

AGRICULTURE CODE

TITLE 5. PRODUCTION, PROCESSING, AND SALE OF HORTICULTURAL PRODUCTS

SUBTITLE B. HORTICULTURAL DISEASES AND PESTS

CHAPTER 80. OFFICIAL CITRUS PRODUCERS' PEST AND DISEASE

MANAGEMENT CORPORATION

Sec. 80.001. FINDINGS AND DECLARATION OF POLICY. (a) The legislature finds that:

(1) citrus pests and diseases, including the insect known as the Asian citrus psyllid and the disease known as citrus greening, are public nuisances and menaces to the citrus industry, and their control and suppression is a public necessity;

(2) because of the natural migration patterns of citrus pests and the contagious nature of citrus diseases, the control and suppression of the nuisance can best be accomplished by dividing the commercial citrus-growing areas into separate zones so that integrated pest management programs may be developed for each zone;

(3) there is a need for a quasi-governmental entity acting under the supervision and control of the commissioner whose members are actual citrus producers who would be represented on the board of the entity by directors elected by them to manage control and suppression programs and to furnish expertise in the field of disease and insect control and suppression, because such an entity would enhance the interest and participation of citrus producers in the program;

(4) citrus producers, in partnership with the state and federal governments, have made significant investments toward the suppression of these pests and disease in this state; and

(5) it is essential to the well-being of the citrus industry and the agricultural economy of this state that the investments of the citrus producers and the state and federal governments be protected.

(b) It is the intent of the legislature that the program of control and suppression of citrus pests and diseases be carried out with the best available integrated pest management techniques.

(c) The department may recover costs for administration of

this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 29 (S.B. 1749), Sec. 1, eff. September 1, 2015.

Sec. 80.002. DESIGNATION OF ENTITY TO CARRY OUT CITRUS PEST AND DISEASE CONTROL AND SUPPRESSION. (a) The Texas Citrus Pest and Disease Management Corporation, Inc., a Texas nonprofit corporation, shall be recognized by the department as the entity to plan, carry out, and operate suppression programs to manage and control pests and diseases, including the Asian citrus psyllid and citrus greening, in citrus plants in the state under the supervision of the department as provided by this chapter.

(b) The commissioner may terminate the corporation's designation as the entity recognized to carry out citrus pest and disease control and management by giving 45 days' written notice to the corporation and by designating a successor entity. If the commissioner designates a successor to the corporation, the successor has all the powers and duties of the corporation under this chapter. Any successor to the corporation shall assume and shall be responsible for all obligations and liabilities relating to any notes, security agreements, assignments, loan agreements, and any other contracts or other documents entered into by the corporation with or for the benefit of any financial institution or its predecessor, successor, or assignee.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 29 (S.B. 1749), Sec. 2, eff. September 1, 2015.

Sec. 80.003. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the Texas Citrus Pest and Disease Management Corporation, Inc.

(2) "Asian citrus psyllid" means *Diaphorina citri*

Kuwayama.

(3) "Commissioner" means the commissioner of agriculture.

(4) "Citrus" means:

(A) a citrus plant;

(B) a part of a citrus plant, including trees, limbs, flowers, roots, and leaves; or

(C) citrus products.

(5) "Citrus greening" means the disease caused by the Asian citrus psyllid.

(6) "Citrus producer" means a person who grows citrus and receives or intends to receive income from the sale of citrus. The term includes an individual who as owner, landlord, tenant, or sharecropper is entitled to share in the citrus grown and available for marketing from a farm or to share in the proceeds from the sale of the citrus from the farm. The term includes a person who owns land that is primarily used to grow citrus and that is appraised based on agricultural use under Chapter 23, Tax Code, regardless of whether the person receives income from the sale of citrus, and there is an irrebuttable presumption that the person intends to receive income from the sale of citrus.

(7) "Suppression" means control of the numbers and migration of a pest to the extent that the commissioner does not consider further management of the pest necessary to prevent economic loss to citrus producers.

(8) "Pest management zone" means a geographic area designated by the commissioner in accordance with Section 80.005 in which citrus producers by referendum approve their participation in a citrus pest control program.

(9) "Corporation" means the Texas Citrus Pest and Disease Management Corporation, Inc., a Texas nonprofit corporation.

(10) "Host" means a plant or plant product in which a pest is capable of completing any portion of its life cycle.

(11) "Infested" means the presence of a pest in any life stage or the existence of generally accepted evidence from which it may be concluded with reasonable certainty that a pest is

present.

(12) "Integrated pest management" means the coordinated use of pest and environmental information with available pest control methods, including pesticides, natural predator controls, cultural farming practices, and climatic conditions, to prevent unacceptable levels of pest damage by the most economical means and with the least possible hazard to people, property, and the environment.

(13) "Regulated article" means an article carrying or capable of carrying a pest, including citrus plants, nursery plants, citrus rootstock, or other hosts.

(14) "Disease" means an impairment of the normal state of citrus, caused by a virus or organism, that interrupts or modifies the performance of vital functions in citrus. The term includes citrus greening.

(15) "Pest" means a virus or organism that causes disease or other damage to citrus and that is designated by commissioner rule for suppression under this chapter. The term includes the Asian citrus psyllid.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 5.01, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 29 (S.B. 1749), Sec. 3, eff. September 1, 2015.

Sec. 80.004. ADVISORY COMMITTEES. (a) The commissioner may appoint an advisory committee for an existing pest management zone or an area of the state that is to be considered by the commissioner for designation as or inclusion in a pest management zone. The committee shall gather advice, input, and guidance from citrus producers from the area represented by the committee concerning the interest in and concerns about the implementation of this chapter.

(b) Each advisory committee may consider and make recommendations to the commissioner and the corporation concerning:

(1) the geographic boundaries for a proposed pest management zone;

(2) the amount of local interest in operating a suppression program;

(3) the basis and amount of an assessment necessary to support a suppression program;

(4) ongoing implementation of a suppression program approved by growers in a pest management zone; and

(5) any other matter requested by the commissioner or the corporation.

(c) Each advisory committee appointed under this section must include a sufficient number of citrus producers to ensure adequate representation across the pest management zone and other persons as determined by the commissioner.

(d) An advisory committee established under this section is subject to Chapters 551 and 552, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Sec. 80.005. CREATION OF PEST MANAGEMENT ZONES. (a) The commissioner by rule may designate an area of this state as a proposed pest management zone.

(b) The commissioner may hold a public hearing in the proposed pest management zone to discuss the proposed geographic boundaries of the zone. The public hearing may include any other topic allowed under this chapter.

(c) After the adoption of a rule under Subsection (a), the commissioner shall conduct a referendum under Section 80.006.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Sec. 80.006. PEST MANAGEMENT ZONE REFERENDA. (a) The commissioner shall conduct a referendum in each proposed pest management zone to determine whether citrus producers want to establish a pest management zone.

(b) Pest management zone referenda shall be conducted under the procedures provided by Section 80.016.

(c) A proposed pest management zone referendum ballot must include or be accompanied by information about the proposed pest management zone, including:

(1) a statement of the purpose of the pest suppression program;

(2) the geographic area included in the proposed pest management zone;

(3) a general summary of rules adopted by the commissioner under Sections [80.016](#), [80.020](#), and [80.022](#), including a description of:

(A) citrus producer responsibilities; and

(B) penalties for noncompliance with rules adopted under this chapter; and

(4) an address and toll-free telephone number that a citrus producer may use to request more information about the referendum or the pest suppression program.

(d) If a referendum to establish a pest management zone is not approved, the concurrent election of a board member from the proposed pest management zone under Section [80.007](#) has no effect, and the commissioner shall appoint a representative to the board from the area.

(e) The corporation may request the commissioner to call additional referenda in a proposed pest management zone in which a referendum has not been approved. An additional pest management zone referendum and concurrent board election may not be held before the first anniversary of the date of the preceding referendum.

(f) After the approval of any referendum, the eligible voters shall be allowed, by subsequent referenda, to vote on whether to continue their assessments. The requirements for an initial referendum must be complied with in a subsequent referendum.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 10.01, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 29 (S.B. [1749](#)), Sec. 4, eff. September 1, 2015.

Sec. 80.007. BOARD ELECTIONS. (a) The initial election for board members from a proposed pest management zone shall be held concurrently with a pest management zone referendum held under Section 80.006. Each pest management zone must be represented on the board and remain represented on the board until suppression operations are concluded and all debt of the pest management zone is paid.

(b) A board election shall be conducted under the procedures provided by this section and Section 80.016.

(c) A citrus producer who is eligible to vote in a referendum or election under this chapter is eligible to be a candidate for and member of the board if the person has at least seven years of experience as a citrus producer and otherwise meets the qualifications for the office.

(d) A citrus producer who wants to be a candidate for the board must meet the qualifications for board membership and file an application with the commissioner. The application must be:

(1) filed not later than the 30th day before the date set for the board election;

(2) on a form approved by the commissioner; and

(3) signed by at least 10 citrus producers who are eligible to vote in the board election.

(e) On receipt of an application and verification that the application meets the requirements of Subsection (d), an applicant's name shall be placed on the ballot for the board election.

(f) An eligible voter may vote for a citrus producer whose name does not appear on the official ballot by writing that person's name on the ballot.

(g) A board election must be preceded by at least 45 days' notice published in one or more newspapers published and distributed in the proposed or established pest management zone. The notice shall be published not less than once a week for three consecutive weeks. Not later than the 45th day before the date of the election, direct written notice of the election shall be given to each Texas AgriLife Extension Service agent in the pest

management zone.

(h) Each board member shall be sworn into office by a representative of the commissioner by taking the oath of office required for elected officers of the state.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Sec. 80.008. COMPOSITION OF BOARD. (a) The board is composed of members elected from each pest management zone established by referendum, members appointed by the commissioner from other citrus-growing areas of the state, and members appointed by the commissioner under Subsection (b). The commissioner shall appoint an initial board composed of 15 members. Except as provided by Subsection (b), the term of each board position may not exceed four years.

(b) In making appointments under this section, the commissioner shall appoint the following board members, selected from a variety of citrus-growing regions of the state, for four-year terms:

(1) an agricultural lender;

(2) an independent entomologist who is an integrated pest management specialist;

(3) a representative from an industry allied with citrus production;

(4) a representative from the pest control industry;
and

(5) a representative of the nursery or ornamental citrus sales industry.

(c) The commissioner may change the number of board positions or the pest management zone representation on the board to accommodate changes in the number of pest management zones. A change under this subsection may not contravene another provision of this chapter.

(d) A vacancy on the board shall be filled by appointment by the commissioner for the unexpired term.

(e) On 30 days' notice and opportunity for hearing, the commissioner may replace any unelected board member of the

corporation.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 29 (S.B. 1749), Sec. 5, eff. September 1, 2015.

Sec. 80.009. POWERS OF BOARD AND COMMISSIONER. (a) The board may:

(1) conduct programs consistent with the declaration of policy stated in Section 80.001;

(2) accept, as necessary to implement this chapter, gifts and grants;

(3) borrow money, with the approval of the commissioner, as necessary to execute this chapter;

(4) take other action and exercise other authority as necessary to execute any act authorized by this chapter or the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes); and

(5) form an advisory committee composed of individuals from this state, other states, or other countries and change membership on the committee, as necessary. Any advisory committee created under this subdivision for the purpose of establishing treatment methods shall include among its members persons with knowledge of the effects of different treatments on the health of agricultural workers, the local population, and the ecosystem, including but not limited to the effects of a particular method of treatment on beneficial organisms and wildlife, the potential for secondary infestations from nontarget pests, and the potential for pest resistance to particular methods of treatment.

(b) On petition of at least 30 percent of the citrus producers eligible to vote in the proposed area, the commissioner may, or at the commissioner's discretion the commissioner by rule may, add an area to a pest management zone or transfer an area or county from one zone to another zone if:

(1) citrus production has begun or could begin in the area;

(2) the area is adjacent to a pest management zone or is in an area with biological characteristics similar to the pest management zone; and

(3) the addition is approved in a referendum held in the area.

(c) The board must adopt a procurement policy, subject to approval by the commissioner, outlining the procedures to be used in purchasing.

(d) The commissioner at any time may inspect the books and other financial records of the corporation.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Sec. 80.010. BOARD DUTIES. (a) The board shall have an annual independent audit of the books, records of account, and minutes of proceedings maintained by the corporation prepared by an independent certified public accountant or a firm of independent certified public accountants. The audit must include information for each zone in which a suppression program has been conducted under this chapter. The audit shall be filed with the board, the commissioner, and the state auditor and be made available to the public by the corporation or the commissioner. The transactions of the corporation are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

(b) Not later than the 45th day after the last day of the fiscal year, the board shall submit to the commissioner a report itemizing all income and expenditures and describing all activities of the corporation during the fiscal year.

(c) The corporation shall provide fidelity bonds in amounts determined by the board for employees or agents who handle money for the corporation.

(d) The corporation and the board are state agencies for the following purposes only:

(1) exemption from taxation, including exemption from sales and use taxes and taxes under Chapter 152, Tax Code; and

(2) exemption from vehicle registration fees.

(e) Funds collected by the corporation are not state funds

and are not required to be deposited in the state treasury. The corporation shall deposit all money collected under this chapter in a bank or other depository approved by the commissioner.

(f) The board shall collect data on the type and quantity of pesticides used in accordance with this chapter. The data shall be filed with the commissioner.

(g) All money collected under this chapter shall be used solely to finance programs approved by the commissioner as consistent with this chapter.

(h) The corporation is subject to the requirements of:

(1) the open meetings law, Chapter 551, Government Code; and

(2) the public information law, Chapter 552, Government Code.

(i) A board member may not vote on any matter in which the member has a direct pecuniary interest. A board member is subject to the same restrictions as a local public official under Chapter 171, Local Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Sec. 80.011. ADMINISTRATIVE REVIEW. (a) The commissioner by rule shall establish procedures for the informal review and resolution of a claim arising out of certain acts taken by the corporation under this chapter. Rules established under this section shall include a designation of the acts that are subject to review under this subsection and the appropriate remedial action, as authorized by this chapter.

(b) A person dissatisfied with the department's informal resolution of a claim under procedures adopted under Subsection (a) may appeal the department's decision to the commissioner.

(c) A decision issued by the commissioner on a claim appealed under Subsection (b) is the final administrative action of the department and is subject to judicial review under Chapter 2001, Government Code.

(d) This section does not constitute a waiver of the state's immunity from liability.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 10.01, eff. September 1, 2009.

Sec. 80.012. CONTRACTING. (a) For a purchase of goods and services under this chapter, the corporation may purchase goods and services that provide the best value for the corporation.

(b) In determining the best value for the corporation, the purchase price and whether the goods or services meet specifications are the most important considerations. However, the corporation may consider other relevant factors, including:

(1) the quality and reliability of the goods and services;

(2) the delivery terms;

(3) indicators of probable vendor performance under the contract, including:

(A) past vendor performance;

(B) the vendor's financial resources and ability to perform;

(C) the vendor's experience or demonstrated capability and responsibility; and

(D) the vendor's ability to provide reliable maintenance agreements and support;

(4) the cost of any employee training associated with a purchase; and

(5) other factors relevant to determining the best value for the corporation in the context of a particular purchase.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 10.01, eff. September 1, 2009.

Sec. 80.013. BOARD MEMBER COMPENSATION. Board members serve without compensation but are entitled to reimbursement for reasonable and necessary expenses incurred in the discharge of their duties.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 10.01, eff. September 1, 2009.

Sec. 80.014. DISCONTINUATION OF PROGRAM AND CORPORATION AND

DISPOSITION OF FUNDS ON DISCONTINUANCE. (a) On the determination by the corporation that the pest suppression program has been completed in all pest management zones established under this chapter, the corporation shall provide notice of the completion to the commissioner along with a request for discontinuance of the control and suppression program and collection of the assessment. Any request under this subsection must include documentation supporting the fact that pests are no longer a threat to the state's citrus industry and a plan for discontinuance of the program and assessment.

(b) The commissioner shall determine whether or not the further suppression of pests is necessary in the pest management zones and approve or disapprove discontinuance of the corporation and the plan for dissolution.

(c) On completion of the dissolution, the corporation shall file a final report with the commissioner, including a financial report, and submit all remaining funds into the trust of the commissioner. Final books of the corporation shall be filed with the commissioner and are subject to audit by the department.

(d) The commissioner shall pay from the corporation's remaining funds all of the corporation's outstanding obligations.

(e) Funds remaining after payment under Subsection (d) shall be returned to contributing citrus producers on a pro rata basis.

(f) If 30 percent or more of the citrus producers eligible to vote within a zone participating in the program present to the commissioner a petition calling for a referendum of the qualified voters on the proposition of discontinuing the program, the commissioner shall conduct a referendum for that purpose.

(g) The commissioner shall give notice of the referendum, the referendum shall be conducted, and the results shall be declared in the manner provided by law for the original referendum and election, with any necessary exceptions provided by rule of the commissioner.

(h) The commissioner shall conduct the referendum before the 90th day after the date the petition was filed, except that a referendum may not be held before the second anniversary of any

other referendum in the pest management zone pertaining to establishing or discontinuing the pest management zone.

(i) Approval of the proposition requires the same vote as required in a referendum under Section 80.016(g). If the proposition is approved, the suppression program is abolished and the pest management zone ceases to exist on payment of all debts of the pest management zone.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 29 (S.B. 1749), Sec. 6, eff. September 1, 2015.

Sec. 80.015. ASSESSMENT REFERENDA. (a) The commissioner shall propose the assessment needed in each pest management zone to ensure the stability of the citrus industry by suppressing the public nuisance caused by pests.

(b) The commissioner shall propose in a referendum the:

(1) maximum assessment to be paid by citrus producers in the pest management zone; and

(2) time for which the assessment will be made.

(c) With the commissioner's approval, the corporation may make an assessment in a pest management zone at a level less than the assessment approved by the referendum.

(d) The commissioner shall conduct an assessment referendum under the procedures provided by Section 80.016.

(e) If an assessment referendum is approved, the corporation may collect the assessment.

(f) An assessment levied on citrus producers in a pest management zone may be applied only to:

(1) pest control in that zone;

(2) the corporation's operating costs, including payments on debt incurred for a corporation activity, except that the funds of one zone may not be used to pay another zone's bank loans or debts; and

(3) the conducting of other programs consistent with the declaration of policy stated in Section 80.001.

(g) The assessment shall be adequate and necessary to achieve the goals of this chapter. The amount of the assessment shall be determined by criteria established by the commissioner, including:

- (1) the extent of infestation;
- (2) the amount of acreage planted;
- (3) historical efforts to suppress;
- (4) the growing season;
- (5) epidemiology;
- (6) historical weather conditions; and
- (7) the costs and financing of the program.

(h) The commissioner shall give notice of and hold a public hearing in the pest management zone regarding the proposed assessment referendum. Before the referendum, the commissioner shall review and approve:

- (1) the amount of the assessment;
- (2) the basis for the assessment;
- (3) the time for payment of the assessment;
- (4) the method of allocation of the assessment among citrus producers;
- (5) the restructuring and repayment schedule for any preexisting debt; and
- (6) the amount of debt to be incurred in the pest management zone.

(i) The commissioner shall on a zone-by-zone basis set the date on which assessments are due and payable.

(j) Each year, the commissioner shall review and approve the corporation's operating budget.

(k) The corporation shall prepare and mail billing statements to each citrus producer subject to the assessment that state the amount due and the due date. The assessments shall be sent to the corporation.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 10.01, eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. [1494](#)), Sec. 5.02, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 29 (S.B. 1749), Sec. 7, eff. September 1, 2015.

Sec. 80.016. CONDUCT OF BOARD ELECTIONS AND REFERENDA; BALLOTING. (a) The commissioner shall conduct a referendum or board election authorized under this chapter.

(b) The corporation shall bear all expenses incurred in conducting a referendum or board election.

(c) The commissioner shall adopt rules for voting in board elections and referenda to establish pest management zones. Rules adopted under this subsection must include provisions for determining:

(1) who is a citrus producer eligible to vote in an election or referendum;

(2) whether a board member is elected by a plurality or a majority of the votes cast; and

(3) the area from which each board member is elected.

(d) A citrus producer in a proposed or established pest management zone is entitled to:

(1) vote in a referendum concerning the pest management zone; and

(2) elect board members to represent the pest management zone.

(e) An eligible citrus producer may vote only once in a referendum or board election.

(f) Ballots in a referendum or board election shall be mailed directly to a central location, as determined by the commissioner. A citrus producer eligible to vote in a referendum or board election who has not received a ballot from the commissioner, corporation, or another source shall be offered the option of requesting a ballot by mail or obtaining a ballot at the office of the Texas AgriLife Extension Service or a government office distributing ballots in a county in the proposed or established zone in which the referendum or board election is conducted.

(g) A referendum is approved if:

(1) at least two-thirds of those voting vote in favor

of the referendum; or

(2) those voting in favor of the referendum cultivate more than 50 percent, as determined by the commissioner, of the citrus acreage in the relevant pest management zone.

(h) If a referendum under this chapter is not approved, the commissioner may conduct another referendum. A referendum under this subsection may not be held before the first anniversary of the date on which the previous referendum on the same issue was held.

(i) A public hearing regarding the proposed suppression program, including information regarding regulations to be promulgated by the commissioner, may be held by the commissioner in each of several locations in each pest management zone.

(j) Individual voter information, including an individual's vote in a referendum or board election conducted under this section, is confidential and is not subject to disclosure under Chapter 552, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 5.03, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 29 (S.B. 1749), Sec. 8, eff. September 1, 2015.

Sec. 80.017. PAYMENT OF ASSESSMENTS; ASSESSMENT LIENS. (a) A citrus producer who fails to pay an assessment levied under this chapter when due may be subject, after reasonable notice and opportunity for hearing, to a penalty set by the commissioner. In determining the amount of the penalty to be assessed, the commissioner shall consider:

(1) the seriousness of the violation, including the nature, circumstances, and extent of the violation;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) the economic situation of the citrus producer; and

(5) any other matter that justice may require.

(b) The corporation may develop a compliance certificate

program to manage the payment and collection of an assessment levied under this chapter. Under the program the corporation, subject to department rules, may issue a compliance certificate for citrus for which an assessment has been paid.

(c) In addition to any other remedies for the collection of assessments and penalties, the commissioner may adopt rules relating to the compliance certificate program for suppression assessments. The rules may include:

(1) provisions establishing and relating to the obligations of growers, packers, and buyers in due course of citrus produced in active pest management zones to ensure that assessments are paid within a prescribed time period;

(2) provisions allowing incentives in the form of discounted assessments for growers who pay assessments within a prescribed time period;

(3) provisions establishing penalties and interest against growers who pay assessments after a prescribed time period; and

(4) other provisions the commissioner determines are proper.

(d) In addition to any other remedies for the collection of assessments and penalties, an assessment lien in favor of the corporation attaches and is perfected 60 days after the date the corporation mails notice of the assessment on citrus produced and harvested that year from the acreage that is subject to the assessment that is due and unpaid. An assessment lien is not an agricultural lien for the purposes of Chapter 9, Business & Commerce Code, and is not subject to the provisions of that chapter. An assessment lien is subject to and preempted by the Food Security Act of 1985 (7 U.S.C. Section 1631 et seq.) and shall be treated under that Act in the same manner as a security interest created by the seller. A buyer of citrus takes free of the assessment lien if the buyer:

(1) receives a compliance certificate issued by the corporation when the buyer purchases the citrus that certifies that the assessment has been paid to the corporation;

(2) pays for the citrus by a check on which the

department is named as a joint payee;

(3) does not receive notice of the assessment lien as required by the Food Security Act of 1985 (7 U.S.C. Section 1631 et seq.); or

(4) buys the citrus from a person other than the producer of the citrus.

(e) The corporation may assign, with the approval of the commissioner, assessments or liens in favor of the corporation as collateral for a loan to the corporation only if the proceeds of the loan are designated for use in the pest management zone from which the assessments or liens originated.

(f) If the department believes that a violation of this section or a rule adopted under this section has occurred, the department may investigate and, during normal business hours, audit and inspect the records of the person who is the subject of the investigation.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Sec. 80.018. EXEMPTION FROM ASSESSMENT PENALTIES. (a) The commissioner by rule shall adopt criteria to exempt from payment of an assessment penalty under Section 80.017 a citrus producer for whom payment would impose an undue financial burden.

(b) A citrus producer is not eligible for an exemption under this section for a year in which the amount computed by subtracting the assessments and penalties due under this chapter from the citrus producer's net income subject to federal income taxation in the previous year is greater than \$15,000.

(c) A citrus producer who applies for an exemption under this section must use a form prescribed by the commissioner. A citrus producer must file a separate application form for each year for which the citrus producer claims an exemption.

(d) The commissioner may establish a payment plan for a citrus producer applying for an exemption under this section.

(e) The commissioner shall promptly notify an applicant of the determination regarding the applicant's request for an exemption.

(f) If an exemption under this section is denied, assessments and penalties for the year for which the application is made are due on the later of:

(1) the date on which they would be due in the absence of an application for exemption; or

(2) 30 days after the date the applicant receives notice of the denial.

(g) In addition to the authority provided under Subsections (a)-(f), the commissioner may reduce or waive an assessment penalty as appropriate and necessary.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Sec. 80.019. ENTRY OF PREMISES; SUPPRESSION ACTIVITIES; INSPECTIONS. The department, the corporation, or a designated representative of either entity may enter citrus groves or other premises to carry out the purposes of this chapter, which include the treatment and monitoring of growing citrus or other host plants. The department, the corporation, or a designated representative of either entity may inspect groves or premises in this state for the purpose of determining whether the property is infested with pests. An inspection must be conducted during reasonable daylight hours. The department shall give notice by publication of the planned schedule of dates for entry by the department, the corporation, or a designated representative of either entity, to the owner or occupant of the groves or premises to carry out the purposes of this chapter, including treatment, monitoring, or inspection functions. The department shall publish notice of the planned schedule to enter the groves or premises in a newspaper of general circulation in the pest management zone not less than once a week for two weeks immediately before the scheduled dates of entry. In addition to the notice published by the department, the corporation shall post notice of the planned schedule to enter groves or premises to carry out the purposes of this chapter at the county courthouse of each county in the pest management zone not later than the 15th day before the planned dates of entry.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 29 (S.B. 1749), Sec. 9, eff. September 1, 2015.

Sec. 80.020. AUTHORITY TO PROHIBIT PLANTING OF CITRUS AND REQUIRE PARTICIPATION IN SUPPRESSION PROGRAM. (a) The commissioner may adopt reasonable rules regarding areas where citrus may not be planted in a pest management zone if there is reason to believe planting will jeopardize the success of the program or present a hazard to public health or safety.

(b) The commissioner may adopt rules requiring all growers of citrus in a pest management zone to participate in a pest suppression program and growers of commercial citrus to participate in pest and disease management programs that include cost sharing as required by the rules.

(c) Notice of a prohibition or requirement shall be given by publication for one day each week for three successive weeks in a newspaper having general circulation in the affected area.

(d) The commissioner may adopt a reasonable schedule of penalty fees to be assessed against growers in a designated pest management zone who do not meet the requirements of the rules issued by the commissioner relating to reporting of acreage and participation in cost sharing. A penalty fee may not exceed \$50 per acre.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 29 (S.B. 1749), Sec. 10, eff. September 1, 2015.

Sec. 80.021. AUTHORITY FOR DESTRUCTION OR TREATMENT OF CITRUS IN PEST MANAGEMENT ZONES; COMPENSATION PAYABLE. The department may destroy or treat, and establish procedures for the purchase and destruction of, citrus plants or hosts in pest management zones if the department determines the action is

necessary to carry out the purposes of this chapter. The department is not liable to the owner or lessee for the destruction of or injury to any citrus that was planted in a pest management zone after the date notice is published as required by this chapter. The corporation is liable for the destruction of citrus if the citrus was planted in a pest management zone before the date that notice is published.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Sec. 80.022. AUTHORITY TO ADOPT RULES. (a) The commissioner shall adopt rules to protect individuals, livestock, wildlife, and honeybee colonies on any premises in a pest management zone on which citrus plants are being grown that have been or are being treated to control or suppress pests.

(b) Rules adopted under this section shall establish the criteria by which the corporation develops its procedures and methods of treatment, which shall:

(1) establish a methodology for determining when pest population levels have reached economic significance or when disease is present;

(2) establish an effective treatment regimen that seeks to provide the least possible risk to workers, the public, and the environment;

(3) minimize the effects of the use of pesticides on long-term control methods, including but not limited to the effect a particular pesticide may have on biological controls;

(4) establish methods for monitoring pests;

(5) establish methods for verifying pesticide use reduction; and

(6) consider the acute and chronic toxicity of particular pesticides and the quantity of particular pesticides needed. Pest management zone treatment plans may take into account the potential for the use of smaller quantities of more toxic substances to result in fewer health and environmental risks than larger quantities of less toxic substances.

(c) The commissioner may adopt other reasonable rules

necessary to carry out the purposes of this chapter. All rules issued under this chapter must be adopted and published in accordance with the laws of this state.

(d) An advisory committee may be established to assist the commissioner in the development of rules under this section. The advisory committee may be composed of:

(1) three citrus producers from the commercial citrus growing area of the state, appointed by the commissioner;

(2) three entomologists with knowledge of the principles of integrated pest management, at least one of whom has special knowledge of nonchemical or biological pest control, appointed by the commissioner;

(3) two individuals with experience representing the general interests of the environment, appointed by the chair of the Texas Commission on Environmental Quality;

(4) an environmental engineer with expert knowledge of ground and surface water protection from contamination, appointed by the chair of the Texas Commission on Environmental Quality; and

(5) a toxicologist, appointed by the commissioner of state health services.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 10.01, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 29 (S.B. [1749](#)), Sec. 11, eff. September 1, 2015.

Sec. 80.023. REPORTS. Each person in an active pest management zone growing citrus in this state shall furnish to the corporation on forms supplied by the corporation information that the corporation requires concerning the size and location of all commercial citrus orchards and of noncommercial citrus grown for ornamental or other purposes. The corporation may provide an incentive for early and timely reporting.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 10.01, eff. September 1, 2009.

Sec. 80.024. DOCUMENTING REGULATED ARTICLES. To implement

this chapter, the department may issue or authorize issuance of:

(1) a certificate that indicates that a regulated article is not infested with pests; and

(2) a permit that provides for the movement of a regulated article to a restricted destination for limited handling, use, or processing.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 29 (S.B. 1749), Sec. 12, eff. September 1, 2015.

Sec. 80.025. COOPERATIVE PROGRAMS AUTHORIZED. (a) The corporation may carry out programs to destroy and manage pests in this state by cooperating through written agreements, as approved by the commissioner, with:

(1) an agency of the federal government;

(2) a state agency;

(3) an appropriate agency of a foreign country contiguous to the affected area to the extent allowed by federal law;

(4) a person who is engaged in growing, processing, marketing, or handling citrus;

(5) a group of persons in this state involved in similar programs to carry out the purposes of this chapter; or

(6) an appropriate state agency of another state contiguous to the affected area, to the extent allowed by federal law, the law of the contiguous state, and the law of this state.

(b) An agreement entered into under this section may provide for cost sharing and for division of duties and responsibilities under this chapter and may include other provisions to carry out the purposes of this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 29 (S.B. 1749), Sec. 13, eff. September 1, 2015.

Sec. 80.026. ORGANIC CITRUS PRODUCERS. (a) The commissioner shall develop rules and procedures to:

(1) protect the eligibility of organic citrus producers to be certified by the commissioner;

(2) ensure that organic and transitional certifications by the commissioner continue to meet national certification standards in order for organic citrus to maintain international marketability; and

(3) in all events maintain the effectiveness of the pest suppression program and disease management administered under this chapter.

(b) The board may not treat or require treatment of organic citrus groves with chemicals that are not approved for use on certified organic citrus. Rules adopted under Subsection (a) may provide indemnity for the organic citrus producers for reasonable losses that result from a prohibition of production of organic citrus or from any requirement of destruction of organic citrus.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 29 (S.B. 1749), Sec. 14, eff. September 1, 2015.

Sec. 80.027. PENALTIES. (a) A person who violates this chapter or a rule adopted under this chapter or who alters, forges, counterfeits, or uses without authority a certificate, permit, or other document issued under this chapter or under a rule adopted under this chapter commits an offense.

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

(c) If the commissioner determines that a violation of this chapter or a rule adopted under this chapter has occurred, the commissioner may request that the attorney general or the county or district attorney of the county in which the alleged violation occurred or is occurring file suit for civil, injunctive, or other appropriate relief.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec.

10.01, eff. September 1, 2009.

Sec. 80.028. DISSOLUTION PROVISION. (a) The commissioner may order the dissolution of the corporation at any time the commissioner determines that the purposes of this chapter have been fulfilled or that the corporation is inoperative and abandoned. Dissolution shall be conducted in accordance with Section 80.014.

(b) If the corporation or the suppression program is discontinued for any reason, assessments approved, levied, or otherwise collectible on the date of discontinuance remain valid as necessary to pay the financial obligations of the corporation.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 7.01, eff. June 17, 2011.

Sec. 80.029. ANNUAL REPORT. The board shall issue to the commissioner and the appropriate oversight committee in the house of representatives an annual report detailing its efforts to carry out the purposes of this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Sec. 80.030. EXEMPTION FROM TAXATION. All payments, contributions, funds, and assessments received or held by the corporation under this chapter are exempt from state or local taxation, levies, sales, and any other process and are unassignable.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 10.01, eff. September 1, 2009.

Sec. 80.031. USE OF BIO-INTENSIVE CONTROLS. (a) The commissioner shall develop and adopt rules to allow a citrus producer in a suppression program to use biological, botanical, or other nonsynthetic pest control methods. In developing rules, the

commissioner shall consider:

(1) scientific studies and field trials of the effectiveness of a proposed alternative control method;

(2) the feasibility of using a proposed alternative control technique within a particular region;

(3) the degree of monitoring necessary to establish the success of the use of a proposed alternative control; and

(4) methods to prevent the use of substances that would impede the use of alternative controls and the promotion of beneficial insect populations.

(b) A citrus producer that chooses to use an alternative method of control as provided in Subsection (a) shall notify the board. The board and the citrus producer shall coordinate their actions to prevent the use of substances that would impede the use of alternative controls and the promotion of beneficial insect populations.

(c) The citrus producer shall pay any additional cost of bio-intensive control in addition to any assessment.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 10.01, eff. September 1, 2009.

Sec. 80.032. VENUE. Venue for an action arising out of this chapter in which the corporation is a party is in Travis County.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 10.01, eff. September 1, 2009.