

CHAPTER 167

S.B. No. 892

AN ACT

relating to nonsubstantive additions to and corrections in enacted codes, including the nonsubstantive codification of various laws omitted from enacted codes and conforming codifications enacted by the 69th Legislature to other acts of that legislature.

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

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.01. This Act is enacted as part of the state's continuing statutory revision program under Chapter 323, Government Code. This Act is a revision for purposes of Article III, Section 43, of the Texas Constitution and has the purposes of:

- (1) codifying without substantive change various statutes that were omitted from enacted codes;
- (2) conforming codifications enacted by the 69th Legislature to other Acts of the legislature that amended the laws codified;
- (3) making necessary corrections to the codifications enacted by the 69th Legislature and
- (4) renumbering sections and articles of codes and the Revised Statutes that duplicate section or article numbers.

SECTION 1.02. The Code Construction Act (Chapter 311, Government Code) applies to this Act under the same circumstances as if this Act were a code governed by that Act

ARTICLE 2. CHANGES RELATING TO LEGISLATIVE TITLE,
GOVERNMENT CODE

SECTION 2.01. (a) Section 301.041, Government Code, is amended to conform with Chapter 8, Acts of the 69th Legislature, Regular Session, 1985, by adding Subsection (d) to read as follows:

(d) In filling a vacancy created under this section, the lieutenant governor or the speaker may appoint a senator or representative, as appropriate, other than a committee chairman designated by law to serve as a member of the Legislative Budget Board, Legislative Library Board, Legislative Audit Committee, Texas Legislative Council, or any other interim committee. An appointment made under this subsection does not constitute an appointment to any position other than that of a member of a board, council, or committee covered by this section.

(b) Chapter 8, Acts of the 69th Legislature, Regular Session, 1985, is repealed

SECTION 2.02. Subsection (b), Section 305.006, Government Code, is amended to conform a citation to the Election Code to read as follows:

(b) The report must contain the total expenditures under a category listed in this subsection that the registrant made to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action. The report must also include expenditures for the direct communications under a category listed in this subsection that other people made on the registrant's behalf if the expenditures were made with the registrant's consent or were ratified by the registrant. The expenditures must be stated in the following categories:

- (1) entertainment, including food, beverages, maintenance of a hospitality room, sporting events, theatrical and musical events, and any transportation, lodging, or admission expenses incurred in connection with the entertainment; and
- (2) gifts, awards, or loans, other than contributions as defined by Section 251.001 [237, Texas] Election Code [~~Article 14.01, Vernon's Texas Election Code~~].

SECTION 2.03. Subsection (c), Section 305.006, Government Code, is amended to conform that section to the law from which it was derived to read as follows:

(c) The report must also list the total expenditures made by the registrant or by other on the registrant's behalf and with the registrant's consent or ratification for broadcast or print advertisements, direct mailings, and other mass media communications if:

(1) the *communications* [~~expenditures~~] are made to a person other than a member, employee, or stockholder of an entity that reimburses, retains, or employs the registrant; and

(2) the communications support or oppose or encourage another to support or oppose pending legislation or administrative action.

SECTION 2.04. (a) Chapter 305, Government Code, is amended to codify Chapter 551, Acts of the 69th Legislature, Regular Session, 1985, by adding Section 305.010 to read as follows:

Sec. 305.010. TIMELINESS OF FILING REGISTRATIONS AND REPORTS. A registration or report filed by first-class United States mail or by common or contract carrier is timely if:

(1) *it is properly addressed with postage or handling charges prepaid; and*

(2) *it bears a post office cancellation mark or a receipt mark from a common or contract carrier indicating a time within the applicable filing period or before the applicable filing deadline or if the person required to file furnishes satisfactory proof that it was deposited in the mail or with a common or contract carrier within that period or before that deadline.*

(b) Section 6A, Chapter 442, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), as added by Chapter 551, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

SECTION 2.05. (a) Subtitle A, Title 3, Government Code, is amended to codify Article 5429b-3, Revised Statutes, by adding Chapter 306 to read as follows:

CHAPTER 306. LEGISLATIVE INFORMATION

Sec. 306.001. DEFINITION. In this chapter, "communication" includes conversation, correspondence, and electronic communication.

Sec. 306.002. APPLICATION. This chapter applies to records and communications collected and maintained by members of the legislature and the lieutenant governor on June 12, 1985, as well as to records made and communications received by those officials on or after that date.

Sec. 306.003. CONFIDENTIAL RECORDS. (a) Records of a member of the legislature or the lieutenant governor that are composed exclusively of memoranda of communications with residents of this state and of personal information concerning the person communicating with the member or lieutenant governor are confidential. However, the member or the lieutenant governor may disclose all or a part of a record to which this subsection applies, and that disclosure does not violate the law of this state.

(b) The method used to store or maintain a record covered by Subsection (a) does not affect the confidentiality of the record.

Sec. 306.004. PUBLIC DISCLOSURE PROHIBITED. (a) To ensure the right of the citizens of this state to petition state government, as guaranteed by Article I, Section 27, of the Texas Constitution, by protecting the confidentiality of communications of citizens with a member of the legislature or the lieutenant governor, the public disclosure of all or part of a written or otherwise recorded communication from a citizen of this state received by a member or the lieutenant governor in his official capacity is prohibited unless:

(1) the citizen expressly or by clear implication authorizes the disclosure;

(2) the communication is of a type that is expressly authorized by statute to be disclosed; or

(3) the official determines that the disclosure does not constitute an unwarranted invasion of personal privacy of the communicator or another person.

(b) This section does not apply to a communication to a member of the legislature or the lieutenant governor from a public official or public employee acting in an official capacity.

(c) A member or the lieutenant governor may elect to disclose all or part of a communication to which this section applies, and that disclosure does not violate the law of this state.

(b) Article 5429b-3, Revised Statutes, is repealed.

SECTION 2.06. (a) Chapter 316, Government Code, is amended to codify Chapter 234, Acts of the 69th Legislature, Regular Session, 1985, by adding Subchapter D to read as follows:

SUBCHAPTER D. APPROPRIATION OF UNOBLIGATED FUND BALANCES TO GENERAL REVENUE FUND

Sec. 316.031. LEGISLATIVE FINDING AND INTENT. (a) The legislature finds that, to ensure the efficient operation of state agencies and to provide for the necessary costs of state government operation, it is in the public interest to provide a means for periodic legislative review and control of unobligated cash balances and income held by state agencies in funds other than the general revenue fund.

(b) It is the intent of the legislature that:

(1) funds with an unobligated balance at the end of a fiscal year in excess of that amount necessary to fulfill an agency's statutory duties shall be identified within the General Appropriations Act by fund; and

(2) the amounts of unobligated actual or projected balances held in those funds in excess of the amounts determined by the legislature to be sufficient to fulfill statutory requirements shall be appropriated to the general revenue fund.

(c) Any appropriation of fund balances made under this subchapter is for the purpose of providing for the cost of operation of state government. The amount of an unobligated fund balance to be appropriated to the general revenue fund may be designated in the General Appropriations Act as a sum certain or designated through use of a formula or percentage.

Sec. 316.032. CONFLICTING LAWS SUSPENDED. (a) Any law that provides specific purposes for which a fund or revenue source may be used and expended and that restricts the use of revenues and balances is suspended to the extent that it conflicts with the provisions and intent of appropriations made under this subchapter in the General Appropriations Act.

(b) If the General Appropriations Act does not provide for the appropriation of unobligated fund balances to the general revenue fund, any transfer or appropriation of fund balances shall occur as specified by law.

Sec. 316.033. FUNDS EXCLUDED. This subchapter applies to funds established by state law, but does not apply to any portion of a fund derived from constitutionally dedicated revenues or to funds or fund balances that are:

(1) dedicated by the Texas Constitution;

(2) held in trust or escrow for the benefit of any person or entity other than a state agency;

(3) pledged to the payment of bonds, notes, or other debts;

(4) derived from gifts, donations, or endowments made to state agencies or institutions of higher education;

(5) pledged to the capital trust fund to be used for construction; or

(6) maintained by institutions of higher education, including the Texas State Technical Institute.

(b) Chapter 234, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

SECTION 2.07. (a) Chapter 316, Government Code, is amended to codify Chapter 815, Acts of the 68th Legislature, Regular Session, 1983 (Article 5429n, Vernon's Texas Civil Statutes), by adding Subchapter E to read as follows:

SUBCHAPTER E. ADJUSTMENT OF STATE FEES IN GENERAL APPROPRIATIONS ACT

Sec. 316.041. LEGISLATIVE FINDING AND INTENT. (a) The legislature finds that, to ensure the efficient operation of state agencies and institutions of higher education and to allow for the assessment of fees adequate to reimburse the state for the costs of state services and regulatory functions, it is in the public interest to

provide for the adjustment of state fees by the legislature in the General Appropriations Act. It is the intent of the legislature that fees be adjusted biennially in the General Appropriations Act in a manner that provides for the recovery of any increased costs to the state resulting from the performance of services and functions for which a fee is levied. It is the intent of the legislature that, to the extent that senate and house rules allow, each substantive committee shall retain jurisdiction over any adjustment in fees as part of the appropriations process.

(b) Any increase in the amount of a fee made under this subchapter is for the purpose of recovering, on an annual basis, the costs to the state agency or institution of higher education increasing the fee. Where fee amounts are increased on a percentage basis, fee amounts may be rounded to the nearest whole dollar.

Sec. 316.042. APPLICATION OF SUBCHAPTER. (a) This subchapter applies to all fees not set by the Texas Constitution, but does not apply to fees that are dedicated to pay bonded indebtedness.

(b) The General Appropriations Act may not specify the amount of a fee unless imposition of that fee is authorized by general law.

(c) This subchapter does not apply to tuition charged by institutions of higher education.

Sec. 316.043. AMOUNT OF FEE. (a) The amount of a fee covered by this subchapter is the amount specified for that fee in the General Appropriations Act. Fee adjustments authorized through the General Appropriations Act are only for the purpose of offsetting inflation.

(b) A law that specifies the amount of a fee subject to this subchapter is suspended to the extent that it conflicts with the amount of the fee specified in the General Appropriations Act.

(c) If the General Appropriations Act does not specify the amount of the fee, the fee is the amount specified by law.

(d) If a board of regents has the authority to establish a fee that falls within a statutory range, the amounts set under this subchapter constitute only the maximum amount for those fees.

Sec. 316.044. HEARINGS ON FEE INCREASES AT INSTITUTIONS OF HIGHER EDUCATION. Fees at institutions of higher education may not be increased unless a public hearing is held on the increase.

Sec. 316.045. REDUCTION IN CERTAIN AGENCY FEES. (a) Each state agency that sets the fees charged by that agency in amounts that are reasonable and necessary to cover the administrative costs of the agency shall review the amounts charged as fees on a biennial basis. The agency shall review the fees before the beginning of each state fiscal biennium and incorporate its recommendations based on that review in its budget request submitted to the Legislative Budget Board and the budget division of the governor's office.

(b) If the agency determines that the fees are set at a level that exceeds the administrative costs of the agency as of the date of the review, the agency shall reduce the amount of the affected fees to the appropriate level and shall charge the reduced fees during the subsequent biennium. Each agency shall give specific recognition to reductions in salary expenses resulting from statutorily directed employee attrition.

(b) Chapter 815, Acts of the 68th Legislature, Regular Session, 1983, as amended, is repealed.

SECTION 2.08. (a) Sections 321.005 and 321.006, Government Code, are amended to conform with Section 2, Chapter 843, Acts of the 69th Legislature, Regular Session, 1985, to read as follows:

Sec. 321.005. APPOINTMENT OF STATE AUDITOR. (a) The [Not earlier than February 1 or later than February 15 of each odd-numbered year, the] committee shall appoint a State Auditor to investigate all custodians of state funds, disbursing agents, and department personnel.

(b) The committee shall execute a written declaration of the person appointed State Auditor and file the declaration with the secretary of state.

(c) The State Auditor serves *at the will of* ~~[until a successor is appointed and qualifies.~~

~~[(d) The committee may discharge or remove the State Auditor at any time without a hearing and for any reason satisfactory to] the committee.~~

(d) ~~[(e)]~~ The committee shall fill any vacancy in the office of State Auditor.

(e) ~~[(f)]~~ A majority vote of the committee members is sufficient to exercise any action authorized by this section.

Sec. 321.006. REQUIREMENTS FOR APPOINTMENT. *To be eligible for appointment as* ~~[The person appointed] State Auditor, a person must~~:

~~[(1) have been a citizen and resident of the state for at least five years immediately before appointment;~~

~~[(2) be a certified public accountant of Texas with at least five years' experience as a certified public accountant immediately before appointment;~~

~~[(3)] have unquestioned integrity and moral character and must have had at least five years' experience:~~

~~(1) as a certified public accountant in this or another state; and~~

~~(2) in a professional or administrative position a major duty of which involved fiscal management, the review of fiscal management, or the auditing or review of operational efficiency or program performance; and~~

~~[(4) have sufficient experience in business and finance to properly discharge the functions of the office].~~

(b) Subsection (a), Section 321.008, Government Code, is amended to conform with Section 2, Chapter 843, Acts of the 69th Legislature, Regular Session, 1985, to read as follows:

(a) To qualify for office, the State Auditor must take the constitutional oath of office and execute a bond in *an amount determined by the committee to be sufficient to protect the state's interests,* ~~[the amount of \$25,000]~~ payable to the governor. The bond must be approved by the committee, be conditioned on the faithful discharge of his duties, and have a solvent surety company as surety. *At least once in each five-year period, the committee shall review the amount of the bond and adjust the amount as necessary to take account of changed conditions.*

(c) Section 2, Chapter 843, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

SECTION 2.09. (a) Section 321.014, Government Code, is amended to codify Section 8D, Chapter 293, Acts of the 48th Legislature, Regular Session, 1943 (Article 4413a-14D, Vernon's Texas Civil Statutes), by adding Subsection (h) to read as follows:

(h) The State Auditor shall conduct an audit of each department at least once in each state fiscal biennium.

(b) Section 8D, Chapter 293, Acts of the 48th Legislature, Regular Session, 1943, is repealed.

SECTION 2.10. (a) Chapter 321, Government Code, is amended to codify Section 15A, Chapter 293, Acts of the 48th Legislature, Regular Session, 1943 (Article 4413-20A, Vernon's Texas Civil Statutes), by adding Section 321.020 to read as follows:

Sec. 321.020. EVALUATION OF STATE AUDITOR'S OFFICE. (a) At least once in each six-year period, a comprehensive management evaluation shall be conducted to analyze the administration and operation of the State Auditor's office. The committee shall select an independent person or firm to perform the evaluation.

(b) The person or firm conducting an evaluation under this section shall file a report of the evaluation with the committee. The report is public information.

(b) Section 15A, Chapter 293, Acts of the 48th Legislature, Regular Session, 1943, is repealed.

SECTION 2.11. (a) Chapter 323, Government Code, is amended to codify Sections 3B, 3C, and 6A, Chapter 324, Acts of the 51st Legislature, Regular Session, 1949 (Article 5429b, Vernon's Texas Civil Statutes), by adding Sections 323.013 through 323.015 to read as follows:

Sec. 323.013. ELECTION INFORMATION PROVIDED TO COUNCIL. (a) On the written request of the council, the Secretary of State, a county clerk or county elections administrator, a city secretary, or a voter registrar shall provide to the council information or data maintained by the appropriate officer relating to voter registration, election returns for statewide, district, county, precinct, or city offices, or county election precincts, including precinct maps.

(b) The appropriate officer shall provide the requested information or data to the council as soon as practicable but not later than the 30th day after the date on which the request is received by that officer.

(c) The information or data shall be provided in a form approved by the council.

Sec. 323.014. COMPUTER ACCESS, INFORMATION, AND USE. (a) The council shall consider each application for direct access to a computer under its control in which confidential information is stored or processed or that is connected with another computer in which confidential information is stored or processed and solely shall determine whether or not to permit direct access by the applicant. Direct access to such a computer may not be permitted unless protection of confidential information is ensured.

(b) If public information of the council is stored in a computer-readable form, the council has exclusive authority to determine the form in which the information will be reproduced for the requestor of the information.

(c) Notwithstanding Section 9, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), the council has exclusive authority to determine the charge for direct access to a computer under its control and the charge for information reproduced for a requestor.

Sec. 323.015. COMPUTER SECURITY; PENALTY. (a) A person commits an offense if the person intentionally or knowingly gains access to information stored or maintained by a computer under the control of the council and the person is not authorized by the council to have access to that information.

(b) A person commits an offense if the person intentionally, knowingly, or recklessly damages, destroys, deletes, or alters or impairs access to or use of information stored or maintained by a computer under the control of the council and the person is not authorized by the council to do so.

(c) Subsection (b) does not apply to an interruption of utility service or other service that causes the damage, destruction, deletion, or alteration of or impairment of access to or use of the information unless the interruption was intended to have that result.

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

(b) Sections 3B, 3C, and 6A, Chapter 324, Acts of the 51st Legislature, Regular Session, 1949, are repealed.

SECTION 2.12. (a) Subdivision (1), Section 325.002, Government Code, is amended to conform with Section 3, Chapter 238, Acts of the 69th Legislature, Regular Session, 1985, to read as follows:

(1) "State agency" means:

(A) an agency that is expressly made subject to this chapter; ~~or~~

(B) a department, commission, board, or other agency, except a university system or an institution of higher education as defined by Section 61.003, Education Code, that:

(i) is created by statute after January 1, 1977;

(ii) is part of any branch of state government; and

(iii) has authority that is not limited to a geographical portion of the state; or

(C) a river authority created under Article XVI, Section 59, of the Texas Constitution and its board of directors as provided by Section 325.023.

(b) Section 3, Chapter 238, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

SECTION 2.13. (a) Chapter 325, Government Code, is amended to codify Section 1.22, Texas Sunset Act, as added by Section 2, Chapter 238, Acts of the 69th Legislature, Regular Session, 1985, by adding Section 325.022 to read as follows:

Sec. 325.022. REVIEW OF PROPOSED LEGISLATION CREATING REGULATORY AGENCY. (a) Each bill filed in a house of the legislature that would create a new state agency having regulatory authority or a new advisory committee to a state agency having regulatory authority shall be forwarded to the commission.

(b) The commission shall review the bill to determine if:

(1) the proposed regulatory and other functions of the agency or committee could be administered by one or more existing state agencies or advisory committees;

(2) the form of regulation, if any, proposed by the bill is the least restrictive form of regulation that will adequately protect the public;

(3) the bill provides for adequate public input regarding any regulatory function proposed by the bill; and

(4) the bill provides for adequate protection against conflicts of interest within the agency or committee.

(c) After reviewing the bill, the commission shall forward a written comment on the legislation to the author of the bill and to the presiding officer of the committee to which the bill is referred.

(b) Section 1.22, Texas Sunset Act, as added by Section 2, Chapter 238, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

SECTION 2.14. (a) Chapter 325, Government Code, is amended to codify Section 1.23, Texas Sunset Act, as added by Section 4, Chapter 238, Acts of the 69th Legislature, Regular Session, 1985, by adding Section 325.023 to read as follows:

Sec. 325.023. APPLICATION TO CERTAIN RIVER AUTHORITIES AND THEIR BOARDS OF DIRECTORS. (a) This section applies to the following river authorities and their boards of directors:

- (1) the Angelina and Neches River Authority;*
- (2) the Bandera County River Authority;*
- (3) the Brazos River Authority;*
- (4) the Central Colorado River Authority;*
- (5) the Guadalupe-Blanco River Authority;*
- (6) the Guadalupe River Authority;*
- (7) the Kimble County River Authority;*
- (8) the Lavaca-Navidad River Authority;*
- (9) the Lower Colorado River Authority;*
- (10) the Mason County River Authority;*
- (11) the Nueces River Authority;*
- (12) the Palo Duro River Authority;*
- (13) the Red River Authority of Texas;*
- (14) the Sabine River Authority;*
- (15) the San Antonio River Authority;*
- (16) the San Jacinto River Authority;*
- (17) the Trinity River Authority of Texas;*
- (18) the Upper Colorado River Authority; and*

(19) the Upper Guadalupe River Authority.

(b) A river authority covered by this section is subject to review under this chapter but may not be abolished under this chapter. The review shall be conducted as if the river authority were scheduled to be abolished September 1, 1991.

(c) Except as provided by Subsection (e), the board of directors of a river authority to which this section applies is subject to this chapter. Unless members of the board of directors are continued in office under this chapter, their membership expires September 1, 1991.

(d) When the membership of a board of directors expires under this chapter, the governor shall appoint a new board of directors, with each new appointee serving for the unexpired term of the appointee's predecessor. A member whose membership has expired under Subsection (c) is not eligible for reappointment under this subsection.

(e) If the members of the board of directors of a river authority were elected by the voters in the authority before September 1, 1985, the board is subject to review under this chapter but may not be abolished under this chapter. The review shall be conducted as if the board of directors were scheduled to be abolished September 1, 1991.

(f) Each director shall qualify by taking the official oath of office prescribed by the Texas Constitution or general law.

(b) Section 1.23, Texas Sunset Act, as added by Section 4, Chapter 238, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

SECTION 2.15. (a) Section 326.001, Government Code, is amended to conform with Chapter 961, Acts of the 69th Legislature, Regular Session, 1985, to read as follows:

Sec. 326.001. DEFINITION. In this chapter, "legislative agency" means:

- (1) the senate;
- (2) the house of representatives;
- (3) a committee, division, department, or office of the senate or house;
- (4) the Texas Legislative Council;
- (5) the Legislative Budget Board;
- (6) the Legislative Reference Library; ~~[or]~~
- (7) the office of the State Auditor; or
- (8) any other agency in the legislative branch of state government.

(b) Subsection (a), Section 326.002, Government Code, is amended to conform with Chapter 961, Acts of the 69th Legislature, Regular Session, 1985, to read as follows:

(a) A legislative agency may provide administrative, professional, clerical, data processing, and other services to another legislative agency with or without reimbursement and may transfer equipment, supplies, and materials to the other legislative agency with or without reimbursement.

(c) Chapter 961, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

SECTION 2.16. (a) Chapter 326, Government Code, is amended to codify Section 2A, Chapter 3, Acts of the 65th Legislature, Regular Session, 1977, as added by Section 3, Chapter 843, Acts of the 69th Legislature, Regular Session, 1985, by adding Section 326.003 to read as follows:

Sec. 326.003. COMMITTEE OF STATE AUDITOR'S OFFICE, LEGISLATIVE BUDGET BOARD, AND SUNSET ADVISORY COMMISSION. (a) The State Auditor's Office, Legislative Budget Board, and Sunset Advisory Commission shall form a committee to make recommendations relating to the coordination of the agencies' functions.

(b) The committee shall meet on a regular basis at least quarterly. The State Auditor shall call each meeting.

(c) Each agency shall designate a supervisory level staff member as its representative on the committee.

(d) *The committee shall submit its recommendations in writing to the head of each agency not later than one month after the date of a meeting.*

(b) Section 2A, Chapter 3, Acts of the 65th Legislature, Regular Session, 1977, is repealed.

SECTION 2.17. (a) Subtitle C, Title 3, Government Code, is amended to codify Article 5429p, Revised Statutes, by adding Chapter 327 to read as follows:

CHAPTER 327. LEGISLATIVE EDUCATION BOARD

Sec. 327.001. LEGISLATIVE EDUCATION BOARD. (a) The Legislative Education Board is an agency of the legislative branch of state government.

(b) The board is composed of:

- (1) the lieutenant governor;*
- (2) the speaker of the house of representatives;*
- (3) the chairman of the House Public Education Committee;*
- (4) the chairman of the Senate Education Committee;*
- (5) the chairman of the House Appropriations Committee;*
- (6) the chairman of the Senate Finance Committee;*
- (7) two state representatives appointed by the speaker; and*
- (8) two senators appointed by the lieutenant governor.*

Sec. 327.002. CHAIRMAN. The lieutenant governor and speaker of the house alternate serving as chairman and vice-chairman of the board. Each term as chairman is for two years concurrent with the fiscal biennium.

Sec. 327.003. QUORUM. A majority of the members of each house constitutes a quorum of the board for the transaction of business.

Sec. 327.004. MEETINGS. The board shall meet at least quarterly and at other times at the call of the chair.

Sec. 327.005. POWERS AND DUTIES. (a) The board shall oversee and review the implementation of legislative education policy, including fiscal policy, by state agencies that have the statutory duty to implement that policy. The board may require information and reports from state agencies as necessary to carry out its duties.

(b) For purposes of carrying out its duties, the board may administer oaths and issue subpoenas, signed by the chairman or vice-chairman, to compel the attendance of witnesses and the production of books, records, and documents. A subpoena of the board shall be served by a peace officer in the manner in which district court subpoenas are served. On application of the board, a district court of Travis County shall compel compliance with a subpoena issued by the board in the same manner as for district court subpoenas.

(c) The board shall make recommendations to the legislature concerning needed changes in legislative education policy.

(d) The Texas Legislative Council shall provide staff for the board as necessary to the performance of its duties.

(e) State agencies shall cooperate with and assist the board at the board's request.

Sec. 327.006. REVIEW OF CURRICULUM IMPLEMENTATION. The board shall biennially review the curriculum rules adopted by the State Board of Education under Section 21.101, Education Code, for the purpose of ensuring compliance with legislative intent.

(b) Article 5429p, Revised Statutes, is repealed.

SECTION 2.18. The following laws are repealed:

(1) Section 321.009 (to conform to Chapter 843, Acts of the 69th Legislature, Regular Session, 1985);

(2) Section 321.017 (to conform to Chapter 407, Acts of the 69th Legislature, Regular Session, 1985); and

(3) Sections 321.003, 322.002, 323.002, and 324.003 (to conform to Chapter 729, Acts of the 69th Legislature, Regular Session, 1985).

SECTION 2.19. In the following laws, the reference to "Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes)" or to "Chapter 422, Acts of the 63rd Legislature, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes)" is changed to "Chapter 305, Government Code":

(1) Subsection (e), Section 11.02, Texas Credit Union Act (Article 2461-11.02, Vernon's Texas Civil Statutes);

(2) Subsection (e), Section 2.001, Treasury Act (Article 4393-1, Vernon's Texas Civil Statutes);

(3) Subsection (d), Section 1.04, Article 4414b, Revised Statutes;

(4) Section 2.022, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes);

(5) Subsection (e), Section 8, Chapter 752, Acts of the 69th Legislature, Regular Session, 1985 (Article 4512k, Vernon's Texas Civil Statutes);

(6) Subsection (c), Section 1, Article 4583, Revised Statutes;

(7) Subsection (b), Section 1.08, Texas Alcohol and Drug Abuse Services Act (Article 5561c-2, Vernon's Texas Civil Statutes);

(8) Subsection (e), Section 1, Chapter 286, Acts of the 69th Legislature, Regular Session, 1985 (Article 6144i, Vernon's Texas Civil Statutes);

(9) Section 8, Article 6252-9d, Revised Statutes;

(10) Subsection (f), Section 5, The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes);

(11) Subsection (a), Section 201.0141, Agriculture Code;

(12) Subsection (c), Section 5.05, Alcoholic Beverage Code;

(13) Subsection (l), Section 11.22, Education Code;

(14) Subsection (d), Section 66.62, Education Code;

(15) Subsection (c), Section 52.011, Government Code;

(16) Subsection (e), Section 81.002, Human Resources Code;

(17) Subsection (b), Section 91.011, Human Resources Code;

(18) Subsection (b), Section 101.0031, Human Resources Code;

(19) Subsection (b), Section 111.025, Human Resources Code;

(20) Section 32.0122, Natural Resources Code;

(21) Section 34.0132, Natural Resources Code;

(22) Section 161.024, Natural Resources Code;

(23) Section 11.0123, Parks and Wildlife Code;

(24) Section 5.060, Water Code; and

(25) Section 6.058, Water Code.

SECTION 2.20. In the following laws, the reference to "Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes)" or to "Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes)" is changed to "Texas Sunset Act (Chapter 325, Government Code)":

(1) Section 31, Texas Public Building Authority Act (Article 601d, Vernon's Texas Civil Statutes);

(2) Subsection (a), Section 2.003, Treasury Act (Article 4393-1, Vernon's Texas Civil Statutes);

(3) Section 1.09, Chapter 737, Acts of the 67th Legislature, Regular Session, 1981 (Article 4413(32h), Vernon's Texas Civil Statutes);

- (4) Section 10A, State Aircraft Pooling Act (Article 4413(34b), Vernon's Texas Civil Statutes);
- (5) Section 7, Chapter 836, Acts of the 69th Legislature, Regular Session, 1985 (Article 4413(47d), Vernon's Texas Civil Statutes);
- (6) Section 1.03, Article 4414b, Revised Statutes;
- (7) Subsection (b), Section 4, Texas Hospital Equipment Financing Act (Article 4437e-3, Vernon's Texas Civil Statutes);
- (8) Section 3, Chapter 5, Acts of the 69th Legislature, Regular Session, 1985 (Article 4477-41, Vernon's Texas Civil Statutes);
- (9) Section 10, Chapter 363, Acts of the 68th Legislature, Regular Session, 1983 (Article 4477-60, Vernon's Texas Civil Statutes);
- (10) Section 19, Licensed Dietitian Act (Article 4512h, Vernon's Texas Civil Statutes);
- (11) Section 3A, Chapter 365, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512i, Vernon's Texas Civil Statutes);
- (12) Section 22, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes);
- (13) Section 2.19, Texas Low-Level Radioactive Waste Disposal Authority Act (Article 4590f-1, Vernon's Texas Civil Statutes);
- (14) Section 4, Article 5187a, Revised Statutes;
- (15) Subsection (d), Section 1, Article 5190.4, Revised Statutes;
- (16) Subsection (e), Section 6, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes);
- (17) Subsection (g), Section 4, Texas World Trade Development Act (Article 5190.8, Vernon's Texas Civil Statutes);
- (18) Subsection (b), Section 9, Texas World Trade Development Act (Article 5190.8, Vernon's Texas Civil Statutes);
- (19) Subsection (d), Section 5, Article 5221f-1, Revised Statutes;
- (20) Section 3.03, Commission on Human Rights Act (Article 5221k, Vernon's Texas Civil Statutes);
- (21) Section 1.05, Texas Alcohol and Drug Abuse Services Act (Article 5561c-2, Vernon's Texas Civil Statutes);
- (22) Section 3, Chapter 286, Acts of the 69th Legislature, Regular Session, 1985 (Article 6144i, Vernon's Texas Civil Statutes);
- (23) Section 10, Chapter 476, Acts of the 68th Legislature, Regular Session, 1983 (Article 6145-14, Vernon's Texas Civil Statutes);
- (24) Section 10A, Article 6252-9d, Revised Statutes;
- (25) Subsection (b), Section 1, Chapter 23, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6663d, Vernon's Texas Civil Statutes);
- (26) Subsection (e), Section 4, The Property Taxation Professional Certification Act (Article 7244b, Vernon's Texas Civil Statutes);
- (27) Subsection (g), Section 3, Occupational Therapy Title Act (Article 8851, Vernon's Texas Civil Statutes);
- (28) Section 2.08, Article 42.121, Code of Criminal Procedure;
- (29) Section 11.033, Education Code, as added by Section 52, Chapter 729, Acts of the 69th Legislature, Regular Session, 1985;
- (30) Section 11.0611, Education Code;
- (31) Section 45.027, Human Resources Code;
- (32) Section 74.011, Human Resources Code;
- (33) Section 75.029, Human Resources Code;

(34) Section 112.021, Human Resources Code, as added by Section 36, Chapter 729, Acts of the 69th Legislature, Regular Session, 1985;

(35) Subsection (d), Section 131.0051, Human Resources Code;

(36) Subsection (a), Section 131.008, Human Resources Code;

(37) Section 132.006, Human Resources Code;

(38) Section 133.006, Human Resources Code;

(39) Subsection (a), Section 31.156, Natural Resources Code;

(40) Section 90.0032, Natural Resources Code;

(41) Section 132.0082, Natural Resources Code;

(42) Section 161.0111, Natural Resources Code;

(43) Section 181.020, Natural Resources Code;

(44) Section 191.023, Natural Resources Code;

(45) Section 5.11, Tax Code;

(46) Section 5.014, Water Code; and

(47) Section 6.013, Water Code.

ARTICLE 3. CHANGES RELATING TO CIVIL PRACTICE AND REMEDIES CODE

SECTION 3.01. Subsection (a), Section 1.001, Civil Practice and Remedies Code, is amended to conform with the enactment of Title 3, Government Code, by the 69th Legislature, Regular Session, 1985, to read as follows:

(a) This code is enacted as a part of the state's continuing statutory revision program, begun by the Texas Legislative Council in 1963 as directed by the legislature in Chapter 323, *Government Code* [448, *Acts of the 58th Legislature, Regular Session, 1963 (Article 5429b-1, Vernon's Texas Civil Statutes)*]. The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

SECTION 3.02. Section 1.002, Civil Practice and Remedies Code, is amended to conform with the enactment of Title 3, Government Code, by the 69th Legislature, Regular Session, 1985, to read as follows:

Sec. 1.002. CONSTRUCTION OF CODE. The Code Construction Act (*Chapter 311, Government Code*) [~~Article 5429b-2, Vernon's Texas Civil Statutes~~] applies to the construction of each provision in this code, except as otherwise expressly provided by this code.

SECTION 3.03. (a) Subsection (b), Section 6.001, Civil Practice and Remedies Code, is amended to conform with Chapter 451, Acts of the 69th Legislature, Regular Session, 1985, to read as follows:

(b) The following are exempt from the bond requirements:

- (1) this state;
- (2) a department of this state;
- (3) the head of a department of this state;
- (4) a county of this state;
- (5) the Federal Housing Administration;
- (6) the Federal National Mortgage Association;
- (7) the Government National Mortgage Association;
- (8) the Veterans' Administration;
- (9) the administrator of veterans affairs; [and]
- (10) any national mortgage savings and loan insurance corporation created by an act of congress as a national relief organization that operates on a statewide basis; and
- (11) *the Federal Deposit Insurance Corporation in its capacity as receiver or in its corporate capacity.*

(b) Chapter 451, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

SECTION 3.04. (a) Subsections (d), (e), and (f), Section 18.001, Civil Practice and Remedies Code, are amended to conform with Chapter 617, Acts of the 69th Legislature, Regular Session, 1985, to read as follows:

(d) The party offering the affidavit in evidence or the party's attorney must file the affidavit with the clerk of the court and serve a copy of the affidavit on each other party to the case at least 30 [14] days before the day on which evidence is first presented at the trial of the case.

(e) A party intending to controvert a claim reflected by the affidavit must file a counteraffidavit with the clerk of the court and serve a copy of the counteraffidavit on each other party or the party's attorney of record:

(1) not later than:

(A) 30 [10] days after the day he receives a copy of the affidavit; and

(B) at least 14 days before the day on which evidence is first presented at the trial of the case; or

(2)[1] with leave of the court, at any time before the commencement of evidence at trial.

(f) The counteraffidavit must give reasonable notice of the basis on which the party filing it intends at trial to controvert the claim reflected by the initial affidavit and must be taken before a person authorized to administer oaths. The counteraffidavit *must* [may] be made by a person who is qualified, by knowledge, skill, experience, training, education, or other expertise, to testify in contravention of all or part of any of the matters contained in the initial affidavit [on information and belief by the party filing it or by the party's attorney of record].

(b) Chapter 617, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

SECTION 3.05. (a) Chapter 21, Civil Practice and Remedies Code, is amended to codify Article 2076, Revised Statutes, by adding Subchapter D to read as follows:

SUBCHAPTER D. INTERPRETER FEE

Sec. 21.051. INTERPRETER FEE. The clerk of the court shall collect an interpreter fee of \$3 as a court cost in each civil case in which an interpreter is used. The clerk shall collect the fee in the manner provided for other court costs and shall deposit the fee to the credit of the general fund of the county.

(b) Article 2076, Revised Statutes, is repealed.

SECTION 3.06. (a) Chapter 30, Civil Practice and Remedies Code, is amended to codify Sections 1 and 3, Chapter 659, Acts of the 68th Legislature, Regular Session, 1983 (Article 4413a.1, Vernon's Texas Civil Statutes), by adding Section 30.004 to read as follows:

Sec. 30.004. NOTICE TO ATTORNEY GENERAL FOR CERTAIN SUITS. (a) This section applies to a civil case in which:

(1) the state is named as a party;

(2) an agency in the executive or legislative department is named as a party; or

(3) a party may be represented by the attorney general as authorized by Chapter 104.

(b) On the filing of any petition in a case subject to this section, a copy of the petition shall be mailed to the attorney general at the attorney general's office in Austin, Texas, by United States Postal Service certified mail, return receipt requested.

(c) Mailing notice as required by Subsection (b) does not satisfy any other jurisdictional requirement relating to service of process on a state officer, board, commission, agency, or institution that is a named party in a court proceeding.

(d) Failure to give notice in a case in which notice is required by Subsection (b) results in any default judgment in the case being set aside without costs.

(b) Sections 1 and 3, Chapter 659, Acts of the 68th Legislature, Regular Session, 1983 (Article 4413a.1, Vernon's Texas Civil Statutes), are repealed.

SECTION 3.07. (a) Subsection (b), Section 31.004, Civil Practice and Remedies Code, is amended to conform with Section 66, Chapter 159, Acts of the 69th Legislature, Regular Session, 1985, to read as follows:

(b) This section does not apply to a judgment in probate, guardianship, *mental health* [~~lunacy~~], or other matter in which a lower trial court has exclusive subject matter jurisdiction on a basis other than the amount in controversy.

(b) Section 66, Chapter 159, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

SECTION 3.08. (a) Section 37.005, Civil Practice and Remedies Code, is amended to conform with Section 67, Chapter 159, Acts of the 69th Legislature, Regular Session, 1985, to read as follows:

Sec. 37.005. **DECLARATIONS RELATING TO TRUST OR ESTATE.** A person interested as or through an executor, administrator, trustee, guardian, other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust in the administration of a trust or of the estate of a decedent, an infant, *mentally disabled person*, [~~lunatic~~], or insolvent may have a declaration of rights or legal relations in respect to the trust or estate:

- (1) to ascertain any class of creditors, devisees, legatees, heirs, next of kin, or others;
- (2) to direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or
- (3) to determine any question arising in the administration of the trust or estate, including questions of construction of wills and other writings.

(b) Section 67, Chapter 159, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

SECTION 3.09. (a) Title 2, Civil Practice and Remedies Code, is amended to codify Sections 2 and 3, Chapter 659, Acts of the 68th Legislature, Regular Session, 1983 (Article 4413a.1, Vernon's Texas Civil Statutes), by adding Chapter 39 to read as follows:

**CHAPTER 39. DEFAULT JUDGMENTS IN CERTAIN CASES DEFENDED
BY ATTORNEY GENERAL**

Sec. 39.001. NOTICE OF INTENT TO TAKE DEFAULT JUDGMENT. Notice of intent to take a default judgment against the state, a state agency, or a party in a civil case for which Chapter 104 authorizes representation by the attorney general shall be mailed to the attorney general at the attorney general's office in Austin, Texas, by United States Postal Service certified mail, return receipt requested, not later than the 10th day before the entry of the default judgment.

Sec. 39.002. FAILURE TO GIVE NOTICE. Failure to give notice in a case in which notice is required by Section 30.004(b) or Section 39.001 results in any default judgment in the case being set aside without costs.

(b) Section 2, Chapter 659, Acts of the 68th Legislature, Regular Session, 1983 (Article 4413a.1, Vernon's Texas Civil Statutes), is repealed.

SECTION 3.10. Section 51.014, Civil Practice and Remedies Code, is amended to conform with the source law from which it was derived to read as follows:

Sec. 51.014. **APPEAL FROM INTERLOCUTORY ORDER.** A person may appeal from an interlocutory order of a district court, county court at law, or county court that:

- (1) appoints a receiver or trustee;
- (2) overrules a motion to vacate an order that appoints a receiver or trustee;
- (3) certifies or refuses to certify a class in a suit brought under Rule 42 of the Texas Rules of Civil Procedure; or
- (4) grants or refuses a *temporary injunction* or grants or overrules a motion to dissolve a temporary injunction as provided by Chapter 65.

SECTION 3.11. Subsection (a), Section 62.045, Civil Practice and Remedies Code, is amended to conform with the source law from which it was derived to read as follows:

(a) If a writ that sought to sequester consumer goods is dissolved, the defendant or party in possession of the goods is entitled to reasonable attorney's fees and to damages equal to the greater of:

- (1) \$100;
- (2) the finance charge contracted for; or
- (3) actual damages.

SECTION 3.12. (a) Subsection (c), Section 64.002, Civil Practice and Remedies Code, is amended to conform with Chapter 60, Acts of the 69th Legislature, Regular Session, 1985, to read as follows:

(c) This section does not prohibit:

- (1) appointment of a receiver for a partnership in an action arising between partners; or
- (2) *appointment of a receiver over all or part of the marital estate in a suit filed under Title 1 or 2, Family Code.*

(b) Chapter 60, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

SECTION 3.13. (a) Subsection (a), Section 128.001, Civil Practice and Remedies Code, is amended to conform with Section 3, Chapter 173, Acts of the 69th Legislature, Regular Session, 1985, to read as follows:

(a) A provider of a subscription or cable television service may bring an action to restrain or enjoin a violation or a threatened violation of Section 31.12 or 31.13, Penal Code, and for damages resulting from the violation. The plaintiff is entitled to an injunction on a showing that a violation has occurred or will occur.

(b) Section 128.002, Civil Practice and Remedies Code, is amended to conform with Section 3, Chapter 173, Acts of the 69th Legislature, Regular Session, 1985, to read as follows:

Sec. 128.002. ATTORNEY'S FEES; DAMAGES. The court shall award the greater of either \$500 or reasonable attorney's fees and ~~three times~~ actual damages to a prevailing plaintiff in an action under this chapter.

(c) Section 3, Chapter 173, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

SECTION 3.14. (a) Title 6, Civil Practice and Remedies Code, is amended to codify Chapter 805, Acts of the 61st Legislature, Regular Session, 1969 (Article 249d, Vernon's Texas Civil Statutes), by adding Chapter 130 to read as follows:

CHAPTER 130. INDEMNIFICATION OF ARCHITECTS AND ENGINEERS IN CERTAIN CONSTRUCTION CONTRACTS

Sec. 130.001. DEFINITION. In this chapter "construction contract" means a contract or agreement made and entered into by an owner, contractor, subcontractor, or supplier concerning the construction, alteration, repair, or maintenance of a building, structure, appurtenance, road, highway, bridge, dam, levee, or other improvement to or on real property, including moving, demolition, and excavation connected with the real property.

Sec. 130.002. COVENANT OR PROMISE VOID AND UNENFORCEABLE. A covenant or promise in, in connection with, or collateral to a construction contract is void and unenforceable if the covenant or promise provides for a contractor who is to perform the work that is the subject of the construction contract to indemnify or hold harmless a registered architect, registered engineer or an agent, servant, or employee of a registered architect or registered engineer from liability for damage that:

- (1) *is caused by or results from:*
 - (A) *defects in plans, designs, or specifications prepared, approved, or used by the architect or engineer; or*

(B) negligence of the architect or engineer in the rendition or conduct of professional duties called for or arising out of the construction contract and the plans, designs, or specifications that are a part of the construction contract; and

(2) arises from:

(A) personal injury or death;

(B) property injury; or

(C) any other expense that arises from personal injury, death, or property injury.

Sec. 130.003. *INSURANCE CONTRACT; WORKERS' COMPENSATION.* This chapter does not apply to:

(1) an insurance contract; or

(2) a workers' compensation agreement.

Sec. 130.004. *OWNER OF INTEREST IN REAL PROPERTY.* (a) This chapter does not apply to an owner of an interest in real property or persons employed solely by that owner.

(b) This chapter does not prohibit or make void or unenforceable a covenant or promise to:

(1) indemnify or hold harmless an owner of an interest in real property and persons employed solely by that owner; or

(2) allocate, release, liquidate, limit, or exclude liability in connection with a construction contract between an owner or other person for whom a construction contract is being performed and a registered architect or registered engineer.

Sec. 130.005. *APPLICATION OF CHAPTER.* This chapter does not apply to a contract or agreement in which an architect or engineer or an agent, servant, or employee of an architect or engineer is indemnified from liability for:

(1) negligent acts other than those described by this chapter; or

(2) negligent acts of the contractor, any subcontractor, any person directly or indirectly employed by the contractor or a subcontractor, or any person for whose acts the contractor or a subcontractor may be liable.

(b) Chapter 805, Acts of the 61st Legislature, Regular Session, 1969 (Article 249d, Vernon's Texas Civil Statutes), is repealed.

SECTION 3.15. (a) Title 6, Civil Practice and Remedies Code, is amended to codify Article 5541, Revised Statutes, by adding Chapter 131 to read as follows:

CHAPTER 131. PRESUMPTION OF DEATH

Sec. 131.001. *SEVEN-YEAR ABSENCE.* Any person absenting himself for seven successive years shall be presumed dead unless it is proved that the person was alive within the seven-year period.

Sec. 131.002. *ARMED SERVICES CERTIFICATE OF DEATH.* If a branch of the armed services issues a certificate declaring a person dead, the date of death is presumed to have occurred for all purposes as stated in the certificate. The certificate may be admitted in any court of competent jurisdiction as prima facie evidence of the date and place of the person's death.

Sec. 131.003. *RESTORATION OF ESTATE.* (a) If an estate is recovered on a presumption of death under this chapter and if in a subsequent action or suit it is proved that the person presumed dead is living, the estate shall be restored to that person. The estate shall be restored with the rents and profits of the estate with legal interest for the time the person was deprived of the estate.

(b) A person delivering an estate or any part of an estate under this section to another under proper order of a court of competent jurisdiction is not liable for the estate or part of the estate.

(c) If the person recovering an estate on a presumption of death sells real property from the estate to a purchaser for value, the right of restoration under this section

extends to the recovery of the purchase money received by the person, but does not extend to the recovery of the real property.

(b) Article 5541, Revised Statutes, is repealed.

SECTION 3.16. (a) The Civil Practice and Remedies Code is amended to codify Chapter 917, Acts of the 68th Legislature, Regular Session, 1983 (Article 200d, Vernon's Texas Civil Statutes), and Chapter 26, Acts of the 68th Legislature, Regular Session, 1983 (Article 2372aa, Vernon's Texas Civil Statutes), by adding Title 7 to read as follows:

TITLE 7. ALTERNATE METHODS OF DISPUTE RESOLUTION

CHAPTER 151. TRIAL BY SPECIAL JUDGE

Sec. 151.001. REFERRAL BY AGREEMENT. On agreement of the parties, a judge in a civil case filed in district court may order referral of the case as provided by this chapter and shall stay proceedings in his court pending the outcome of the trial. Any or all of the issues in the cases, whether an issue of fact or law, may be referred.

Sec. 151.002. MOTION FOR REFERRAL. Each party to the action must file in the court in which the case is filed a motion that:

- (1) requests the referral;
- (2) waives the party's right to trial by jury;
- (3) states the issues to be referred;
- (4) states the time and place agreed on by the parties for the trial; and
- (5) states the name of the special judge, the fact that the special judge has agreed to hear the case, and the fee the judge is to receive as agreed on by the parties.

Sec. 151.003. QUALIFICATIONS OF JUDGE. The special judge must be a former district judge, retired under Subtitle E, Title 110B, Revised Statutes.

Sec. 151.004. REFERRAL ORDER ENTERED. An order of referral must specify the issue referred, the time and place for trial, and the name of the special judge. The order of referral may designate the time for filing of the special judge's report. The clerk of the court shall send a copy of the order to the special judge.

Sec. 151.005. PROCEDURE. Rules and statutes relating to procedure and evidence in district court apply to a trial under this chapter.

Sec. 151.006. POWERS OF SPECIAL JUDGE. (a) A special judge shall conduct the trial in the same manner as a court trying an issue without a jury.

(b) While serving as a special judge, the judge has the powers of a district court judge except that he may not:

- (1) award attorney's fees to a party; or
- (2) hold a person in contempt of court unless the person is a witness before him.

Sec. 151.007. REPRESENTATION BY ATTORNEY. A party has the right to be represented by an attorney at the trial held as provided by this chapter.

Sec. 151.008. COURT REPORTER REQUIRED. To maintain a record of the proceedings at the hearing, the parties shall provide a court reporter who meets the qualifications prescribed by law for district court reporters.

Sec. 151.009. FEES AND COSTS. (a) The parties, in equal shares, shall pay:

- (1) the special judge's fee; and
- (2) all administrative costs, including the court reporter's fee, related to the trial.

(b) A cost for a witness called by a party or any other cost related only to a single party's case shall be paid by the party who incurred the cost.

(c) The state or a unit of local government may not pay any costs related to a trial under this chapter.

Sec. 151.010. RESTRICTIONS. A trial under this chapter may not be held in a public courtroom, and a public employee may not be involved in the trial during regular working hours.

Sec. 151.011. SPECIAL JUDGE'S VERDICT. The special judge's verdict must comply with the requirements for a verdict by the court. The verdict stands as a verdict of the district court. Unless otherwise specified in an order of referral, the special judge shall submit the verdict not later than the 60th day after the day the trial adjourns.

Sec. 151.012. NEW TRIAL. If the special judge does not submit the verdict within the time period provided by Section 151.011, the court may grant a new trial if:

- (1) a party files a motion requesting the new trial;
- (2) notice is given to all parties stating the time and place that a hearing will be held on the motion; and
- (3) the hearing is held.

Sec. 151.013. RIGHT TO APPEAL. The right to appeal is preserved. An appeal is from the order of the district court as provided by the Texas Rules of Civil Procedure.

CHAPTER 152. ALTERNATIVE DISPUTE RESOLUTION SYSTEM ESTABLISHED BY COUNTIES

Sec. 152.001. DEFINITION. In this chapter, "alternative dispute resolution system" means an informal forum in which mediation, conciliation, or arbitration is used to resolve disputes among individuals, including those having an ongoing relationship such as relatives, neighbors, landlords and tenants, employees and employers, and merchants and consumers.

Sec. 152.002. ESTABLISHMENT. (a) The commissioners court of a county by order may establish an alternative dispute resolution system for the peaceable and expeditious resolution of citizen disputes.

(b) The commissioners court may do all necessary acts to make the alternative dispute resolution system effective, including:

- (1) contracting with a private nonprofit corporation, a political subdivision, a public corporation, or a combination of these entities for the purpose of administering the system;
- (2) making reasonable rules relating to the system; and
- (3) vesting management of the system in a committee selected by the county bar association.

(c) The actions of a committee authorized by Subsection (b)(3) are subject to the approval of the commissioners court.

Sec. 152.003. REFERRAL OF CASES. A judge of a district court, county court, statutory county court, probate court, or justice of the peace court in a county in which an alternative dispute resolution system has been established may, on motion of a party, refer a case to the system. Referral under this section does not prejudice the case.

Sec. 152.004. FINANCING. (a) To establish and maintain an alternative dispute resolution system, the commissioners court may set a court cost in an amount not to exceed \$5 to be taxed, collected, and paid as other court costs in each civil case, except suits for delinquent taxes, filed in a county or district court in the county.

(b) The county is not liable for the payment of a court cost under this section.

(c) The clerks of the courts in the county shall collect and pay the costs to the county treasurer or, if the county does not have a treasurer, to the county officer who performs the functions of the treasurer, who shall deposit the costs in a separate fund known as the alternative dispute resolution system fund. The fund shall be administered by the commissioners court and may only be used to establish and maintain the system. The system shall be operated at one or more convenient and accessible places in the county.

(b) Chapter 917, Acts of the 68th Legislature, Regular Session, 1983 (Article 200a, Vernon's Texas Civil Statutes), is repealed.

(c) Chapter 26, Acts of the 68th Legislature, Regular Session, 1983 (Article 2372a, Vernon's Texas Civil Statutes), is repealed.

SECTION 3.17. In Subdivision (3), Section 65.011, Civil Practice and Remedies Code, the word "statute" is changed to "statutes".

ARTICLE 4. CHANGES IN CODE OF CRIMINAL PROCEDURE

SECTION 4.01. (a) Section 102.001, Code of Criminal Procedure, is amended to conform with Section 9, Chapter 239, Acts of the 69th Legislature, Regular Session, 1985, by amending Subsection (a) and adding Subsections (e) and (f) to read as follows:

(a) A defendant convicted of a misdemeanor shall pay the following fees for service performed in the case by a peace officer:

(1) \$3 for executing an arrest warrant or *capias* for a *Class C misdemeanor* or for making an arrest without a warrant for a *Class C misdemeanor*;

(2) \$12 for executing an arrest warrant or *capias* for a *misdemeanor other than Class C misdemeanor* or for making an arrest without a warrant for a *misdemeanor other than a Class C misdemeanor*;

(3) \$1 for summoning a witness;

(4) ~~[(3)]~~ \$2 for serving a writ not otherwise listed in this article;

(5) ~~[(4)]~~ \$2 for taking and approving a bond and, if necessary, returning the bond to the courthouse;

(6) ~~[(5)]~~ \$2 for a commitment or release;

(7) ~~[(6)]~~ \$2 for summoning a jury, if a jury is summoned; and

(8) ~~[(7)]~~ \$4 for each day's attendance of a prisoner in a habeas corpus case if the prisoner has been remanded to custody or held to bail.

(e) *The fees assessed under Subdivisions 1 and 2 of Subsection (a) of this article shall be assessed on conviction, regardless of whether the defendant was also arrested at the same time for another offense, and shall be assessed for each arrest made of a defendant arising out of the offense for which the defendant has been convicted. For purposes of this article, the term "arrest" includes the issuance by a peace officer of a written notice to appear in court, following the defendant's alleged violation of a traffic law or municipal ordinance.*

(f) *The clerk of a court or a county clerk who receives fees imposed under Subsection (a) of this section for services performed by peace officers employed by the state shall forward the fees to the comptroller of public accounts quarterly in the manner directed by the comptroller. If a fee is imposed under Subsection (a)(2) of this section for an arrest made by a peace officer employed by the state, the clerk of the court or county clerk may retain \$2 of the fee for the county and shall forward the remainder to the comptroller in the same manner as other fees are forwarded under this subsection. The comptroller shall credit funds received under this subsection to the general revenue fund.*

(b) Chapter 53, Code of Criminal Procedure, the articles of which were renumbered and recodified by Chapter 269, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

SECTION 4.02. (a) Chapter 18, Code of Criminal Procedure, is amended to conform with Chapter 547, Acts of the 69th Legislature, Regular Session, 1985, by adding Article 18.182 to read as follows:

Art. 18.182. DEPOSIT OF MONEY PENDING DISPOSITION. (a) If money is seized by a law enforcement agency in connection with a violation of Chapter 47, Penal Code, the state or the political subdivision of the state that employs the law enforcement agency may deposit the money in an interest-bearing bank account in the jurisdiction of the agency that made seizure or in the county in which the money was seized until a final judgment is rendered concerning the violation.

(b) *If a final judgment is rendered concerning a violation of Chapter 47, Penal Code, money seized in connection with the violation that has been placed in an interest-bearing bank account shall be distributed according to this chapter, with any interest being distributed in the same manner and used for the same purpose as the principal.*

(b) Chapter 5, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to conform with Chapter 547, Acts of the 69th Legislature, Regular Session, 1985, by adding Section 5.082 to read as follows:

Sec. 5.082. DEPOSIT OF MONEY PENDING DISPOSITION. (a) If money is seized by a law enforcement agency in connection with a violation of this Act, the state or the political subdivision of the state that employs the law enforcement agency may deposit the money in an interest-bearing bank account in the jurisdiction of the agency that made seizure or in the county in which the money was seized until a final judgment is rendered concerning the violation.

(b) If a final judgment is rendered concerning a violation of this Act, money seized in connection with the violation that has been placed in an interest-bearing bank account shall be distributed according to this Act, with any interest being distributed in the same manner and used for the same purpose as the principal.

(c) Chapter 547, Acts of the 69th Legislature, Regular Session, 1985 (Article 29g, Vernon's Texas Civil Statutes), is repealed.

SECTION 4.03. (a) Subsection (b), Article 26.044, Code of Criminal Procedure, is amended to conform with Chapter 49, Acts of the 69th Legislature, Regular Session, 1985, to read as follows:

(b) To be eligible for appointment as a public defender, a person must:

- (1) be a member of the State Bar of Texas;
- (2) have practiced law for at least *one year* [~~three years~~]; and
- (3) have experience in the practice of criminal law.

(b) Chapter 49, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

ARTICLE 5. RENUMBERING

SECTION 5.01. (a) The following provisions of enacted codes and Revised Statutes are renumbered, relettered, or redesignated, and appropriate cross-references are changed in order to eliminate duplicate citations:

(1) Section 12.021, Agriculture Code, as added by Chapter 664, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 12.023, Agriculture Code.

(2) Chapter 48, Alcoholic Beverage Code, as added by Chapter 746, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Chapter 49, Alcoholic Beverage Code, and Sections 48.01, 48.02, and 48.03 of that code as added by that Act are renumbered as Sections 49.01, 49.02, and 49.03, respectively.

(3) Section 35.42, Business & Commerce Code, as added by Chapter 220, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 35.44, Business & Commerce Code, and Section 35.42, Business & Commerce Code, as added by Chapter 959, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 35.45, Business & Commerce Code.

(4) Article 2.121, Code of Criminal Procedure, as codified by Chapter 543, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Article 2.123, Code of Criminal Procedure.

(5) Article 2.24, Code of Criminal Procedure, as added by Chapter 749, Acts of the 68th Legislature, Regular Session, 1983, is renumbered as Article 2.26, Code of Criminal Procedure.

(6) Subdivision (4), Subsection (g), Article 18.18, Code of Criminal Procedure, as added by Chapter 351, Acts of the 68th Legislature, Regular Session, 1983, is renumbered as Subdivision (6), Subsection (g), Article 18.18, Code of Criminal Procedure.

(7) Section 6d, Article 42.12, Code of Criminal Procedure, as added by Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 6g, Article 42.12, Code of Criminal Procedure.

(8) Subsection (o), Section 10, Article 42.12, Code of Criminal Procedure, as added by Chapter 956, Acts of the 69th Legislature, Regular Session, 1985, is relettered as Subsection (r), Section 10, Article 42.12, Code of Criminal Procedure.

(9) Article 42.18, Code of Criminal Procedure, as added by Chapter 24, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Article 42.19, Code of Criminal Procedure.

(10) Article 53.08, Code of Criminal Procedure, as added by Chapter 604, Acts of the 66th Legislature, Regular Session, 1979, is renumbered as Article 53.11, Code of Criminal Procedure.

(11) Section 11.033, Education Code, as added by Chapter 729, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 11.035, Education Code.

(12) Section 11.17, Education Code, as added by Chapter 392, Acts of the 63rd Legislature, Regular Session, 1973, is renumbered as Section 11.19, Education Code.

(13) Section 11.203, Education Code, as added by Chapter 988, Acts of the 68th Legislature, Regular Session, 1983, is renumbered as Section 11.204, Education Code.

(14) Section 13.909, Education Code, as added by Chapter 552, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 13.912, Education Code, and Section 13.909, Education Code, as added by Chapter 862, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

(15) Section 15.021, Education Code, as added by Chapter 926, Acts of the 68th Legislature, Regular Session, 1983, is renumbered as Section 15.025, Education Code.

(16) Section 20.51, Education Code, as added by Chapter 51, Acts of the 63rd Legislature, Regular Session, 1973, is renumbered as Section 20.55, Education Code, and Section 20.51, Education Code, as added by Chapter 135, Acts of the 63rd Legislature, Regular Session, 1973, is renumbered as Section 20.56, Education Code.

(17) Section 21.914, Education Code, as added by Chapter 491, Acts of the 65th Legislature, Regular Session, 1977, is renumbered as Section 21.905, Education Code.

(18) Section 51.911, Education Code, as added by Chapter 520, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 51.912, Education Code, and Section 51.911, Education Code, as added by Chapter 818, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 51.908, Education Code.

(19) Section 61.075, Education Code, as added by Chapter 225, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 61.0581, Education Code, and Section 61.075, Education Code, as added by Chapter 646, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 61.077, Education Code.

(20) Section 66.06, Education Code, as added by Chapter 926, Acts of the 68th Legislature, Regular Session, 1983, is renumbered as Section 66.08, Education Code.

(21) Section 85.30, Education Code, as added by Chapter 899, Acts of the 68th Legislature, Regular Session, 1983, is renumbered as Section 85.33, Education Code.

(22) Section 109.48, Education Code, as added by Chapter 471, Acts of the 64th Legislature, 1975, is renumbered as Section 109.54, Education Code.

(23) Section 109.52, Education Code, as added by Chapter 608, Acts of the 68th Legislature, Regular Session, 1983, is renumbered as Section 109.55, Education Code.

(24) Section 110.13, Education Code, as added by Chapter 609, Acts of the 68th Legislature, Regular Session, 1983, is renumbered as Section 110.16, Education Code.

(25) Section 14.13, Family Code, as added by Chapter 232, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 14.11, Family Code.

(26) Chapter 74, Human Resources Code, as added by Chapter 132, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Chapter 79, Human Resources Code, and Sections 74.001 through 74.014 of that code as added by that Act are renumbered as Sections 79.001 through 79.014, respectively.

(27) The reference to Section 74.010, Human Resources Code, as it appears in Section 74.011, Human Resources Code, as added by Chapter 132, Acts of the 69th Legislature, Regular Session, 1985, is changed to refer to Section 79.011 of that code.

(28) Section 112.021, Human Resources Code, as added by Chapter 729, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 112.023, Human Resources Code.

(29) Article 1.34, Insurance Code, as added by Chapter 622, Acts of the 68th Legislature, Regular Session, 1983, is renumbered as Article 1.37, Insurance Code.

(30) Article 3.51-10, Insurance Code, as added by Chapter 824, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Article 3.51-12, Insurance Code.

(31) Section 52.187, Natural Resources Code, as added by Chapter 652, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 52.189, Natural Resources Code.

(32) Sections 91.351 and 91.352, Natural Resources Code, are renumbered as Sections 91.002 and 91.003, Subchapter A, Chapter 91, Natural Resources Code; the title "SUBCHAPTER J. ENFORCEMENT" is deleted from Chapter 91, Natural Resources Code; and Subchapter K, Chapter 91, Natural Resources Code, as added by Chapter 288, Acts of the 68th Legislature, Regular Session, 1983, is redesignated as Subchapter J, Chapter 91, Natural Resources Code.

(33) Section 141.013, Natural Resources Code, as added by Chapter 967, Acts of the 68th Legislature, Regular Session, 1983, is renumbered as Section 141.018, Natural Resources Code.

(34) Section 13.020, Parks and Wildlife Code, as added by Chapter 392, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 13.022, Parks and Wildlife Code.

(35) Subchapter P, Chapter 22, Parks and Wildlife Code, as added by Chapter 343, Acts of the 67th Legislature, Regular Session, 1981, is redesignated as Subchapter Q, Chapter 22, Parks and Wildlife Code, and Sections 22.221 and 22.222 of that code as added by that Act are renumbered as Sections 22.231 and 22.232, respectively.

(36) Subchapter R, Chapter 22, Parks and Wildlife Code, as added by Chapter 407, Acts of the 68th Legislature, Regular Session, 1983, is redesignated as Subchapter T, Chapter 22, Parks and Wildlife Code, and Sections 22.251 through 22.254 of that code as added by that Act are renumbered as Sections 22.261 through 22.264, respectively.

(37) Chapter 25, Parks and Wildlife Code, as added by Chapter 937, Acts of the 68th Legislature, Regular Session, 1983, is renumbered as Chapter 28, Parks and Wildlife Code, and Sections 25.001 through 25.005 of that code as added by that Act are renumbered as Sections 28.001 through 28.005, respectively.

(38) Subsection (g), Section 47.003, Parks and Wildlife Code, as added by Chapter 676, Acts of the 67th Legislature, Regular Session, 1981, is relettered as Subsection (h) of that section.

(39) Section 62.012, Parks and Wildlife Code, as added by Chapter 477, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 62.014, Parks and Wildlife Code.

(40) Section 66.011, Parks and Wildlife Code, as added by Chapter 827, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 66.014, Parks and Wildlife Code.

(41) Section 66.119, Parks and Wildlife Code, as added by Chapter 267, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 66.121, Parks and Wildlife Code.

(42) Section 77.025, Parks and Wildlife Code, as added by Chapter 456, Acts of the 64th Legislature, Regular Session, 1975, is renumbered as Section 77.027, Parks and Wildlife Code.

(43) Subdivision (37), Subsection (a), Section 1.07, Penal Code, as added by Chapter 655, Acts of the 66th Legislature, 1979, is renumbered as Subdivision (40), Subsection (a) Section 1.07, Penal Code.

(44) Section 25.06, Penal Code, as added by Chapter 38, Acts of the 65th Legislature Regular Session, 1977, is renumbered as Section 25.11, Penal Code.

(45) Subdivision (5), Subsection (c), Section 31.03, Penal Code, as added by Chapter 901, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Subdivision (6) Subsection (c), Section 31.03, Penal Code; the period following "agency" in Subdivision (5) of that section as added by Chapter 599, Acts of the 69th Legislature, Regular Session 1985, is changed to a semicolon; and Subdivision (6) of that section is renumbered as Subdivision (7).

(46) Subdivision (12), Section 46.01, Penal Code, as added by Chapter 852, Acts of the 68th Legislature, Regular Session, 1983, is renumbered as Subdivision (14), Section 46.01 Penal Code.

(47) In Subsection (a), Section 46.06, Penal Code, the "or" after "knuckles" is deleted the period after "armor-piercing ammunition" is deleted and "; or" is substituted; and Subdivision (7), "a chemical dispensing device." is renumbered as Subdivision (8).

(48) Subsection (d), Section 47.06, Penal Code, is relettered as Subsection (e) and Subsection (c), Section 47.06, Penal Code, as added by Chapter 741, Acts of the 65th Legislature, Regular Session, 1977, is relettered as Subsection (d) of that section

(49) Section 24.009, Property Code, as added by Chapter 891, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 24.011, Property Code

(50) Section 1.13, Tax Code, as added by Chapter 1028, Acts of the 68th Legislature Regular Session, 1983, is renumbered as Section 1.15, Tax Code.

(51) Section 6.032, Tax Code, as added by Chapter 601, Acts of the 69th Legislature Regular Session, 1985, is renumbered as Section 6.034, Tax Code.

(52) Section 151.333, Tax Code, as added by Chapter 235, Acts of the 68th Legislature Regular Session, 1983, is renumbered as Section 151.341, Tax Code, and Section 151.333 Tax Code, as added by Chapter 913, Acts of the 68th Legislature, Regular Session, 1983, is renumbered as Section 151.342, Tax Code.

(53) Section 152.090, Tax Code, as added by Chapter 167, Acts of the 68th Legislature Regular Session, 1983, is renumbered as Section 152.092, Tax Code.

(54) Chapter 6, Water Code, as added by Chapter 39, Acts of the 69th Legislature Regular Session, 1985, is renumbered as Chapter 8, Water Code, and Sections 6.001, 6.011 through 6.020, and 6.051 through 6.056 of that code as added by that Act are renumbered as Sections 8.001, 8.011 through 8.020, and 8.051 through 8.056, respectively.

(55) The references to Sections 6.051 and 6.056, Water Code, as they appear in Section 6.020, Water Code, as added by Chapter 39, Acts of the 69th Legislature, Regular Session 1985, are changed to references to Sections 8.051 and 8.056, respectively, of that code.

(56) Section 11.149, Water Code, as added by Chapter 795, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 11.152, Water Code.

(57) Subdivision (14), Section 17.001, Water Code, as added by Chapter 795, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Subdivision (17), Section 17.001 Water Code.

(58) Section 50.026, Water Code, as added by Chapter 828, Acts of the 67th Legislature, Regular Session, 1981, is renumbered as Section 50.028, Water Code.

(59) Section 50.380, Water Code, as added by Chapter 235, Acts of the 68th Legislature, Regular Session, 1983, is renumbered as Section 50.383, Water Code.

(60) Article 5165.4, Revised Statutes, as added by Chapter 964, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Article 5165.6, Revised Statutes

(61) Article 6447b, Revised Statutes, as added by Chapter 81, Acts of the 68th Legislature, Regular Session, 1983, is renumbered as Article 6447j, Revised Statutes

(62) Subsection (j), Article 67011-1, Revised Statutes, as added by Chapter 462, Acts of the 69th Legislature, Regular Session, 1985, is relettered as Subsection (l), Article 67011-1, Revised Statutes.

(63) Subsection (c), Section 25.301, Title 110B, Revised Statutes, as added by Chapter 925, Acts of the 68th Legislature, Regular Session, 1983, is relettered as Subsection (e), Section 25.301, Title 110B, Revised Statutes.

(64) Subsection (b), Section 35.301, Title 110B, Revised Statutes, as added by Chapter 925, Acts of the 68th Legislature, Regular Session, 1983, is relettered as Subsection (e), Section 35.301, Title 110B, Revised Statutes.

(b) If the number, letter, or designation assigned by this section conflicts with a number, letter, or designation made by another Act of the 70th Legislature, the other Act controls and the number, letter, or designation assigned by this section has no effect.

SECTION 5.02. The following provisions of the enacted codes are renumbered and appropriate cross-references are changed in order to conform the assigned numbers to the numbering system appropriate to those codes:

(1) Article 22.12a, Code of Criminal Procedure, is renumbered as Article 22.125, Code of Criminal Procedure.

(2) Article 26.05-1, Code of Criminal Procedure, is renumbered as Article 26.056, Code of Criminal Procedure.

(3) Article 42.04a, Code of Criminal Procedure, is renumbered as Article 42.045, Code of Criminal Procedure, and references to that article in the following statutes are changed to references to Article 42.045: Section 30.072, Government Code; Subsection (b), Section 4, Chapter 685, Acts of the 69th Legislature, Regular Session, 1985 (Article 1811f, Vernon's Texas Civil Statutes); and Article 44.45, Code of Criminal Procedure.

(4) Section 17.50A, Business & Commerce Code, is renumbered as Section 17.505, Business & Commerce Code.

(5) Section 17.50B, Business & Commerce Code, is renumbered as Section 17.506, Business & Commerce Code, and the references to that section in Subsection (b) of Section 17.50A and Subsections (b) and (c) of Section 17.50B, Business & Commerce Code, are changed to references to Section 17.506.

(6) Section 17.55A, Business & Commerce Code, is renumbered as Section 17.555, Business & Commerce Code, and the reference to that section in Section 17.42, Business & Commerce Code, is changed to a reference to Section 17.555.

(7) Section 17.56A, Business & Commerce Code, is renumbered as Section 17.565, Business & Commerce Code.

(8) Section 35.01A, Business & Commerce Code, is renumbered as Section 35.015, Business & Commerce Code.

ARTICLE 6. MISCELLANEOUS PROVISIONS

SECTION 6.01. (a) Subchapter J, Chapter 61, Education Code, is amended to conform with Chapter 517, Acts of the 69th Legislature, Regular Session, 1985, by adding Section 61.538 to read as follows:

Sec. 61.538. APPLICATION OF SUNSET ACT. The repayment program provided by this subchapter is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the program is abolished and this subchapter expires September 1, 1997.

(b) Section 3, Chapter 517, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

SECTION 6.02. (a) The Texas Transportation Corporation Act (Article 15281, Vernon's Texas Civil Statutes) is amended to conform with Chapter 927, Acts of the 69th Legislature, Regular Session, 1985, by adding Section 16B to read as follows:

Sec. 16B. DEFINITIONS. In Section 16A of this Act:

(1) "Construction" includes improvement, including landscaping.

(2) "Highway" includes improvements to a highway.

(b) Article 6674r-2, Revised Statutes, is amended to conform with Chapter 927, Acts of the 69th Legislature, Regular Session, 1985, by adding Section 7 to read as follows:

Sec. 7. In this article:

(1) "Construction" includes improvement, including landscaping.

(2) "Highway" includes improvements to a highway.

(c) The County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes) is amended to conform with Chapter 927, Acts of the 69th Legislature, Regular Session, 1985, by adding Section 4.448 to read as follows:

Sec. 4.448. DEFINITIONS. In Section 4.447 of this Act, "construction" includes improvement, including landscaping.

(d) Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), is amended to conform with Chapter 927, Acts of the 69th Legislature, Regular Session, 1985, by adding Section 34B to read as follows:

Sec. 34B. DEFINITIONS. In Section 34A of this Act, "construction" includes improvement, including landscaping.

(e) Section 5, Chapter 927, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

SECTION 6.03. The Property Code is amended by adding Title 11 to read as follows:

TITLE 11. TIMESHARE INTERESTS

CHAPTER 201. TEXAS TIMESHARE ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 201.001. SHORT TITLE. This chapter shall be known and may be cited as the Texas Timeshare Act.

Sec. 201.002. DEFINITIONS. As used in this chapter:

(1) "Accommodation" means any apartment, condominium or cooperative unit, or hotel or motel room in a building or commercial structure that is situated on a timeshare property and subject to a timeshare regime.

(2) "Advertising" means a direct or indirect solicitation or inducement to purchase and includes a solicitation or inducement made by print or electronic media, through the mail, or by personal contact.

(3) "Amenities" means all common areas and includes recreational and maintenance facilities of the timeshare property.

(4) "Commission" means the Texas Real Estate Commission.

(5) "Council of purchasers" means a council or association composed of all persons who have purchased a timeshare estate.

(6) "Developer" means any person who creates a timeshare regime.

(7) "Dispose" or "disposition" means a voluntary transfer of any legal or equitable timeshare interest but does not include the transfer or release of a real estate lien or of a security interest.

(8) "Escrow agent" means an independent bonded escrow company or an institution whose accounts are insured by a governmental agency or instrumentality and who is responsible for the receipt and disbursement of funds in accordance with this chapter.

(9) "Exchange company" means any person, including a developer, who operates an exchange program.

(10) "Exchange disclosure statement" means a written statement that includes the information required by Section 201.033.

(11) "Exchange program" means any program under which the owner of a timeshare interest may exchange a timeshare period for another timeshare period

in the same or a different timeshare property, but does not include a one-time exchange of timeshare periods in the same timeshare property if offered to a purchaser by a developer after that purchaser's disposition.

(12) *"Managing entity" means the person responsible for operating and maintaining a timeshare property.*

(13) *"Master deed" or "master lease" or "declaration" means the deed, lease, or declaration establishing real property as a timeshare regime.*

(14) *"Offering" or "offer" means any advertisement, inducement, or solicitation and includes any attempt to encourage a person to purchase a timeshare interest other than as a security for an obligation.*

(15) *"Project instrument" means one or more recordable documents, by whatever name denominated, applying to the whole of a timeshare project and containing restrictions or covenants regulating the use, occupancy, or disposition of units in a project, including a master deed, master lease, declaration, or bylaws for a condominium.*

(16) *"Promotion" means any program or activity used to induce any person to attend a timeshare sales presentation.*

(17) *"Promotional disclosure statement" means a written statement that includes the information required by Section 201.031.*

(18) *"Purchaser" means any person, other than a seller, who by means of a voluntary transfer acquires a legal or equitable interest in a timeshare interest other than as a security for an obligation.*

(19) *"Seller" means any person, including a developer, who in the ordinary course of business offers a timeshare interest for sale to the public, but does not include a person who acquires a timeshare interest for his use and subsequently offers it for resale.*

(20) *"Substantially complete" means that the timeshare unit, including furnishings and appliances, is complete as represented in the timeshare disclosure statement, the accommodations are ready for occupancy, and the amenities dedicated to the timeshare regime are as represented in the timeshare disclosure statement.*

(21) *"Timeshare estate" means any arrangement under which the purchaser receives a freehold estate or an estate for years in a timeshare property and the right to use an accommodation or amenities, or both, in that property for a timeshare period on a recurring basis.*

(22) *"Timeshare disclosure statement" means a written statement that includes the information required by Section 201.032.*

(23) *"Timeshare expenses" means expenditures, fees, charges, or liabilities, including any allocations to maintain reserves but excluding any purchase money payable for timeshare interests:*

(A) *incurred in connection with a timeshare interest by or on behalf of the owner of all timeshare interests in a timeshare property; and*

(B) *imposed on timeshare interests by the managing entity.*

(24) *"Timeshare interest" means a timeshare estate or timeshare use.*

(25) *"Timeshare instrument" means a master deed, master lease, declaration, or any other instrument used in the creation of a timeshare regime.*

(26) *"Timeshare liability" means the liability for timeshare expenses allocated to each timeshare interest.*

(27) *"Timeshare period" means the period within which the purchaser of a timeshare interest is entitled to the exclusive possession, occupancy, and use of a timeshare unit and to the general use of all amenities.*

(28) *"Timeshare property" means all real property that is subject to a timeshare declaration, including all accommodations and amenities.*

(29) "Timeshare regime" means the real property use that is created by the filing and recordation of a master deed, master lease, or declaration.

(30) "Timeshare unit" means any accommodation that is divided into timeshare periods.

(31) "Timeshare use" means any arrangement other than a hotel or motel operation, whether by lease, rental agreement, license, use agreement or other means, under which the purchaser receives a right to use an accommodation or amenities or both for a timeshare period on a recurring basis, but under which the purchaser does not receive a freehold estate or an estate for years in a timeshare property.

Sec. 201.003. *APPLICABILITY.* (a) This chapter applies to all timeshare properties that are located in this state or offered for sale in this state.

(b) Timeshare properties located outside this state are subject only to Subchapters C through H.

(c) This chapter applies to any timeshare property in existence on or after August 26, 1985, but does not affect a timeshare contract in existence before that date.

[Sections 201.004–201.010 reserved for expansion]

SUBCHAPTER B. CREATION OF TIMESHARE REGIME

Sec. 201.011. *DECLARATION.* (a) When a person who is a developer, the sole owner, or the co-owner of a building or proposed building or buildings expressly declares through the recordation of a master deed, master lease, or declaration that sets forth the information provided in Subsections (b) and (c), and that sets forth the intent to submit that property to a timeshare regime, that property shall be established thenceforth as a timeshare regime.

(b) The declaration made under this section must include:

(1) a legal description of the timeshare property, including a ground plan indicating the location of each existing or proposed building to be constructed on the timeshare property;

(2) a description of each existing or proposed timeshare unit, including the location and square footage of each unit and an interior floor plan of each existing or proposed building;

(3) a description of the amenities furnished or to be furnished to the purchaser;

(4) a statement of the fractional or percentage part that each timeshare interest bears to the entire timeshare regime; and

(5) any additional provisions that are consistent with this section.

(c) Any timeshare interest created under this section is an interest in land within the meaning of Subdivision (1), Section 2, The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes), but Subsection (d), Section 1, The Real Estate License Act, does not apply to the acts of an exchange company in exchanging timeshare periods under a timeshare program.

(d) Any timeshare interest located wholly without this state may be sold or otherwise disposed of within this state if the timeshare property is in full compliance with the legal requirements of and may be validly sold or otherwise disposed of as a timeshare property in the jurisdiction in which the timeshare property is located and if all information required in this section is included in the disclosure statement.

Sec. 201.012. *CONVEYANCE AND ENCUMBRANCE.* Once the property is established as a timeshare regime, each timeshare interest may be individually conveyed or encumbered and shall be entirely independent of all other timeshare interests in the same timeshare property. Any title or interest in a timeshare interest may be recorded.

Sec. 201.013. *COMMON OWNERSHIP.* Any timeshare interest may be jointly or commonly owned by more than one person.

Sec. 201.014. PARTITION. An action for partition of a timeshare interest may not be maintained unless expressly permitted by the declaration.

[Sections 201.015–201.020 reserved for expansion]

SUBCHAPTER C. REGISTRATION

Sec. 201.021. REGISTRATION REQUIRED. (a) A person may not offer or dispose of a timeshare interest unless the timeshare property is registered with the commission.

(b) A developer or any person acting on his behalf may accept a reservation and a deposit from the prospective purchaser if the deposit is placed in an escrow account with an escrow agent and if the deposit is fully refundable at any time at the request of the purchaser. The deposit may not be forfeited unless the purchaser affirmatively creates a binding obligation by a subsequent written instrument.

(c) A developer or anyone acting on his behalf may not dispose of or encumber a timeshare interest during any period within which there is in effect an order by the commission or by any court of competent jurisdiction revoking or suspending the registration of the timeshare property of which such timeshare interest is a part.

Sec. 201.022. APPLICATION FOR REGISTRATION. (a) An application for registration filed under this section must include a timeshare disclosure statement and any required exchange disclosure statement required by Section 201.033, certified copies of all timeshare instruments, and other information as may be required by the commission.

(b) If existing or proposed timeshare units are in a condominium or similar development, the application for registration must contain the project instruments of that development and affirmatively indicate that the creation and disposition of timeshare interests are not prohibited by those instruments. If the project instruments do not expressly authorize the creation and disposition of timeshare interests, the application must contain evidence that existing owners of the condominium development were provided written notice, at least 60 days before the application for registration, that timeshare interests would be created and sold. If the project instruments prohibit the creation or disposition of timeshare interests, the application must contain a certification by the authorized representative of all existing owners that the project instruments have been properly amended to permit that creation and disposition.

(c) The commission shall investigate all matters relating to the application and may in its discretion require a personal inspection of the proposed timeshare property by any persons designated by it. All direct expenses incurred by the commission in inspecting the property shall be borne by the applicant. The commission may require the applicant to pay an advance deposit sufficient to cover those expenses.

Sec. 201.023. AMENDMENT OF REGISTRATION. The developer or managing entity shall promptly file amendments to the registration reporting to the commission any material and adverse change in any document contained in the registration.

Sec. 201.024. POWERS OF COMMISSION. (a) The commission may prescribe and publish forms and adopt rules necessary to carry out the provisions of this chapter and may suspend or revoke the registration of any seller if, after notice and hearing, the commission determines that a seller has materially violated this chapter.

(b) The commission shall establish reasonable fees for forms and documents it provides to the public and for the filing or registration of documents required by this chapter.

Sec. 201.025. EFFECT OF REGISTRATION: SALE EXEMPT FROM SECURITIES ACT. The filing of a registration under this chapter exempts the sale of timeshare interests subject to this chapter registration under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes).

[Sections 201.026–201.030 reserved for expansion]

SUBCHAPTER D. DISCLOSURE

Sec. 201.021. PROMOTIONAL DISCLOSURE STATEMENT. Before the use of any promotion in connection with the offering of a timeshare interest, the person who intends to use the promotion shall include the following information in its advertisements to the prospective purchaser:

- (1) a statement to the effect that the promotion is intended to solicit purchasers of timeshare interests;*
- (2) if applicable, a statement to the effect that any person whose name is obtained during the promotion may be solicited to purchase a timeshare interest;*
- (3) the full name of the developer and seller of the timeshare property;*
- (4) if applicable, the full name and address of any marketing company involved in the promotion of the timeshare property;*
- (5) the complete rules of the promotion; and*
- (6) the method of awarding, the odds of winning, the approximate retail value of prizes, gifts, or other benefits under the promotion, and the date by which each prize, gift, or benefit will be awarded or conferred.*

Sec. 201.032. TIMESHARE DISCLOSURE STATEMENT. (a) Before the signing of any agreement or contract to acquire a timeshare interest, the developer shall provide a timeshare disclosure statement to the prospective purchaser and shall obtain from the purchaser a written acknowledgement of receipt of the timeshare disclosure statement.

(b) The timeshare disclosure statement must include:

- (1) the name and address of the developer and the name and specific location of the timeshare property;*
- (2) a description of the accommodations, amenities, timeshare property, and any project or development within which the timeshare property is located or of which it is a part; the total number of timeshare units in the timeshare property and whether and under what circumstances that number may be increased or decreased; and, if a timeshare interest includes amenities not yet in existence, the commencement and completion schedule of the proposed amenities;*
- (3) a description of the timeshare interests currently available for disposition and, if applicable, the types and number of units available;*
- (4) a statement that a council of purchasers exists or is expected to be created or that such a council does not exist and is not expected to be created and, if such a council exists or is reasonably contemplated, a description of its powers and responsibilities;*
- (5) the name and principal address of the managing entity and a description of the procedures, if any, for altering the powers and responsibilities of the managing entity and for removing or replacing it;*
- (6) a complete budget for the operation of the timeshare property for a period of one year after the first disposition of a timeshare interest in the property, and thereafter, the current operating budget, which operating budget must include:*
 - (A) the total amount included as a reserve for the maintenance of the timeshare property and for the repair or replacement of personal property or fixtures;*
 - (B) the total amount of any other reserve and the purpose of the reserve;*
 - (C) the projected timeshare liability expressed by categories of expenditure for all timeshare interests;*
 - (D) the timeshare liability projected by categories of expenditures for each timeshare interest;*

- (E) *the name and address of the person who prepared the operating budget; and*
- (F) *the assumptions on which the operating budget is based;*
- (7) *a description of the nature and estimated amount of any timeshare liability that may in the future be assessed and the method and formula for assessing the timeshare liability;*
- (8) *a description of any service that the developer or person acting on his behalf provides or expense that is paid that reasonably may be expected to become a timeshare liability, and the projected timeshare liability attributable to that service or expense;*
- (9) *a description of the existing or proposed amenities of the timeshare property and, if the amenities are proposed or not yet complete or fully functional, a schedule for the projected commencement, completion, and availability of those amenities;*
- (10) *a description and amount of any current or expected dues, assessments, fees, or charges to be paid by purchasers for the use of accommodations or amenities or for any other purpose;*
- (11) *a description of any unsatisfied final judgment against the developer, seller, managing entity, or exchange company with which the developer is under contract, but not including any individual sales agent or representative who offers a timeshare interest;*
- (12) *a description and status of any pending lawsuit or administrative action of which the developer has actual knowledge that may materially affect a timeshare interest;*
- (13) *a description and amount of insurance coverage provided for the protection of the purchaser;*
- (14) *the extent to which a timeshare interest may become subject to a tax lien or other lien arising out of claims against purchasers of different timeshare interests;*
- (15) *a description of those matters required by Section 201.041;*
- (16) *a statement disclosing any right of first refusal or other restraint on the transfer of all or any portion of a timeshare interest;*
- (17) *a statement that any deposit made in connection with the purchase of a timeshare interest will be held in an escrow account until expiration of any right to cancel the contract or any later time specified in the contract and will be returned to the purchaser if he elects to exercise his right of cancellation; and*
- (18) *any other material circumstances concerning a timeshare interest.*

Sec. 201.033. EXCHANGE DISCLOSURE STATEMENT. (a) *Before the signing of any agreement or contract to acquire a timeshare interest in which a prospective purchaser is also offered participation in any exchange program, the developer shall also deliver to the prospective purchaser the exchange disclosure statement of any exchange company whose service is advertised or offered by the developer or other person in connection with the disposition.*

(b) *If participation in an exchange program is offered for the first time after a disposition has occurred, any person offering that participation shall also deliver an exchange disclosure statement to the purchaser before the execution by the purchaser of any instrument relating to participation in the exchange program.*

(c) *In all cases, the person offering participation in the exchange program shall obtain from the purchaser a written acknowledgement of receipt of the exchange disclosure statement.*

(d) *The exchange disclosure statement must include the following information:*

- (1) *the name and address of the exchange company;*
- (2) *if the exchange company is not the developer, a statement describing the legal relationship, if any, between the exchange company and the developer;*

(3) a statement indicating the conditions under which the exchange program might terminate or become unavailable;

(4) whether membership or participation or both in the exchange program is voluntary or mandatory;

(5) a complete description of the required procedure for executing an exchange of timeshare periods;

(6) the fee required for membership or participation or both in the program and whether the fee is subject to change;

(7) a statement to the effect that participation in the exchange program is conditioned on compliance with the terms of a contract between the exchange company and the purchaser;

(8) a statement in conspicuous and bold-faced print to the effect that all exchanges are arranged on a space-available basis and that neither the developer nor the exchange company guarantees that a particular timeshare period can be exchanged; and

(9) a description of seasonal demand and unit occupancy restrictions employed in the exchange program.

Sec. 201.034. *WHEN DISCLOSURE NOT REQUIRED.* A disclosure statement need not be delivered in the case of:

(1) a gratuitous disposition of a timeshare interest;

(2) a disposition pursuant to a court order;

(3) a disposition by a governmental agency;

(4) a disposition by foreclosure or deed in lieu of foreclosure;

(5) a disposition that may be canceled by the purchaser without penalty at any time and for any reason;

(6) a disposition of all timeshare interests in a timeshare regime to not more than five persons;

(7) a disposition of a timeshare interest in a timeshare property situated wholly outside this state under a contract executed wholly outside this state, if there has been no offering to the purchaser within this state;

(8) a disposition of a timeshare interest to a purchaser who is not a resident of this state under a contract executed wholly outside this state, if there has been no offering to the purchaser within this state; or

(9) the redistribution of a timeshare interest by a purchaser who acquired the interest for his personal use.

[Sections 201.035–201.040 reserved for expansion]

SUBCHAPTER E. CANCELLATION OF PURCHASE CONTRACT

Sec. 201.041. *PURCHASER'S RIGHT TO CANCEL.* (a) A purchaser may cancel a contract to purchase a timeshare interest before the fourth day after the date the contract is executed if the purchaser did not visit the location of the timeshare unit and have the opportunity to inspect a substantially complete accommodation comparable to the accommodations being offered for sale before the contract was signed.

(b) A purchaser may not waive his right of cancellation under this section. A contract containing a waiver is voidable by the purchaser.

Sec. 201.042. *NOTICE; REFUND.* (a) If a purchaser elects to cancel a contract under Section 201.041, he may do so by hand-delivering notice of cancellation to the seller or by mailing notice by prepaid United States mail to the seller or to the seller's agent for service of process.

(b) Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded before the 21st day after the date on which the seller receives notice of cancellation.

Sec. 201.043. CONTRACT REQUIREMENTS. (a) Immediately before the space reserved in the contract for the signature of the purchaser, in bold-faced and conspicuous type or print that is larger than the type or print in the remaining text of the contract, substantially the following statement must appear:

"If you have not visited the location of the timeshare unit in which you are acquiring an interest and have not had the opportunity to inspect a substantially complete accommodation, you may cancel this contract without penalty or obligation before the fourth day after the date on which you sign this contract. If you decide to cancel this contract, you may do so by hand-delivering notice of cancellation to the seller or by mailing notice by prepaid United States mail to the seller or the seller's agent for service of process. Your notice of cancellation is effective on the date sent or delivered to (Name of Seller) at (Address of Seller). A purchaser should not rely on statements other than those included in this contract and the disclosure statement."

(b) The contract must also include the following:

- (1) the name and address of the seller and the address of the timeshare unit;*
- (2) whether the purchaser visited the location of the timeshare unit before signing the contract;*
- (3) an agreement by the seller that if the purchaser timely exercises the right of cancellation under the contract, all payments made by the purchaser to the seller in connection with the contract shall be returned to such purchaser before the 21st day after the seller receives notice of cancellation; and*
- (4) the name of the person or persons actively involved in the sales presentation on behalf of the seller.*

[Sections 201.044–201.050 reserved for expansion]

SUBCHAPTER F. EXCHANGE PROGRAM

Sec. 201.051. OPERATION REQUIREMENT. An exchange company shall employ seasonal demand and unit occupancy restrictions in the operation of its exchange program.

Sec. 201.052. LIABILITY OF DEVELOPER. A developer does not incur any liability arising out of the use, delivery, or publication by the developer to the purchaser of written information or audio-visual materials provided to it by the exchange company in accordance with Subchapter D. A developer is subject to liability arising out of the use, delivery, or publication to the purchaser of materials provided by the exchange company if the developer knows or has reason to know that the materials are inaccurate or false.

Sec. 201.053. EXCHANGE COMPANY LIABILITY. Except for written information or audio-visual materials provided to a developer by an exchange company, an exchange company does not incur liability as a result of:

- (1) a representation made by a developer that relates to any exchange program or exchange company; or*
- (2) the use, delivery, or publication by a developer of information that relates to an exchange program or exchange company.*

[Sections 201.054–201.060 reserved for expansion]

SUBCHAPTER G. ESCROW DEPOSITS

Sec. 201.061. ESCROW ACCOUNT REQUIRED. The developer or other person acting on its behalf shall establish an escrow account with an escrow agent for the purpose of protecting deposits made by purchasers in connection with proposed dispositions of timeshare interests.

Sec. 201.062. ESCROW AMOUNT. Fifty percent of any deposit obtained from a purchaser shall be placed in the escrow account.

Sec. 201.063. RELEASE OF ESCROW. (a) The funds or property constituting the escrow deposit may be released from escrow only in accordance with this section.

(b) If the purchaser defaults in the performance of obligations under the terms of a contract to purchase a timeshare interest, the developer or other person legally entitled to the escrow deposit shall file an application with the escrow agent requesting release of the applicable amount. The application for release of the escrow deposit must be verified and must include:

(1) a concise statement by the applicant that the purchaser has materially defaulted in the performance of obligations under the terms of a contract to purchase a timeshare interest and that the applicant and the developer have complied with all terms and obligations of that contract;

(2) a complete explanation of the nature of the purchaser's material default under the contract and of the date of its occurrence;

(3) a statement that pursuant to the terms of the purchase contract the applicant is entitled to the escrow deposit;

(4) a statement that the developer has no knowledge of a dispute between the purchaser and developer and a statement that the purchaser has not, to the applicant's knowledge, made a demand for the return of the deposit; and

(5) a statement that the purchaser has not exercised a right of cancellation under Subchapter E.

(c) Notwithstanding the other provisions of this section, the escrow agent may release the escrow deposit to the applicant on presentation to the escrow agent of:

(1) an affidavit by the developer that the timeshare unit is substantially complete and that no applicable right of cancellation of the contract has been exercised by the purchaser;

(2) if funds were placed in the escrow account in connection with the proposed disposition of a timeshare estate, a true and correct copy of the instrument transferring ownership of the timeshare estate to the purchaser free and clear of all liens and encumbrances, except for any encumbrance created by purchaser financing; and

(3) if funds were placed in the escrow account in connection with the proposed disposition of a timeshare use, a true and correct copy of a properly executed and recorded nondisturbance agreement executed by the developer and all holders of a lien recorded against the timeshare property and providing that subsequent owners or foreclosing holders of a lien shall take title to the timeshare property subject to the rights of prior purchasers under their contracts of sale.

(d) A deposit may not be released from escrow until the escrow agent has provided the purchaser written notice of intent to release the escrow at least 14 days before the release.

[Sections 201.064–201.070 reserved for expansion]

SUBCHAPTER H. MISCELLANEOUS PROVISIONS

Sec. 201.071. DECEPTIVE TRADE PRACTICES. (a) A seller or other person commits a false, misleading, or deceptive act or practice within the meaning of Subsections (a) and (b) of Section 17.46 of the Texas Deceptive Trade Practices-Consumer Protection Act (Article 17.46 et seq., Business & Commerce Code), by engaging in any of the following acts:

(1) failing to disclose information concerning a timeshare interest required by Subchapter D;

(2) making false or misleading statements of fact concerning the characteristics of accommodations or amenities available to a consumer;

(3) predicting specific or immediate increases in the value of a timeshare interest without a reasonable basis for such predictions;

(4) making false or misleading statements of fact concerning the duration that accommodations or amenities will be available to a consumer;

(5) making false or misleading statements of fact concerning the conditions under which a purchaser of a timeshare interest may exchange the right to occupy a unit for the right to occupy a unit in the same or another timeshare property; or

(6) representing that a prize, gift, or other benefit will be awarded in connection with a promotion with the intent not to award that prize, gift, or benefit in the manner represented.

(b) The provisions of this section are not exclusive and are in addition to provisions provided for in any other law.

Sec. 201.072. **INSURANCE.** Before the disposition of any timeshare interest, the developer shall maintain the following insurance with respect to the timeshare property:

(1) property insurance on the timeshare property and any personal property for use by purchasers, other than personal property separately owned by a purchaser, insuring against all risks of direct physical loss commonly insured against, in a total amount, after application of deductibles, of the replacement cost of the accommodations and amenities of the timeshare property; and

(2) liability insurance covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, and maintenance of the timeshare property.

SECTION 6.04. Subchapter F, Chapter 17, Business & Commerce Code, as added by Chapter 117, Acts of the 69th Legislature, Regular Session, 1985 (a nonsubstantive codification of prior law), is repealed to avoid conflict with Subchapter F, Chapter 17, Business & Commerce Code, as added by Chapter 172, Acts of the 69th Legislature, Regular Session, 1985.

SECTION 6.05. (a) Sections 34.0511, 34.0512, 34.0513, 34.0514, and 34.0515, Natural Resources Code, are transferred to Chapter 32, designated as "SUBCHAPTER F. LEASE OF HIGHWAY LANDS", and renumbered respectively as Sections 32.201, 32.202, 32.203, 32.204, and 32.205, Natural Resources Code.

(b) The references to Section 34.0511, Natural Resources Code, in Sections 34.0512, 34.0513, and 34.0514 of that code (renumbered by Subsection (a) of this section as Sections 32.202, 32.203, and 32.204) are changed to references to Section 32.201 of that code.

(c) The reference to Section 34.0514, Natural Resources Code, in Subsection (d) of Section 34.0511 of that code (renumbered by Subsection (a) of this section as Section 32.201) is changed to a reference to Section 32.204 of that code.

(d) Subsection (a), Section 34.002, Natural Resources Code, is amended to reconcile conflicting amendments by Chapters 327 and 624, Acts of the 69th Legislature, Regular Session, 1985, to read as follows:

(a) The provisions of this chapter apply to:

- (1) land owned by the Texas Parks and Wildlife Department;
- (2) land owned by the Texas Department of Corrections.

(e) Subsections (a) and (b), Section 32.002, Natural Resources Code, are amended to conform to the transfer of sections from Chapter 34 under this section, to read as follows:

(a) This chapter does not apply to:

(1) land dedicated by the constitution or a law of this state to The University of Texas System, land donated by a will or instrument in writing or otherwise to The University of Texas System, as trustee, for a scientific, educational, or other charitable or public purpose, or any other land under the control of the Board of Regents of The University of Texas System;

(2) land whose title is vested in the state for the use and benefit of any part of The Texas A & M University System or land under the control of the Board of Regents of The Texas A & M University System;

(3) land subject to lease under Subchapter F, Chapter 52 of this code, commonly known as the Relinquishment Act;

(4) oil and gas underlying land owned by the state that was acquired to construct or maintain a highway, road, street, or alley, which is located in a producing area;

(5) oil and gas underlying land owned by the state that was acquired to construct or maintain a highway, road, street, or alley if the State Highway and Public Transportation Commission has determined that such right-of-way is no longer needed for use by citizens as a road pursuant to Chapter 99, General Laws, Acts of the 42nd Legislature, Regular Session, 1931 (Article 6673a, Vernon's Texas Civil Statutes);

~~[(4) land owned by the state that was acquired to construct or maintain a highway, road, street, or alley;~~

~~[(5) land owned by the state under the jurisdiction or control of the State Highway and Public Transportation Commission;]~~

(6) land owned by the Texas Parks and Wildlife Department; or

(7) land owned by the Texas Department of Corrections.

(b) *For purposes of Subsection (a)(4) of this section, land is located in a producing area if the closest boundary line of the surface of such land is within 2,500 feet of a well capable of producing oil or gas in paying quantities as of January 1, 1985. Oil and gas underlying land not located within a producing area may be leased under the provisions of Section 32.201 of this code.*

~~[Notwithstanding Subsection (a), the provisions of this chapter do apply to the leasing of the following types of land for the development of minerals other than oil and gas:~~

~~[(1) land owned by the state that was acquired to construct or maintain a highway, road, street, or alley; or~~

~~[(2) land owned by the state under the jurisdiction or control of the State Highway and Public Transportation Commission.]~~

(f) The following references in the Natural Resources Code are changed to "board":

(1) the reference in Section 34.0511(b) to "board for lease";

(2) the reference in Section 34.0511(e) to "board for lease for highway department lands";

(3) the reference in Section 34.0514 to "board for lease for highway department lands"; and

(4) the reference in Section 34.0515 to "board for lease of state highway department lands".

(g) The reference to Sections 34.058 and 34.059, Natural Resources Code, in Subdivision (2) of Subsection (b) of Section 34.0511 of that code (renumbered as Section 32.201 by this section) is changed to a reference to Sections 32.1072 and 32.1073 of that code.

ARTICLE 7. EFFECTIVE DATE AND EMERGENCY

SECTION 7.01. This Act takes effect September 1, 1987.

SECTION 7.02. 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 March 18, 1987, by a viva-voce vote; and that the Senate concurred in House amendment on May 1, 1987, by a viva-voce vote. Passed the House, with amendment, on April 30, 1987, by a non-record vote.

Approved May 25, 1987.

Effective Sept. 1, 1987.