

GOVERNMENT CODE

CHAPTER 435. TEXAS MILITARY FACILITIES COMMISSION  
SUBCHAPTER A. COMPOSITION AND ADMINISTRATION

Sec. 435.001. DEFINITIONS. In this subchapter:

(1) "Bond" includes a debenture or other evidence of indebtedness.

(2) "Commission" means the Texas Military Facilities Commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.002. COMMISSION. The Texas Military Facilities Commission is an agency of the state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.003. APPLICATION OF SUNSET ACT. The Texas Military Facilities Commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2009. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 3.06, eff. Nov. 12, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), (83), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.004. COMPOSITION. (a) The commission is composed of:

(1) one senior officer of the Texas National Guard who is appointed by the governor with the advice and consent of the senate from a list submitted by the adjutant general and who must be actively serving in the Texas National Guard at the time of appointment; and

(2) six members of the general public who are appointed by the governor with the advice and consent of the senate, who must not be actively serving in the Texas National Guard while serving as members of the commission, and two of whom must have experience in architecture, civil engineering, or construction management.

(b) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(c) A person is not eligible for appointment as a public member of the commission if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the commission;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the commission; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

(d) A person may not serve as a member of the commission if the person holds another office or position of honor, trust, or profit under the state or federal government, except as a member of the Texas National Guard.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1170, Sec. 28.01, eff. Sept. 1, 2003.

Sec. 435.0043. CONFLICTS OF INTERESTS. (a) An officer, employee, or paid consultant of a Texas trade association in a field related to the operation of the commission may not be a member of the commission or an employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(b) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in a field related to the operation of the commission may not be a member of the commission and may not be an employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(c) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined

association in this state designed to assist its members and its industry or profession in dealing with mutual problems and in promoting their common interest.

(d) A person may not serve as a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

Added by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.0044. PRESIDING OFFICER. The governor shall designate a member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor.

Added by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.0045. COMMISSION MEMBER TRAINING. (a) Before a member of the commission may assume the member's duties and before the member may be confirmed by the senate, the member must complete at least one course of the training program established under this section.

(b) A training program established under this section shall provide information to the member regarding:

(1) the enabling legislation that created the commission;

(2) the programs operated by the commission;

(3) the role and functions of the commission;

(4) the rules of the commission with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the commission;

(6) the results of the most recent formal audit of the commission;

(7) the requirements of the:

(A) open meetings law, Chapter 551;

(B) open records law, Chapter 552; and

(C) administrative procedure law, Chapter 2001;

(8) the requirements of the conflict of interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

Added by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.005. VACANCY; INABILITY TO SERVE. (a) If a member of the commission who is a senior officer of the Texas National Guard retires from active service with the Texas National Guard, the member's position on the commission becomes vacant. That vacancy on the commission is filled for the unexpired term in the same manner in which the position was originally filled.

(b) If a member of the commission who is a senior officer of the Texas National Guard is unable to serve as a commission member because of induction into federal service of the member or the member's military unit, the governor shall fill the position in the same manner in which the position was originally filled, and the member's successor on the commission serves for the period of the induction into federal service. The successor shall qualify as a member of the commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.006. REMOVAL. (a) It is a ground for removal from the commission if a member:

(1) does not have at the time of appointment the qualifications required by Sections 435.004(a) and (c);

(2) does not maintain during service on the commission the qualifications required by Sections 435.004(a) and (c);

(3) violates a prohibition established by Section 435.004(d) or 435.0043;

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

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The

presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest officer of the commission, who shall notify the governor and the attorney general that a potential ground for removal exists.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.007. TERM AND OFFICERS. (a) The term of office of a commission member is six years without regard to the organizational structure of the Texas National Guard.

(b) The commission annually shall elect a treasurer from among its members.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.008. PER DIEM AND EXPENSES. (a) A member is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the commission.

(b) A member is entitled to reimbursement for meals, lodging, transportation expenses, and incidental expenses as provided by the General Appropriations Act.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997; Acts 2005, 79th Leg., ch. 621, Sec. 1, eff. Sept. 1, 2005.

Sec. 435.009. PERSONNEL. (a) The commission may employ an executive director and other officials, counsel, agents, and employees as necessary to carry out the commission's purposes and duties, and may prescribe their duties and fix their compensation.

(b) The executive director or the executive director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the commission. The program shall require intra-agency posting of all positions concurrently with any public posting.

(c) The executive director or the executive director's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for commission employees must be based on the system established under this subsection.

(d) The executive director or the executive director's designee shall provide to members of the commission and to agency employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(e) The commission shall develop and implement policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the executive director and the staff of the commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.0095. EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the commission workforce that meets federal and state laws, rules, and regulations and instructions directly promulgated from those laws, rules, and regulations;

(3) procedures by which a determination can be made about the extent of underuse in the commission workforce of all persons for whom federal or state laws, rules, and regulations and instructions directly promulgated from those laws, rules, and regulations encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(b) A policy statement prepared under Subsection (a) must cover an annual period, be updated annually and reviewed by the Commission on Human Rights for compliance with Subsection (a)(1),

and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.010. HEADQUARTERS. The commission shall maintain a headquarters in Travis County.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.011. RULES; ACTIONS OF THE COMMISSION. (a) The commission may adopt necessary rules for carrying out its business and may adopt reasonable methods to accomplish its purposes. This chapter shall be construed liberally to effect those purposes.

(b) The commission shall act by resolution adopted at a meeting held according to its rules.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.012. RECORDS; AUDIT; REPORT. (a) The commission shall keep accurate minutes of its meetings and shall keep accurate records and books of account that conform with approved methods of accounting and that clearly reflect the income and expenses of the commission and all transactions in relation to its property.

(b) The financial transactions of the commission are subject to audit by the state auditor in accordance with Chapter 321.

(c) The executive director shall prepare annually a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding fiscal year. The annual report must meet the reporting requirements applicable to financial reporting provided in the General Appropriations Act.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 25, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.013. GENERAL POWERS. (a) The commission is the exclusive authority for the construction, repair, and maintenance of National Guard armories, facilities, and improvements owned by the state located on commission property. The commission is a public authority and a body politic and corporate and has all powers necessary for the acquisition, construction, rental, control, maintenance, operation, and disposition of Texas National Guard or Texas State Guard facilities and real property, including all property and equipment necessary or useful in connection with the facilities.

(b) The commission may:

(1) sue and be sued;

(2) enter into contracts in connection with any matter within its purposes or duties; and

(3) have and use a corporate seal.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.014. PUBLIC HEARINGS. The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

Added by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.015. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a) The commission shall prepare information of public interest describing the functions of the commission and the procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the public and appropriate state agencies.

(b) The commission by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission relating to building maintenance or agency performance. The commission may provide for that notification on a sign prominently displayed in each building under the jurisdiction of the commission.

(c) The commission shall keep a file about each written complaint filed with the commission that the agency has authority to resolve. The commission shall provide to the person filing the complaint and the persons or entities complained about the commission's policies and procedures pertaining to complaint

investigation and resolution. The commission, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and the persons or entities complained about of the status of the complaint unless the notice would jeopardize an undercover investigation.

(d) The commission shall keep information about each complaint filed with the commission. The information shall include:

- (1) the date the complaint is received;
- (2) the name of the complainant;
- (3) the subject matter of the complaint;
- (4) a record of all persons contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) for complaints for which the agency took no action, an explanation of the reason the complaint was closed without action.

Added by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.016. FUNDS SUBJECT TO STATE FUNDS REFORM ACT. All money paid to the commission under this chapter, except money directly related to bonds used to build, renovate, or modify National Guard armories, is subject to Subchapter F, Chapter 404.

Added by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.017. PROGRAM AND FACILITY ACCESSIBILITY. The commission shall comply with federal and state laws related to program and facility accessibility. The executive director shall also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to commission programs and services.

Added by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

#### SUBCHAPTER B. PROPERTY TRANSACTIONS AND MANAGEMENT

Sec. 435.021. ACQUISITION; MANAGEMENT; PLEDGE OF RENTS, ISSUES, AND PROFITS. (a) The commission by gift, lease, or purchase may acquire real and personal property, including leasehold estates in real property, for use for any purpose the commission considers necessary in connection with the Texas National Guard or for the use of units of the Texas National Guard.

(b) The commission by gift, purchase, or construction may acquire furniture and equipment suitable for facility purposes.

(c) The commission may hold, manage, maintain, lease, or sell its property and may pledge all or part of the rents, issues, and profits of the property.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.022. CONSTRUCTION; FURNISHING AND EQUIPMENT. (a) The commission may construct buildings on its real property, whether held in fee simple or otherwise. The commission may furnish and equip the buildings.

(b) The commission may construct a building on land comprising a state camp only on a site selected and described by a board of officers. The adjutant general shall select the officers from time to time for that purpose. The officers shall select and describe the site promptly after request by the commission to the adjutant general. The site may not exceed 200,000 square feet. The officers shall certify the description to the commission and furnish a copy of it to the adjutant general, who shall preserve it in the adjutant general's office. If the commission constructs a building on the site selected and described, the site becomes the property of the commission for all purposes of this chapter as if the site had been acquired by gift to or purchase by the commission. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.023. LEASE OF PROPERTY. (a) The commission may execute and deliver a lease that leases to the state a building, its site, and the equipment in it. The adjutant general shall execute the lease for the state as provided by Section 431.030. The commission shall determine a lawful term of the lease and may renew the lease from time to time.

(b) The commission may make the annual rent charged the state under the lease payable in installments. The amount of the rent must be sufficient to:

- (1) provide for the operation and maintenance of the property;
- (2) pay the interest on, provide for the retirement

of, and pay the expenses related to the issuance of, any bonds issued to acquire, construct, or equip the property; and

(3) pay the commission's necessary expenses not otherwise provided for.

(c) The commission may lease the property to any person under terms the commission determines if the state fails or refuses to:

(1) lease the property;

(2) renew an existing lease at the rent provided to be paid; or

(3) pay the rent required in the lease.

(d) The law requiring notice and competitive bids does not apply to a lease under this section.

(e) For the purposes of this section the term "lease" includes "sublease."

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.024. TRANSFER TO STATE. When property that the commission owns is fully paid for and free of liens, and all obligations incurred in connection with the acquisition and construction of the property have been fully paid, the commission may donate and transfer the property to the state by appropriate instruments of transfer. The instruments of transfer shall be kept in the custody of the adjutant general's department.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.025. COMMISSION PROPERTY. (a) When property that the commission owns is fully paid for and free of liens, and all obligations incurred in connection with the acquisition and construction of the property have been fully paid, the commission may properly dispose of the property if:

(1) the property is designated by the commission and the adjutant general as surplus; and

(2) the disposal is in the best interests of the commission and the Texas National Guard and its components or successors.

(b) The commission may receive from the adjutant general a state-owned national guard camp and all the land, improvements, and personal property connected with it. The commission may:

(1) administer the property with its other property; or

(2) properly dispose of the property if:

(A) the property is designated by the commission and adjutant general as surplus; and

(B) the disposal is in the best interests of the Texas National Guard and its components or successors.

(c) To accomplish the purposes of Subsections (a) and (b), the commission may remove, dismantle, or sever any of the property or authorize its removal, dismantling, or severance.

(d) If property under this section is designated for sale, the commission shall sell it to the highest bidder for cash. The commission may reject any or all bids.

(e) If property under this section is designated for exchange, the commission may exchange the property for one or more parcels of land equal to or exceeding the value of the commission-owned property.

(f) Except as provided by Subsection (g)(1), a sale, deed, or exchange made under this section must reserve to the state a one-sixteenth mineral interest free of cost of production.

(g) The commission may:

(1) reconvey to the original grantor or donor all rights, title, and interests, including mineral interests, to all or part of the land conveyed by that person; and

(2) convey to the original grantor or donor, on a negotiated basis at fair market value, improvements constructed on the land reconveyed.

(h) The commission shall deposit proceeds of sales under this section in the state treasury to the credit of the commission for the use and benefit of the Texas National Guard or its components or successors.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.026. TAX STATUS OF PROPERTY. Property held by the commission and rents, issues, and profits of the property are exempt from taxation by the state, a municipality, a county or other

political subdivision, or a taxing district of the state. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.027. GRONER A. PITTS NATIONAL GUARD ARMORY. The Texas National Guard armory located in Brownwood, Texas, is named the Groner A. Pitts National Guard Armory in honor of Groner A. Pitts. Added by Acts 1993, 73rd Leg., ch. 906, Sec. 1.18, eff. June 19, 1993.

#### SUBCHAPTER C. FINANCING

Sec. 435.041. BORROWING MONEY; ISSUING AND SELLING BONDS. (a) The commission from time to time may borrow money and may request the Texas Public Finance Authority, on behalf of the commission, to issue and sell fully negotiable bonds to acquire one or more building sites or buildings or to construct, remodel, repair, or equip one or more buildings.

(b) The Texas Public Finance Authority may sell the bonds in any manner it determines to be in the best interest of the commission, except that it may not sell a bond that has not been approved by the attorney general and registered with the comptroller. The Texas Public Finance Authority is subject to all rights, duties, and conditions set forth in this subchapter with respect to the issuance of bonds by the commission, including the issuance of refunding bonds under Section 435.048.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 14.04, eff. Jan. 1, 1992; Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.042. FORM. (a) The bonds must be signed by the commission's presiding officer and countersigned by its treasurer. The commission's corporate seal must be affixed to the bonds and attested by the commission's executive director. The commission is not prohibited from issuing bonds signed or attested by a commission officer because the officer ceased to be an officer before the bonds were issued.

(b) The commission may issue bonds in:

- (1) fully registered form without interest coupons;
- (2) coupon form registrable as to principal only; or
- (3) bearer form with coupons attached.

(c) Coupons must be authenticated by the facsimile signature of the commission's treasurer.

(d) The commission may issue bonds in series. All series of bonds issued under the same trust indenture or trust agreement must rank equally without preference or priority of one series over another.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.043. SECURITY AND REPAYMENT. (a) Except as provided by Subsection (b), the bonds must be secured by a pledge of, and payable solely from, the rents, issues, and profits of:

- (1) all commission property; or
- (2) property the commission acquires or constructs, in whole or part, with the proceeds of the sale of the bonds.

(b) Interest due not later than two years after the date bonds or a series of bonds are issued and sold may be paid from the proceeds of the sale of the bonds.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.044. TAX STATUS OF BONDS. The bonds and interest on the bonds are exempt from taxation, except inheritance taxes, by the state, a municipality, a county or other political subdivision, or a taxing district of the state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 435.045. SECURITY FOR DEPOSITS. The bonds are eligible to secure deposits of public funds of the state and of a municipality, county, school district, or other political corporation or subdivision of the state. The bonds are lawful and sufficient security for these deposits to the extent of their value when accompanied by all unmatured coupons.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 435.046. BONDS AS INVESTMENTS. The bonds are legal and authorized investments for:

- (1) a bank;
- (2) a savings bank;
- (3) a trust company;
- (4) a savings and loan association;

- (5) an insurance company;
- (6) a fiduciary;
- (7) a trustee;
- (8) public funds of the state, including the permanent school fund; and
- (9) a sinking fund of a municipality, county, school district, or other political corporation or subdivision of the state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 435.047. TRUST DEEDS AND TRUST AGREEMENTS. (a) The commission may from time to time execute and deliver trust deeds and trust agreements. The trustee under a trust deed or trust agreement must be a bank or trust company authorized by the laws of this state or the United States to accept and execute trusts in this state, or an individual selected by the commission. The commission shall select the trustee on the basis of written competitive bids.

(b) The trust deed or trust agreement must be signed in the name and on behalf of the commission by the commission's presiding officer and countersigned by the commission's treasurer. The corporate seal of the commission must be affixed to the trust deed or agreement and attested by the commission's executive director.

(c) The trust deed or trust agreement may contain provisions approved by the commission for the protection and enforcement of the rights and remedies of the trustee and the holders of the bonds, including provisions for the acceleration of the maturity of the bonds on default by the commission on the bonds or the trust deed or trust agreement under which they were issued. The trust deed or trust agreement must equally secure all bonds issued under it. The trust deed or trust agreement may limit or place conditions on the commission's right to issue additional bonds.

(d) If a bank or trust company is named as trustee, the trust deed or trust agreement may provide for deposit with and disbursement by the trustee of proceeds of the bonds issued under or secured by the trust deed or trust agreement and rents, issues, and profits of all property acquired or constructed from those proceeds.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.

Sec. 435.048. REFUNDING BONDS. (a) The commission may request the Texas Public Finance Authority to issue refunding bonds to refund any outstanding bonds that the commission, or the Texas Public Finance Authority on behalf of the commission, has lawfully issued, and interest on the bonds. The Texas Public Finance Authority may issue the refunding bonds in exchange or substitution for outstanding bonds or may sell the refunding bonds and use the proceeds to pay or redeem outstanding bonds.

(b) If refunding bonds are sold, they may be sold in an amount necessary to:

(1) pay principal of, interest on, and premium, if any, of the bonds being refunded;

(2) make a deposit in a reserve fund as provided in the resolution authorizing the refunding bonds; and

(3) pay expenses incurred in the issuance, sale, and delivery of the refunding bonds.

(c) Until refunding bond proceeds are needed for purposes under Subsection (b), the commission may invest them in direct obligations of the United States, and may use or pledge the income from the investments as provided in the resolution authorizing the refunding bonds.

(d) In addition to the authority provided by this section, the commission may refund its outstanding bonds according to applicable general law.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 14.05, eff. Jan. 1, 1992; Acts 1997, 75th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 1997.