

GOVERNMENT CODE
TITLE 4. EXECUTIVE BRANCH
SUBTITLE G. CORRECTIONS
CHAPTER 496. LAND AND PROPERTY

SUBCHAPTER A. LAND

Sec. 496.001. ACQUISITION OF REAL PROPERTY. The board may acquire real property through purchase, subject to specific appropriative authority in the General Appropriations Act, or through the acceptance of a gift, grant, or donation for a facility. Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 495.001 by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.016, eff. Sept. 1, 1995.

Sec. 496.002. EMINENT DOMAIN. (a) The board has eminent domain authority to condemn and acquire land if necessary to eliminate security hazards, protect the life and property of citizens of this state, or improve the efficiency, management, or operations of the department.

(b) The exercise of the power of eminent domain by the board is governed by Chapter 21, Property Code.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 495.002 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.017, eff. Sept. 1, 1995.

Sec. 496.0021. SALE OF DEPARTMENT REAL PROPERTY. (a) The board may sell state-owned real property under the board's management and control at the real property's fair market value. The General Land Office shall negotiate and close a transaction under this section on behalf of the board using procedures under Section 31.158(c), Natural Resources Code. Proceeds from the transaction shall be deposited in the Texas capital trust fund.

(b) The board may authorize the sale of land directly to a local government at fair market value without the requirement of a

sealed bid sale if the local government acquires the property for use as a local correctional facility.

(c) The board shall authorize the sale of land directly to a municipality at fair market value without the requirement of a sealed bid sale if:

(1) the municipality seeking to acquire the land notifies the department in writing of the municipality's desire to acquire the land for municipal airport expansion;

(2) the land is located next to an active runway of a municipally owned airport;

(3) the municipality is acquiring the land to expand municipal airport facilities or supporting commercial operations for the airport; and

(4) the department primarily uses the land for guard housing.

(d) After receiving the notice required by Subsection (c), the board shall:

(1) obtain an appraisal of the land to be sold to the municipality;

(2) request that the municipality provide the board with an appraisal of the land to be sold; and

(3) determine whether a third appraisal by an appraiser mutually selected by the department and municipality is necessary to determine fair market value of the land to be sold.

(e) Within 18 months of receiving the notice required by Subsection (c), the board shall finalize the sale of the land to the municipality at fair market value.

(f) In determining the fair market value of land to be sold under Subsection (c), the department shall consider the necessary remediation that must be completed before the land can be used for airport expansion. If a third appraisal is required under Subsection (d), the fair market value is considered to be the average of the three appraisals required under this section.

Added by Acts 1995, 74th Leg., ch. 215, Sec. 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.018, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 25 (S.B. [1149](#)), Sec. 1, eff.

May 12, 2009.

Sec. 496.003. LEASE OF REAL PROPERTY. (a) The board may lease state-owned real property under the board's management and control at the real property's fair market lease value. The initial period of a lease under this section may not exceed 20 years. The lease may contain terms and conditions determined by the board to be in the best interest of the department. Neither a member of the board nor a person related to a member within the second degree by affinity or within the third degree by consanguinity, as determined under Subchapter B, Chapter 573, may own an interest in an entity leasing real property under this section.

(b) The department shall deposit in the general revenue fund to the credit of a special account the proceeds of a lease entered into under this section, after deducting expenses. The proceeds may be used only for the payment of operating expenses of the department. Sections 403.094 and 403.095 do not apply to the dedication of lease proceeds under this subsection.

(c) The department shall notify taxing units authorized to impose property taxes on land leased under this section that the land has been leased. The department shall send a copy of the lease by first class mail, return receipt requested, to each taxing unit in which the land is located. The lessee is liable for property taxes imposed on land leased under this section.

Added by Acts 1989, 72nd Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 495.003 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended as Sec. 495.003 by Acts 1991, 72nd Leg., ch. 561, Sec. 28, eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(28), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.019, eff. Sept. 1, 1995.

Sec. 496.0031. TRANSFER OF FACILITIES. (a) The department may transfer a correctional facility to another agency of the state, and the agency receiving the facility subsequently may transfer the facility back to the department.

(b) A transfer under this section requires the agreement of

the board and the governing body of the agency receiving the correctional facility or returning the correctional facility to the department, both as to the identity of the facility to be transferred and to the method of transfer.

(c) In this section, "transfer" means to convey title to, lease, or otherwise convey the beneficial use of a correctional facility and land appurtenant to the facility.

Added by Acts 1995, 74th Leg., ch. 312, Sec. 1, eff. June 5, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.020, eff. June 7, 1995.

Sec. 496.0032. AGRICULTURAL LEASE. The board under terms advantageous to the department may lease real property for use by the department for agricultural purposes and lease fixtures and appurtenances to the property.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 8.09, eff. Sept. 1, 1999.

Sec. 496.004. EASEMENTS. (a) The board may grant or lease permanent or temporary right-of-way easements on department land for:

- (1) public highways, roads and streets, and ditches;
- (2) electric lines and pipelines, including necessary wires, pipes, poles, and other equipment used to transmit, convey, or distribute water, electricity, gas, oil, or similar substances or commodities;
- (3) electrical substations; or
- (4) the provision of utilities for the operation of facilities of the department and roadways for access to facilities of the department.

(b) The board may not grant or lease an easement unless the board receives fair and adequate consideration. However, the board may without consideration grant a state highway easement to the Texas Department of Transportation, a roadway easement to a county for connecting roads between state highways, easements to utility providers for utilities to serve facilities of the department, and roadway easements to a city or a county to provide roadways for facilities of the department.

(c) A grant or lease must contain a full reservation of minerals in and under the land. The board may impose other fair and reasonable conditions, covenants, and provisions.

(d) The department shall deposit money received from a grant or lease of easements and money received from damages to department land in the general revenue fund to the credit of a special account. Money received under this section may be used only for the payment of operating expenses of the department. Sections 403.094 and 403.095 do not apply to the dedication of money under this section. Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 495.004 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1991, 72nd Leg., ch. 508, Sec. 1, eff. June 13, 1991; Acts 1995, 74th Leg., ch. 165, Sec. 22(37), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.021, eff. Sept. 1, 1995.

Sec. 496.005. TAX EXEMPTION. (a) Property associated with a facility described by Subsection (b) is exempt from taxation during the time the property is used exclusively for the purposes of the department.

(b) This section applies to:

(1) land in Anderson County owned by the state for the use and benefit of the institutional division that is subject to a lease granted by the board and a sublease entered into by the division and the General Services Commission, on which is located the correctional facility known as the Mark W. Michael Unit of the Coffield Prison Farm; and

(2) a parcel of land in Anderson, Brazoria, Coryell, Houston, Madison, or Walker County owned by the state for the use and benefit of the institutional division that is subject to a lease granted by the board and a sublease entered into by the division and the General Services Commission, on which is located a trusty camp facility.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 495.005 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.022, eff. Sept. 1, 1995.

Sec. 496.006. ROAD MAINTENANCE. (a) The department and the Texas Department of Transportation may enter into and perform an agreement or contract for the maintenance of a road in or adjacent to a facility of the department.

(b) An agreement or contract entered into under this section and payments made under the agreement or contract must conform with the provisions of Chapter 771.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 495.006 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 165, Sec. 22(38), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.023, eff. Sept. 1, 1995.

Sec. 496.007. LOCATION OF NEW FACILITIES. In determining the location of a facility to be built, the department, in evaluating the advantages and disadvantages of the proposed location, shall consider whether the proposed location is:

(1) close enough to a county with 100,000 or more inhabitants to provide access to services and other resources provided in such a county;

(2) cost-effective with respect to its proximity to other facilities of the department;

(3) close to an area that would facilitate release of inmates or persons confined in state jail felony facilities to their area of residence; and

(4) close to an area that provides adequate educational opportunities and medical care.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 495.007 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.024, eff. Sept. 1, 1995.

SUBCHAPTER B. PURCHASING PROCEDURES; PROPERTY INSURANCE

Sec. 496.051. PURCHASING PROCEDURES. (a) The department shall comply with any special purchasing procedures requiring

competitive review under Subtitle D, Title 10. The department shall test the goods and services that it purchases in accordance with Section 2155.069 and may enter into a contract with a private or public entity to assist with testing.

(b), (c) Repealed by Acts 1997, 75th Leg., ch. 1409, Sec. 9, eff. Sept. 1, 1997.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 495.051 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.025, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 17.19(5), (12), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 335, Sec. 1, eff. May 27, 1997; Acts 1997, 75th Leg., ch. 1206, Sec. 24, eff. Sept. 1, 1997.

Sec. 496.0515. HAZARDOUS WASTE MANAGEMENT CONTRACTS. (a) The competitive bidding contract procedures established by Chapters 2155-2158, do not apply to a contract awarded by the department for:

(1) testing a solid waste or other substance to determine whether the waste or other substance is a hazardous waste; or

(2) the transport, storage, treatment, or disposal of a hazardous waste.

(b) The department shall promulgate procedures for the purpose of purchasing under Subsection (a). The department shall file copies of the procedures promulgated under this subsection with the comptroller.

Added by Acts 1991, 72nd Leg., ch. 920, Sec. 1, eff. June 16, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.026, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 17.192, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.53, eff. September 1, 2007.

Sec. 496.052. INSURANCE. (a) The board may purchase insurance to protect the department from loss due to the damage,

loss, theft, or destruction of department aircraft.

(b) Insurance purchased by the board under this section must be on a form approved by the State Board of Insurance.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 495.052 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.027, eff. Sept. 1, 1995.

SUBCHAPTER C. MANAGEMENT OF PROPERTY

Sec. 496.101. AUTOMATED INVENTORY AND MAINTENANCE SYSTEM.

(a) As funds are appropriated for that purpose, the department shall establish for each facility of the department an automated inventory and maintenance system that interacts with the centralized computer system of the department.

(b) The system must maintain inventory records for parts and supplies control, monitor preventive maintenance and warranty schedules for equipment, estimate time standards for maintenance jobs, and organize a work order control process.

Added by Acts 1993, 73rd Leg., ch. 238, Sec. 4.02, eff. Jan. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.028, eff. Sept. 1, 1995.