

LOCAL GOVERNMENT CODE

TITLE 2. ORGANIZATION OF MUNICIPAL GOVERNMENT

SUBTITLE E. CONSOLIDATION AND ABOLITION OF MUNICIPALITIES

CHAPTER 62. ABOLITION OF MUNICIPALITIES

SUBCHAPTER A. AUTHORITY AND PROCEDURE

Sec. 62.001. ABOLITION OF CORPORATE EXISTENCE. A special-law municipality with 10,000 or fewer inhabitants or a general-law municipality may abolish its corporate existence as provided by this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.002. PETITION AND ELECTION. (a) The mayor of the municipality shall order an election on the question of abolishing the municipality's corporate existence if a petition requesting that the election be held is submitted to the mayor and is signed by at least 400 qualified voters of the municipality. However, if a majority of the qualified voters of the municipality is less than 400, the petition must be signed by at least two-thirds of the qualified voters of the municipality. If the municipality has less than 400 qualified voters and has no municipal debt and does not provide services that would be otherwise provided by the county, the petition must be signed by at least one-fourth of the qualified voters in the municipality.

(b) The mayor shall order the election to be held on the same date as the next general election at which the office of mayor is to be filled.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 402, Sec. 8, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 329 (H.B. [2840](#)), Sec. 1, eff. June 15, 2007.

Sec. 62.003. ELECTION ORDER; CONDUCT OF ELECTION. The election shall be ordered, conducted, and canvassed in the same manner as is required for an election to incorporate the

municipality, except that the mayor of the municipality shall perform all acts that would be performed by the county judge.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.004. DECLARATION OF ABOLITION; CERTIFICATION. If a majority of the votes received in an abolition election are for abolition, the mayor of the municipality shall declare the municipality abolished and certify the abolition to the commissioners court of the county in which the municipality is located. The commissioners court shall enter the abolition order in its minutes, at which time the municipality ceases to exist.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

#### SUBCHAPTER B. RECEIVERSHIPS

Sec. 62.041. APPLICATION FOR AND APPOINTMENT OF RECEIVER.

(a) Any creditor of a validly incorporated municipality that abolishes its corporate existence may apply to a district judge in the district in which the municipality is located to appoint a receiver for the municipality.

(b) After an application is filed and proper notice of the application is posted, the judge hearing the application in term time or vacation may appoint a suitable person as receiver.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.042. NOTICE OF APPLICATION. Before a judge may appoint a receiver, written notice stating the substance of the application for the appointment of the receiver and when and before whom the application will be heard must be posted at three or more public places in the county in which the municipality is located, one of which must be in the municipality itself.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.043. BOND. (a) A judge appointing a receiver shall set the receiver's bond at an amount that is at least twice the probable amount of the indebtedness or the value of the property of the municipality.

(b) The bond must be conditioned that the receiver will faithfully perform the duties of receiver and that the receiver will pay and deliver all money and property acquired as receiver to the parties entitled to the money or property.

(c) The bond must be approved by the judge who appoints the receiver.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.044. FILING AND RECORDING ORDER AND BOND. The district clerk of the county in which the abolished municipality is located shall file the receiver's bond and the order appointing the receiver with the minutes of the court, and the clerk shall record the order and the bond in the minutes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.045. DUTIES AND AUTHORITY. (a) After the receiver gives the required bond, and after the bond is filed and recorded, the receiver shall:

(1) take control of all real and personal property of the abolished municipality, including money, minute books, ordinances, and similar property, but not including property that pertains to the public schools or that is devoted exclusively to public use; and

(2) in the next term of the court in which the receivership is pending, return to the court an inventory of the property taken by the receiver.

(b) Under a court order, or an order of the judge if the court is in vacation, the receiver may bring suit against any person in possession of the property of an abolished municipality or who is indebted to it in the same manner as the municipality could if it were still incorporated.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.046. COMPENSATION. A court appointing a receiver under this subchapter may authorize compensation for the receiver.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. PAYMENT OF INDEBTEDNESS AND DISPOSITION OF ASSETS  
UNDER RECEIVERSHIP

Sec. 62.081. PRESENTATION OF CLAIMS. A person who has a claim against an abolished municipality must present a verified statement of the amount of the claim to the receiver within six months after the date the receiver is appointed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.082. NOTICE OF CLAIMS. (a) A receiver may not allow or approve a claim or account against an abolished municipality until notice of presentment of the claim or account is given by publication in a newspaper in the municipality in which the claim is filed or presented for four consecutive weeks or, if a newspaper is not published in the municipality, by posting the notice for four consecutive weeks at the door of the courthouse of the county in which the municipality is located.

(b) The published or posted notice must state:

(1) the name and residence address of the creditor;  
(2) the amount and date of the claim and account; and  
(3) the purpose for which the claim or account was incurred.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.083. APPROVAL OF CLAIMS. If the receiver of an abolished municipality determines a claim is correct, the receiver shall mark it as allowed and file it in the district court. The court shall also approve the claim at its next regular term if no protest is filed. On approval by the court, the claim is a valid debt of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.084. COMPLETE OR PARTIAL DISALLOWANCE OF CLAIM. (a) If a receiver of an abolished municipality determines that a claim is partially or completely unjust, the receiver shall endorse his finding on the claim and return it to the claimant.

(b) A claimant who accepts the findings of the receiver may

file the claim with the district court. The court shall act on the part of the claim allowed in the same manner as other claims.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.085. TAXPAYER PROTEST. (a) A district court may not approve a claim against an abolished municipality until the full amount of the claim is established by the judgment of a court of competent jurisdiction if a taxpayer of the municipality:

(1) files a protest against the claim in the district court; and

(2) files a bond that is conditioned that the taxpayer will pay all costs of suit if the claimant fully establishes his claim by the judgment of a state court with jurisdiction of the claim.

(b) The taxpayer's bond must be approved by the court in which it is filed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.086. SUITS TO ESTABLISH CLAIMS. (a) A claimant may bring a suit against the receiver of an abolished municipality to establish a claim the receiver completely or partially disallowed or to establish a claim protested by a taxpayer.

(b) The receiver shall assert all applicable legal defenses against a suit under this section.

(c) The court trying a suit under this section may hear and consider any material defense against the claim except limitation, even if the claim previously has been reduced to judgment. However, the court shall consider a prior judgment establishing the claim as prima facie evidence of the justness of the claim.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.087. ALLOWANCE AND APPROVAL OF ESTABLISHED CLAIMS. A receiver of an abolished municipality shall allow, and a district court shall approve, a claim that is established by a judgment against the receiver.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.088. LIABILITY FOR COSTS. (a) A claimant in a suit against the receiver of an abolished municipality who rejects part of the claimant's claim is liable for the costs of the suit unless the claimant establishes the claim in an amount greater than the amount allowed by the receiver.

(b) A claimant in a suit to establish his claim because of a taxpayer protest under Section 62.085 is liable for the costs of the suit unless the claimant obtains a judgment for the full amount he asked the district court to approve.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.089. LIMITATIONS. (a) Limitations do not begin to run, do not expire, and may not be pled to bar a claim against an abolished municipality until six months after the date a receiver is appointed for the municipality.

(b) A claimant may not bring a suit against the receiver of an abolished municipality on a claim that is partially or completely disallowed under Section 62.084 or against which a taxpayer files a protest under Section 62.085 after six months after the date the claim is disallowed or the protest is filed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.090. PAYMENT OF CLAIMS. The court in which the receivership of an abolished municipality is pending shall:

(1) provide for the payment of the claims legally established against the municipality;

(2) determine the priority of the claims;

(3) order the sale of all property held by the receiver that is subject to sale for the satisfaction of the municipality's indebtedness; and

(4) direct the receiver to pay the claims legally established against the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.091. ADDITIONAL TAX. (a) If the money of an abolished municipality and the proceeds from the sale of its property are insufficient to pay its indebtedness, at the request

of any creditor the court in which the receivership is pending at its first regular term each year shall levy a tax on all real and personal property that is not exempt from taxation and that on the first day of January of the preceding year is located within the corporate limits of the municipality as those limits previously existed.

(b) The court shall levy a tax sufficient to discharge the municipality's indebtedness, except that the court may not set the tax at a rate that is greater than the rate allowed by law for such purposes in municipalities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.092. ASSESSMENT AND COLLECTION OF TAX. (a) The tax assessor-collector for the county in which an abolished municipality is located shall assess and collect a tax ordered under Section 62.091.

(b) The tax assessor-collector shall pay the taxes collected to the receiver for the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.093. DELINQUENT TAXES. A receiver for an abolished municipality may bring suit against a delinquent taxpayer and enforce a lien against the taxpayer's property in the same manner as if the corporate existence of the municipality had not been abolished and the levy and assessment had been made by the municipality's governing body and assessor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.094. DISTRIBUTION OF ASSETS. (a) The compensation of the receiver, court costs, and expenses have priority over other claims against an abolished municipality and shall be paid first out of money on hand or collected.

(b) Money collected each year from taxes shall be paid pro rata on claims according to their priorities until all claims established against the municipality and all costs and expenses are paid in full.

(c) After the final settlement of the receivership, the

receiver shall deliver money or other property remaining to the trustees or other officers in charge of any public school district located completely within the boundaries of the abolished municipality, and the money or property shall be used for the benefit of the school district. If there is no such public school district, the receiver shall deliver the remaining money or property to the county in which the municipality is located. The money shall be deposited in the general fund of the county, and the property shall be used for the benefit of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

#### SUBCHAPTER D. SCHOOLS AND PUBLIC PROPERTY

Sec. 62.121. ADMINISTRATION OF PUBLIC SCHOOLS. If at the time a municipality is abolished under this chapter the public schools of the municipality are managed by trustees appointed or elected by the voters of the municipality or by its governing body, the trustees shall continue to manage the schools for the remainder of their appointive or elective term.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.122. TAXES. A receiver for an abolished municipality shall collect all unpaid taxes levied before the date of abolition for municipal or school purposes, together with any penalties or interest that is due. The receiver shall pay the part of the taxes levied for maintaining the public schools to the trustees of the school district, who shall use the taxes for the purpose for which they were levied.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.123. PUBLIC PROPERTY. If a municipality abolished under this chapter owns public buildings, public parks, public works, or other public property on the date of abolition and the property is not sold or disposed of under this chapter, the commissioners court shall manage and control the property for the purposes for which the property was originally used and intended. In managing and controlling the property, the commissioners court



may exercise the powers originally given by charter to the governing body of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER E. PAYMENT OF INDEBTEDNESS AND DISPOSITION OF ASSETS BY  
CORPORATE OFFICERS OR TRUSTEES

Sec. 62.161. SETTLEMENT BY CORPORATE OFFICERS. (a) If a municipality or de facto municipality that has indebtedness outstanding is abolished, declared void by a court of competent jurisdiction, or ceases to operate and exercise municipal functions, the municipality's officers at the time the municipality is dissolved or ceases to function shall:

(1) take control of the municipality's property;

(2) sell and dispose of the municipality's property;

and

(3) settle the debts owed by the municipality.

(b) For the purpose of settling the debts of the municipality, the former municipal officers may levy and collect a tax on the residents of the municipality in the same manner as the municipality could have done.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.162. SETTLEMENT BY TRUSTEES. (a) If a municipality's officers fail or refuse to settle its affairs under Section [62.161](#), on the petition of any resident taxpayer of the municipality or any holder of an evidence of its indebtedness, a court with jurisdiction and located in the county in which the municipality is located shall appoint three trustees to take control of the municipality's property, dispose of the property, and settle its debts.

(b) The trustees have the same powers that municipal officers have under this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 62.163. ACTION FOR DEBT. (a) The holder of an indebtedness against a municipality to which Section [62.161](#) applies

may bring a suit to establish the indebtedness in any court in this state with jurisdiction in the county in which the municipality is located. The court may render judgment in the suit against the municipality as fully as if the municipality had not been abolished or its organization declared void. The status of the municipality remains the same insofar as it affects the holders of its indebtedness until the indebtedness is paid.

(b) The municipality may be served with process in the suit by serving the citation on a person who was or who acted as the mayor, the secretary, or the treasurer of the municipality at the time of the municipality's abolition.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

#### SUBCHAPTER F. ABOLITION OF MUNICIPALITY CEASING TO HAVE RESIDENTS

Sec. 62.201. PETITION FOR ABOLITION. After the 120th day after the date a municipality ceases to have any persons residing within its boundaries, the owners of a majority of the land within the municipality may file a petition with a district court of the county in which all or a majority of the land in the municipality is located requesting the court to abolish the municipality.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 8(a), eff. Aug. 28, 1989.

Sec. 62.202. HEARING. (a) Before the 60th day after the date the petition is filed, the district judge of the court shall hold a hearing on the petition. Members of the public who wish to give testimony on the matter of abolishing the municipality must be given the opportunity to do so at the hearing.

(b) The district judge must publish notice of the hearing in a newspaper of general circulation in the county in which all or a majority of the land in the municipality is located. The notice must be published before the 10th day before the date of the hearing. The notice must state:

- (1) the date, time, and place of the hearing;
- (2) the purpose of the hearing; and
- (3) the name of the municipality that is the subject of the hearing.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 8(a), eff. Aug. 28, 1989.

Sec. 62.203. ABOLITION ORDER. At the conclusion of the hearing or within 10 days after the date the hearing is concluded, the district judge shall issue an order declaring the municipality to be abolished if the judge finds that a valid petition was filed and no persons reside within the municipality. The municipality ceases to exist on the date the order is issued.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 8(a), eff. Aug. 28, 1989.

Sec. 62.204. NOTICE TO COMMISSIONERS COURT. On the issuance of the order abolishing the municipality, the district judge shall certify the abolition to the commissioners court of the county in which all or a majority of the land in the abolished municipality is located.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 8(a), eff. Aug. 28, 1989.