

NATURAL RESOURCES CODE

TITLE 7. RESOURCES PROGRAMS

CHAPTER 164. VETERANS' FINANCIAL ASSISTANCE PROGRAM

Sec. 164.001. PURPOSE AND POLICY. (a) The legislature declares that it is the policy of the state to provide financial assistance to veterans of the state in recognition of their service to this state and the United States and to honor veterans with a final resting place and with lasting memorials that commemorate their service.

(b) The legislature declares that existing mechanisms for implementing the policy stated in Subsection (a) of this section may be enhanced by adoption of this chapter and implementation of the financial assistance programs authorized by this chapter.

(c) The legislature finds that this chapter and the financial assistance programs authorized by this chapter are in furtherance of a public purpose.

Added by Acts 1993, 73rd Leg., ch. 242, Sec. 3.01, eff. Aug. 30, 1993. Amended by Acts 2001, 77th Leg., ch. 981, Sec. 1, eff. Nov. 6, 2001.

Sec. 164.002. DEFINITIONS. (a) In this chapter:

(1) "Board" means the Veterans' Land Board.

(2) "Bonds" means the revenue bonds issued by the board under this chapter.

(3) "Financial assistance" means the purchase of land, the sale of land to veterans, and the making of home mortgage loans to veterans, as provided for in this chapter.

(4) "Home" means a dwelling within this state in which a veteran intends to reside as the veteran's principal residence.

(5) "Lending institution" means a bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, mortgage company, credit union, life insurance company, or other financial institution that customarily provides service or aids in the financing of mortgages on single-family residential housing that has been approved for participation by the board, including a

holding company for a lending institution.

(6) "Veteran" has the meaning assigned by Section 161.001.

(7) "Veterans cemetery" means a burial ground operated solely for the burial of veterans and their eligible relatives.

(8) "Veterans home" means a life care facility, retirement home, retirement village, home for the aging, or other facility that furnishes shelter, food, medical attention, nursing services, medical services, social activities, or other personal services or attention to veterans.

(b) Repealed by Acts 2003, 78th Leg., ch. 1145, Sec. 5. Added by Acts 1993, 73rd Leg., ch. 242, Sec. 3.01, eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 71, Sec. 5, eff. May 9, 1997; Acts 2001, 77th Leg., ch. 981, Sec. 2, eff. Nov. 6, 2001; Acts 2003, 78th Leg., ch. 1145, Sec. 4, 5, eff. June 20, 2003.

Sec. 164.003. FINANCIAL ASSISTANCE PROGRAMS. The board may establish one or more programs for providing financial assistance to veterans under this chapter. A program may be limited to the purpose of purchasing land, selling land to veterans, making home mortgage loans to veterans, or providing one or more veterans homes or veterans cemeteries. To the extent a financial assistance program is for the purpose of purchasing land or selling land to veterans, the program shall be administered, to the extent consistent with this chapter and otherwise deemed practicable and desirable by the board, in accordance with the board's Veterans' Land Program. To the extent a financial assistance program is for the purpose of making home mortgage loans to veterans, the program shall be administered, to the extent consistent with this chapter and otherwise deemed practicable and desirable by the board, in accordance with the board's Veterans' Housing Assistance Program. Added by Acts 1993, 73rd Leg., ch. 242, Sec. 3.01, eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 71, Sec. 6, eff. May 9, 1997; Acts 2001, 77th Leg., ch. 981, Sec. 3, eff. Nov. 6, 2001.

Sec. 164.004. RULES. The board shall adopt rules providing for the administration of its financial assistance programs

established under this chapter, including rules concerning:

- (1) the purchasing of land and the selling of land to veterans;
- (2) the making of home mortgage loans to veterans;
- (3) the use of insurance on land and homes as deemed appropriate by the board, as further security for land sold or home mortgage loans made;
- (4) the criteria for approving lending institutions participating in programs;
- (5) the terms and conditions of a contract made with a lending institution;
- (6) the construction, acquisition, ownership, operation, maintenance, enlargement, improvement, or furnishing or equipping of veterans homes or veterans cemeteries; and
- (7) other matters as the board deems appropriate.

Added by Acts 1993, 73rd Leg., ch. 242, Sec. 3.01, eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 71, Sec. 7, eff. May 9, 1997; Acts 2001, 77th Leg., ch. 981, Sec. 4, eff. Nov. 6, 2001.

Sec. 164.005. RIGHTS AND POWERS OF BOARD. (a) In connection with the administration of its financial assistance programs under this chapter, the board has and may exercise, to the extent not inconsistent with this chapter, all the rights and powers granted to it by Chapters 161 and 162 of this code relating to the administration of the board's Veterans' Land Program and Veterans' Housing Assistance Program.

(b) In administering any of the board's financial assistance programs relating to veterans homes, the board, or the board in conjunction with other state or federal agencies, may acquire by purchase, gift, devise, lease, or a combination of those methods, construct, operate, enlarge, improve, furnish, or equip one or more veterans homes.

(c) The board may enter into an agreement with any person for the management or operation of all or part of a veterans home or all or part of a veterans cemetery. The board may delegate to the manager the authority to manage the veterans home or veterans cemetery and to employ and discharge employees.

(d) The board may not authorize the use of any veterans home in a manner that would entitle the United States to recover any amounts pursuant to 38 U.S.C. Section 8136, as amended, or any successor statute.

(e) On terms and conditions acceptable to it, the board may accept and administer gifts, grants, or donations for the support, acquisition, construction, operation, enlargement, improvement, furnishing, or equipping of veterans homes or veterans cemeteries and may enter into agreements with a nonprofit corporation for the solicitation, receipt, and disbursement of the gifts, grants, or donations.

(f) The board, the chairman of the Texas Veterans Commission, and two representatives of the veterans community selected by the chairman of the Texas Veterans Commission shall:

(1) establish the guidelines for determining:

(A) the location and size of veterans cemeteries;
and

(B) the eligibility for burial in a veterans cemetery; and

(2) select up to seven locations across the state for veterans cemeteries.

(g) In administering any of the board's financial assistance programs relating to veterans cemeteries, the board, or the board in conjunction with other state or federal agencies, may plan and design, operate, maintain, enlarge, or improve veterans cemeteries.

(h) Of the funds available in the veterans' land fund, the veterans' housing assistance fund, and the veterans' housing assistance fund II that may be used for veterans cemeteries, the board may spend not more than \$7 million each fiscal year to plan and design, operate, maintain, enlarge, or improve veterans cemeteries. The board may not use funds from the veterans' land fund, the veterans' housing assistance fund, or the veterans' housing assistance fund II to acquire land to be used for a veterans cemetery.

Added by Acts 1993, 73rd Leg., ch. 242, Sec. 3.01, eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 71, Sec. 8, eff. May 9,

1997; Acts 1999, 76th Leg., ch. 134, Sec. 6, eff. May 20, 1999; Acts 2001, 77th Leg., ch. 981, Sec. 5, eff. Nov. 6, 2001.

Sec. 164.0051. LOCATION OF VETERANS HOMES. To the extent practicable, when determining the location of new veterans homes in this state, the board shall consider:

(1) the geographic proximity to existing state veterans homes with special regard to areas not served by state veterans homes;

(2) the economic impact of the veterans home on the local community and the veterans program; and

(3) the areas with a significant veteran population, without regard to international boundaries.

Added by Acts 2001, 77th Leg., ch. 746, Sec. 1, eff. June 13, 2001.

Sec. 164.006. ISSUANCE OF BONDS. For the issuance of bonds under this chapter, the board may exercise the authority granted to the governing body of an issuer with regard to issuance of obligations under Chapter 1371, Government Code, to the extent that it is not inconsistent with this chapter.

Added by Acts 1993, 73rd Leg., ch. 242, Sec. 3.01, eff. Aug. 30, 1993. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.358, eff. Sept. 1, 2001.

Sec. 164.007. CONDITIONS FOR ISSUANCE OF BONDS. (a) Bonds may be issued in various series and issues.

(b) Bonds shall be payable as provided by the board and may mature serially or otherwise.

(c) Bonds shall be redeemable before maturity or subject to tender for purchase at the price or prices and under the terms and conditions fixed by the board in the resolution providing for the issuance and sale of the bonds.

(d) Bonds may bear a fixed, variable, floating, or other rate or rates of interest or may bear no interest, as determined by the board.

(e) Bonds may be sold at public or private sale at a price or prices and on terms determined by the board.

(f) Bonds issued under this chapter for a purpose other than buying back or refunding general obligation bonds issued under Article III, Section 49-b, 49-b-1, or 49-b-2, of the Texas Constitution may not in the aggregate exceed \$1 billion. Added by Acts 1993, 73rd Leg., ch. 242, Sec. 3.01, eff. Aug. 30, 1993. Amended by Acts 2001, 77th Leg., ch. 875, Sec. 1, eff. June 14, 2001.

Sec. 164.008. FORM OF BONDS. (a) The bonds may be issued in the form, denominations, and manner and under the terms, conditions, and details as provided by the board in the resolution authorizing their existence.

(b) The bonds shall be signed and executed as provided by the board's resolution or order authorizing the issuance of the bonds.

Added by Acts 1993, 73rd Leg., ch. 242, Sec. 3.01, eff. Aug. 30, 1993.

Sec. 164.009. SECURITY FOR THE BONDS. (a) The bonds issued under this chapter shall be special obligations of the board. As security for the payment of the bonds, the board may provide for a pledge of and lien or mortgage on:

(1) the receipts of all kinds of the veterans' land fund, the veterans' housing assistance fund, and the veterans' housing assistance fund II determined by the board, on the basis of facts, circumstances, and expectations at the time of issuance of the bonds, not to be required for the payment of principal of or interest on the general obligation bonds issued by the board to augment the funds or to make payments with respect to principal or interest under a bond enhancement agreement with respect to the general obligation bonds;

(2) the assets of the veterans' land fund, the veterans' housing assistance fund, or the veterans' housing assistance fund II determined by the board on the basis of facts, circumstances, and expectations at the time of issuance of the bonds not to be required for the purposes of the fund;

(3) the payments and repayments received by the board

from the board's financial assistance provided under this chapter;

- (4) other program revenues;
- (5) other available revenues of the board; and
- (6) one or more veterans homes.

(b) The pledge and lien or mortgage are to be provided for and determined in accordance with the resolution of the board providing for the issuance and sale of the bonds.

Added by Acts 1993, 73rd Leg., ch. 242, Sec. 3.01, eff. Aug. 30, 1993. Amended by Acts 1993, 73rd Leg., ch. 242, Sec. 3.02; Acts 1997, 75th Leg., ch. 71, Sec. 9, eff. May 9, 1997; Acts 1999, 76th Leg., ch. 134, Sec. 7, eff. May 20, 1999; Acts 2003, 78th Leg., ch. 590, Sec. 1, eff. Sept. 13, 2003.

Sec. 164.010. BOND ENHANCEMENT AGREEMENTS. (a) The board may at any time and from time to time enter into one or more bond enhancement agreements that the board deems to be necessary or appropriate to place the obligation of the board, as represented by the bonds, in whole or in part, on the interest rate, currency, cash flow, or other basis desired by the board. Bond enhancement agreements may include, on terms and conditions approved by the board, interest rate swap agreements, currency swap agreements, forward payment conversion agreements, agreements providing for payments based on levels of or changes in interest rates or currency exchange rates, agreements to exchange cash flows or a series of payments, or agreements including options, puts, or calls, to hedge payment, currency, rate, spread, or other exposure. A bond enhancement agreement is an agreement for professional services and shall contain the terms and conditions and be for the period that the board approves. The cost to the board of the bond enhancement agreement may be paid from the proceeds of the sale of the bonds to which the bond enhancement agreement relates or from any other source, including the revenues of the board that are available for the purpose of paying the bonds or that may otherwise be available to make those payments.

(b) The resolution of the board authorizing a bond enhancement agreement may authorize one or more designated officers or employees of the board to act on behalf of the board in entering

into and delivering the bond enhancement agreement and in determining or setting the counterparty and terms of the bond enhancement agreement specified in the resolution, except that the resolution must set the maximum amount and term for the bond enhancement agreement.

(c) Unless the board elects otherwise in its approval of a bond enhancement agreement, the bond enhancement agreement is not a credit agreement for purposes of Chapter 1371, Government Code, regardless of whether the bonds relating to the bond enhancement agreement were issued in part under that law.

Added by Acts 1993, 73rd Leg., ch. 242, Sec. 3.01, eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 71, Sec. 10, eff. May 9, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 8.359, eff. Sept. 1, 2001.

Sec. 164.011. FUNDS. (a) In the resolution authorizing the issuance of bonds, the board may make additional covenants with respect to the bonds and the pledged revenues and may provide for the flow of funds and the establishment, maintenance, and investment of funds. The funds established may include an interest and sinking fund, a reserve fund, and other funds that will be kept and maintained by or under the direction of the board.

(b) The board may by resolution provide for the establishment, maintenance, and investment of additional funds into which the board may deposit revenues from any financial assistance program under this chapter that are not pledged to bonds, including any gifts, grants, or donations accepted by the board for the support, acquisition, construction, operation, enlargement, improvement, furnishing, or equipping of veterans homes or veterans cemeteries.

(c) Funds established by the board under this chapter are not to be part of the State Treasury and are not subject to Subchapter F, Chapter 404, Government Code. Any provision of this chapter or other law that provides for the deposit of money or another thing of value into the funds prevails over the requirements of Subchapter F, Chapter 404, Government Code. The funds shall remain under the control of the board but, at the

direction of the board, may be kept and held in escrow and in trust by the comptroller on behalf of the board and the owners of the bonds and used only as provided by this chapter.

(d) Money in a fund shall be invested in investments authorized as provided by a resolution or order of the board.

(e) Legal title to money in a fund is in the board unless or until paid from the fund as provided by this chapter or the resolution authorizing the issuance of the bonds or the establishment of the fund.

(f) The board shall select the comptroller or one or more commercial banks, depository trust companies, or other entities to serve as custodian of the cash or securities of a fund and may authorize the custodian to invest the cash in investments as determined by the board.

(g) In managing the assets of a fund, the board may permit the custodian of the fund's securities to lend the securities as provided by this section and by rules adopted by the board.

(h) To be eligible to lend securities under this section, a custodian selected under Subsection (f) must be experienced in the operation of a fully secured securities loan program and must:

(1) maintain adequate capital in the prudent judgment of the board to assure the safety of the securities;

(2) execute an indemnification agreement satisfactory in form and content to the board fully indemnifying the board against loss resulting from the custodian's operation of a securities loan program for the fund's securities; and

(3) require any securities broker or dealer to whom it lends securities of the fund to deliver and maintain with the custodian collateral in the form of cash, United States government securities, or letters of credit that are issued by banks rated as to investment quality not less than A or its equivalent by a nationally recognized investment rating firm in an amount equal to at least 100 percent of the market value, from time to time, of the loaned securities.

(i) The board shall require the custodian or custodians of a fund to administer the fund solely and strictly as provided by this chapter and the resolution authorizing the issuance of the bonds,

and the state may not take any other action relating to the fund except those specified in this chapter and the resolution authorizing the issuance of the bonds or the establishment of the fund.

Added by Acts 1993, 73rd Leg., ch. 242, Sec. 3.01, eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 71, Sec. 11, eff. May 9, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 14.23, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 134, Sec. 8, eff. May 20, 1999; Acts 2001, 77th Leg., ch. 981, Sec. 6.

Sec. 164.012. RESOLUTIONS. (a) The resolution authorizing the issuance of the bonds may prohibit the further issuance of bonds or other obligations payable from the pledged revenues or may reserve the right to issue additional bonds to be secured by a pledge of and payable from the revenue on a parity with or subordinate to the lien and pledge in support of the bonds being issued.

(b) The resolution of the board authorizing the issuance of the bonds may include other provisions and covenants that the board determines necessary.

(c) In a resolution authorizing the issuance of bonds, the board may prescribe systems, methods, routines, and procedures under which the board will function.

(d) The board may adopt and have executed any other proceedings or instruments necessary or convenient in the issuance of bonds.

Added by Acts 1993, 73rd Leg., ch. 242, Sec. 3.01, eff. Aug. 30, 1993.

Sec. 164.013. INVESTMENT SECURITIES. The bonds and any interest coupons are investment securities under Chapter 8, Business & Commerce Code, and may be issued registrable as to principal or as to both principal and interest or may be made redeemable before maturity at the option of the authority or may contain a mandatory redemption provision.

Added by Acts 1993, 73rd Leg., ch. 242, Sec. 3.01, eff. Aug. 30, 1993.

Sec. 164.014. APPROVAL OF THE ATTORNEY GENERAL. Bonds issued under this chapter are subject to review and approval by the attorney general in the same manner and with the same effect as provided by Chapter 1371, Government Code.

Added by Acts 1993, 73rd Leg., ch. 242, Sec. 3.01, eff. Aug. 30, 1993. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.360, eff. Sept. 1, 2001.

Sec. 164.015. REFUNDING BONDS. (a) The board may issue refunding bonds to refund all or part of its outstanding bonds issued under this chapter, including matured but unpaid interest.

(b) The board may refund bonds in the manner provided by general law for revenue bonds.

Added by Acts 1993, 73rd Leg., ch. 242, Sec. 3.01, eff. Aug. 30, 1993.

Sec. 164.016. BONDS AS INVESTMENTS AND SECURITY. (a) The bonds are legal and authorized investments for banks, savings banks, trust companies, savings and loan companies, insurance companies, fiduciaries, trustees, guardians, the sinking funds of cities, towns, villages, counties, school districts, and other political subdivisions of the state, and other public funds of the state and its agencies.

(b) The bonds are eligible to secure deposits of public funds of the state and cities, counties, school districts, and other political subdivisions of the state. The bonds are lawful and sufficient security for deposits to the extent of their par value.

Added by Acts 1993, 73rd Leg., ch. 242, Sec. 3.01, eff. Aug. 30, 1993.

Sec. 164.017. TAX EXEMPT. Since the board is performing an essential governmental function in the exercise of the powers conferred on it by this chapter, the bonds issued under this chapter, and the interest and income from the bonds, including any profit made on the sale of bonds, and all fees, charges, gifts, grants, revenues, receipts, and other money received or pledged to

pay or secure the payment of bonds are free from taxation and assessments of every kind by this state and any city, county, district, authority, or other political subdivision of this state. Added by Acts 1993, 73rd Leg., ch. 242, Sec. 3.01, eff. Aug. 30, 1993.

Sec. 164.018. NO PLEDGE OF STATE FAITH AND CREDIT; COVENANT WITH OWNERS OF BONDS. (a) Bonds issued under this chapter are special obligations of the board and are payable only from and secured only by the revenues and assets pledged to secure payment of the bonds under the Texas Constitution and this chapter, and the bonds are not and do not create or constitute a pledge, gift, or loan of the faith, credit, or taxing authority of the state.

(b) Each bond must include a statement that the faith or credit and the taxing authority of the state are not pledged, given, or loaned to secure payment of the principal of, or premium or interest on the bonds.

(c) The state pledges to and agrees with the owners of bonds issued under this chapter that the state will not limit or alter the rights vested in the board to fulfill the terms of agreements made with the owners of the bonds or in any way impair the rights and remedies of those owners until the bonds, together with any premium and interest, interest on any unpaid premium or installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of those owners, are fully met and discharged. The board may include this pledge and agreement of the state in an agreement with the owners of the bonds.

Added by Acts 1993, 73rd Leg., ch. 242, Sec. 3.01, eff. Aug. 30, 1993.

Sec. 164.019. ENFORCEMENT BY MANDAMUS. A writ of mandamus and all other legal and equitable remedies are available to a party in interest to require the board and any other party to carry out agreements and to perform functions and duties under this chapter, the Texas Constitution, or the board's bond resolutions or orders.

Added by Acts 1993, 73rd Leg., ch. 242, Sec. 3.01, eff. Aug. 30, 1993.