

## CHAPTER 500

## S.B. No. 679

An Act relating to the use of state funds to renovate improvements to community mental health and mental retardation centers; providing sanctions; amending the Texas Mental Health and Mental Retardation Act, as amended (Article 5547-203, Vernon's Texas Civil Statutes), by amending Section 3.11 and by adding Section 4.05.

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

**SECTION 1.** Section 3.11, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-203, Vernon's Texas Civil Statutes), is amended to read as follows:

**"Section 3.11. PROPERTY, BUILDINGS, FACILITIES.** (a) A community center may acquire real property and personal property by purchase or lease and may construct buildings and facilities. A community center may transfer ownership of real property to the Department, pursuant to an agreement whereby the Department agrees to construct community-based care facilities or alternate living facilities on the property and to lease the facilities to that community center for the purpose of providing mental health and mental retardation services. The Department may construct the facilities at sites other than the present sites of departmental institutions and may lease the facilities to the community centers in the manner and under such terms and conditions as specified in this section.

**"(b)** *A community center may request funding from the Department to renovate buildings and facilities owned or leased by the community center. The Department may provide funding under an agreement whereby the Department obtains a lien against the community center's buildings or facilities in an amount equal to the funding provided and the community center repays the funding as prescribed by this section. To be eligible for funding, the renovation must meet criteria established by the Department as prescribed by Subsection (c) of this section.*

**"(c)** *A special fund to be known as the special community centers facilities construction and renovation fund is established in the state treasury. The fund may be used only to finance the construction of facilities by the Department or the renovation of buildings and facilities by community centers under this section. The Texas Board of Mental Health and Mental*

Retardation shall establish priorities for the use of facilities constructed *or renovated* under this section in terms of appropriate types of community-based services and alternative living arrangements for the mentally disabled. These priorities shall serve as a basis for criteria to be used by the Department in determining the eligibility of a proposal for facility construction *or renovation*. If the Department agrees to construct a facility for a community center, the agreement must include provision for a lease-purchase arrangement between the community center, the governing body of each local agency establishing the community center, and the Department. *If the Department agrees to provide funding to renovate a building or facility owned or leased by a community center, the renovation funding agreement must include provision for obtaining a lien against the community center's buildings or facilities in an amount equal to the funding provided. The renovation funding agreement must also include a provision authorizing the Department to withhold state grant-in-aid if the community center fails to make repayments on time.* The Department shall specify a leasing *or repayment* arrangement which includes an amortization of the cost of the facility *or renovation* over a period not to exceed forty (40) years. The agreement may provide for reasonable interest to be paid by the center on the total cost of the facility *or renovation*. The rate of interest may not exceed fifty (50) percent of the market interest rate, as determined by the Department, applicable at the time of the signing of the lease-purchase *or renovation funding* agreement to any establishing agency's revenue bonds if the agency were to issue bonds for the construction of the community center *or for the renovation of the building or facility* for the same term as the term covered by the lease-purchase *or renovation funding* agreement. The leasing payments shall be credited to the special community centers facilities construction *and renovation* fund toward the purchase of the facility by the community center. *The repayments by a community center of funding provided to renovate a building or facility shall be credited to the special community centers facilities construction and renovation fund toward repayment of the funding and release of the lien.*

"(d) [(e)] At such time as the community center has paid to the Department the amount specified under the terms of the lease-purchase agreement, the Department *is authorized to and shall* transfer full title of the property and all improvements to the community center. If a lease payment is not paid to the Department by the due date established in the lease-purchase agreement, the community center is considered in default. On default by the community center, the Department shall send to the community center a written notice of the default and a statement that the center must make the overdue payments before the expiration of sixty (60) days after the day on which the center receives the notice. If the community center does not make the overdue payments within the allotted time, the lease-purchase agreement is terminated and the Department may take possession of the facility.

"(e) *At such time as the community center has paid to the Department the amount specified under the terms of the renovation funding agreement, the Department is authorized to and shall release the lien against the community center's buildings or facilities. If a payment is not made to the Department by the due date established in the renovation funding agreement, the community center is considered in default. On default by the community center, the Department shall send to the community center a written notice of default and a statement that the center must make the overdue payments before the expiration of sixty (60) days after the day on which the center receives the notice. If the community center does not make the overdue payments within the allotted time, the Department may withhold state grant-in-aid in the amount of the overdue payments or may terminate the renovation funding agreement and sue to foreclose on the lien.*

"(f) [(d)] The community center may utilize state funds, including but not limited to state grant-in-aid, for the operation of the facility, provided that the total amount of all state funds used in the actual operation of the facility may not exceed sixty (60) percent of the total operating budget of that facility. State funds received by the community center may not be used to pay leasing payment obligations *or repayments of renovation funding* under this section. Leasing payments *and repayments of renovation funding* do not qualify as operating expenses for determining the total operating budget of the facility. Construction, *renovation*, and operation of a facility under the provisions of this section are not grounds for receipt by a community center of additional grant-in-aid in excess of the amount of grant-in-aid the center would otherwise receive pursuant to the rules and regulations of the Department governing the distribution of such funds."

**SECTION 2.** Article 4, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-204, Vernon's Texas Civil Statutes), is amended by adding Section 4.05 to read as follows:

"Section 4.05. **WITHHOLDING GRANT-IN-AID.** *In accordance with a renovation funding agreement between the Department and a community center executed as prescribed by Section 3.11 of this Act, the Department may withhold grant-in-aid in the amount of the overdue payments from any center that fails to make timely repayments of funding provided to renovate a community center building or facility."*

**SECTION 2.** 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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on March 28, 1985, by the following vote: Yeas 31, Nays 0; passed the House on May 21, 1985, by the following vote: Yeas 143, Nays 0, five present not voting.

Approved: June 12, 1985

Effective: Immediately