

## CHAPTER 798

## S.B. No. 316

An Act relating to the management and operation of the veterans' land program and the veterans' housing assistance program and to the operations of the Veterans' Land Board; authorizing certain fees; amending the Natural Resources Code, as amended, by amending Sections 161.001, 161.070, 161.178, 161.179, 161.211, 161.281, 161.284, 161.320, 162.001, Subsection (a) of Section 161.063, Subsection (c) of Section 161.212, Subsection (a) of Section 161.219, Subsections (a) and (b) of Section 161.222, Subsection (a) of Section 161.233, Subsection (a) of Section 162.003, and Subsection (b) of Section 162.011; by adding Sections 161.0111, 161.023-161.033, and 161.073 and Subsection (c) of Section 161.218; and by repealing Subsection (b) of Section 161.069 and Section 162.012.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Section 161.001, Natural Resources Code, is amended to read as follows:

"Section 161.001. DEFINITIONS. (a) In this chapter:

- "(1) 'Board' means the Veterans Land Board.
- "(2) 'Commissioner' means the Commissioner of the General Land Office.
- "(3) 'Land office' means the General Land Office.
- "(4) 'Program' means the Veterans Land Program.
- "(5) 'Fund' means the veterans land fund.
- "(6) 'Bonds' means veterans land bonds.
- "(7) 'Veteran' means a person who:

"(A) served not less than 90 continuous days after September 16, 1940, unless discharged by reason of a service-connected disability, on active duty in the Army, Navy, Air Force, Coast Guard, United States Public Health Service (as constituted under 42 U.S.C. 201 et seq.), or Marine Corps of the United States and has not been dishonorably discharged or released from any of those branches as of the date of filing his application;

"(B) at the time of his enlistment, induction, commissioning, or drafting was a bona fide resident of this state or has resided in this state at least five years immediately before the date of filing his application for a loan; and

"(C) at the time of his application for a loan under this chapter is a citizen of the United States and a bona fide resident of this state. The term includes the unmarried surviving spouse of a veteran who died in the line of duty provided the deceased veteran was a bona fide resident of this state at the time of enlistment, induction, commissioning, or drafting. In order for the surviving spouse to qualify, the deceased veteran must meet the requirements in this section with the exception that the deceased veteran need not have served 90 continuous days [~~'Veteran,' 'Texas veterans of the present war or wars, commonly known as World War II,' and 'Texas veterans of service in the Armed Forces of the United States of America subsequent to 1945' used in Article III, Section 40b of the Texas Constitution, are synonymous and mean any citizen of the United States either male or female over 18 years of age, who served not less than 90 consecutive days, unless sooner discharged because of a service-connected disability, on active duty in the Army, Navy, Air Force, Coast Guard, or Marine Corps of the United States after September 16, 1940, who on the date of filing his or her application has not been dishonorably discharged from the branch of the service in which he or she served, who was a bona fide resident of this state at the time of his or her enlistment, induction, commissioning, or drafting, and who is a bona fide resident of this state at the time of seeking benefits under this chapter, or who has resided in this state for at least five years immediately before the date of filing his or her application].~~

"(b) Notwithstanding Subdivision (7) of Subsection (a) of this section, the board may by rule change the definition of 'veteran' as necessary to protect the best interests of the program in response to changes in the laws of the United States as they may affect the program."

**SECTION 2.** Subchapter B, Chapter 161, Natural Resources Code, is amended by adding Section 161.0111 to read as follows:

"Section 161.0111. **APPLICATION OF SUNSET ACT.** The Veterans' Land Board is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes), but it is not abolished under that Act. The board shall be reviewed under the Texas Sunset Act during the period in which state agencies abolished effective September 1 of 1997 and of every 12th year after 1997 are reviewed."

**SECTION 3.** Subchapter B, Chapter 161, Natural Resources Code, is amended by adding Sections 161.023-161.033 to read as follows:

"Section 161.023. **CONFLICTS OF INTEREST.** An officer, employee, or paid consultant of a veterans' association or of a trade association in the field of real estate sales, brokerage, or development may not be an employee of the board, nor may a person who cohabits with or is the spouse of an officer, managerial employee, or paid consultant of a veterans' association or of a trade association in the field of real estate sales, brokerage, or development be an employee of the board grade 17 and over, including exempt employees, according to the position classification schedule under the General Appropriations Act.

"Section 161.024. **LOBBYIST AS BOARD EMPLOYEE.** A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a profession related to the operation of the board, may not act as the general counsel to the board.

"Section 161.025. **EQUAL PROTECTION FOR BOARD MEMBERS.** Appointments to the board shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.

**“Section 161.026. REMOVAL OF BOARD MEMBER.** (a) It is a ground for removal from the board if an appointed member:

“(1) does not have at the time of appointment the qualifications required by Article III, Section 49-b, of the Texas Constitution for appointment to the board;

“(2) does not maintain during the service on the board the qualifications required by Article III, Section 49-b, of the Texas Constitution for appointment to the board;

“(3) is unable to discharge his duties for a substantial portion of the term for which he was appointed because of illness or disability; or

“(4) is absent from more than one-half of the regularly scheduled board meetings which the member is eligible to attend during each calendar year, except when the absence is excused by a majority vote of the board.

“(b) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of an appointed member of the board existed.

“(c) If the executive secretary has knowledge that a potential ground for removal exists, he shall notify the chairman of the board of such ground. The chairman of the board shall then notify the governor that a potential ground for removal exists.

**“Section 161.027. ANNUAL ACCOUNTING.** The board shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding year. The form of the annual report and the reporting time shall be that provided in the General Appropriations Act. The report shall be included in the reports of the General Land Office.

**“Section 161.028. CAREER LADDER.** (a) The executive secretary or his designee shall develop an intraagency career ladder program, one part of which shall require the intraagency posting of all nonentry level positions concurrently with any public posting.

“(b) The program and posting requirements of this section apply to the employees of the board and the employees of the land office that support the board.

**“Section 161.029. PERFORMANCE EVALUATIONS.** (a) The executive secretary or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for board employees must be based on the system established under this section.

“(b) The evaluations required by this section apply to the employees of the board and the employees of the land office that support the board.

**“Section 161.030. AUDIT.** The State Auditor shall audit the financial transactions of the board at the same time the financial transactions of the General Land Office are audited.

**“Section 161.031. EQUAL EMPLOYMENT OPPORTUNITY.** (a) The executive secretary or his or her designee shall prepare and maintain a written plan to assure implementation of a program of equal employment opportunity whereby all personnel transactions are made without regard to race, color, handicap, sex, religion, age, or national origin. The plan shall include:

“(1) a comprehensive analysis which meets federal and state guidelines of all the agency's work force by race, sex, ethnic origin, class of position, and salary or wages;

“(2) plans for recruitment, evaluation, selection, appointment, training, promotion, and other personnel policies;

“(3) procedures by which a determination can be made of significant underutilization in the agency work force of all persons for whom federal and state guidelines encourage a more equitable balance and steps reasonably designed to overcome any identified underutilization; and

“(4) objectives and goals, with appropriate timetables for the achievement of the objectives and goals, assignments of responsibility for their achievement, and an appropriate program for reviewing and maintaining these goals and objectives once achieved.

“(b) The plan shall be filed with the governor's office within 60 days of the effective date of this Act, cover an annual period, and be updated at least annually. The governor's office shall develop a biennial report to the legislature based on the information submitted. Such report may be made separately or as a part of other biennial reports made to the legislature.

“(c) The personnel transactions referred to in Subsection (a) of this section apply to the employees of the board and the employees of the land office that support the board.

**“Section 161.032. STANDARDS OF CONDUCT.** (a) The board shall provide to its members and employees as often as is necessary information regarding their qualifications under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

“(b) The employees referred to in Subsection (a) of this section are the employees of the board and the employees of the land office that support the board.

*“Section 161.033. PUBLIC DEBATE BEFORE BOARD. The board shall develop and implement policies that will provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.”*

**SECTION 4.** Subsection (a), Section 161.063, Natural Resources Code, is amended to read as follows:

*“(a) The board may adopt rules that are not inconsistent with this chapter and that it considers necessary or advisable. The board shall adopt rules and procedures that it considers necessary to ensure the integrity of the program.”*

**SECTION 5.** Section 161.070, Natural Resources Code, as amended, is amended to read as follows:

*“Section 161.070. ADDITIONAL FEES. (a) The board shall set and collect, for the use of the state, reasonable fees in amounts determined by the board for services it may provide in connection with processing and servicing of purchase applications and contracts of sale and purchase and matters incidental to these purchases. These fees may include but are not limited to the following:*

*“(1) [each] appraisal fee for each application under Subchapter G of this chapter;*

*“(2) contract of sale and purchase transfer fee for each transfer;*

*“(3) mineral lease service fee for each lease executed by purchasers;*

*“(4) reappraisal fee, if required by the board;*

*“(5) fee for each loan of abstract;*

*“(6) fee for servicing and filing each easement;*

*“(7) service fee for each contract of sale and purchase;*

*“(8) fee for homesite, severance, or paid-in-full deed;*

*“(9) title examination fee;*

*“(10) recording fees;*

*“(11) fee for preparing credit reports;*

*“(12) fee from each successful bidder under Section 161.319 of this code in an amount sufficient to pay for examination of title, recording fees, and other expenses incidental to resale of land under Section 161.319 of this code;*

*“(13) fee for preparation of legal instruments, including but not limited to deeds, contracts, affidavits, and curative instruments;*

*“(14) fee for legal research, including but not limited to preparation of title opinions and other legal opinions, preparation for court appearances;*

*“(15) fee for general research, including but not limited to preparation of certified copies of documents on file with the board; and*

*“(16) fees for any other services which may be requested of the board.*

*“(b) These fees may be added to the price of any land sold or resold by the board. [The fees shall be used for the processing and servicing of purchase applications and contracts of sale and purchase and matters incidental to these purposes.]*

*“(c) Fees or portions of fees that are in the opinion of the board unused shall be refunded.*

*“(d) Money received from payment of these fees and not refunded shall be deposited in the State Treasury and credited to the fund and shall be spent as provided in the General Appropriations Act.”*

**SECTION 6.** Subchapter C, Chapter 161, Natural Resources Code, is amended by adding Section 161.073 to read as follows:

*“Section 161.073. CONTRACTS WITH PRIVATE ENTITIES. The board may contract with a private entity to administer all or part of the program if it is cost effective to do so.”*

**SECTION 7.** Subsection (c), Section 161.212, Natural Resources Code, is amended to read as follows:

*“(c) The appraiser shall make a written report to the board in affidavit form, duly sworn to before a notary public or other official authorized to administer oaths, and showing:*

*“(1) the appraised value of the land;*

*“(2) the name and address of any person contacted relative to the valuation of the land;*

*“(3) that the appraiser has examined the records of the county clerk’s office relative to the amount paid by the vendor for the land;*

*“(4) that he has checked past sales of adjacent land to aid in determining valuation; and*

*“(5) [if the purchase is being made under Subchapter G of this chapter, that the appraiser has met the veteran on the land and has explained the transaction to him in detail as authorized by this chapter; and*

"[(6)] that neither the appraiser nor any member of his family has received any personal benefits from the transaction and does not expect to receive any future personal benefits from the transaction."

**SECTION 8.** Section 161.218, Natural Resources Code, is amended by adding Subsection (c) to read as follows:

"(c) *Notwithstanding Subsection (a) or (b) of this section, or Section 161.217 of this subchapter, the committees of the various counties shall function as provided by the board's rules and may be abolished by the board if it is determined that they are no longer necessary.*"

**SECTION 9.** Subsection (a), Section 161.219, Natural Resources Code, is amended to read as follows:

"(a) The board may make [other] inquiries and investigations it considers proper to determine the veteran's eligibility and qualifications *and shall obtain from the veteran a written credit report.*"

**SECTION 10.** Subsection (a), Section 161.222, Natural Resources Code, as amended, is amended to read as follows:

"(a) The purchaser shall make an initial payment *in an amount set by the board's rules for land sold under [of at least five percent of the selling price of the land if sold under Sections 161.175 and 161.231 through 161.234 of this code or at least five percent of the amount the board agrees to pay for the land if sold under Subchapter G of] this chapter.* In no [neither] event shall the payment be more than \$1,000 [five percent of \$20,000] together with an additional down payment as provided in Sections 161.175 and 161.231 through 161.234 of this code or Subchapter G of this chapter."

**SECTION 11.** Subsection (a), Section 161.233, Natural Resources Code, as amended, is amended to read as follows:

"(a) *The sale price of land sold under Sections 161.175 and 161.231, 161.232, and 161.234 of this code may include the addition of the expenses and fees in Sections 161.069, 161.070, and 161.175 of this code. Provided, however, no tract may be sold under Sections 161.175 and 161.231, 161.232, and 161.234 of this code at a price exceeding \$20,000 unless the veteran pays the board in cash, in accordance with its rules, a down payment equal to that portion of the sale price in excess of \$20,000. This down payment shall be in addition to the initial payment required by Section 161.222 of this code and shall be paid not later than the sale date. [Unless the purchaser pays in cash as a down payment under board rules in addition to the initial payment required by Section 161.222 of this code the amount of the sale price in excess of \$20,000 not later than the sale date, no tract may be sold under Sections 161.175 and 161.231, 161.232, and 161.234 of this code at a price including the addition of the expenses provided in Section 161.175 of this code of more than \$20,000.]*"

**SECTION 12.** Section 161.281, Natural Resources Code, is amended to read as follows:

"Section 161.281. **SELECTION OF LAND.** (a) If a veteran desires a particular tract of land located in this state [that contains not less than 10 acres], on proper showing of eligibility to benefits under this chapter, he may be authorized by the board to select the land that he desires and submit his selection to the board on its prescribed form.

"(b) *The board shall establish a procedure that requires the veteran to personally inspect the tract he has selected. The board may by rule waive the inspection requirement. If the board grants the veteran's request for a waiver, the veteran must designate in writing a personal representative who will inspect the tract for him. The veteran's representative shall submit to the board an affidavit stating that he has inspected the tract the veteran selected.*

"(c) *In order to respond to market conditions, the board may from time to time by rule set the minimum acreage that a veteran may purchase. However, the board may not set the minimum acreage at less than five acres.*"

**SECTION 13.** Section 161.284, Natural Resources Code, is amended to read as follows:

"Section 161.284. **APPRAISAL AND TITLE.** The board shall have an appraisal of the property made as it considers necessary to determine the value and, before consummating the purchase, shall satisfy itself regarding the title as provided in Section 161.214 of this code. *The board may by rule require an on-site meeting between the appraiser and the veteran.*"

**SECTION 14.** Section 161.320, Natural Resources Code, is amended to read as follows:

"Section 161.320. **INTEREST RATE ON DELINQUENT PRINCIPAL AND INTEREST.** Principal and interest that become delinquent shall bear interest [at a rate fixed by the board from time to time but shall not be more than 10 percent a year] from the date the principal and interest become delinquent until paid *at a rate to be determined by the board.*"

**SECTION 15.** Section 162.001, Natural Resources Code, is amended to read as follows:

"Section 162.001. DEFINITIONS. (a) In this chapter:

"(1) 'Board' means the Veterans' Land Board.

"(2) 'Fund' means the veterans' housing assistance fund.

"(3) 'Home' means a dwelling within this state in which a veteran intends to reside as his principal residence.

"(4) 'Lending institution' means a bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, mortgage company, credit union, life insurance company, or other financial institution that customarily provides service or aids in the financing of mortgages on single-family residential housing which has been approved for participation in the program by the board. The term includes a holding company for any of the foregoing.

"(5) 'Loan' means a veterans' housing assistance loan made or acquired by the board under this chapter secured by a mortgage on a veteran's home.

"(6) 'Program' means the Veterans' Housing Assistance Program.

"(7) 'Commission' means the Veterans' Affairs Commission.

"(8) 'Veteran' means a person who:

"(A) served not less than 90 continuous days, unless sooner discharged by reason of a service-connected disability, on active duty in the Army, Navy, Air Force, Coast Guard, United States Public Health Service (as constituted under 42 U.S.C. 201 et seq.), or Marine Corps of the United States after September 16, 1940, and who on the date of filing his loan application has not been dishonorably discharged from the branch of the service in which he served; ~~was discharged from military service under honorable conditions from any of those branches of the Armed Forces; and~~

"(B) at the time of his enlistment, induction, commissioning, or drafting was a bona fide resident of this state or has resided in this state at least five years immediately before the date of filing his application for a loan; and

"(C) at the time of his application for a loan under this chapter is a citizen of the United States and a bona fide resident of this state. The term includes the unmarried surviving spouse of a veteran who died in the line of duty if the deceased veteran meets the requirements in this section with the exception that the deceased veteran need not have served 90 continuous days and if the deceased veteran was a bona fide resident of the state at time of enlistment, induction, commissioning, or drafting.

"(b) Notwithstanding Subdivision (8) of Subsection (a) of this section, the board may by rule change the definition of 'veteran' as necessary to protect the best interests of the program in response to changes in the laws of the United States as they may affect the program."

SECTION 16. Subsection (a), Section 162.003, Natural Resources Code, is amended to read as follows:

"(a) The board shall administer the veterans' housing assistance fund and the Veterans' Housing Assistance Program in accordance with this chapter.

"(1) The board may contract with other agencies of the state or with private entities to administer all or part of the program.

"(2) To the extent that it is cost effective, the board may contract with the commission to determine whether or not applicants qualify as veterans under the terms of this chapter.

"(3) The board may set and collect fees it considers reasonable and necessary from each applicant to cover the expenses of administering the program, and these fees shall be deposited in the State Treasury and credited to a special housing program fee fund."

SECTION 17. Section 161.178, Natural Resources Code, is amended to read as follows:

"Section 161.178. DISPOSAL OF EXCESS FUNDS. Subject to the provisions of the constitution:

"(a) Money in the fund that is not spent for the purposes provided in this chapter shall remain in the fund until there is sufficient money to retire fully bonds issued and sold by the board.

"(b) Money in the fund that is in addition to that necessary to retire the bonds shall be deposited to the credit of the General Revenue Fund to be appropriated as provided by law, and the money necessary to retire the bonds shall be set aside and shall remain in the fund.

"(c) Money that becomes at a later time a part of the fund after there is sufficient money to retire the bonds shall be deposited to the credit of the General Revenue Fund."

SECTION 18. Section 161.179, Natural Resources Code, is amended to read as follows:

"Section 161.179. LEGISLATIVE APPROPRIATIONS. To the extent not otherwise appropriated by the constitution:

“(a) During the existence of the fund, if the board determines that there will not be sufficient money in the fund during the following biennium to pay principal of or interest on the bonds or both principal and interest that are to come due during the following biennium, the legislature shall appropriate from the General Revenue Fund sufficient money to pay the obligations.

“(b) The money appropriated shall be used to pay the obligations only if at the time the principal or interest or both actually become due there is not sufficient money in the fund to pay the amount due.”

**SECTION 19.** Section 161.211, Natural Resources Code, is amended to read as follows:

“Section 161.211. **PURCHASE OF LAND AND PAYMENT OF BONDS.** (a) A series of bonds is all bonds issued and sold in a single transaction as a single installment of bonds.

“(b) *To the extent not inconsistent with the constitution, money [Money] attributable to any series of bonds issued and sold by the board may be used for the purchase of land that is likewise located and owned, if the land is sold as provided in this chapter, for a period ending eight years after the date of sale of the series of bonds.*

“(c) As much of the money as is necessary to pay interest on the bonds issued and sold shall be set aside for that purpose in accordance with the resolution adopted by the board authorizing the issuance and sale of the series of bonds.

“(d) At the end of the eight-year period, and until there is sufficient money to retire all the bonds, the money shall be set aside to retire the bonds issued and sold and to pay interest on them, together with any expenses, in accordance with the resolution authorizing the issuance and sale of the additional bonds.

“~~[(e)] Money coming into the fund not necessary to retire the bonds and pay interest on them [under Subsection (d) of this section] shall be governed as provided in this chapter, to the extent not inconsistent with the constitution.~~”

**SECTION 20.** Subsection (b), Section 161.222, Natural Resources Code, as amended, is amended as follows:

“(b) The balance of the selling price shall be amortized over a period determined by the board not to exceed 40 years together with interest at a rate to be determined by the board. ~~[The interest may not exceed one and one half percent a year more than the accepted bid price for each series in the bond sale division.]~~”

**SECTION 21.** Subsection (b), Section 162.011, Natural Resources Code, is amended to read as follows:

“(b) To qualify for a loan under this chapter, a person must be a veteran at the time he applies for the loan. *If an eligible veteran dies after filing an application, the surviving spouse may complete the transaction.*”

**SECTION 22.** Subsection (b), Section 161.069, Natural Resources Code, is repealed.

**SECTION 23.** Section 162.012, Natural Resources Code, is repealed.

**SECTION 24.** (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1985.

(b) Sections 1 and 15 of this Act take effect on the adoption of the amendment to the Texas Constitution proposed by the 69th Legislature, Regular Session, 1985, providing additional bonding authority for the veterans' housing assistance program and changing the definition of those veterans eligible to participate in the veterans' land program and the veterans' housing program by authorizing the legislature to define by law an eligible veteran for the purposes of participation in those programs.

**SECTION 25.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on February 13, 1985, by a viva-voce vote; passed the House on May 17, 1985, by a non-record vote.

Approved: June 15, 1985

Effective: September 1, 1985, except as provided by Section 24(b).