff under the U.S. Supreme Court decision in the case of *Clements v. Fashing*?

(2) Is the county judge authorized to appoint a successor to the above listed county commissioner?

(3) Are the above listed officials authorized to hold the respective offices and receive the salary thereof until a successor is appointed and qualified?

(4) Can the commissioner's court appoint the persons who are currently serving as sheriff and justices of the peace?

(5) Can the county judge appoint the person who is currently serving as county commissioner?

(6) For what term or period of time are such appointees appointed?

(7) Should the county clerk place independent and/or nonpartisan and/or partisan candidates for the above listed county

commissioner, sheriff, and justices of the peace offices on the November general election ballot?

(8) Should the county clerk place the said offices on the November general election ballot where there is no candidate?

TRD-825472

Opinion

MW-481 (RQ-816). Request from Henry Wade, criminal district attorney, Dallas, concerning disposition of interest of Law Enforcement Officer Standards and Education funds and Criminal Justice Planning funds.

Summary of Opinion. Interest earned by that portion of Criminal Justice Planning funds and/or Law Enforcement Officer Standards and Education funds not retained as a service fee as authorized by law, which is placed for investment while in custody of a county, becomes a part of these special funds and cannot be retained by the county. The county is entitled to retain interest earned on its service fee.

TRD-825436

Proposed Rules

Thirty days before an agency intends to permanently adopt a new or amended rule, or repeal an existing rule, it must submit a proposal detailing the action in the *Register*. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the rule. A public hearing on the proposal may also be granted if such a procedure is requested by a governmental subdivision or agency, or by an association consisting of at least 25 members.

Unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice, the proposal may not be adopted until 30 days after publication. The document, as published in the *Register*, must include a brief explanation of the proposed action; a fiscal statement indicating effect on state or local government; a statement explaining anticipated public benefits and possible economic costs to individuals required to comply with the rule; a request for public comments; a statement of legal authority under which the proposed rule is to be adopted (and the agency's interpretation of the legal authority); the text of the proposed action; and a certification statement. The certification information which includes the earliest possible date that the agency may file notice to adopt the proposal, and a telephone number to call for further information, follows each submission.

Symbology in amended 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.

TITLE 22. EXAMINING BOARDS Part XVII. Texas State Board of Plumbing Examiners

Chapter 361. Administration

General Provisions

22 TAC §361.8

The Texas State Board of Plumbing Examiners proposes amendments to §361.8, concerning changes to forms incorporated by reference as used by the agency, as well as one new form for general complaints. Two affidavit forms are proposed for amendment to clarify information concerning responsibilities and procedures of those filing the affidavits.

Lynn Brown, administrator, has determined that for the first five-year period the amendments will be in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Lynn Brown has also determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of enforcing the rule as proposed will be a clearer and more understandable delineation of procedures and responsibilities in the filing of affidavits and general complaints. There is no economic cost to individuals who are required to comply with the rule.

Comments on the proposal may be submitted to Lynn Brown, Texas State Board of Plumbing Examiners, P.O. Box 4200, Austin, Texas 78765.

The amendments are proposed under Texas Civil Statutes, Article 6243-101, which provides the board with the authority to prescribe, amend, and enforce all rules necessary to carry out the Act.

§361.8. *Forms.* The board incorporates by reference any rules which may be contained in the following forms and requires the use of these forms in doing business with the agency:

- (1)-(3) (No change.)
- (4) Affidavit of Alleged Incompetency, **as amended in September, 1982.**
- (5) Affidavit of Alleged Violation of Municipal Ordinances, **as amended in September, 1982.**
- (6)-(8) (No change.)
- (9) **General Complaint, as adopted in September, 1982.**

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 6, 1982.

TRD-825446

Lynn Brown
Administrator
Texas State Board of Plumbing
Examiners

Proposed date of adoption: August 13, 1982
For further information, please call (512) 458-2145.

Chapter 363. Examination

22 TAC §363.1

The Texas State Board of Plumbing Examiners proposes amendments to §363.1, concerning the addition of a requirement for master plumber applicants to maintain a single registered mailing address for purposes of board communication and recordkeeping.

Lynn Brown, administrator, has determined that for the first five-year period the amendments will be in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Lynn Brown has also 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 will be more efficient administration, communication, and recordkeeping by the agency. There is no economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Lynn Brown, Texas State Board of Plumbing Examiners, P.O. Box 4200, Austin, Texas 78765.

The amendments are proposed under Texas Civil Statutes, Article 6243-101, which provides the board with the authority to prescribe, amend, and enforce all rules necessary to carry out the Act.

§363.1. Qualifications.

(a) Master plumber. Each applicant must be at least 18 years of age, and either have held a journeyman license from Texas or from another state for at least one year prior to his application, or hold a master license from another state. Furthermore, the applicant must maintain a single registered mailing address which the board shall regard as his principal business address for purposes of communication and recordkeeping.

(b)(c) (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 6, 1982.

TRD-825447 Lynn Brown
Administrator
Texas State Board of Plumbing
Examiners

Proposed date of adoption: August 13, 1982
For further information, please call (512) 458-2145.

Chapter 365. Licensing

22 TAC §365.1

The Texas State Board of Plumbing Examiners proposes amendments to §365.1, concerning clarification of the description of each license category and of the scope of work permitted under each license. These amendments are proposed to give additional information consistent with the statutory provisions in the definitions of licensees concerning the qualifications and attendant responsibilities of master plumbers to engage in, or to agree to perform, plumbing work

"alone," as opposed to journeyman plumbers, who are not granted such authority under the statute. In addition, the description of the plumbing inspector license is clarified consistent with the statute.

Lynn Brown, administrator, has determined that for the first five-year period the amendments are in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Lynn Brown has also determined that for each year of the first five years the amendments as proposed are in effect the public benefit anticipated as a result of enforcing the rule will be better understanding by licensees of the statutory qualifications and limitations of each license category, as well as specification of responsibilities accepted by master plumbers in the agreement to perform and supervise plumbing work. There is no economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Lynn Brown, Texas State Board of Plumbing Examiners, P.O. Box 4200, Austin, Texas 78765.

The amendments are proposed under Texas Civil Statutes, Article 6243-101, which provides the board with the authority to prescribe, amend, and enforce all rules necessary to carry out the act.

§365.1. License Categories; Description; Scope of Work Permitted. The board shall establish three separate license categories, described as follows:

(1) Master plumber—a license which entitles the individual to enter into contracts or agreements to perform plumbing work and which assigns the individual responsibility for plumbing which occurs under such contracts or agreements, or under his supervision.

(2) Journeyman plumber—a license which entitles the individual to perform plumbing work only under the supervision of, and only under contracts or agreements to perform plumbing work secured by, master plumbers.

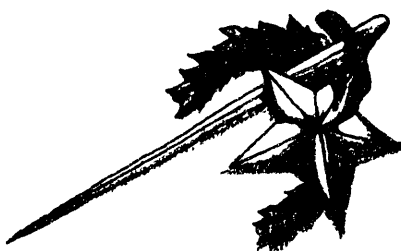
(3) Plumbing inspectors—a license which entitles the individual to perform plumbing inspections only as an employee of a political subdivision.

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 6, 1982.

TRD-825448 Lynn Brown
Administrator
Texas State Board of Plumbing
Examiners

Proposed date of adoption: August 13, 1982
For further information, please call (512) 458-2145.



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 TAC title and part.)

Rating and Policy Forms
Board Shall Fix Rates
059.05.25.003

The State Board of Insurance proposes to amend Rule 059.05.25.003, which adopts by reference the Texas General Basis Schedules, by adding a new rule in the homeowners section of the Texas General Basis Schedules as follows: Rule 28. Reduction in Homeowners Insurance Premiums—Home Security Devices. A premium reduction of 5.0% for homeowners insurance is applicable in accordance with Article 5.33A of the Texas Insurance Code, as shown on page HO-9A of the Texas General Basis Schedules. This reduction is to apply to the total homeowners premium. Existing policies may be endorsed to reflect this reduction in accordance with Rule 23, page HO-9 of the Texas General Basis Schedules. This premium reduction applies to those homeowners policies for which a valid premium reduction certificate has been issued for the risk. For auditing purposes, member companies of the Texas Insurance Checking Office must indicate on the face of the Texas Standard Homeowners Policy: "premium reduction certificate applicable."

The new rule in the homeowners section of the manual provides for a reduction in the total homeowners policy premium in the amount set forth above for those properties meeting the qualifications and inspection for the installation of various home security devices as outlined in Article 5.33A of the Texas Insurance Code.

G. J. Jones, deputy commissioner, has determined that for the first five-year period the rule will be in effect there will be fiscal implications as a result of enforcing or administering this rule. The additional cost to state government is estimated to be \$34,791 for each year from 1982-1986. Estimated loss in revenue of taxable premium dollars will depend solely on the number of homeowners policies qualifying for a reduction in premium due to installation of home security devices. As a result of this rule change, there will be additional costs to units of city or county government depending on their use of personnel as inspectors for home security devices.

Mr. Jones has also 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 will be the availability of a reduction in premium for those persons whose property meets the qualifications and passes an inspection for such

reduction in premium for the installation of various home security devices as are outlined in Article 5.33A of the Texas Insurance Code. The possible economic cost to individuals who are required to comply with the rule as proposed will be:

(1) to insurance companies, the loss of premium dollars due to the granting of a credit applied to the total homeowners policy premium, but offset by the reduction in losses and claims due to theft and burglary.

(2) to the individual insured, the actual cost of the installation of any home security device with the cost offset by the reduction in homeowners insurance premiums over a period of years.

Comments on the proposal may be submitted to G. J. Jones, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

The amendment of Rule 059.05.25.003 is proposed pursuant to the Texas Insurance Code, Article 5.25, which authorizes the board to promulgate rates and rating classifications and the Texas Insurance Code, Article 5.33A, §5, which requires the board to establish by rule the amount of premium reduction applicable to homeowners insurance for the property qualifying for such reduction under the standards specified in Article 5.33A.

.003. *Texas General Basis Schedules.* The State Board of Insurance adopts by reference the attached Texas General Basis Schedules as amended and to be effective on October 1, 1982 [March 1, 1982]. The Texas General Basis Schedules is published by and available from the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

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 5, 1982.

TRD-825442 James W. Norman
Chief Clerk
State Board of Insurance

Proposed date of adoption: August 13, 1982
For further information, please call (512) 475-2950.

Prescribed Certificates

059.05.25.011

The State Board of Insurance proposes to adopt a new Rule 059.05.25.011, concerning the adoption of a Premium Reduction Certificate. This certificate is to be issued by the State Board of Insurance to those persons desiring a reduction on homeowners insurance after said persons have requested a certification inspection from the Texas Crime Prevention Institute and said inspector reports to the State Board of Insurance that the property qualifies for a premium reduction as provided in Texas Insurance Code, Article 5.33A.

G. J. Jones, deputy commissioner, has determined that for each year of the first five years the rule will

be in effect, there will be fiscal implications as a result of enforcing or administering both this rule and a concurrent rule amendment to Rule 059.02.05.003; the amendment to Rule 059.02.05.003 will provide for reductions in homeowners insurance pursuant to Texas Insurance Code, Article 5.33A.

The effect on state government will be an estimated additional cost of \$34,791 each year for years 1982-1986. The estimated loss in revenue of taxable premium dollars will depend solely on the number of homeowners policies qualifying for a reduction in premium due to installation of home security devices. There will be no additional costs to units of city or county government as a result of this new rule.

Mr. Jones has also 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 will be the availability of a reduction in premium for those persons whose property meets the qualifications and inspection for such reduction in premium for the installation of various home security devices as are outlined in Texas Insurance Code, Article 5.33A.

The economic cost to individuals who are required to comply with the rule as proposed will be:

(1) to insurance companies the loss of premium dollars due to the granting of a credit applied to the total homeowners policy premium, but offset by the reduction in losses and claims due to theft and burglary;

(2) to the individual insured the actual cost of the installation of any home security device with the cost offset by the reduction of homeowners insurance premiums over a period of years.

Comments on the proposal may be submitted to G. J. Jones, Deputy Commissioner, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

The adoption of Rule 059.05.25.011 is proposed pursuant to Texas Insurance Code, Article 5.33A, §4, which authorizes and requires the board to issue a premium reduction certificate entitling a premium reduction in homeowners insurance to persons qualifying for such reduction pursuant to Texas Insurance Code, Article 5.33A.

.011. Prescribed Certificate. The State Board of Insurance adopts by reference the Premium Reduction Certificate. This certificate is prescribed by and available from the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

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 5, 1982.

TRD-825443 James W. Norman
 Chief Clerk
 State Board of Insurance

Proposed date of adoption: August 13, 1982
For further information, please call (512) 475-2950.

TITLE 34. PUBLIC FINANCE Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration Subchapter G. Miscellaneous Tax Division—Cigarette Tax

34 TAC §3.114

The Comptroller of Public Accounts proposes new §3.114, concerning investigation of applicants for permits. The section provides procedures for investigating the criminal records of applicants for permits as cigarette distributors, wholesale dealers, retail dealers, distributing agents, and solicitors. It also provides for the denial, suspension, or revocation of permits and appeal of these actions. This rule is proposed to comply with the requirements of Texas Civil Statutes, Article 6252-13c and 13d (Supplement 1981), which provides that all affected licensing agencies must publish rules implementing this statute.

Mr. Bill Allaway, Revenue Estimating director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications as a result of enforcing or administering the rule.

Mr. Allaway has also determined that no economic costs will be incurred by the public due to the adoption of this rule. The public will benefit to the extent that persons with known criminal propensities are prevented from obtaining licenses to practice certain sensitive occupations.

Public comment on the new section is invited. Comments should be submitted in writing to Robert Storey, P.O. Box 13528, Austin, Texas 78711.

This section is proposed under the authority of Texas Civil Statutes, Articles 6252-13c and 13d (Supplement 1981), which provides that each affected licensing agency must publish rules implementing the statute, and Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules and regulations relating to the enforcement and administration of the Tax Code.

§3.114. *Investigation of Applicants for Permits.*

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

(1) Agency—The comptroller of public accounts of the State of Texas or his duly authorized agents and employees.

(2) Permit—The whole or part of any agency license, certificate, approval, registration, or similar form of permission required by law to buy, sell, stamp, store, transport, or distribute cigarettes.

(3) Licensing—The agency process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license or permit.

(b) Application of rule.

(1) Every current permittee or applicant for a permit under Texas Tax Code, Chapter 154, Cigarette Tax, is subject to inquiry as to whether or not that per-

son has a record of any conviction of a criminal act in this or any other state.

(2) To determine if a person has a record of any conviction of a criminal act, the comptroller may obtain information from:

- (A) the permittee or applicant;
- (B) the Texas Department of Public Safety;
- (C) any local law enforcement agency.

(3) The comptroller may refuse to issue a permit or may suspend or revoke an existing permit if the agency determines that an applicant's or permittee's criminal conviction directly relates to the duties and responsibilities of the occupation permitted by the comptroller.

(4) Particular crimes which are considered to relate to permitting by the comptroller include those which relate to theft, fraud, perjury, misappropriation of funds, tax evasion, bribery, gambling, or similar crimes. These crimes are related to the fitness of an applicant to hold a permit because they reveal a propensity to misapply, conceal, or otherwise divert tax money which should properly be remitted to the comptroller.

(5) In determining whether the conviction directly relates to the fitness of the person to hold a permit, the comptroller will consider:

- (A) the nature and seriousness of the crime;
- (B) the relationship of the crime to the purpose for requiring a permit to engage in the occupation;
- (C) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the occupation.

(6) In determining the present fitness of a person who has been convicted of a crime, the comptroller may consider:

- (A) the extent and nature of the person's past criminal activity;
- (B) the age of the person at the time the crime was committed;
- (C) the amount of time that has elapsed since the person's last criminal activity;
- (D) the conduct and work activity of the person prior to and following the criminal activity;
- (E) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and

(F) 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) Responsibility of applicant. It is the responsibility of an applicant, to the extent possible, to secure and provide to the comptroller the recommendations of the prosecution, law enforcement, and correctional authorities as required under Texas Civil Statutes, Arti-

cle 6252-13c. The applicant or permittee must also furnish, in such form as may be required by the comptroller, evidence that he or she has maintained a record of steady employment, has supported his or her dependents, has otherwise maintained a record of good conduct, has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he or she has been convicted.

(d) Action to suspend or revoke license. If the comptroller determines that an existing permit should be suspended or revoked or a permit should be denied because of the person's prior conviction of a crime and the relationship of the crime to the license, the comptroller will notify the applicant or permittee in writing by personal service or by registered or certified mail of the following:

- (1) the reasons for the suspension, revocation, denial, or disqualification;
- (2) the review procedure provided by Texas Civil Statutes, Article 6252-13d, §3; and
- (3) the earliest date that the person may appeal.

(e) Administrative hearing; time to file. Any person whose permit has been suspended or revoked or who has been denied a license by the comptroller under Texas Civil Statutes, Article 6252-13c, may file a petition for redetermination within 30 days after service upon the person of notice of the action. If a petition for redetermination is not filed within the 30-day period, the determination becomes final at the expiration of that period.

(f) Oral hearing; notice; continuances.

(1) If a petition for redetermination is filed within the 30-day period, the comptroller will reconsider whether the permit or license should be suspended, revoked, or denied and, if the person has so requested in the petition, must grant the person an oral hearing and give 20 days notice of the time and place of the hearing.

(2) The comptroller may continue the hearing from time to time as may be necessary.

(g) Order of comptroller on petition for redetermination; finality of order. The order or decision of the comptroller upon a petition for redetermination becomes final 30 days after service upon the petitioner of the notice of the decision or order. A motion for rehearing must be filed with the comptroller as a prerequisite to appeal.

(1) A person who has exhausted administrative appeals may file an action in a district court of Travis County for review of the evidence presented to the comptroller and his decision.

(2) The person must begin the judicial review by filing a petition with the court within 30 days after the comptroller's decision is final and appealable.

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 7, 1982.

TRD-826477

Bob Bullock
Comptroller of Public Accounts

Proposed date of adoption: August 13, 1982
For further information, please call (512) 475-1932.

Subchapter V. Bingo Enforcement Division

34 TAC §3.542

The Comptroller of Public Accounts proposes new §3.542, concerning investigation of applicants for licenses. The section provides procedures for investigating the criminal records of applicants for licenses as bingo operators and bingo commercial lessors. It also provides for the denial or revocation of licenses and appeal of these actions. This rule is proposed to comply with the requirements of Texas Civil Statutes, Articles 6252-13c and 13d (Supplement 1981), which provides that all affected licensing agencies must publish rules implementing this statute.

Mr. Bill Allaway, 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 as a result of enforcing or administering the rule.

Mr. Allaway has also determined that no economic costs will be incurred by the public due to the adoption of this rule. The public will benefit to the extent that persons with known criminal propensities are prevented from obtaining licenses to practice certain sensitive occupations.

Comments on the proposed new section should be submitted in writing to George Garland, P.O. Box 13528, Austin, Texas 78711.

This new section is proposed under the authority of Texas Civil Statutes, Articles 6252-13c and 13d (Supplement 1981), which provides that each affected licensing agency must publish rules implementing the statute, and Texas Civil Statutes, Article 179d (Supplement 1981), which provides that the comptroller may prescribe, adopt, and enforce rules and regulations relating to the enforcement and administration of the Bingo Enabling Act.

§3.542. *Investigation of Applicants for Licenses.*

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

(1) **Agency**—The comptroller of public accounts of the State of Texas or his duly authorized agents and employees.

(2) **License**—The whole or part of any agency permit, certificate, approval, registration, or similar form of permission required by law.

(3) **Licensing**—The agency process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(b) **Application of rule.**

(1) Every current licensee or applicant for a license under the Bingo Enabling Act, Texas Civil Statutes, Article 179d, is subject to inquiry as to whether or not the individual, corporation, or persons associated with the licensee or applicant has a record of any conviction of a criminal act in this or any other state.

(2) To determine if a person has a record of any

conviction of a criminal act, the comptroller may obtain information from:

- (A) the licensee or applicant;
- (B) the Texas Department of Public Safety; or
- (C) any local law enforcement agency.

(3) The comptroller must refuse to issue a license or revoke an existing license if the agency determines that the licensee or applicant or person associated with the licensee or applicant has a criminal conviction for a felony, criminal fraud, or crime of moral turpitude.

(c) **Action to deny or revoke license.** If the comptroller determines that a current license should be revoked or a license should be denied because of the person's prior conviction of a crime, the comptroller will notify the licensee or applicant in writing by personal service or by registered or certified mail of the following:

(1) the reasons for the suspension, revocation, denial, or disqualification;

(2) the review procedure provided by Texas Civil Statutes, Article 6252-13d, §3; and

(3) the earliest date that the person may appeal.

(d) **Administrative hearing; time to file.** Any person whose license has been revoked or who has been denied a license by the comptroller under Texas Civil Statutes, Article 179d, may file a petition for redetermination within 30 days after service upon the person of notice of the action. If a petition for redetermination is not filed within the 30-day period, the determination becomes final at the expiration of that period.

(e) **Oral hearing; notice; continuances.**

(1) If a petition for redetermination is filed within the 30-day period, the comptroller will reconsider whether the license should be revoked or denied and, if the person has so requested in the petition, must grant the person an oral hearing and give 20 days notice of the time and place of the hearing.

(2) The comptroller may continue the hearing from time to time as may be necessary.

(f) **Order of comptroller on petition for redetermination; finality of order.** The order or decision of the comptroller upon a petition for redetermination becomes final 30 days after service upon the petitioner of the notice of the decision or order. A motion for rehearing must be filed with the comptroller as a prerequisite to appeal.

(1) A person who has exhausted administrative appeals may file an action in a district court of Travis County for review of the evidence presented to the comptroller and his decision.

(2) The person must begin the judicial review by filing a notice of appeal with the comptroller, attorney general, and local governing body within 30 days after the comptroller's decision is final and appealable.

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 7, 1982.

TRD-825478

Bob Bullock
Comptroller of Public Accounts

Proposed date of adoption: August 13, 1982
For further information, please call (512) 475-2386.

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 Division. The notice is generally effective immediately upon filing with the division.

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 Division. Notice of the withdrawal will appear in the next regularly scheduled issue of the *Register*. The effective date of the automatic withdrawal will appear immediately following the published notice.

No further action may be taken on a proposal which has been automatically withdrawn. However, this does not preclude a new proposal or an identical or similar rule following normal rulemaking procedures.

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 TAC title and part.)

Rating and Policy Forms Board Shall Fix Rates

059.05.25.003

The State Board of Insurance has withdrawn from consideration for permanent adoption proposed amendments to 059.05.25.003, concerning the fixing of rates by the board. The text of the amended rule as proposed appeared in the May 14, 1982, issue, of the *Texas Register* (7 TexReg 1841).

Issued in Austin, Texas, on July 5, 1982.

TRD-825441 Jim Norman
 Chief Clerk
 State Board of Insurance

Filed: July 6, 1982
For further information, please call (512) 475-2950.

Prescribed Certificates

059.05.25.011

The State Board of Insurance has withdrawn from consideration for permanent adoption proposed new Rule 059.05.25.011, concerning prescribed certificates. The text of the new rule as proposed appeared in the May 14, 1982, issue, of the *Texas Register* (7 TexReg 1842).

Issued in Austin, Texas, on July 5, 1982.

TRD-825444 Jim Norman
 Chief Clerk
 State Board of Insurance

Filed: July 6, 1982
For further information, please call (512) 475-2950.



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

The document, as published in the *Register*, must indicate whether the rule is adopted with or without changes to the proposal. The notice must also include paragraphs which: explain the legal justification for the rule; how the rule will function; contain comments received on the proposal; list parties submitting comments for and against the rule; explain why the agency disagreed with suggested changes; and contain the agency's interpretation of the statute under which the rule was adopted.

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. The text of the rule, as appropriate, will be published only if final action is taken with alterations to the proposal. The certification information, following the submission, contains the effective date of the final action, the proposal's publication date, and a telephone number to call for further information.

Adopted Rules

TITLE 7. BANKING AND SECURITIES

Part VI. Credit Union Department Chapter 91. Credit Union Regulations Regulatory Body

7 TAC §91.84

The Credit Union Department adopts amendments to Rule §91.84, without changes to the proposed text published in the June 4, 1982, issue of the *Texas Register* (7 TexReg 2101).

This rule will establish a supervision fee schedule which is more equitable in that credit unions having assets in excess of \$300 million will no longer pay a flat fee of \$10,000, but will have a proportionate additional fee of \$1,000 for each \$50 million in assets above the \$300 million asset level.

Credit unions having assets in excess of \$300 million, when paying their annual supervision fee, will calculate the required fee by subtracting \$300 million from their asset size and then dividing the resulting figure by \$50 million. Only the resulting whole number applies. The final fee is calculated by multiplying the resulting whole number times \$1,000 and then adding that figure to \$10,000.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the provisions of Texas Civil Statutes, Article 2461, §11.07, which provides the Credit Union Commission with the authority to adopt reasonable rules necessary for the ad-

ministration of the Act. Section 11.07(c) of the Article states that the commission shall promulgate reasonable rules to prescribe all supervision fees, changes, and revenues required to be paid by credit unions authorized to do business under this Act.

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

Issued in Austin, Texas, on July 5, 1982.

TRD-825411

John P. Parsons
Commissioner
Credit Union Department

Effective date: July 26, 1982

Proposal publication date: June 4, 1982

For further information, please call (512) 837-9236.

TITLE 22. EXAMINING BOARDS Part XXIV. State Board of Veterinary Medical Examiners Chapter 571. Licensing Reciprocal

22 TAC §571.31

The State Board of Veterinary Medical Examiners adopts §571.31, without changes to the proposed text published in the March 23, 1982, issue of the *Texas Register* (7 TexReg 1234).

The rule ensures that only qualified veterinary practitioners are licensed in the State of Texas by requiring that all applicants seeking licensure in the State of Texas participate in the state board examinations.

No comments were received regarding adoption of the new rule.

The new section is adopted under Texas Civil Statutes, Article 7465a, §7, which authorizes the board to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of 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 2, 1982.

TRD-825418 Roger D. Shipman
Executive Secretary
Texas Board of Veterinary
Medical Examiners

Effective date: July 26, 1982
Proposal publication date: March 23, 1982
For further information, please call (512) 458-1183.

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 TAC title and part.)

Rating and Policy Forms Workers' Compensation Rate Administration

059.05.58.002

The State Board of Insurance adopts amendments to Rule 059.05.58.002, which adopts by reference the Texas Experience Rating Plan Manual for Workers' Compensation, with changes to the proposed text published in the March 12, 1982, issue of the *Texas Register* (7 TexReg 1027). The effective date is changed from May 1, 1982, to August 1, 1982.

Section VIII of the Experience Rating Plan Manual is being amended by deleting Paragraph (1)(b). The amendments are justified because the two classifications being deleted contain no nonratable elements. The two classifications are being deleted from the Texas Experience Rating Plan Manual for clarification purposes since they are not applicable.

No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to the Texas Insurance Code, Articles 5.58 and 5.62, authorizing the State Board of Insurance to establish rating plans and statistical plans and make rules necessary to carry out the provisions of the Workers' Compensation statutes.

.002. *Texas Experience Rating Plan Manual for Worker's Compensation Insurance.* The State Board of Insurance adopts by reference the Texas Experience Rating Plan Manual for Workers' Compensation as amended on August 1, 1982, which contains rules, rates, factors, and tables used in experience rating subscriber files. This document is published by the National Council on Compensation Insurance and may be obtained from the Insurance Services Office, Product Distribution Division, 160 Water Street, New York, New York 10038, (212) 487-5000, or from the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786, where it is also available for public inspection.

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 2, 1982.

TRD-825416 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: August 1, 1982
Proposal publication date: March 12, 1982
For further information, please call (512) 475-2960.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part X. Texas Employment Commission

(Editor's note: Because the Texas Employment Commission'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 TAC title and part.)

Chapter 10. Unemployment Insurance

327.10.00.001-.029

The Texas Employment Commission adopts new Rules 327.10.00.001-.029, without changes to the proposed text published in the June 1, 1982, issue of the *Texas Register* (7 TexReg 2107).

These rules are necessary for the Texas Employment Commission to properly implement and administer a uniform and efficient unemployment insurance program as provided by the Texas Unemployment Compensation Act. These rules provide Texas employers, workers, and the general public with clarification and interpretation of the Texas Unemployment Compensation Act.

One comment was received on Rule 327.10.00.020(a)(4)(A) to the effect that all claims should be permitted to be filed by mail, including initial claim where a hardship may be established.

The single comment received from Texas Rural Legal Aid, Inc., was neither for nor against the rule; it expressed the belief that the rule is inadequate. The agency does not disagree with the comment but feels that the present rule is adequate. Current commission procedures do provide unemployment insurance services to claimants who are located in remote areas of the state.

The rules are adopted under Texas Civil Statutes, Article 5221b, which provides the Texas Employment Commission with the authority to adopt, amend, or rescind such rules and regulations as it deems

necessary for the effective administration of 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 6, 1982.

TRD-825482

Helen S. Anderson
Administrative Assistant
Texas Employment Commission

Effective date: July 27, 1982

Proposal publication date: June 1, 1982

For further information, please call (512) 397-4350.

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. Although some notices may be received too late for publication before the meeting is held, all those filed are published in the *Register*. Notices concerning state agencies, colleges, and universities must contain the date, time, and location of the meeting, and an agenda or agenda summary. Published notices concerning county agencies include only the date, time, and location of the meeting. These notices are published alphabetically under the heading "Regional Agencies" according to the date on which they are filed.

Any of the governmental entities named above must have notice of an emergency meeting, or 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. However, notices of emergency additions or revisions to a regional agency's agenda will not be published since the original agenda for the agency was not published.

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. These notices may contain more detailed agendas than space allows to be published in the *Register*.

Texas Health Facilities Commission

Friday, July 16, 1982, 9:30 a.m. The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider the following applications.

Declaratory Ruling

Craig-Edwards, Belton
AN82-0604-003

Saint Elizabeth Hospital, Beaumont
AH82-0608-039

Notices of Intent to Acquire Existing Health Care Facilities

HEI and HEI Sealy, Inc., a wholly-owned subsidiary of HEI, Houston
AH82-0602-016

Central Care Systems, Inc., Richardson
AN82-0608-035

HH Holding Company, Inc.,
Wilmington, Delaware
AN82-0611-021

Jack P. Gay, Houston
AN82-0608-033

Laurelwood Hospital, Inc., a wholly-owned subsidiary of Contemporary Health Management, Inc.,
Shenandoah
AH82-0608-037

Contact: John R. Neel, P.O. Box 15023,
Austin, Texas 78761, (512) 475-6940.

Filed: July 7, 1982, 9:16 a.m.
TRD-825475

Texas Industrial Commission

Thursday, July 15, 1982, 7:30 a.m. and 9 a.m. The Board of Commissioners of the Texas Industrial Commission will meet in the Jim Hogg Suite, Driskill Hotel, and in Room 221, 410 East Fifth Street, Austin. According to the agenda, the commission will meet for breakfast at the Driskill Hotel at 7:30 a.m. A business meeting will follow at 9 a.m. at 410 East Fifth Street. Items on the agenda include: introduction of commissioners; introduction of TIC staff; action on prior minutes; action on financial statements; executive director's report; Texas Industrial Development Council report; presentation by research department; action on rural loan application; written quarterly division reports; and selection of next meeting site and date. The commission will also meet in executive session to discuss litigation matters under Texas Civil Statutes, Article 6252-17, §2(e) and (g).

Contact: Alexa Richter, 410 East Fifth Street, Austin, Texas, (512) 472-5059, ext. 627.

Filed: July 7, 1982, 4:28 p.m.
TRD-825496

State Board of Insurance

Thursday, July 22, 1982, 9 a.m. The State Board of Insurance will meet in Room E, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the board will hold a public hearing to consider amendments to workers' compensation insurance manual rules, endorsements, and policy forms, and rates incidental thereto; and to consider revision of workers' compensation and employers' liability insurance rates, rating values, and rating plans, including U.S. longshoremen's, harbor workers; and stevedoring rates, based on experience and statutorily mandated benefits increase. This hearing will combine the hearings on experience, benefit increases, and stevedoring rates. In previous years separate hearings were held on each of these matters.

Contact: Pat Wagner, 1110 San Jacinto, Austin, Texas, (512) 475-2950.

Filed: July 7, 1982, 8:49 a.m.
TRD-825482

Interim Committee on Regional Intergovernmental Cooperation

Friday, July 16, 1982, 10 a.m. The Interim Committee on Regional Intergovernmental Cooperation will meet in Room 220, State Capitol. According to the agenda, the com-

mittee will hold a public hearing to discuss Texas Civil Statutes, Article 1011m; A-95 review and comment; representation on planning commissions, areawide planning commissions and single-purpose districts; intergovernmental cooperation; and the operation of regional councils.

Contact: Gary Thompson, Capitol Building, Room G-5, Austin, Texas 78701, (512) 475-3597, or (512) 475-3728.

Filed: July 6, 1982, 2:02 p.m.
TRD-825501

Lamar University

Wednesday, July 14, 1982. The Lamar University Board of Regents and two of the board's committees will meet in the board room, Plummer Administration Building, Main Campus, Lamar University, Beaumont. Times and agendas are as follows:

8:30 a.m. The Personnel Committee will meet in executive session to review personnel assignments.

9 a.m. The Building and Grounds Committee will review bids relating to McDonald Gymnasium, stadium, dormitories, and the Setzer Student Center tennis court dressing facilities.

9:30 a.m. The Board of Regents will consider approval of minutes from the June 9, 1982, meeting; appointment of architects for the president's house; appointment of architect for the Educational Services Center; approval of bids recommended by the Building and Grounds Committee; and the president's report.

Contact: Andrew J. Johnson, P.O. Box 10014, Beaumont, Texas 77710, (713) 838-8403.

Filed: July 6, 1982, 2:06 p.m.
TRD-825455-825457

Texas Board of Licensure for Nursing Home Administrators

Wednesday, July 7, 1982, 10:30 a.m. The Texas Board of Licensure for Nursing Home Administrators met in emergency session by telephone conference call at 3407 IH 35 North, Austin. According to the agenda, the board considered membership in the National Association of Boards of Examiners, Inc., including their national test. The emergency status was necessary because of the expiration of the contract on June 30, 1982.

Contact: Karl E. Bishop, 3407 IH 35 North, Austin, Texas, (512) 479-0922.

Filed: July 6, 1982, 2:45 p.m.
TRD-825461

Texas Optometry Board

Wednesday and Thursday, July 14 and 15, 1982, 8 p.m. and 8 a.m., respectively. The Texas Optometry Board will meet at the Dallas Regent Hotel, Dallas. According to the agenda summary, the board will hold a grading session on July 14 at 8 p.m. to determine those candidates who have successfully passed the board. On July 15 at 8 a.m., the Investigation-Enforcement Subcommittee will hold informal conferences with five licensees concerning possible violations of the Act. The subcommittee meeting will be followed by brief committee meetings. Following the committee meetings, the board will meet to consider old business, consisting of use of a deceased person's name in a partnership; and reports of the secretary-treasurer, executive director, legal counsel, and committee chairmen. The board will also meet in executive session to discuss contemplated and pending litigation with the board's attorney in compliance with Texas Civil Statutes, Article 6252-17, §2(e).

Contact: Lois Ewald, 5555 North Lamar, Suite H-101, Austin, Texas 78751.

Filed: July 6, 1982, 4:12 p.m.
TRD-825464

Public Utility Commission of Texas

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Dates, times, and agendas are as follows.

Friday, July 16, 1982, 9:00 a.m. The division will conduct a prehearing conference in Docket 4540—application of Houston Lighting and Power Company for authority to change rates.

Monday, July 19, 1982, 10 a.m. The division will conduct a prehearing conference in Docket 4562—application of Southwestern Bell Telephone Company for a rate/tariff revision.

Thursday, August 26, 1982, 9:30 a.m. The division will conduct a prehearing conference in Docket 4540—application of Houston Lighting and Power Company for authority to change rates.

Monday, August 30, 1982, 9:00 a.m. The division will conduct a hearing in Docket 4540—application of Houston Lighting and Power Company for authority to change rates.

Monday, September 20, 1982, 10 a.m. The division will conduct a hearing in Docket 4541—application of Wharton County Electric Cooperative, Inc., for authority to increase rates.

Contact: Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 6, 1982, 1:32 p.m.,
July 7, 1982, 8:50 a.m. and
1:34 p.m.
TRD-825452-825454, 825484,
825473

State Rural Medical Education Board

Saturday and Sunday, July 17 and 18, 1982, 1 p.m. and 8 a.m., respectively. The State Rural Medical Education Board will meet on the second floor, 211 East Seventh Street, Austin. Items on the agenda include review of financial and statistical reports; reorganization of board; budget for next biennium; review of status of participants in program; renewals; interview new applicants for loans, and other business.

Contact: J. C. Randolph, 211 East Seventh Street, Austin, Texas, (512) 475-0801.

Filed: July 7, 1982, 2:24 p.m.
TRD-825485

State Securities Board

Monday, July 19, 1982, 10 a.m. The Securities Commissioner of the State Securities Board will conduct hearings at 312 Stemmons Tower East, 2700 Stemmons Freeway, Dallas, to determine whether a cease and desist order should be issued prohibiting the sale of securities issued by Modern Church Financing, Inc., Security Trust Company, and Church Acceptance Corp.; to determine whether the registration of Modern Church Financing, Inc., as a securities dealer should be suspended or revoked; to determine whether the registration of Robert L. Wright and Joe B. Cox as officers of Modern Church Financing, Inc., should be suspended or revoked; and to determine whether the registration of Idus Ray Steed as a securities salesman should be suspended or revoked.

Contact: Sue B. Roberts, 1800 San Jacinto Street, Austin, Texas, (512) 474-2233.

Filed: July 7, 1982, 2:30 p.m.
TRD-825486

Tuesday, July 20, 1982, 1 p.m. The Securities Commissioner of the State Securities Board will conduct a hearing at 1800 San Jacinto Street, Austin, to determine whether the application of Stephen Ford Scott for registration as a securities salesman should be granted or denied.

Contact: Sue B. Roberts, 1800 San Jacinto Street, Austin, Texas, (512) 474-2233.

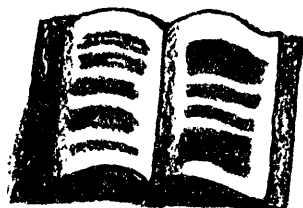
Filed: July 7, 1982, 2:29 p.m.
TRD-825487

State Seed and Plant Board

Tuesday, July 20, 1982, 1:30 p.m. The Seed Division of the State Seed and Plant Board will meet at 4502 Englewood Avenue, Lubbock, to consider all items of business pertaining to seed and plant certification requiring board action, including consideration of applications for license as certified seed grower; and applications for approval of new crop variety releases.

Contact: Cliff Todd, P.O. Box 12847, Austin, Texas 78711, (512) 475-2038.

Filed: July 6, 1982, 3:31 p.m.
TRD-825463



Advisory Council for Technical-Vocational Education in Texas

Monday, August 2, 1982, 10 a.m. The Advisory Council for Technical-Vocational Education in Texas will meet at the Hyatt Regency Hotel, 208 Barton Springs Road, Austin. According to the agenda summary, the council will participate in a state inservice meeting of marketing and distributive education teachers and a joint luncheon with the State Advisory Committee for Marketing and Distributive Education. At a regular meeting of the council, items for the 1982-1983 council program of work and activities will be reviewed. The council will receive an update on plans for the high technology conference, consider items for

council reports to the governor, legislature, and State Board of Education, and conduct other business.

Contact: Valeria Blaschke, P.O. Box 1886, Austin, Texas 78767, (512) 475-2046.

Filed: July 6, 1982, 2:05 p.m.
TRD-825458

Texas Water Commission

Tuesday, July 20, 1982, 2 p.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 conduct a hearing to determine whether Temporary Order 82-9E, issued to the City of Lubbock, (Southeast Plant), P.O. Box 2000, Lubbock, Texas 79457, on July 2, 1982, should be affirmed, modified, or set aside.

Contact: Georgia Kyser, P.O. Box 13087, Austin, Texas 78711, (512) 475-7851.

Filed: July 6, 1982, 11:17 a.m.
TRD-825451

Tuesday, July 20, 1982, 2 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 conduct a hearing concerning the application of Western Refuse of Texas, Inc., P.O. Box 1681, Pasadena, Texas 77501, to the Texas Department of Water Resources for a temporary order to authorize the discharge of one million gallons of uncontaminated stormwater from its Class II sanitary landfill located in the City of Houston, at the end of Church Street, ¼ mile east of Maxey Road, just north of Green's Bayou Drive and ½ mile north of IH 10, and immediately west of and adjacent to Green's Bayou in Harris County.

Contact: Carl X. Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 475-7851.

Filed: July 7, 1982, 11:11 a.m.
TRD-825483

Regional Agencies

Meetings Filed July 6

The Central Appraisal District of Erath County, Board of Directors, will meet at 313½ North Belknap, Stephenville, on July 14, 1982, at 10 a.m. Information may be obtained from James Bachus, 313 North Belknap, Stephenville, Texas, (817) 965-7301.

The Hays County Central Appraisal District, Board of Review, met in the board room, Hays County Independent School District, Buda, and the Board of Directors met in the board room, San Marcos County Independent School District on July 9 and 12, 1982, at 9 a.m. and 2 p.m., respectively. Information may be obtained from H. William Beare, Jr., P.O. Box 1287, San Marcos, Texas 78666, (512) 396-4777.

The Panhandle Regional Planning Commission, Board of Directors, met in emergency session in the board room, Gibraltar Building, Eighth and Jackson, Amarillo, on July 6, 1982, at 1:30 p.m. Information may be obtained from Jerry McGuire, P.O. Box 9257, Amarillo, Texas 79105, (806) 372-3381.

TRD-825449

Meetings Filed July 7

The Guadalupe-Blanco River Authority, Board of Directors, will meet at 933 East Court Street, Seguin, on July 15, 1982, at 10 a.m. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78155, (512) 379-5822.

The Lampasas County Appraisal District, Appraisal Review Board, will meet at 403 East Second, Lampasas, on July 13, 1982, at 9 a.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550

The Texas Municipal League Workers' Compensation Joint Self-Insurance Fund and Municipal Liability Joint Self-Insurance Fund met in the Cuernavaca Room, Granada Homeitel, El Paso, on July 12, 1982, at 9 a.m. Information may be obtained from William I. Martin, Jr., 1020 Southwest Tower Building, Austin, Texas 78701, (512) 478-6601.

TRD-825474

Meetings Filed July 8

The Trinity River Authority of Texas, Central Regional Wastewater System Right-of-Way Committee, will meet at 5300 South Collins, Arlington, on July 15, 1982, at 9 a.m. Information may be obtained from Geri Elliott, P.O. Box 60, Arlington, Texas 76010, (817) 467-4343.

TRD-825500

The *Register* is required by statute to publish applications to purchase control of state banks (filed by the banking commissioner); notices of rate ceilings (filed by the consumer credit commissioner); changes in interest rate and applications to install remote service units (filed by Texas Savings and Loan commissioner); and consultant proposal requests and awards (filed by state agencies, regional councils of government, and the Texas State Library and Archives Commission).

In order to aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows. This often includes applications for construction permits (filed by the Texas Air Control Board); applications for amendment, declaratory ruling, and notices of intent (filed by the Texas Health Facilities Commission); applications for waste disposal permits (filed by the Texas Water Commission); and notices of public hearing.

In Addition

Texas Air Control Board Applications for Construction Permits

Notice is hereby given by the Texas Air Control Board of applications for construction permits received during the period of June 28-July 2, 1982.

Information relative to the applications listed below, 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 address stated above, 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.

Gulf Oil Chemicals Company, Baytown; linear low density polyethylene, Line 6; IH 10; 9134; new source

University of Texas Systems Cancer Center, Houston; heat recovery incinerator system; 6723 Bertner; 9135; new source

Longhorn Industries, Inc., Saginaw; custom plate fabrication; 501 Longhorn Road; 9136; new source

Trico Industries, Inc., Greenville; rod manufacturing plant; 6325 Trico Lane; 9137; new source

Issued in Austin, Texas, on July 6, 1982.

TRD-825465 Ramon Dasch
Director of Hearings
Texas Air Control Board

Filed: July 7, 1982
For further information, please call (512) 451-5711,
ext. 354.

Comptroller of Public Accounts Comptroller's Decision 12,186 (Franchise Tax)

For copies of the following opinion selected and summarized by the administrative law judges, contact the Administrative Law Judges, P.O. Box 13528, Austin, Texas 78711. Copies will be furnished without charge and edited to comply with confidentiality statutes.

Summary of Decision. The unamortized portion of an investment tax credit is not a "debt" owed by petitioner utility company to its rate-paying customers and is therefore not deductible from its taxable capital for franchise tax purposes.

The fact that the unamortized portion must eventually be recognized for rate-making purposes by the Texas Public Utility Commission, and that such recognition will have a depressant effect on the rates petitioner is allowed to charge, does not create a debtor-creditor relationship between petitioner and its customers.

Issued in Austin, Texas, on July 2, 1982.

TRD-825450 Bob Bullock
Comptroller of Public Accounts

Filed: July 6, 1982
For further information, please call (512) 475-1938.

Office of Consumer Credit Commissioner Rate Ceilings

Pursuant to the provisions of House Bill 1228, 67th Legislature of Texas, 1981, the consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Article 1.04, Title 79, as amended Texas Civil Statutes, Article 5069-1.04.

Effective Period(1)	Type of Transaction	
	Commercial(3) Consumer(2)/thru \$250,000	Commercial(4) over \$250,000
Indicated Rate		
Weekly Rate Ceiling		
7/12/82-7/18/82	24%	26%
Monthly Rate Ceiling		
(Variable Commercial Only)		
7/01/82-7/31/82	24%	25.50%
Quarterly Rate Ceiling		
7/01/82-9/30/82	24%	25.02%
Annual(5) Rate Ceiling		
7/01/82-9/30/82	24%	26.62%

- (1) Dates set out above are inclusive.
- (2) Credit for personal, family, or household use.
- (3) Credit for business, commercial, investment, or other similar purpose.
- (4) Same as (3) above, except excluding credit for agricultural use.
- (5) Only for open end as defined in Texas Civil Statutes, Article 5069-1.01(f).

Issued in Austin, Texas, on July 7, 1982.

TRD-825481 Sam Kelly
Consumer Credit Commissioner

Filed: July 7, 1982
For further information, please call (512) 475-2111.

Texas Health Facilities Commission Applications Accepted for Amendment, Declaratory Ruling, and Notices of Intent

Notice is hereby given by the Texas Health Facilities Commission of applications accepted as of the date of this publication. In the following list, the applicant is listed first, file number second, the relief sought third, and a description of the project fourth. DR indicates declaratory ruling; AMD indicates amendment of previously issued commission order; CN indicates certificate of need; PFR indicates petition for reissuance; NIE indicates notice of intent to acquire major medical equipment; NIEH indicates notice of intent to acquire existing health care facilities; NIR indicates notice of intent regarding a research project; NIE/HMO indicates notice of intent for exemption of HMO-related project; and EC indicates exemption certificate.

Should any person wish to become a party to any of the above-stated applications, that person must file a proper request to become a party to the application within 15 days after the date of this publication of notice. If the 15th day is a Saturday, Sunday, state or federal holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, state or federal holiday. A request to become a party should be mailed to the chair of the commission at P.O. Box 15023, Austin, Texas

78761, and must be received at the commission no later than 5 p.m. on the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to any of these applications must meet the criteria set out in 25 TAC §515.9. Failure of a party to supply the necessary information in the correct form may result in a defective request to become a party.

Quality Care, Inc., doing business as Francis Convalescent Center, Fort Worth
AN81-0302-029A(061882)
CN/AMD—Correction of notice published July 2, 1982—Request to extend the completion deadline, increase the project cost from \$645,500 to \$675,000, and to increase the total square footage to be constructed from 11,288 square feet to 13,585 square feet in Certificate of Need AN81-0320-029, which authorized the construction of an 11,288 square foot building addition in order to provide 52 new skilled beds and expanded areas for dietary, laundry, living, and dining, as well as parking.

Delk Nursing Homes, Inc., doing business as Great Southwest Convalescent Center, Grand Prairie
AN80-0222-020A(070282)
CN/AMD—Request to extend for a second time the completion deadline in Certificate of Need AN80-0222-020, which authorized a construction and renovation project to increase the capacity of the skilled nursing facility from 82 to 120 skilled beds.

Issued in Austin, Texas, on July 7, 1982.

TRD-825476 John R. Neel
General Counsel
Texas Health Facilities
Commission

Filed: July 7, 1982
For further information, please call (512) 475-6940.

Texas Department of Human Resources Notice of Public Hearings

The Texas Department of Human Resources plans to propose rules and amendments to its family self-support services rules in the July 16, 1982, issue of the *Texas Register*. A hearing to accept comments on the proposed changes will be held on Thursday, July 22, 1982, at 9 a.m., in the DHR board room, 706 Banister Lane, Austin. Comments on the department's proposed rule about advance payment for social services will also be accepted.

The family self-support rules are being amended to incorporate policy changes to help cope with the decreased day care funding by further defining who the agency will serve. Major substantive amendments are lowering, from 13 to nine, the age limit of children for whom DHR purchases day care services. Also, the rules about fees in purchase of service (POS) facilities and provider agreement facilities have been amended to include copayment requirements for clients and providers. A rate methodology

has been added. Additions to the rules include services to teenage parents, services to clients in DHR training case plan, and transportation for day care.

Issued in Austin, Texas, on July 7, 1982.

TRD-825479 Marlin W. Johnson
Commissioner
Texas Department of Human
Resources

Filed: July 7, 1982

For further information, please call (512) 441-3355,
ext. 2037.

The Texas Department of Human Resources (DHR) will conduct a hearing to receive comments on the selection of new contractors to provide weatherization services. The hearing will be held July 27, 1982, from 1 p.m. to 5 p.m., in the DHR office, 400 Fourth Street, Southwest, Paris, Texas.

The notice of invitation for offers on the weatherization program was published in the May 25, 1982, issue of the *Texas Register* (7 TexReg 2008). The Community Council of Red River County will provide weatherization services in Red River and Lamar Counties in the amount of \$94,905, and Red River Advancement, Inc., will provide weatherization services in Bowie County in the amount of \$78,391. The contracts will begin on August 1, 1982, and end June 30, 1983. Service delivery will be in accordance with the Department of Energy regulations.

The department is interested in receiving comments on the agencies' experience and performance in weatherization or housing renovation activities; the agencies' experience in assisting low income persons in the area to be served; and the agencies' capacity to undertake a timely and effective weatherization program.

Issued in Austin, Texas, on July 7, 1982.

TRD-825480 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Filed: July 7, 1982

For further information, please call (512) 441-3355,
ext. 2037.

The Prosecutor Council Consultant Proposal Requests

Description. The Prosecutor Council, under authority of its enabling act, Texas Civil Statutes, Article 332d, is requesting offers of consulting services, pursuant to the requirements of Texas Civil Statutes, Article 6252-11c, for presentation of a professional development course for prosecutors which is more fully described below. Applicants interested in making applications to provide this course may do so by written proposal following the instructions outlined below. Before the Prosecutor Council can consider any submitted application from a poten-

tial consultant, the consultant must demonstrate the ability to perform the educational services outlined in the general information below.

The council is requesting the consultant to present a criminal law update seminar and materials for that seminar, the materials and seminar being more fully described below. The seminar will be presented by the consultant in Corpus Christi.

General Information. The curriculum for the seminar should be a maximum of 10 training hours. The seminar content will focus upon recent developments in prosecution services, with an emphasis upon federal and state cooperation in the investigation and trial of criminal cases. The seminar should cover the following general topics:

- (1) criminal law update;
- (2) recent trends in prosecution; and
- (3) professional development topics.

Written materials should be developed by the consultant with respect to these presentations and should be presented to the council in advance of the presentations.

Deadline. The deadline for receipt of applications by the Prosecutor Council is August 17, 1982, at 5 p.m.

Contact. Further information concerning this offer may be obtained from Andy Shuval, Executive Director, The Prosecutor Council, P.O. Box 13555, Austin, Texas 78711, (512) 475-6825.

Evaluation Criteria. The Prosecutor Council will award the contract for consulting services to the consultant that is considered best able to perform the work described above. Evaluation criteria will include:

- (1) record of performance in prior presentation of this type;
- (2) instructor experience;
- (3) ability to meet specific time frame;
- (4) demonstrated knowledge of work to be performed;
- (5) project management; and
- (6) written proposal.

Written proposals should be submitted. The proposals will be evaluated by the Prosecutor Council, and further information may be requested. Award of the contract will be by the Prosecutor Council.

Issued in Austin, Texas, on July 6, 1982.

TRD-825459 Andy Shuval
Executive Director
The Prosecutor Council

Filed: July 6, 1982

For further information, please call (512) 475-6825.

Description. The Prosecutor Council, under authority of its enabling act, Texas Civil Statutes, Article 332d, is requesting offers of consulting services, pursuant to the requirements of Texas Civil Statutes, Article 6252-11c, for preparation of an information booklet which is more fully described below. Applicants interested in making

applications to provide this booklet may do so by written proposal following the instructions outlined below. Before the Prosecutor Council can consider any submitted application from a potential consultant, the consultant must demonstrate the ability to perform the services outlined in the general information below. The council is requesting the consultant to provide a booklet suitable for distribution to grand jury members describing the duties of grand jurors and the function of a grand jury.

General Information. This booklet is designed for distribution to grand jurors and would explain to the grand jurors their duties and the function of a grand jury. The booklet should be in a form easily understood by nonlawyers and should contain information consistent with current law.

Deadline. The deadline for receipt of applications by the Prosecutor Council is August 17, 1982, at 5 p.m.

Contact. Further information concerning this offer may be obtained from Andy Shuval, Executive Director, the Prosecutor Council, P.O. Box 13555, Austin, Texas 78711, (512) 475-6825.

Evaluation Criteria. The Prosecutor Council will award the contract for consulting services to the consultant that is considered best able to perform the work described above. Evaluation criteria will include:

- (1) record of performance in prior projects of this type;
- (2) experience of the persons preparing the material;
- (3) ability to meet specific time frames;
- (4) demonstrated knowledge of the material necessary to prepare the booklet;
- (5) project management; and
- (6) written proposal.

Written proposals should be submitted. The proposals will be evaluated by the Prosecutor Council, and further information may be requested. Award of the contract will be by the Prosecutor Council.

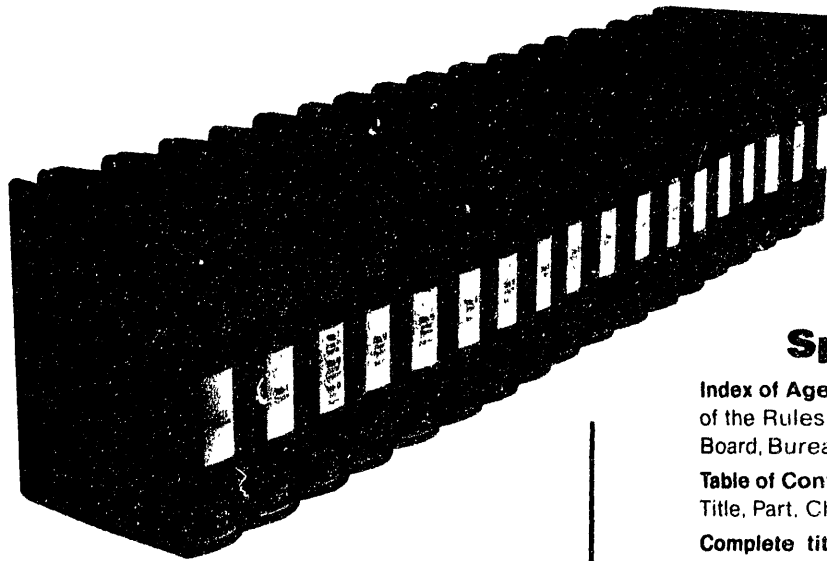
Issued in Austin, Texas, on July 6, 1982.

TRD-825460

Andy Shuval
Executive Director
The Prosecutor Council

Filed: July 6, 1982

For further information, please call (512) 475-6825.



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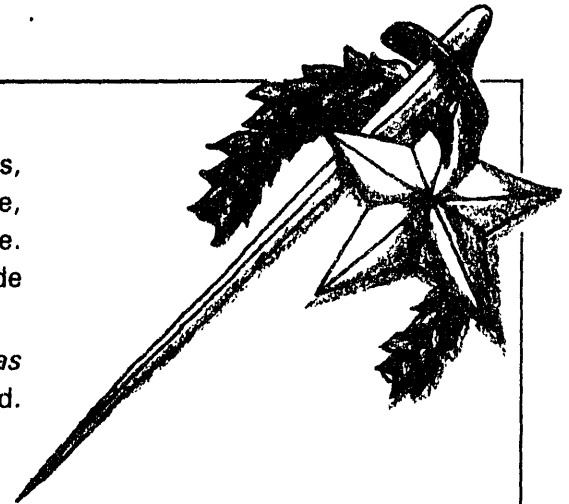
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