

CHAPTER 117**S.B. No. 805**

An Act relating to the nonsubstantive codification of various laws omitted from enacted codes, to conforming codes to Acts of the 68th Legislature, and to the manner in which codes are cited; including provisions for certain penalties; codifying Section 5A, Chapter 652, Acts of the 66th Legislature, Regular Session, 1979 (Article 4442a-1, Vernon's Texas Civil Statutes), by adding it as Section 103.011 to the Human Resources Code; reenacting Section 158.058, Vernon's Texas Codes Annotated, Tax Code; conforming and amending Subdivision (1), Section 59.01, Education Code; codifying Chapter 434, Acts of the 60th Legislature, Regular Session, 1967 (Article 9011, Vernon's Texas Civil Statutes), as Subchapter F, Chapter 17, Business & Commerce Code; codifying Chapter 700, Acts of the 61st Legislature, Regular Session, 1969 (Article 29c-1, Vernon's Texas Civil Statutes), as Section 35.42, Business & Commerce Code;

redesignating one of the Chapters 102, Human Resources Code, as Chapter 104; codifying Chapters 948, 384, 451, and 855, Acts of the 68th Legislature, Regular Session, 1983 (Articles 5421c-14, 1528k, 4413(29dd), and 4476-10a, Vernon's Texas Civil Statutes), as Subchapter F of Chapter 20 of the Education Code, Chapter 57 of the Agriculture Code, Subtitle D of Title 3 of the Human Resources Code, and Subchapter G of Chapter 17 of the Business & Commerce Code, respectively; conditionally amending Section 311.004, Government Code, and Section 1.03, Chapter 455, Acts of the 60th Legislature, Regular Session, 1967 (Article 5429b-2, Vernon's Texas Civil Statutes); adding Subsection (d) to Section 201.073, Agriculture Code; amending the Property Code by amending Section 59.021; the titles to Subchapters B and C of Chapter 59; and Subsection (b) of Section 59.042; and by transferring Section 59.022 to Subchapter C of Chapter 59 as Subsection (a) of Section 59.041 and further amending Section 59.041.

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

SECTION 1. (a) Chapter 103, Human Resources Code, is amended to codify Section 5A, Chapter 652, Acts of the 66th Legislature, Regular Session, 1979 (Article 4442a-1, Vernon's Texas Civil Statutes), by adding Section 103.011 to read as follows:

"Section 103.011. RIGHTS OF THE ELDERLY. (a) In addition to other rights an individual attending an adult day care facility or an adult day health care facility has as a citizen, an individual who is 55 years of age or older has the rights prescribed by Chapter 102 of this code.

"(b) The Department of Human Resources and the Department of Health shall require each adult day care or adult day health care facility to implement and enforce the applicable provisions of Chapter 102 of this code."

(b) Section 5A, Chapter 652, Acts of the 66th Legislature, Regular Session, 1979 (Article 4442a-1, Vernon's Texas Civil Statutes), is repealed.

SECTION 2. The law compiled in Vernon's Texas Codes Annotated, Tax Code, as Section 158.058 (as added without a section number by Section 2, Chapter 96, Acts of the 68th Legislature, Regular Session, 1983) is reenacted as Section 158.058, Tax Code, and amended to read as follows:

"Section 158.058. CREDIT OR REFUND FOR SALES TO NONRESIDENTS. If the sales tax imposed by this chapter has previously been paid to the manufacturer by a retailer whose first sale at retail is to a resident of another state and if the manufactured home is transported to and installed on a homesite outside of this state and not titled or registered in this state, the retailer is entitled to a credit or refund of the tax previously paid under this chapter. No credit or refund is due or may be paid if any use or occupancy of the manufactured home occurred prior to the first sale at retail by the retailer."

SECTION 3. (a) Subdivision (1), Section 59.01, Education Code, is amended to conform to Chapter 413, Acts of the 68th Legislature, Regular Session, 1983, to read as follows:

"(1) 'Medical staff or students' means medical doctors, doctors of osteopathy, dentists, veterinarians, and podiatrists appointed to the faculty by The University of Texas System, The Texas A&M University System, the Texas Tech University School of Medicine, or the Texas College of Osteopathic Medicine, either full time or who, although appointed less than full time (including volunteers), either devote their total professional service to such appointment or provide services to patients by assignment from the department chairman; and interns, residents, fellows, and medical or dental students, veterinary students, and students of osteopathy participating in a patient-care program in The University of Texas System, The Texas A&M University System, the Texas Tech University School of Medicine, or the Texas College of Osteopathic Medicine."

(b) Chapter 413, Acts of the 68th Legislature, Regular Session, 1983, is repealed.

SECTION 4. (a) Chapter 20, Education Code, is amended to codify Chapter 948, Acts of the 68th Legislature, Regular Session, 1983 (Article 5421c-14, Vernon's Texas Civil Statutes), by adding Subchapter F to read as follows:

"SUBCHAPTER F. SALE OF SURPLUS REAL PROPERTY; REVENUE BONDS

"Section 20.921. DEFINITIONS. In this subchapter:

"(a) 'District' means an independent school district functioning under this code.

"(b) 'Board' means the governing body of a district.

"(c) 'Real property' means land and all buildings and fixtures permanently attached thereto and any interest therein.

“(d) ‘Bonds’ means bonds, notes, contracts, and any other evidences of an obligation to pay a sum of money.

“Section 20.922. **SALE OF PROPERTY; REVENUE BONDS.** (a) The board of a district may sell real property owned by the district and issue revenue bonds payable from the proceeds of the sale subject to the requirements of this section.

“(b) The board must find and determine by order duly passed that the real property is surplus to and not required for the then current needs of the district for educational purposes, and the proceeds from the sale are required and will be used for one or more of the following:

“(1) the constructing or equipping of school buildings in the district or the purchase of any necessary sites therefor; or

“(2) the payment of principal of and interest and premium on any bonds issued pursuant to this subchapter.

“(c) The real property may be sold for such price and upon such terms and conditions as are found and determined by order duly passed by the board to be most advantageous to the district, and the sale may be made pursuant to an installment sale agreement or contract or any other method. The sale must be for cash and all payments for the real property must be scheduled to be paid not more than 10 years after the date of execution of the agreement or contract of sale. No real property shall be sold for less than an aggregate price equal its fair market value as determined by an appraisal obtained by the district not more than 180 days prior to the publication of the notice required by Subdivision (3) of Subsection (d) of this section, which appraisal shall be conclusive of the fair market value thereof for the purposes of this subchapter.

“(d) Prior to selling or executing any agreement or contract for the sale of the real property the board shall:

“(1) determine which real estate is proposed to be sold;

“(2) determine the scope of the terms and conditions upon which it will consider selling the real property, and, if the sale price is to be paid in installments, require the purchasers of the real property to secure the payment of the sale price by escrowing collateral acceptable to the board such as a letter of credit, United States government bonds, or any other generally recognized form of guarantee or security;

“(3) publish a notice to prospective purchasers at least two weeks prior to the date set for receiving proposals in a real estate journal and in at least two newspapers of general circulation in the district, requesting sealed written proposals from prospective purchasers to purchase the real property, such notice to include the scope of the terms and conditions of sale which will be considered, and the time, date, and place where the proposals will be received; and

“(4) find and determine by order duly passed by the board which sealed written proposal is most advantageous to the district, and accept such proposal, or reject all proposals if deemed advisable.

“(e) Except as provided by this subsection, the sale must have been previously approved by a majority of the qualified voters of the district voting at an election held in the district at which a proposition to ascertain approval is submitted. No such election is required if the board finds and determines by order duly passed that the proceeds from the sale of the real property are required and will be used for the constructing or equipping or for the payment or principal of, and interest and premium, if any, on bonds issued pursuant to this subchapter for the purpose of constructing or equipping a school building or school buildings which is or are to be constructed pursuant to or in accordance with an order or judgment entered by a United States District Judge in any action or cause in which the district is a party.

“Section 20.923. **OTHER LAWS NOT APPLICABLE.** Chapter 455, Acts of the 61st Legislature, Regular Session, 1969 (Article 5421c-12, Vernon’s Texas Civil Statutes), Chapter 26, Parks and Wildlife Code, and all other general laws affecting or pertaining to the sale of public property shall not apply to sales of real property pursuant to this subchapter.

“Section 20.924. **CONTRACTS.** The district is authorized to execute contracts for the constructing or equipping of school buildings in the district or for the purchase of any necessary sites therefor in the manner provided by law. If any such contract recites that payments thereunder are to be made either from the proceeds from the sale of real property under an installment sale agreement or any similar method pursuant to this subchapter or from proceeds from the sale of bonds issued pursuant to this subchapter, then the contract may be made payable in installments to correspond with the receipt by the district either of proceeds under the sale agreement or proceeds from the sale of any such bonds which are to be issued and delivered in more than one issue, series, or installment, and the contract is not a prohibited debt or indebtedness of the district if the payments thereunder are required to be made solely from the proceeds from such sale of real property or such bonds.

“Section 20.925. **BOND REQUIREMENTS.** (a) In addition to the foregoing powers granted and authorized by this subchapter, any board, for and on behalf of its district, may, at its option,

issue, sell, and deliver revenue bonds of its district from time to time and in one or more issues, series, or installments, with the principal of and interest and premium, if any, on such bonds, to be payable from and secured by liens on and pledges of all or any part of any of the revenue, income, payments, or receipts derived by the district from the sale of real property pursuant to this subchapter, and such amounts may be pledged by the district to the payment of the principal of and interest and premium, if any, on such bonds, subject to the requirements of this section.

“(b) Bonds must be issued by an order duly passed by the board (a ‘bond order’).

“(c) The bonds must be issued for the purpose of constructing or equipping school buildings in the district or the purchase of any necessary sites therefor.

“(d) The bonds shall mature, come due, or be payable serially, in installments, or otherwise, within not to exceed 90 days after the last date upon which the final payment is due to the district from the sale of the real property, and provisions may be made in the bond order for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under any terms or conditions that may be set forth in the bond order.

“(e) The bonds may be executed, made redeemable prior to maturity or due date, be issued in such form, denominations, and manner, and under such terms, conditions, and details, and may be sold in such manner, at such price, and under such terms, and the bonds may bear interest at such rates, all as shall be determined and provided in the bond order.

“(f) If so provided in any bond order, the proceeds from the sale of the bonds may be used for paying interest on the bonds during the period of constructing or equipping any school buildings to be provided through the issuance of the bonds or for creating a reserve fund for the payment of principal and interest on the bonds, and such proceeds may be placed on time deposit, in certificates of deposit, or invested, until needed, all to the extent and in the manner provided in any bond order, and such proceeds also may be used for paying the costs and expenses of issuing the bonds and selling the real property.

“(g) The bonds shall be payable only from the revenues described above and shall not be payable or paid from any taxes levied and collected in the district.

“(h) Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon’s Texas Civil Statutes) (and particularly Section 7A thereof), with respect to refunding, Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon’s Texas Civil Statutes), with respect to interest rates, and the Bond Procedures Act of 1981 (Article 717k-6, Vernon’s Texas Civil Statutes), with respect to bond procedures, all being statutes of general application to all bonds, shall be applicable to bonds issued pursuant to this subchapter.

“(i) If bonds are issued pursuant to this subchapter, the bonds, along with the appropriate proceedings authorizing their issuance, and the sale agreement the proceeds from which they are payable shall be submitted to the Attorney General of Texas for examination. If he finds that the bonds have been authorized and the sale agreement has been executed, in accordance with law, he shall approve the bonds and the sale agreement, and thereupon the bonds shall be registered by the comptroller of public accounts of Texas, and after such approval and registration the bonds and sale agreement shall be valid, binding, and enforceable obligations in accordance with their terms and provisions for all purposes, and they shall be incontestable in any court or other forum for any reason. It is specifically provided, however, that if, after the initial issuance of any bonds under this subchapter payable from the proceeds of a particular sale agreement, one or more subsequent issues, series, or installments of bonds are issued as additional parity bonds, on a parity with the initial bonds and payable from the proceeds of that sale agreement, then, at the option of the board, the subsequent issues, series, or installments of bonds need not be submitted to the attorney general or approved by him or registered by the comptroller of public accounts, and the subsequent bonds shall, upon delivery thereof and payment therefor, be valid, binding, enforceable, and incontestable in the same manner and with the same effect as if they had been approved by the attorney general and registered by the comptroller of public accounts as were the initial bonds.

“Section 20.926. **LIBERAL CONSTRUCTION.** This subchapter shall be construed liberally to effectuate the legislative intent and the purposes of the subchapter, and all powers herein granted shall be broadly interpreted to effectuate such intent and purposes and not as a limitation of powers.

“Section 20.927. **OTHER POWERS UNRESTRICTED.** This subchapter does not restrict the power of a school district to sell property or issue bonds as provided by other law.”

(b) Chapter 948, Acts of the 68th Legislature, Regular Session, 1983 (Article 5421c-14, Vernon’s Texas Civil Statutes), is repealed.

SECTION 5. (a) Title 4, Agriculture Code, is amended to codify Chapter 384, Acts of the 68th Legislature, Regular Session, 1983 (Article 1528k, Vernon’s Texas Civil Statutes), by adding Chapter 57 to read as follows:

“CHAPTER 57. AGRICULTURAL DEVELOPMENT CORPORATIONS

“SUBCHAPTER A. GENERAL PROVISIONS

“Section 57.001. SHORT TITLE. This chapter may be cited as the Agricultural Development Act.

“Section 57.002. FINDINGS; PURPOSE; CONSTRUCTION. (a) The legislature finds that:
“(1) the high cost and unavailability of loans for agricultural producers wishing to engage in agricultural enterprises result in decreases in crop or livestock business productivity;

“(2) the inability of agricultural producers wishing to engage in agricultural enterprises to acquire modern agricultural equipment and facilities makes it difficult for agricultural producers to initiate agricultural enterprises to maintain or increase employment or to enter into cooperative development of industries and enterprises which would increase the value of their products and their access to consumer markets and allow development of new products; and

“(3) there exists an inadequate supply of and a pressing need for credit and agricultural business loan financing at interest rates that are consistent with the needs of agricultural producers wishing to engage in agricultural enterprises.

“(b) The purpose of this chapter is to allow agricultural producers to become directly involved in processing, packaging, and marketing agricultural products by providing a method of financing agricultural enterprises.

“(c) This chapter shall be liberally construed in conformity with the intention of the legislature.

“Section 57.003. DEFINITIONS. In this chapter:

“(1) ‘Agricultural enterprise’ means a business or industry that processes, prepares, refines, converts, packages, grades or labels, ships, or markets agricultural products or by-products or that uses farm or forest products or by-products in the manufacture of other finished or intermediate goods. The term includes businesses and industries related to agriculture, including businesses providing transportation, assembly, packaging, processing, and marketing of agricultural products, grain elevators, shipping heads, livestock pens, warehouses, and wharf and dock facilities.

“(2) ‘Agricultural product’ means an agricultural, horticultural, viticultural, or vegetable product, bees and honey, fish and other seafood, planting seed, livestock or livestock product, or poultry or poultry product produced in this state either in its natural state or as processed by the producer.

“(3) ‘Bond’ means a bond, note, debenture, or interim certificate. The term includes a bond, grant, revenue anticipation note, or any other evidence of indebtedness of a corporation issued under this chapter.

“(4) ‘Board’ means the Agricultural Development Board.

“(5) ‘Commissioner’ means the commissioner of agriculture.

“(6) ‘Corporation’ means a public nonprofit corporation organized under this chapter.

“(7) ‘Cost’ means all reasonable or necessary costs incidental to the provision, acquisition, construction, reconstruction, rehabilitation, repair, alteration, improvement, and extension of an agricultural enterprise or facility. The term includes:

“(A) the cost of acquiring all land, rights-of-way, options to purchase land, easements, leasehold estates in land, and interests of all kinds in land relating to agricultural enterprises or facilities;

“(B) the cost of acquiring, constructing, repairing, renovating, remodeling, improving, financing, demolishing, reconstructing, purchasing equipment for, or developing sites for new and rehabilitated buildings and structures to be used as or in conjunction with an agricultural enterprise or facility;

“(C) the cost of relocating utilities, public ways, and parks;

“(D) the cost of studies and surveys, plans and specifications, architectural, legal, and engineering services, financial advisory, mortgage banking, and administrative services, underwriting services, and accounting, marketing, and other special services relating to an agricultural enterprise or facility;

“(E) the costs incurred in connection with the issuance, approval, qualification, or sale of bonds;

“(F) the cost of fees for applying to federal, state, and local government agencies for approval of construction or assisted financing;

“(G) the cost of machinery, equipment, furnishings, and facilities necessary or incident to an agricultural enterprise;

“(H) the cost of financing charges and interest on construction costs incurred before and during construction and for a maximum of two years after completion of construction and on the start-up costs of an agricultural enterprise or facility during construction and for a

maximum of two years after completion of construction, including the cost of initial inventory, raw material, feedstock, commodity, or intermediate goods;

“(I) the cost of appraisal fees, expenses, and disbursements;

“(J) the cost of an insurance policy or policies, including title, casualty, or liability insurance;

“(K) the cost of printing, engraving, and reproduction services;

“(L) the cost of fees of a trustee or paying agent;

“(M) the cost of an initial bond and interest reserve;

“(N) all direct and indirect costs of the corporation incurred in connection with the agricultural enterprise or facility; and

“(O) other costs and expenses that the corporation determines are necessary to effectuate the purposes of this chapter including sufficient sums to reimburse the corporation for time spent by its agents and employees.

“(8) ‘County’ means a political subdivision of the State of Texas created and established under Article IX, Section 1, of the Texas Constitution or a combination of counties.

“(9) ‘Facility’ means any real or personal property or an interest in the property, the financing, refinancing, acquiring, providing, constructing, enlarging, remodeling, renovating, improving, furnishing, or equipping of which is determined by the board of directors of a corporation to be necessary or convenient for an agricultural enterprise in this state.

“(10) ‘Lending institution’ means a bank, trust company, savings bank, national banking association, savings and loan association, mortgage banker, mortgage company, credit union, life insurance company, or other financial institution or governmental agency that customarily provides service or aids in the financing of agricultural loans or mortgages, or a holding company of any of those institutions.

“(11) ‘Loan insurer’ means an agency, department, administration, or instrumentality in the Department of Housing and Urban Development, the Farmers Home Administration of the Department of Agriculture, or the Veterans Administration of the United States of America, a private mortgage insurance company, or another agency that insures or guarantees loans.

“Section 57.004. ORGANIZATIONS ELIGIBLE FOR ASSISTANCE. (a) To be eligible for assistance from a corporation organized under this chapter, an agricultural enterprise must be a cooperative organized under Chapter 51 or 52 of this code or under federal law, an individual agricultural producer, a partnership, a corporation, or a joint venture by any of those organizations, at least 50 percent of the ownership, partnership holdings, assets, or outstanding stock of which is owned or controlled by agricultural producers who provide or plan to provide agricultural products or by-products as raw material, feedstock, commodities, or intermediate goods to be processed, prepared, refined, converted, packaged, graded or labeled, shipped, marketed, or used in the manufacture of other finished or intermediate products.

“(b) Notwithstanding any other provision of this chapter, if the agricultural enterprise relates to fish and other seafood products, the Texas Parks and Wildlife Commission shall review such enterprise for the potential impact of the enterprise upon the existing marine and biological ecosystem to be affected by the enterprise and the environmental impact of the enterprise upon the various fisheries and ecological factors in the area to be directly or indirectly affected by the enterprise. Based on this potential impact, the Texas Parks and Wildlife Commission shall issue notice of its approval or disapproval of such enterprise. Affirmative approval by the Texas Parks and Wildlife Commission of the agricultural enterprise shall be a condition precedent to the eligibility of the enterprise for assistance from a corporation organized under this chapter.

“Section 57.005. EFFECT ON POWERS GRANTED BY OTHER LAW. The powers conferred by this chapter are in addition and supplementary to, and the limitations by this chapter do not affect, the powers conferred by any other general, special, or local law.

“[Sections 57.006-57.010 reserved for expansion]

“SUBCHAPTER B. AGRICULTURAL DEVELOPMENT BOARD

“Section 57.011. COMPOSITION. The Agricultural Development Board is composed of three members appointed by the commissioner. One member must have served at least five years as an officer of a financial institution in this state. One member must have at least five years’ experience in agricultural production. One member must have at least five years’ experience in the food or fiber marketing or processing industry.

“Section 57.012. TERM OF OFFICE. A member of the board serves a two-year term expiring on January 31 of odd-numbered years.

“Section 57.013. PER DIEM AND EXPENSES. A member of the board is entitled to receive a per diem for each day that the member engages in the business of the board, plus reimbursement for actual and necessary expenses incurred by the member in performing the member’s duties.

“[Sections 57.014-57.020 reserved for expansion]

“SUBCHAPTER C. CREATION OF CORPORATION; DISSOLUTION

“Section 57.021. APPLICATION TO COUNTY COMMISSIONERS. (a) When at least three individuals, each of whom is a citizen of the State of Texas and at least 18 years of age, file with the commissioners court of the county in which the individuals reside a written application seeking to create a corporation under this chapter, the commissioners court shall consider the application. If the commissioners court by resolution determines that it is wise, expedient, necessary, or advisable that the corporation be formed, it shall approve the application. After the application is approved, the articles of incorporation for the corporation may be filed as provided by Section 57.024 of this code. Only one corporation may be created in each county under this chapter. A county may not lend its credit or grant any public money or thing of value in aid of a corporation created under this chapter.

“(b) Because the legislature wishes to encourage the creation of a corporation to serve more than one county, an application for a corporation to serve more than one county may be submitted under Subsection (a) of this section. If the commissioners court in each county described in the application adopts a resolution under Subsection (a) of this section, the corporation shall serve all of the counties described in the application.

“(c) A commissioners court receiving an application for creation of a corporation may deliver notice of the application to any adjoining county or to any county within the state that has agricultural enterprises similar to those in the county. If the commissioners court of a county notified under this subsection desires to be served by the corporation, it may adopt a resolution requesting that the county be served by the corporation.

“Section 57.022. ARTICLES OF INCORPORATION. (a) The articles of incorporation of a corporation must include:

- “(1) the name of the corporation;
- “(2) a statement that the corporation is a public nonprofit corporation;
- “(3) the period of duration, which may be perpetual;
- “(4) a statement that the corporation is organized solely to carry out the purposes of this chapter and the name or names of the county or counties to be served by the corporation;
- “(5) a statement that the corporation is to have no members;
- “(6) a provision, not inconsistent with law, for the regulation of the internal affairs of the corporation;
- “(7) the street address of the corporation’s initial registered office, which must be in one of the counties being served by the corporation, and the name of the initial registered agent at the street address;
- “(8) the number of directors constituting the initial board of directors, the names and addresses of the persons who are to serve as the initial directors, a recital that each of them resides in a county served by the corporation, and the length of the term each director is to serve;
- “(9) the name and street address of each incorporator and a recital that each of them resides in a county approving creation of the corporation; and
- “(10) a recital that a resolution approving the form of the articles of incorporation has been duly adopted by the commissioners court of each county served by the corporation and the date of the adoption of each resolution.

“(b) The articles of incorporation need not state any of the corporate powers granted to the corporation by this chapter. The articles of incorporation may prohibit the exercise by the corporation of a power granted to the corporation by this chapter.

“(c) If a provision in the articles of incorporation is inconsistent with a bylaw, the provision in the articles of incorporation controls.

“Section 57.023. INCORPORATORS AND INITIAL BOARD OF DIRECTORS. (a) Three or more residents of a county who are at least 18 years of age may act as incorporators of a corporation under this chapter by signing, verifying, and delivering in duplicate to the secretary of state articles of incorporation for the corporation. An incorporator may be a member of the commissioners court or an officer or employee of the county.

“(b) If the corporation serves more than one county, the initial board of directors must consist of at least one resident from each county served by the corporation.

“Section 57.024. FILING ARTICLES; CERTIFICATION. (a) The incorporators of a corporation under this chapter shall deliver duplicate originals of the articles of incorporation and a \$25 fee to the secretary of state. If the secretary of state finds that the articles of incorporation conform to this chapter, he shall:

- “(1) endorse on each duplicate original the word ‘Filed’ and the month, day, and year of the filing;

“(2) file one of the duplicate originals in his office; and

“(3) issue a certificate of incorporation and affix it to the other duplicate original.

“(b) The secretary of state shall deliver the certificate of incorporation affixed to the articles of incorporation to the incorporators or their representative.

“(c) The corporate existence begins on issuance of the certificate of incorporation. The certificate of incorporation is conclusive evidence that all conditions precedent required to be performed by the county or counties and the incorporators have been performed and that the corporation has been duly incorporated under this chapter. The corporation constitutes a public instrumentality and nonprofit corporation under the name set out in the articles of incorporation. The corporation does not constitute a county, city, or other political corporation or subdivision of the state, but the corporation is authorized to issue bonds and to carry out the public purposes for which it is incorporated on behalf and for the benefit of the general public, the county, and the state.

“Section 57.025. **DISSOLUTION.** (a) When the board of directors of a corporation incorporated under this chapter by resolution determines that the purposes for which the corporation was formed have been substantially met and all bonds issued and all obligations incurred by the corporation have been fully paid and performed, the board shall execute and file for record in the office of the secretary of state a certificate of dissolution reciting the determination and declaring the corporation to be dissolved.

“(b) The certificate of dissolution must be executed under the corporate seal of the corporation.

“(c) On the filing of the certificate of dissolution, the corporation is dissolved, the title to all funds and property owned by the corporation at the time of the dissolution vests in the county or counties that it served, and possession of the funds and property shall be delivered to the county or counties.

“[Sections 57.026-57.040 reserved for expansion]

“SUBCHAPTER D. ARTICLES OF AMENDMENT

“Section 57.041. **METHOD OF AMENDMENT.** (a) The articles of incorporation may at any time be amended to make changes and add any provision that might have been included in the original articles of incorporation. An amendment may be made in the manner provided by Subsection (b), (c), or (d) of this section.

“(b) The board of directors of the corporation may file with the commissioners court of each county served by the corporation a written application seeking permission to amend the articles of incorporation. The application must specify the amendment proposed to be made. The commissioners court shall consider the application, and if the court by resolution determines that it is wise, expedient, necessary, or advisable that the proposed amendment be made, the court may authorize the amendment to be made and approve the form of the proposed amendment. The board of directors of the corporation may then amend the articles of incorporation by adopting the amendment at a meeting of the board of directors and delivering the articles of amendment to the secretary of state.

“(c) The commissioners court of a county served by the corporation or each of the commissioners courts of all counties served by the corporation may, at its sole discretion, alter or change the structure, organization, programs, or activities of the corporation, including the power to terminate the corporation, subject to any limitation on the impairment of contracts entered into by the corporation. The commissioners courts may make the change by adopting an amendment to the articles of incorporation of the corporation and delivering the articles of amendment to the secretary of state.

“(d) The commissioners court of a county served by the corporation may, subject to any limitation on the impairment of contracts entered into by the corporation, adopt an amendment to the articles of incorporation of the corporation for the sole purpose of removing the county from being served by the corporation and deliver the articles of amendment to the secretary of state.

“Section 57.042. **AMENDMENT: EXECUTION AND CONTENTS.** The articles of amendment must be executed in duplicate by the president or vice-president and by the secretary or an assistant secretary of the corporation or by the county judge and the county clerk as applicable. The articles of amendment must be verified by one of the officers signing the articles and shall include:

“(1) the name of the corporation;

“(2) if the amendment alters any provision of the original or amended articles of incorporation, an identification by reference or description of the altered provision and a statement of its text as it is amended;

“(3) if the amendment is an addition to the original or amended articles of incorporation, a statement of that fact and the full text of each provision added; and

“(4) the date of the meeting of the board of directors or the commissioners court of the county at which the amendment was adopted and a statement that the amendment received the vote of a majority of the directors or the members of the commissioners court of the county who were in office at the time of the vote.

“Section 57.043. **AMENDMENT; FILING AND CERTIFICATION.** (a) The board of directors of the corporation or the commissioners court that adopted the articles of amendment shall deliver duplicate originals of the articles of amendment and a \$25 fee to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, he shall:

“(1) endorse on each duplicate original the word ‘Filed’ and the month, day, and year of the filing;

“(2) file one of the duplicate originals in his office; and

“(3) issue a certificate of amendment and affix it to the other duplicate original.

“(b) The secretary of state shall deliver the certificate of amendment affixed to the duplicate original of the articles of amendment to the corporation or its representative.

“(c) On issuance of the certificate of amendment by the secretary of state, the amendment is effective and the articles of incorporation are amended in accordance with the articles of amendment.

“Section 57.044. **EFFECT OF AMENDMENT ON LITIGATION.** An amendment does not affect an existing cause of action in favor of or against the corporation or a pending suit to which the corporation is a party. In the event the corporate name is changed by amendment, a suit brought by or against the corporation under its former name is not abated.

“[Sections 57.045-57.060 reserved for expansion]

“SUBCHAPTER E. CORPORATE DIRECTORS

“Section 57.061. **COMPOSITION.** (a) The corporation must have a board of directors in which all powers of the corporation are vested.

“(b) The board of directors may consist of any number of directors, not less than three, each of whom must be a resident of a county served by the corporation.

“(c) A director may be a member of the commissioners court or an officer or employee of a county.

“(d) After the term of office of the initial board of directors has expired, the commissioners court shall appoint the directors in the manner and for the terms provided by the articles of incorporation or the bylaws.

“Section 57.062. **CLASSES; TERM OF OFFICE.** (a) Directors may be divided into classes and the terms of office of the several classes need not be uniform.

“(b) Each director shall hold office for the term for which he is appointed or until his successor is appointed and has qualified.

“Section 57.063. **REMOVAL; VACANCY.** (a) A director may be removed from office under any procedure provided by the articles of incorporation or bylaws.

“(b) A vacancy occurring on the board of directors shall be filled by appointment by the commissioners court in the manner provided by the articles of incorporation or the bylaws.

“Section 57.064. **QUORUM; MAJORITY VOTE.** (a) A majority of the directors constitutes a quorum.

“(b) When a quorum is present, action may be taken by a majority vote of the directors present.

“Section 57.065. **MEETINGS.** (a) Meetings of the board of directors, regular or special, may be held in or out of the state.

“(b) Regular meetings may be held with or without notice as prescribed by the bylaws. Special meetings may be held only with notice prescribed by the bylaws.

“Section 57.066. **OFFICERS.** (a) The officers of the corporation shall consist of a president, one or more vice-presidents, a secretary, a treasurer, and other officers and assistant officers that the board of directors determines are necessary.

“(b) Each officer shall be selected at the time, in the manner, and for the term prescribed by the articles of incorporation or the bylaws.

“Section 57.067. **ORGANIZATIONAL MEETING.** (a) After the issuance of the certificate of incorporation, an organizational meeting of the board of directors named in the articles of incorporation shall be held at the call of a majority of the incorporators for the purpose of adopting bylaws, selecting officers, and for other purposes as may come before the meeting.

“(b) The incorporators calling the meeting shall before the third day before the meeting deliver by mail notice of the meeting to each director named in the articles of incorporation. The notice must state the time and place of the meeting.

“[Sections 57.068-57.080 reserved for expansion]

“SUBCHAPTER F. CORPORATE POWERS, DUTIES, AND PRIVILEGES

“Section 57.081. *GENERAL POWERS.* A corporation incorporated under this chapter has all of the rights, powers, privileges, authority, and functions given by the general laws of this state to nonprofit corporations incorporated under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes). To the extent that the general laws conflict or are inconsistent with this chapter, this chapter prevails. In addition, a corporation incorporated under this chapter has the power to:

“(1) have perpetual succession by its corporate name, unless a limited period of duration is stated in its articles of incorporation;

“(2) sue and be sued, complain, and defend in its corporate name;

“(3) have a corporate seal which may be altered at pleasure and use the seal by impressing or affixing it or a facsimile on or to an instrument required to be executed by the corporate officers;

“(4) purchase, receive, lease, acquire, own, hold, improve, use, and deal in or with real or personal property or any interest in property, wherever situated;

“(5) sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets;

“(6) purchase, receive, subscribe for, acquire, own, hold, vote, use, employ, mortgage, lend, pledge, sell, dispose of, and otherwise use or deal in or with shares or other interests in or obligations of corporations, whether for profit or not for profit, associations, partnerships, individuals, or obligations of the United States or of another government, state, political subdivision, territory, government district, or instrumentality of a government;

“(7) make contracts and incur liabilities, borrow money at rates of interest as the corporation may determine, issue notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises, and income;

“(8) lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds loaned or invested;

“(9) elect or appoint officers and agents of the corporation for a period of time as the corporation may determine, define their duties, and fix their compensation;

“(10) make, alter, amend, and repeal bylaws, not inconsistent with its articles of incorporation or with this chapter, for the administration and regulation of the affairs of the corporation;

“(11) make donations for the public welfare or for charitable, scientific, or educational purposes;

“(12) plan, conduct research, study, develop, and promote the establishment of agricultural enterprises or facilities;

“(13) acquire and contract and enter into advance commitments to acquire loans for agricultural enterprises owned by lending institutions at a purchase price and on other terms and conditions as shall be determined by the corporation or its agent;

“(14) make and contract and enter into advance commitments to make loans for agricultural enterprises that were originated and serviced by lending institutions;

“(15) make and execute contracts with lending institutions for the origination, administration, and servicing of loans for agricultural enterprises and pay the reasonable value of services rendered under those contracts;

“(16) make loans to lending institutions that are fully secured in the same manner as deposits of public funds of the county to the extent not secured by loan insurers under terms and conditions which, in addition to other conditions determined by the corporation, require the lending institutions to use substantially all of the net proceeds of the loans for the making of loans for agricultural enterprises in an aggregate principal amount substantially equal to the amount of the net proceeds;

“(17) establish in resolutions relating to the issuance of bonds or in financing documents relating to the issuance of bonds standards and requirements applicable to the making or purchase of loans for agricultural enterprises or the making of loans to lending institutions that the corporation determines are necessary or desirable, including:

“(A) the time period during which a lending institution must make commitments and disbursements for a loan for an agricultural enterprise;

“(B) the location and other characteristics of a facility to be financed by a loan for an agricultural enterprise;

“(C) the terms and conditions of a loan for an agricultural enterprise to be made or acquired;

“(D) the amount and type of insurance coverage required on a facility, a loan for an agricultural enterprise, and bonds;

“(E) the form of a representation and warranty of a lending institution confirming compliance with the standards and requirements;

“(F) restrictions on the interest rate and other terms of a loan for an agricultural enterprise and the return realized from the loan by a lending institution;

“(G) the type and amount of collateral security to be provided to assure repayment of a loan from the corporation and repayment of bonds; and

“(H) other matters related to the making or purchase of a loan for an agricultural enterprise or the making of a loan to a lending institution as determined necessary and relevant by the corporation or the board;

“(18) require from each lending institution from which a loan for an agricultural enterprise is to be purchased or to which a loan is to be made the submission of evidence satisfactory to the corporation of the ability and intention of the lending institution to make a loan for an agricultural enterprise and the submission, in the time period specified by the corporation for making disbursements for loans for agricultural enterprises, of evidence satisfactory to the corporation of the making of a loan for an agricultural enterprise and of compliance with the standards and requirements established by the corporation;

“(19) issue corporate bonds to defray in whole or in part the costs of an agricultural enterprise or facility, whether or not the corporation holds title to the agricultural enterprise or facility, and the costs of purchasing or funding the making of loans for agricultural enterprises and designate appropriate names for the bonds;

“(20) rent, lease, sell, or otherwise dispose of a facility or agricultural enterprise in whole or in part or loan sufficient funds to a person to defray in whole or in part the costs of an agricultural enterprise or the costs of purchasing loans for agricultural enterprises, so that the rent or other revenue derived from the facility or loans for agricultural enterprises, together with any insurance proceeds, reserve accounts, and earnings on the revenue, produces revenue and receipts in an amount sufficient to pay promptly at maturity the principal, interest, and redemption premiums, if any, on all bonds issued;

“(21) pledge all or any part of the revenue, receipts, or resources of the corporation, including the revenue and receipts received from a facility or a loan for an agricultural enterprise to the punctual payment of bonds and the interest and redemption premiums, if any, on the bonds;

“(22) mortgage, pledge, or grant security interests in a facility, loan for an agricultural enterprise, note, loan insurance, or other property in favor of the holder of a bond issued under this chapter;

“(23) sell and convey for a price and at a time that the board of directors of the corporation may determine a facility or a loan for an agricultural enterprise, including without limitation the sale and conveyance of a facility or loan subject to a mortgage, pledge, or security interest, if any, as provided by the resolution relating to the issuance of the bonds;

“(24) issue corporate bonds to refund at any time, including advance refunding, in whole or in part bonds issued by the corporation;

“(25) apply for and accept on its own behalf or on behalf of any person advances, loans, grants, contributions, guarantees, rent supplements, mortgage assistance, and any other form of financial assistance from the federal government, the state, a county or city, any other public or quasi-public body, corporation, or foundation, or any other source, public or private, including any person, for the purposes of this chapter, and to include in a contract for financial assistance conditions that it determines are reasonable and appropriate and not inconsistent with the purposes of this chapter;

“(26) make and execute contracts and other instruments necessary or convenient to the exercise of any of the powers granted by this chapter;

“(27) indemnify a director, officer, or former director or officer of the corporation for expenses and costs, including attorney’s fees, actually and necessarily incurred by the director or officer in connection with any claim asserted against the director or officer for being or having been a director or officer, unless the director or officer is guilty of negligence or misconduct with respect to the matter in which indemnity is sought; and

“(28) exercise all powers necessary or appropriate to effectuate the purposes for which the corporation is organized.

“Section 57.082. REGISTERED AGENT. (a) The corporation shall maintain a registered office and registered agent in accordance with Article 2.05, Texas Non-Profit Corporation Act (Article 1396-2.05, Vernon’s Texas Civil Statutes).

“(b) The corporation may change its registered office and registered agent in accordance with Article 2.06, Texas Non-Profit Corporation Act. Process may be served on the corporation in accordance with Article 2.07, Texas Non-Profit Corporation Act.

“Section 57.083. **INVESTMENT OF FUNDS.** *The corporation or a trustee or custodian on behalf of the corporation may invest funds held by it as provided by a resolution of the board of directors.*

“Section 57.084. **PUBLIC BUILDING LAWS NOT APPLICABLE.** *The acquisition, construction, or rehabilitation of a facility or a loan for an agricultural enterprise is not subject to a requirement relating to public buildings, structures, grounds, works, or improvements imposed by the laws of this state. A requirement of competitive bidding or restriction imposed in the procedure for award of contracts for the purpose of the lease, sale, or other disposition of property of a county is not applicable to an action taken under this chapter.*

“Section 57.085. **TAX EXEMPTION.** (a) *The creation of a corporation under this chapter is for the benefit of the people of this state, the improvement of their health and welfare, and the promotion of the economy. Those purposes are public purposes and the corporation, being a public instrumentality and nonprofit corporation, will be performing an essential governmental function on behalf and for the benefit of the general public, the county, and the state. The corporation and the property owned by it, the income from the property, bonds issued by it, and the income from the bonds are exempt from the franchise tax, license and recording fees, and all other taxes imposed by the State of Texas or a political subdivision of this state, as an institution of purely public charity within the tax exemption of Article VIII, Section 2, of the Texas Constitution.*

“(b) *A facility, including a leasehold estate in the facility, owned by a corporation which would otherwise be taxable to the corporation under Title 1 of the Tax Code shall be assessed to the user of the facility or, if there is more than one user, to the users of the facility in proportion to the value of the rights of the users to occupy, operate, manage, or employ the facility. The user of a facility is considered to be the owner of the facility for the purposes of sales and use taxes for the construction of the facility and the sale, lease, or rental of the facility and other taxes levied or imposed by this state or a political subdivision of this state.*

“Section 57.086. **NONPROFIT CORPORATION.** (a) *A corporation incorporated under this chapter is a public nonprofit corporation. Dividends shall not be paid and the net earnings of the corporation may not be distributed to or enure to the benefit of a director or officer or other person, association, or corporation, except in reasonable amounts for services rendered. In the event the board of directors of the corporation determines that sufficient provision has been made for the full payment of the expenses, bonds, and other obligations of the corporation, then any net earnings of the corporation accruing after the determination shall be paid to the county or counties served by the corporation.*

“(b) *This section does not prevent the board of directors from transferring all or any part of its property in accordance with the terms of a contract or agreement entered into by the corporation.*

“Section 57.087. **OTHER POWERS UNRESTRICTED.** (a) *This chapter does not restrict or limit any powers that the corporation might otherwise have under any law of this state, but is cumulative of those powers.*

“(b) *This chapter does not deprive the state or its governmental subdivisions of their respective police powers over property of a corporation or impair any power over the property possessed by an official or agency of the state or its governmental subdivisions.*

“Section 57.088. **PUBLIC LIABILITY FOR CORPORATE ACTS.** *A county, the commissioner, the board, or the State of Texas may not be held liable in any manner for the bonds of a corporation issued under this chapter. None of the corporation's agreements or obligations shall be construed to constitute an agreement, obligation, or indebtedness of a county, the commissioner, the board, or this state.*

“[Sections 57.089-57.100 reserved for expansion.]

“SUBCHAPTER G. BONDS

“Section 57.101. **ISSUANCE AND SALE.** (a) *The board of directors of the corporation may by resolution authorize the exercise of any or all powers granted by this chapter and issue bonds under this chapter.*

“(b) *The bonds shall bear interest at a rate or rates authorized by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes), and may be payable at the times, be in one or more series, bear the date or dates, mature at the time or times, be payable in the medium of payment at the place or places, carry the registration privileges, be subject to the terms of redemption at the premiums, be executed in the manner, contain the terms, covenants, and conditions, and be in the form that the resolution provides.*

“(c) *The bonds may be sold at public or private sale in the manner and on the terms that are provided by the resolution.*

“(d) *Pending the preparation of definitive bonds, interim receipts or certificates in the form and with the provisions that are provided by the resolution may be issued to the purchaser or purchasers of bonds sold under this chapter.*

“Section 57.102. REFUNDING BONDS. (a) The corporation is authorized to issue, sell, and deliver its bonds for the purpose of refunding any outstanding bonds of the corporation, including the payment of any redemption premium and any interest accrued or to accrue to the date of redemption of the bonds.

“(b) The issuance of the refunding bonds, the rights of the holders of the bonds, and the rights, duties, and obligations of the corporation with respect to the bonds are governed by this chapter as far as applicable.

“(c) In the discretion of the corporation, refunding bonds may be issued in exchange or substitution for outstanding bonds or may be sold and the proceeds used for the purpose of paying or providing for the redemption of outstanding bonds.

“Section 57.103. APPROVAL AND REGISTRATION. (a) Before bonds are issued under this chapter, the Agricultural Development Board must approve the bonds. If the bonds are to be issued for the purpose of providing facilities, the board must approve the contents of any lease, sale, or loan agreement made in connection with the bonds. If the bonds are to be issued for the purpose of providing money for loans for agricultural enterprises, the board must approve the contents of the documents establishing the fund and programs. The board shall adopt rules setting forth minimum standards for project eligibility, for lease, sale, and loan agreements and loan programs, and for guidelines with respect to the business experience, financial resources, and responsibilities of the lessee, purchaser, or borrower under an agreement or of a lending institution under a loan program. The board may not approve an agreement unless the board finds that the project to be financed or the loan program furthers the purpose of this chapter. A corporation may appeal an adverse ruling or decision of the board under this subsection to a district court in Travis County. In an appeal under this subsection, the substantial evidence rule applies. Rules, guidelines, and amendments promulgated by the board are not effective until they have been filed with the secretary of state.

“(b) The corporation may submit a transcript of proceedings in connection with the issuance of the bonds to the board and request that the board approve the bonds. On filing a request for the board's approval of the bonds, the corporation shall pay to the board a nonrefundable filing fee of \$1,500. If the board refuses to approve the bond issue solely on the basis of law, the corporation may seek a writ of mandamus from the Supreme Court of Texas.

“(c) The commissioner may use all funds acquired under Subsection (b) of this section for the administration of this chapter.

“(d) The board by rule shall require a corporation issuing bonds under this chapter to file fee schedules and bond procedures. Bond counsel and financial advisors participating in an issue must be mutually acceptable to the corporation and the user or lending institution.

“(e) Before bonds are delivered to the purchasers, the record relating to the bonds shall be examined by the attorney general and the record and bonds shall be approved by the attorney general. After the bonds are approved by the attorney general, they shall be registered in the office of the comptroller of public accounts.

“Section 57.104. COVENANTS. (a) A resolution authorizing the issuance of bonds under this chapter may contain appropriate covenants relating to:

“(1) the use and disposition of the proceeds of the bonds and the revenues and receipts from a facility or loan for an agricultural enterprise for which the bonds are issued, including the creation and maintenance of reserves;

“(2) the issuance of additional bonds relating to a facility or rehabilitation, improvements, renovations, enlargements, or additions to the facility;

“(3) the maintenance and repair of a facility;

“(4) the insurance to be carried on a facility, a loan for an agricultural enterprise, or bonds and the use and disposition of insurance money;

“(5) the appointment of one or more banks or trust companies having the necessary trust powers as trustee or custodian for the benefit of a bondholder, paying agent, or bond registrar;

“(6) the investment of funds held by a trustee or custodian;

“(7) the maximum interest rate payable on a loan for an agricultural enterprise; and

“(8) the terms and conditions on which a holder of a bond or a trustee is entitled to the appointment of a receiver by a court of competent jurisdiction.

“(b) A covenant under Subdivision (8) of Subsection (a) of this section may provide that the receiver may enter and take possession of a facility or a loan for an agricultural enterprise and maintain, lease, sell, or otherwise dispose of the facility or loan, prescribe rentals or other payments, and collect, receive, and apply all income and revenue arising from the facility or loan.

“(c) A resolution authorizing the issuance of bonds may provide that the principal of and interest on the bonds must be secured by a mortgage, pledge, security interest, insurance agreement, or indenture of trust covering the facility or loan for an agricultural enterprise for which the bonds are issued, including improvements or extensions made after the bond issuance. A

mortgage, pledge, security interest, insurance agreement, or indenture of trust may contain the covenants and agreements necessary to safeguard properly the bonds that are provided by the resolution authorizing the bonds and shall be executed in the manner provided by the resolution.

“(d) This chapter, a resolution authorizing bonds, and a mortgage, pledge, security interest, or indenture of trust constitute a contract with the holder or holders of the bonds and the contract continues in effect until the principal of, the interest on, and the redemption premiums, if any, on the bonds have been fully paid or provision has been made for full payment. The duties of the corporation and its corporate authorities and officers under this chapter, a resolution authorizing bonds, and a mortgage, pledge, security interest, or indenture of trust are enforceable by a bondholder by mandamus, foreclosure of the mortgage, pledge, security interest, or indenture of trust or other appropriate suit, action, or proceeding in a court of competent jurisdiction.

“(e) A resolution authorizing bonds or a mortgage, pledge, security interest, or indenture of trust under which the bonds are issued may provide that the remedies and rights to enforcement may be vested in a trustee with full power of appointment for the benefit of the bondholders. The trustee is subject to the control of the holders or owners of outstanding bonds as provided in the resolution authorizing bonds or other document under which the bonds are issued.

“Section 57.105. SIGNATURE; VALIDITY. (a) Bonds issued under this chapter must bear the manual or facsimile signatures of the officers of the corporation required in the resolution authorizing the bonds. If an officer whose manual or facsimile signature appears on a bond ceases to be an officer before the bonds are delivered, the signature is still valid and sufficient for all purposes the same as if the officer had remained in office until the delivery of the bonds.

“(b) The validity of the bonds is not dependent on or affected by the validity or regularity of any proceedings relating to the facility or loan for an agricultural enterprise for which the bonds are issued.

“(c) The resolution authorizing the bonds may provide that the bonds shall contain a recital that they are issued under this chapter. The recital is conclusive evidence of the validity of the bonds and the regularity of the issuance.

“Section 57.106. LIEN. (a) Bonds issued under this chapter may be secured by a pledge of or lien on all or any part of the revenue, receipts, or resources of the corporation, including the revenue and receipts derived from a facility, a loan for an agricultural enterprise, or notes or other obligations of lending institutions or loan insurers for which the bonds are issued. The board of directors may provide in the resolution authorizing the bonds for the issuance of additional bonds to be equally and ratably secured by a lien on the revenue and receipts or may provide that the lien on the revenue and receipts is subordinate. Subordinate lien bonds also may be issued unless prohibited by a bond resolution.

“(b) A security interest granted by a corporation may be perfected in the manner specified by Chapter 9, Business & Commerce Code.

“Section 57.107. LIMITED OBLIGATIONS. (a) Bonds issued under this chapter are limited obligations of the corporation payable solely out of the revenue, receipts, and resources pledged to their payment. The holder of a bond issued under this chapter may not compel a county, the commissioner, or the board to pay the bond or the interest or redemption premium, if any, on the bond.

“(b) The bonds do not constitute an indebtedness, obligation, or a loan of credit of a county, city, or other municipal or political corporation or subdivision of the state, the commissioner, the board, or the State of Texas. The bonds shall not be construed to create a moral obligation on the part of a county, city, or other municipal or political corporation or subdivision of the state, the commissioner, the board, or the State of Texas for the payment of the bonds, and those entities are prohibited from making any payments on the bonds.

“(c) Each bond shall plainly state on its face that the bond is issued under this chapter and that it does not constitute an indebtedness, obligation, or loan of credit of a county, city, or other municipal or political corporation or subdivision of the state, the commissioner, the board, or the State of Texas.

“Section 57.108. BONDS AS SECURITIES. A bond issued under this chapter and a coupon, if any, representing interest on the bond, when delivered is a ‘security’ within the meaning of Chapter 8, Business & Commerce Code, and is an exempt security under The Securities Act (Article 581-1 et seq., Vernon’s Texas Civil Statutes). A contract under this chapter is not a security within the meaning of The Securities Act.

“Section 57.109. AUTHORIZED INVESTMENTS. A bond issued under this chapter is a legal and authorized investment for a bank, savings bank, trust company, insurance company, fiduciary, trustee and guardian, and sinking fund of a city, town, village, county, school district, and other political corporation or subdivision of the State of Texas. The bond may be used to secure the deposit of any and all public funds of the State of Texas and any and all public funds of a city, town, village, county, school district, and other political corporation or subdivision of the

State of Texas, and the bond is lawful and sufficient security for the deposits at its face value when accompanied by all unmatured coupons appurtenant to the bond.”

(b) Chapter 384, Acts of the 68th Legislature, Regular Session, 1983 (Article 1528k, Vernon’s Texas Civil Statutes), is repealed.

SECTION 6. (a) Title 3, Human Resources Code, is amended to codify Chapter 451, Acts of the 68th Legislature, Regular Session, 1983 (Article 4413(29dd), Vernon’s Texas Civil Statutes), by adding Subtitle D to read as follows:

“**SUBTITLE D. MISCELLANEOUS PROVISIONS**

“**CHAPTER 80. MISCELLANEOUS PROVISIONS**

“**Section 80.001. FINGERPRINTING FOR IDENTIFICATION.** (a) A state law enforcement agency or the law enforcement agency of any political subdivision of the state shall comply with the request of a person to have a record of his fingerprints made or a record of the fingerprints of a child or ward of the person made.

“(b) A law enforcement agency may not charge for the service provided under this section and may not retain records of fingerprints made under this section unless specifically requested to do so by the person requesting the service.”

(b) Chapter 451, Acts of the 68th Legislature, Regular Session, 1983 (Article 4413(29dd), Vernon’s Texas Civil Statutes), is repealed.

SECTION 7. (a) Chapter 17, Business & Commerce Code, is amended to codify Chapter 434, Acts of the 60th Legislature, Regular Session, 1967 (Article 9011, Vernon’s Texas Civil Statutes), by adding Subchapter F to read as follows:

“**SUBCHAPTER F. GOING OUT OF BUSINESS SALES**

“**Section 17.801. DEFINITION.** In this chapter, ‘going out of business sale’ means an offer to sell to the public or the sale to the public of goods, wares, and merchandise on the implied or direct representation by word of mouth or written or oral advertising that the sale is in anticipation of the termination of a business at its present location.

“**Section 17.802. FRAUDULENT REPRESENTATION.** A person may not fraudulently represent that he is conducting a going out of business sale.

“**Section 17.803. INVENTORY REQUIRED.** To conduct a going out of business sale, a person must file a sworn itemized inventory with the tax assessor-collector of the city or county that has jurisdiction of his location. The inventory must be accompanied by a filing fee of \$2.

“**Section 17.804. CONTENTS OF INVENTORY.** (a) The inventory must include:

- “(1) the name and address of the owner of the goods, wares, or merchandise to be sold;
- “(2) the name and address of the owner of the defunct business, the former stock in trade of which is to be offered for sale, and the full name of the defunct business;
- “(3) a description of the place where the liquidation sale is to be held;
- “(4) a statement of the beginning and ending dates of the liquidation sale; and
- “(5) a complete and detailed inventory of the goods, wares, and merchandise to be offered at the liquidation sale.

“(b) If the sale is to be conducted in the name of a person other than the owner of the business, the information under Subdivision (5) of Subsection (a) of this section may appear in the form of a copy of an itemized and descriptive bill of sale from the owner of the defunct business to another person conducting the liquidation sale.

“**Section 17.805. PERMIT.** (a) After receiving an inventory, the tax assessor-collector shall issue to the applicant a permit for a going out of business sale. The permit is valid for 120 days.

“(b) The holder of the permit may renew the permit for an additional 120 days if business has not terminated at the expiration of the permit. The holder must file with the tax assessor-collector an inventory of the remaining merchandise that includes the information required for the original inventory. The tax assessor-collector shall renew the permit on receipt of the inventory and a \$2 renewal fee.

“**Section 17.806. AMENDED INVENTORY.** On the expiration of a first permit or any subsequent renewal permit, the holder of the permit must file an amended inventory stating any additional items that have been offered for sale but were not included in the original inventory.

“**Section 17.807. EXCEPTIONS.** (a) This chapter does not apply to:

- “(1) a sale conducted by a public officer as part of his official duties;
- “(2) a sale for which an accounting must be made to a court of law;
- “(3) a sale conducted pursuant to an order of a court; or
- “(4) a foreclosure sale pursuant to a deed of trust or other lien.

“Section 17.808. **PENALTY.** (a) A person who violates this chapter commits an offense.

“(b) An offense under this section is a Class C misdemeanor.

“(c) Each day of violation constitutes a separate offense.”

(b) Chapter 434, Acts of the 60th Legislature, Regular Session, 1967 (Article 9011, Vernon's Texas Civil Statutes), is repealed.

SECTION 8. (a) Chapter 17, Business & Commerce Code, is amended to codify Chapter 855, Acts of the 68th Legislature, Regular Session, 1983 (Article 4476-10a, Vernon's Texas Civil Statutes), by adding Subchapter G to read as follows:

“SUBCHAPTER G. LABELING, ADVERTISING, AND SALE OF KOSHER FOODS

“Section 17.821. **DEFINITIONS.** In this chapter:

“(1) ‘Kosher food’ means food prepared and served in conformity with orthodox Jewish religious requirements.

“(2) ‘Label’ means a display of written, printed, or graphic matter on the immediate article or container of any food product.

“(3) ‘Person’ includes an individual, corporation, or association.

“(4) ‘Restaurant’ means a place where food is sold for on-premises consumption.

“(5) ‘Retail store’ means any retail grocery store, delicatessen, butcher shop, or other place where food is sold for off-premises consumption.

“(6) ‘Sell’ means to offer for sale, expose for sale, have in possession for sale, convey, exchange, barter, or trade.

“Section 17.822. **MEAT LABELING.** (a) If a person sells both kosher meat and nonkosher meat in the same retail store, the person shall clearly label each portion of kosher meat with the word ‘kosher.’ If unwrapped or unpackaged meat products are displayed for sale, the display case or container in which the meat is displayed must be clearly labeled with the word ‘kosher’ or ‘nonkosher,’ as applicable.

“(b) A person commits an offense if the person is required to label meat in accordance with this section and the person knowingly sells meat that is not labeled as provided in this section.

“Section 17.823. **SALE OF NONKOSHER FOOD.** A person commits an offense if the person knowingly or intentionally sells at a restaurant or a retail store a food product that is represented as kosher food and is not kosher food and the person either knows the food is not kosher food or was reckless about determining whether or not the food is kosher food.

“Section 17.824. **EXCEPTION.** It is an exception to the application of Subsection (b) of Section 17.822 or Section 17.823 of this code that a person describes or labels food as ‘kosher-style,’ and, if the description is written, the words ‘kosher’ and ‘style’ are of the same size type or script.

“Section 17.825. **CIVIL REMEDY.** A consumer aggrieved by a violation of this chapter may maintain a cause of action for damages in accordance with Section 17.50 of this code.

“Section 17.826. **PENALTY.** An offense under this chapter is punishable by the fine imposed for an offense under Subsection (d) of Section 17.12 of this code.”

(b) Chapter 855, Acts of the 68th Legislature, Regular Session, 1983 (Article 4476-10a, Vernon's Texas Civil Statutes), is repealed.

SECTION 9. (a) Subchapter D, Chapter 35, Business & Commerce Code, is amended to codify Chapter 700, Acts of the 61st Legislature, Regular Session, 1969 (Article 29c-1, Vernon's Texas Civil Statutes), by adding Section 35.42 to read as follows:

“Section 35.42. **UNSOLICITED GOODS: GIFT TO RECIPIENT.** (a) Unless otherwise agreed, a person has a right to refuse delivery of unsolicited goods and is not required to return the goods to the sender.

“(b) Goods received due to a bona fide mistake are to be returned, but the sender has the burden of proving the mistake.

“(c) If unsolicited goods are addressed to or intended for the recipient, the goods are considered a gift to the recipient, and the recipient may use them or dispose of them in any manner without obligation to the sender.

“(d) This section does not apply to goods substituted for goods ordered or solicited by the recipient.”

(b) Chapter 700, Acts of the 61st Legislature, Regular Session, 1969 (Article 29c-1, Vernon's Texas Civil Statutes), is repealed.

SECTION 10. Chapter 102, Human Resources Code, as added by Section 2, Chapter 235, Acts of the 68th Legislature, Regular Session, 1983, is redesignated as Chapter 104, Human Resources Code, renumbered, and amended to read as follows:

"CHAPTER 104 [102]. DISCLOSURE STATEMENTS BY RETIREMENT FACILITIES

"Section 104.001 [102.001]. DEFINITIONS. In this chapter:

"(1) 'Care' means furnishing shelter, food, clothing, medical attention, nursing services, medical services, entertainment, or other personal advantage or attention, except to an individual related by consanguinity or affinity.

"(2) 'Department' means the Texas Department of Human Resources.

"(3) 'Entrance fee' means an initial or deferred payment of a sum of money or property that assures the member a place in a facility for one or more years or for life.

"(4) 'Facility' means a place that undertakes to provide care to an individual for more than one year and requires an entrance fee.

"(5) 'Life interest' means an agreement between a purchaser and a facility by which the purchaser pays a fee for the right to occupy a space in the facility for life and includes a life lease, life membership, or life estate.

"(6) 'Long-term lease' means an agreement between a purchaser and a facility in which the purchaser pays a fee for the right to occupy a space in the facility for at least one year, but for less than the life of the purchaser.

"(7) 'Member' means a purchaser of, a nominee of, or a subscriber to a life interest or long-term lease in a facility, but does not include a lease that gives that individual a part ownership of the facility or voting rights in the operation of the facility.

"(8) 'Offer' or 'offer to sell' includes an attempt to offer to dispose of or solicitation of an offer to buy for value a life interest or long-term lease.

"(9) 'Person' means an individual, corporation, partnership, joint venture, association, joint-stock company, trust, or unincorporated organization.

"(10) 'Publish' means to disseminate to the public and includes a public issuance or circulation by newspaper, mail, radio, or television.

"(11) 'Sale' or 'sell' includes a contract or agreement of sale of, contract to sell, or disposition of a life interest or long-term lease in a facility.

"Section 104.002 [102.002]. OFFER OR SALE: WHEN MADE IN STATE. (a) An offer or sale of a life interest or long-term lease is made in this state:

"(1) when an offer to sell is made in this state or an offer to buy is accepted in this state; or

"(2) if the purchase is made in this state or the facility is or will be operated in this state.

"(b) An offer to sell is made in this state when the offer either originates from this state or is directed by the offeror to this state and received at the place to which it is directed. An offer to sell is accepted in this state when acceptance is communicated to the offeror in this state. An acceptance is communicated to the offeror in this state when the offeree directs it to the offeror in this state reasonably believing the offeror to be in this state and it is received at the place to which it is directed.

"(c) An offer to sell is not made in this state merely because a publisher circulates or there is circulated on his behalf in this state a bona fide newspaper or other publication of general, regular, and paid circulation that has had more than two-thirds of its circulation outside this state during the past 12 months or a radio or television program originating outside this state and received in this state.

"Section 104.003 [102.003]. DISCLOSURE STATEMENT. A person may not offer to sell or sell a life interest or long-term lease in this state unless the facility files with the department a disclosure statement that sets forth:

"(1) the name and address of the facility and the name and address of an affiliated parent or subsidiary corporation or partnership;

"(2) information concerning incorporation as prescribed by the department;

"(3) a statement of whether the facility or an affiliate, parent, or subsidiary is a religious, nonprofit, or proprietary organization;

"(4) information concerning the identity and experience of persons affiliated with the facility as prescribed by the department;

"(5) a statement of whether a person identified in the disclosure statement:

"(A) has been convicted of a felony or pleaded nolo contendere to a felony charge or been held liable or enjoined in a civil action by final judgment if the felony or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property; or

"(B) is subject to a currently effective injunctive or restrictive order or federal or state administrative order relating to business activity or health care as a result of an action brought by a public agency or department, including, without limitation, actions affecting

a license to operate a foster care facility, nursing home, retirement home, or home for the aged;

“(6) financial information of the facility, and financial information of a parent or subsidiary corporation or partnership affiliated with more than two facilities anywhere in the United States, updated at least semiannually, including:

“(A) a summary balance sheet for each entity;

“(B) a narrative explaining material facts relating to the balance sheet;

“(C) a statement of use of proceeds; and

“(D) a pro forma balance sheet for each entity where the department considers it appropriate;

“(7) a feasibility study unless waived by the department;

“(8) the level of participation in medicare or medicaid programs or both;

“(9) a statement of all fees required of members, including a statement of the entrance fee charged, the monthly service charges, and the proposed application of the proceeds of the entrance fee by the facility, and the plan by which the amount of the initial fee is determined if the initial fee is not the same in all cases;

“(10) changes or increases in fees;

“(11) the location and description of all physical property essential for and proposed to be used or being used in connection with the facility’s agreements to furnish care;

“(12) a statement describing the services provided and the extent to which medical care is furnished;

“(13) a statement describing the health and financial conditions required for a person to continue as a member;

“(14) a statement setting forth the conditions on which the facility may relet a member’s room;

“(15) a statement of the terms under which a life interest or long-term lease may be canceled by the member or the facility during the first six months of residence and the basis for establishing the amount of refund of the entrance fee;

“(16) a statement of the terms under which a life interest or long-term lease may be canceled by the member after the first six months of residency and the basis for establishing the amount of refund of the entrance fee;

“(17) a statement describing the circumstances under which the member will be permitted to remain in the facility in the event of possible financial difficulties of the member;

“(18) a statement of the fees that will be charged if the resident marries while at the facility and a statement of terms concerning the entry of a spouse to the facility and the consequences if the spouse does not meet the requirements for entry;

“(19) a statement of the terms under which a life interest or long-term lease is canceled by the death of the member and the basis for establishing the amount of refund, if any, of the entrance fee;

“(20) other material information required by the department;

“(21) other material information the person wishes to include;

“(22) a copy of the lease or membership agreement proposed to be used and all amendments to that agreement; and

“(23) a statement in type of not less than 12-point that registration does not constitute approval, recommendation, or endorsement by the department.

“Section 104.004 [102.004]. AMENDMENTS AND REVISED STATEMENTS. (a) A facility shall notify the department promptly in writing of a material change in the information contained in the application as originally submitted or amended. The department may further define by rule what is a material change for the purposes and circumstances under which a revised disclosure statement is required.

“(b) A facility shall file with the department semiannual financial statements and other financial information or reports that the department reasonably requires.

“Section 104.005 [102.005]. STATEMENTS TO BE VERIFIED. Each statement required by this chapter must be signed and verified by the chief operating officer of the facility.

“Section 104.006 [102.006]. REQUESTS FOR STATEMENTS. On receiving a request from an individual, the department or a facility shall furnish to the individual a copy of the disclosure statement that the facility most recently filed with the department in accordance with this chapter, including the amendments or revised statements.

“Section 104.007 [102.007]. EXEMPTED FACILITIES. This chapter does not apply to a facility or a part of a facility that the department determines is regulated by Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon’s Texas Civil Statutes).

“Section 104.008 [102.008]. OFFENSES. (a) A person commits an offense if the person:

“(1) knowingly fails to file a disclosure statement as required by Section 104.003 [102.003] of this chapter;

“(2) knowingly makes an untrue statement of a material fact in a disclosure statement required by Section 104.003 [102.003] of this chapter;

“(3) knowingly omits a material fact required to be set forth in a disclosure statement by Section 104.003 [102.003] of this chapter; or

“(4) knowingly fails to furnish a disclosure statement in accordance with Section 104.006 [102.006] of this chapter.

“(b) An offense under this section is a Class A misdemeanor.

“Section 104.009 [102.009]. RULES. The department shall adopt rules to implement this chapter.”

SECTION 11. Section 201.073, Agriculture Code, is amended by adding Subsection (d) to read as follows:

“(d) *The Election Code does not apply to elections under this section.*”

SECTION 12. (a) Section 59.021, Property Code, is amended to read as follows:

“Section 59.021. [STATUTORY] LIEN; *PROPERTY ATTACHED*. A lessor has a lien on all [the] property in a self-service storage facility for the payment of charges that are due and unpaid by the tenant.”

(b) The titles of Subchapters B and C, Chapter 59, Property Code, are amended to read as follows:

“SUBCHAPTER B. [STATUTORY] LIEN”

“SUBCHAPTER C. *ENFORCEMENT OF [CONTRACTUAL LANDLORD’S] LIEN*”

(c) Section 59.022, Property Code, is transferred to Subchapter C of Chapter 59 and relettered as Subsection (a) of Section 59.041, and Section 59.041, Property Code, is amended to read as follows:

“Section 59.041. *ENFORCEMENT OF [CONTRACTUAL LANDLORD’S] LIEN.* (a) *Except as provided by Subsection (b) of this section, a [Section 59.022. ENFORCEMENT OF STATUTORY LIEN. A]* lessor may enforce a lien under this chapter [subchapter] only under a judgment by a court of competent jurisdiction that forecloses the lien and orders the sale of the property to which it is attached.

“(b) A lessor may enforce a [contractual landlord’s] lien under this chapter by seizing and selling the property to which the lien is attached if:

“(1) *the seizure and sale are made under the terms of a contractual landlord’s [the] lien as [are] underlined or printed in conspicuous bold print in a written rental agreement between the lessor and tenant; and*

“(2) *the seizure and sale are made in accordance with this chapter.*”

(d) Subsection (b), Section 59.042, Property Code, is amended to read as follows:

“(b) If the tenant fails to satisfy the claim *before [until]* the 15th day after the day that the notice is delivered, the lessor must publish or post notices advertising the sale as provided by this subchapter.”

SECTION 13. (a) If neither S.B. No. 813 nor H.B. No. 1489, Acts of the 69th Legislature, Regular Session, 1985, becomes law, Section 1.03, Chapter 455, Acts of the 60th Legislature, Regular Session, 1967 (Article 5429b-2, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Section 1.03. *CITATION OF CODES.* A code may be cited by its name *preceded [followed]* by the specific part concerned. For example:

“(1) *Title 1, Business & Commerce Code [; Tit. 1];*

“(2) *Chapter 5, Business & Commerce Code [; Ch. 5];*

“(3) *Section 9.304, Business & Commerce Code [; Sec. 9.304];*

“(4) *Section 15.06(a), Business & Commerce Code [; Sec. 15.06(a)]; or*

“(5) *Section 17.18(b)(1)(B)(ii), Business & Commerce Code [; Sec. 17.18(b)(1)(B)(ii)].*”

(b) If either S.B. No. 813 or H.B. No. 1489, Acts of the 69th Legislature, Regular Session, 1985, becomes law, Section 311.004, Government Code, is amended to read as follows:

“Section 311.004. *CITATION OF CODES.* A code may be cited by its name *preceded [followed]* by the specific part concerned. Examples of citations are:

“(1) *Title 1, Business & Commerce Code [; Tit. 1];*

“(2) *Chapter 5, Business & Commerce Code* [~~Ch. 5~~];

“(3) *Section 9.304, Business & Commerce Code* [~~Sec. 9.304~~];

“(4) *Section 15.06(a), Business & Commerce Code* [~~Sec. 15.06(a)~~]; and

“(5) *Section 17.18(b)(1)(B)(ii), Business & Commerce Code* [~~Sec. 17.18(b)(1)(B)(ii)~~].”

SECTION 14. (a) Sections 1 through 12 of this Act are intended as a recodification only, and no substantive change in the law is intended by those sections.

(b) Sections 1 through 12 are enacted as part of the state's continuing statutory revision program, and Chapter 455, Acts of the 60th Legislature, Regular Session, 1967 (Article 5429b-2, Vernon's Texas Civil Statutes), applies to those sections.

SECTION 15. This Act takes effect September 1, 1985.

SECTION 16. 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 April 4, 1985, by the following vote: Yeas 31, Nays 0; passed the House on May 2, 1985, by the following vote: Yeas 136, Nays 2, one present not voting.

Approved: May 17, 1985

Effective: September 1, 1985