ORDINANCE NO. _____

AN ORDINANCE LIMITING THE USE OF THE POWER OF EMINENT DOMAIN ON NON-BLIGHTED PRIVATE PROPERTY IN THE REDEVELOPMENT DISTRICTS OF THE DOWNTOWN 2015 PLAN.

WHEREAS, on October 31, 2006, the City Council (the "Council") of the City of El Paso, Texas (the "City") passed and approved Ordinance No. 016487, which adopted the Downtown 2015 Plan into the City's comprehensive plan entitled *The Plan for El Paso* ("Plan");

WHEREAS, on December 19, 2006 the Council passed and approved Ordinance No. 016528, creating "Reinvestment Zone Number Five, City of El Paso, Texas" to support revitalization activities for the Plan's Redevelopment Districts ("Redevelopment Districts");

WHEREAS, the City recognizes that it has a Constitutional responsibility and a moral obligation to always defend the property rights of individuals and only to use the power of eminent domain for public use and contingent upon the just compensation of the individual property owner; and

WHEREAS, it is not the desire of the City to use the power of eminent domain to condemn private property in the Redevelopment Districts that is not blighted in order to implement the Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

I. **THAT** with respect to the use of eminent domain authority in the Redevelopment Districts, the terms below shall be defined as follows:

(A) BLIGHTED PROPERTY only means a tract or unit of property that presents three or more of the following conditions for at least six months after the date on which notice of the conditions is provided to the property owner:

(1) the property contains uninhabitable, unsafe, or abandoned structures;

(2) the property has inadequate provisions for sanitation;

(3) there exists on the property an imminent harm to life or other property caused by fire, flood, hurricane, tornado, earthquake, storm, or other natural catastrophe declared to be a disaster under Section 418.014, Government Code, or certified as a disaster for federal assistance under Section 418.021, Government Code.

CITY CLERK DEPT.
08 JAN 17 AM 11:40

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07 JUL -5 PM 4:50

(4) the property has been identified by the federal Environmental Protection Agency as a superfund site under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.) or as environmentally contaminated to an extent that the property requires remedial investigation or a feasibility study;

(5) the property has been the location of substantiated and repeated illegal activity of which the property owner knew or should have known;

(6) the property presents an economic liability to the immediate area because of hazardous conditions;

(7) the property is abandoned and contains a structure that is not fit for its intended use because the utilities, sewerage, plumbing, or heating or a similar service or facility to the structure has been disconnected, destroyed, removed, or rendered ineffective.

(B) PUBLIC USE has the same meaning as House Bill 2006, attached hereto and incorporated by reference herein as Exhibit "A" (vetoed on other grounds by the Governor on June 15, 2007).

II. **THAT** except as provided in this ordinance, the power of eminent domain to condemn private real property in the Redevelopment Districts shall not be exercised to acquire any real property which is not a BLIGHTED PROPERTY without the consent of the owner unless such acquisition is for a PUBLIC USE.

III. **THAT** this ordinance shall be in full force and effect on the date of its passage.

READ, ADOPTED AND APPROVED this _____ day of _____ 2007.

CITY OF EL PASO

_____
John F. Cook
Mayor

CITY CLERK DEPT.
08 JAN 17 AM 11:40

ORDINANCE NO. _____

CITY CLERK DEPT.
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ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

_____
Charlie F. McNabb
City Attorney

CITY CLERK DEPT.
08 JAN 17 AM 11:40

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08 JAN 17 AM 11:40

AN ACT

relating to the use of eminent domain authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2206, Government Code, is amended to read as follows:

CHAPTER 2206. [~~LIMITATIONS ON USE OF~~] EMINENT DOMAIN

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2206.001. DEFINITION OF PUBLIC USE. Except as otherwise provided by this chapter, "public use," with respect to the use of eminent domain authority, means a use of property, including a use described by Section 2206.051(c), that allows the state, a political subdivision of the state, or the general public of the state to possess, occupy, and enjoy the property.

SUBCHAPTER B. LIMITATIONS ON PURPOSE AND USE OF PROPERTY ACQUIRED THROUGH EMINENT DOMAIN

Sec. 2206.051. LIMITATION ON EMINENT DOMAIN FOR PRIVATE PARTIES OR ECONOMIC DEVELOPMENT PURPOSES. (a) This section applies to the use of eminent domain under the laws of this state, including a local or special law, by any governmental or private entity, including:

(1) a state agency, including an institution of higher education as defined by Section 61.003, Education Code;

(2) a political subdivision of this state; or

(3) a corporation created by a governmental entity to

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08 JAN 7 AM 11:40

act on behalf of the entity.

(b) A governmental or private entity may not take private property through the use of eminent domain if the taking:

(1) confers a private benefit on a particular private party through the use of the property;

(2) is for a public use that is merely a pretext to confer a private benefit on a particular private party; [~~or~~]

(3) is for economic development purposes, unless the economic development is a secondary purpose resulting from municipal community development or municipal urban renewal activities to eliminate an existing affirmative harm on society from slum or blighted areas under:

(A) Chapter 373 or 374, Local Government Code, other than an activity described by Section 373.002(b)(5), Local Government Code; or

(B) Section 311.005(a)(1)(I), Tax Code; or

(4) is not for a public use.

(c) This section does not affect the authority of an entity authorized by law to take private property through the use of eminent domain for:

(1) transportation projects, including, but not limited to, railroads, airports, or public roads or highways;

(2) entities authorized under Section 59, Article XVI, Texas Constitution, including:

(A) port authorities;

(B) navigation districts; and

(C) any other conservation or reclamation

CITY CLERK DEPT.
08 JAN 17 AM 11:40

districts that act as ports;

(3) water supply, wastewater, flood control, and drainage projects;

(4) public buildings, hospitals, and parks;

(5) the provision of utility services;

(6) a sports and community venue project approved by voters at an election held on or before December 1, 2005, under Chapter 334 or 335, Local Government Code;

(7) the operations of:

(A) a common carrier pipeline [~~subject to Chapter 111, Natural Resources Code, and Section B(3)(b), Article 2.01, Texas Business Corporation Act~~]; or

(B) an energy transporter, as that term is defined by Section 186.051, Utilities Code;

(8) a purpose authorized by Chapter 181, Utilities Code;

(9) underground storage operations subject to Chapter 91, Natural Resources Code;

(10) a waste disposal project; or

(11) a library, museum, or related facility and any infrastructure related to the facility.

(d) This section does not affect the authority of a governmental entity to condemn a leasehold estate on property owned by the governmental entity.

(e) The determination by the governmental or private entity proposing to take the property that the taking does not involve an act or circumstance prohibited by Subsection (b) does not create a

CITY CLERK DEPT.
07 JUN 7 AM 11:40

presumption with respect to whether the taking involves that act or circumstance.

Sec. 2206.052. LIMITATIONS ON EASEMENTS. (a) A property owner whose property is acquired through the use of eminent domain under Chapter 21, Property Code, for the purpose of creating an easement through that owner's property may construct streets or roads, including a gravel, asphalt, or concrete road, at any locations above the easement that the property owner chooses.

(b) The portion of a road constructed under this section that is over the easement may not exceed 40 feet in width.

SUBCHAPTER C. PROCEDURES REQUIRED TO INITIATE EMINENT DOMAIN PROCEEDINGS

Sec. 2206.101. SHORT TITLE. This subchapter may be cited as the Truth in Condemnation Procedures Act.

Sec. 2206.102. APPLICABILITY. The procedures in this subchapter apply only to the use of eminent domain under the laws of this state by a governmental entity.

Sec. 2206.103. VOTE ON USE OF EMINENT DOMAIN. (a) Before a governmental entity initiates a condemnation proceeding by filing a petition under Section 21.012, Property Code, the governmental entity must authorize the initiation of the condemnation proceedings at a public meeting by a record vote. If the motion required by Subsection (c) indicates that the first record vote applies to all units of property to be condemned, and the minutes of the entity reflect that the first vote applies to all of those units, a single ordinance, resolution, or order may be adopted for all of those units of property. If more than one member of the

CITY CLERK DEPT.
08 JAN 17 AM 11:40

governing body objects to adopting a single ordinance, resolution, or order by a record vote for all units of property for which condemnation proceedings are to be initiated, a separate record vote must be taken for each unit of property.

(b) For the purposes of Subsection (a), if two or more units of real property are owned by the same person, the governmental entity may treat those units of property as one unit of property.

(c) The motion to adopt an ordinance, resolution, or order authorizing the initiation of condemnation proceedings under Chapter 21, Property Code, must be made in a form substantially similar to the following: "I move that the (name of governmental entity) authorize the use of the power of eminent domain to acquire (describe the property) for (describe the public use)." The description of the property required by this subsection is sufficient if the description of the location of and interest in the property that the governmental entity seeks to acquire is substantially similar to the description that is or could properly be used in a petition to condemn the property under Section 21.012, Property Code.

(d) If a project for a public use described by Section 2206.051(c)(3) will require a governmental entity to acquire multiple tracts or units of property to construct facilities connecting one location to another location, the governing body of the entity may adopt a single ordinance, resolution, or order by a record vote that delegates the authority to initiate condemnation proceedings to the chief administrative official of the governmental entity.

CITY CLERK DEPT.
JAN 17 AM 11:41

(e) An ordinance, resolution, or order adopted under Subsection (d) is not required to identify specific properties that the governmental entity will acquire. The ordinance, resolution, or order must identify the general area to be covered by the project or the general route that will be used by the governmental entity for the project in a way that provides property owners in and around the area or along the route reasonable notice that the owners' properties may be subject to condemnation proceedings during the planning or construction of the project.

SECTION 2. Subchapter B, Chapter 21, Property Code, is amended by adding Section 21.0112 to read as follows:

Sec. 21.0112. BONA FIDE OFFER REQUIRED. An entity with eminent domain authority that wants to acquire real property for a public use must make a bona fide offer to acquire the property from the property owner voluntarily. A bona fide offer is an offer that is not arbitrary or capricious and is based on a reasonably thorough investigation and honest assessment of the amount of the just compensation due to the landowner as a result of the taking.

SECTION 3. Section 21.012(b), Property Code, is amended to read as follows:

(b) The petition must:

(1) describe the property to be condemned;

(2) state the purpose for which the entity intends to use the property;

(3) state the name of the owner of the property if the owner is known; [~~and~~]

(4) state that the entity and the property owner are

CITY CLERK DEPT.
08 JAN 17 AM 11:41

unable to agree on the damages; and

(5) state that the entity made a bona fide offer to acquire the property from the property owner voluntarily.

SECTION 4. Section 21.023, Property Code, is amended to read as follows:

Sec. 21.023. DISCLOSURE OF INFORMATION REQUIRED AT TIME OF ACQUISITION. A governmental entity shall disclose in writing to the property owner, at the time of acquisition of the property through eminent domain, that:

(1) the owner or the owner's heirs, successors, or assigns are entitled to repurchase the property if the public use for which the property was acquired through eminent domain is canceled before the 10th anniversary of the date of acquisition; and

(2) the repurchase price is the price paid to the owner by the governmental entity at the time the governmental entity acquired the property through eminent domain [~~fair market value of the property at the time the public use was canceled~~].

SECTION 5. Subchapter B, Chapter 21, Property Code, is amended by adding Section 21.024 to read as follows:

Sec. 21.024. PRODUCTION OF INFORMATION BY CERTAIN ENTITIES. (a) Notwithstanding any other law, an entity that is not subject to Chapter 552, Government Code, and is authorized by law to acquire private property through the use of eminent domain is required to produce information as provided by this section if the information is:

(1) requested by a person who owns property that is the

CITY CLERK DEPT.
08 JAN 17 AM 11:41

subject of a proposed or existing eminent domain proceeding; and

(2) related to the taking of the person's private property by the entity through the use of eminent domain.

(b) An entity described by Subsection (a) is required under this section only to produce information relating to the condemnation of the specific property owned by the requestor as described in the request. A request under this section must contain sufficient details to allow the entity to identify the specific tract of land in relation to which the information is sought.

(c) The entity shall respond to a request in accordance with the Texas Rules of Civil Procedure as if the request was made in a matter pending before a state district court.

(d) Exceptions to disclosure provided by this chapter and the Texas Rules of Civil Procedure apply to the disclosure of information under this section.

(e) Jurisdiction to enforce the provisions of this section resides in:

(1) the court in which the condemnation was initiated; or

(2) if the condemnation proceeding has not been initiated:

(A) a court that would have jurisdiction over a proceeding to condemn the requestor's property; or

(B) a court with eminent domain jurisdiction in the county in which the entity has its principal place of business.

(f) If the entity refuses to produce information requested in accordance with this section and the court determines that the

CITY CLERK DEPT.
08 JAN 17 AM 11:41

refusal violates this section, the court may award the requestor's reasonable attorney's fees incurred to compel the production of the information.

(g) If an entity that received a request in accordance with this section does not produce the requested information on or before the 30th day after the request is made, the attorney general may file an action in a court described by Subsection (e) to enforce this section on the request of the person who made the request for the information. If the court determines that the failure to produce the information is a violation of this section, the court may award the attorney general's reasonable expenses incurred to compel the production of the information.

(h) If the attorney general files an action under Subsection (g), the person who requested that the attorney general file the action may not file a private action to enforce this section with respect to the same request for information.

SECTION 6. Section 21.041, Property Code, is amended to read as follows:

Sec. 21.041. EVIDENCE. (a) For the purposes of this section, market value is the price a property will bring when offered for sale by a person who desires to sell the property, but is not obliged to sell the property, and is bought by a person who desires to buy the property, but is not under a necessity to buy the property.

(b) As the basis for assessing actual damages to a property owner from a condemnation, the special commissioners shall, subject to the Texas Rules of Evidence, admit evidence on:

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08 JAN 17 AM 11:41

(1) the market value, before the condemnation, of the property being condemned;

(2) subject to Section 21.042, the net change to the market value of [~~the injury to the property owner;~~

[~~(3) the benefit to~~] the property owner's remaining property, considering both injury and benefit to the property owner; and

(3) [~~(4)~~] the use of the property for the purpose of the condemnation.

SECTION 7. Section 21.042(e), Property Code, is amended to read as follows:

(e) If a portion of a tract or parcel of real property is condemned for the use, construction, operation, or maintenance of the state highway system or of a county toll project described by Chapter 284, Transportation Code, that is eligible for designation as part of the state highway system, the special commissioners shall consider any diminished access to the highway and to or from the remaining property to the extent that it affects the present market value of the real property, including any factors considered when determining actual fair market value of property for ad valorem tax purposes [~~or for the use, construction, development, operation, or maintenance of an improvement or project by a metropolitan rapid transit authority created before January 1, 1980, with a principal municipality having a population of less than 1.9 million and established under Chapter 451, Transportation Code, the special commissioners shall determine the damage to the property owner regardless of whether the property owner makes a~~

~~claim for damages to the remaining property. In awarding compensation or assessing the damages, the special commissioners shall consider any special and direct benefits that arise from the highway improvement or the transit authority improvement or project that are peculiar to the property owner and that relate to the property owner's ownership, use, or enjoyment of the particular parcel of remaining real property~~].

SECTION 8. Sections 21.046(a) and (b), Property Code, are amended to read as follows:

(a) A department, agency, instrumentality, or political subdivision of this state shall [~~may~~] provide a relocation advisory service for an individual, a family, a business concern, a farming or ranching operation, or a nonprofit organization that [~~if the service~~] is compatible with the Federal Uniform Relocation Assistance Advisory Program, 23 U.S.C.A. 501, et seq.

(b) This state or a political subdivision of this state shall [~~may~~], as a cost of acquiring real property, pay moving expenses and rental supplements, make relocation payments, provide financial assistance to acquire replacement housing, and compensate for expenses incidental to the transfer of the property if an individual, a family, the personal property of a business, a farming or ranching operation, or a nonprofit organization is displaced in connection with the acquisition.

SECTION 9. The heading to Section 21.047, Property Code, is amended to read as follows:

Sec. 21.047. ASSESSMENT OF COSTS AND FEES.

SECTION 10. Section 21.047, Property Code, is amended by

CITY CLERK DEPT.
08 JAN 17 AM 11:41

adding Subsection (d) to read as follows:

(d) If a court hearing a suit under this chapter determines that a condemning entity did not make a bona fide offer to acquire the property from the property owner voluntarily as required by Section 21.0112, the court shall abate the suit and order the condemnor to make a bona fide offer. If the court finds that by filing a petition under Section 21.012 or by filing any other motion or pleading in the proceeding initiated by the filing of that petition the condemnor violated Chapter 10, Civil Practice and Remedies Code, the court shall order the condemnor to pay:

(1) all costs as provided by Subsection (a); and

(2) any reasonable attorney's fees incurred by the owner that are directly related to the violation.

SECTION 11. Section 21.101(a), Property Code, is amended to read as follows:

(a) Except as provided in Subsection (b), this subchapter applies only to a real property interest acquired by a governmental entity other than a port that is acquiring property for deep water navigation through eminent domain for a public use. A person from whom the property interest is acquired or that person's heirs, successors, or assigns are entitled to repurchase the property as provided by this subchapter if that public use was canceled before the 10th anniversary of the date of acquisition or the governmental entity fails to begin the operation or construction of the project for which the property was acquired before the 10th anniversary of that date.

SECTION 12. Section 21.102, Property Code, is amended to

CITY CLERK DEPT.
08 JAN 17 AM 11:41

read as follows:

Sec. 21.102. NOTICE TO PREVIOUS PROPERTY OWNER AT TIME OF CANCELLATION OF PUBLIC USE OR ON FAILURE TO BEGIN OPERATION OR CONSTRUCTION OF PROJECT. Not later than the 180th day after the date of the cancellation of the public use for which real property was acquired through eminent domain from a property owner under Subchapter B or the 180th day after the 10th anniversary of the date on which the property was acquired if the governmental entity fails to begin the operation or construction of the project for which the property was acquired before the 10th anniversary of that date, the governmental entity shall send by certified mail, return receipt requested, to the property owner or the owner's heirs, successors, or assigns a notice containing:

(1) an identification, which is not required to be a legal description, of the property that was acquired;

(2) an identification of the public use for which the property had been acquired and a statement that the public use has been canceled or the governmental entity has failed to begin the operation or construction of the project for which the property was acquired; and

(3) a description of the person's right under this subchapter to repurchase the property.

SECTION 13. Section 21.103(b), Property Code, is amended to read as follows:

(b) As soon as practicable after receipt of a [~~the~~] notification under Subsection (a), the governmental entity shall offer to sell the property interest to the person for the price paid

CITY CLERK DEPT.
08 JAN 17 AM 11:41

to the owner by the governmental entity at the time the governmental entity acquired the property through eminent domain [~~fair market value of the property at the time the public use was canceled~~]. The person's right to repurchase the property expires on the 90th day after the date on which the governmental entity makes the offer.

SECTION 14. Subchapter B, Chapter 111, Natural Resources Code, is amended by adding Section 111.0195 to read as follows:

Sec. 111.0195. RIGHT OF EMINENT DOMAIN: ADDITIONAL PROCEDURES. (a) This section applies only to a condemnation proceeding initiated by a common carrier, as that term is defined by Section 111.002.

(b) A common carrier that intends to exercise the power of eminent domain must serve the owner of the property to be acquired with notice that the common carrier intends to initiate condemnation proceedings on or before the date the common carrier files a condemnation petition.

(c) The special commissioners in an eminent domain proceeding to which this section applies:

(1) may not schedule a hearing to assess damages before the 30th day after the date of the special commissioners' appointment; and

(2) must serve a property owner with notice informing the property owner of the time and place of the hearing not later than the 21st day before the date set for the hearing.

(d) A court that has jurisdiction over a condemnation proceeding may appoint a replacement special commissioner if:

(1) the property owner or the common carrier objects

CITY CLERK DEPT.
08 JUN 17 AM 11:41

to the appointment of a special commissioner by filing a written statement of the person's objections on the grounds of:

(A) a conflict of interest; or

(B) other good cause; and

(2) the court determines in a hearing that good cause is shown.

(e) The special commissioners may delay scheduling a hearing for a reasonable period if, by motion to the court that has jurisdiction over the condemnation proceeding, the property owner requests and is granted a delay by the court for good cause shown.

(f) A notice required under this section must be served by:

(1) regular mail; and

(2) certified mail, return receipt requested, to the property owner.

(g) A common carrier has the burden of proof to establish that notice was provided as required by Subsection (b).

SECTION 15. Subchapter G, Chapter 13, Water Code, is amended by adding Section 13.258 to read as follows:

Sec. 13.258. EMINENT DOMAIN. (a) A water and sewer utility that is operating in accordance with its certificate of convenience and necessity may acquire by condemnation only easements or lesser property interests reasonably necessary to comply with federal and state regulations relating to sanitation.

(b) The water and sewer utility shall exercise the power of eminent domain in the manner provided by Chapter 21, Property Code.

(c) The water and sewer utility may not exercise the power of eminent domain to condemn land to acquire rights to underground

CITY CLERK DEPT.
08 JAN 17 AM 11:41

water or for water or water rights.

(d) A water and sewer utility may not exercise the power of eminent domain in a municipality with a population of more than 1.7 million or in the municipality's extraterritorial jurisdiction to condemn land in which the municipality owns a fee, easement, or lesser property interest.

SECTION 16. Section 101.061, Government Code, is amended to read as follows:

Sec. 101.061. DISTRICT COURT FEES AND COSTS. The clerk of a district court shall collect fees and costs as follows:

(1) filing fee in action with respect to a fraudulent court record or fraudulent lien or claim filed against property (Sec. 12.005, Civil Practice and Remedies Code) . . . $15;

(2) fee for service of notice of action with respect to a fraudulent court record or fraudulent lien or claim filed against property (Sec. 12.005, Civil Practice and Remedies Code) . . . not to exceed $20, if notice delivered in person, or the cost of postage, if service is by registered or certified mail;

(3) court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court (Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed $10;

(4) appellate judicial system filing fees for:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than $5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than $5;

CITY CLERK DEPT.
08 JAN 17 AM 11:41

(C) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than $5;

(D) Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than $5; and

(E) Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than $5;

(5) additional filing fees:

(A) for each suit filed for insurance contingency fund, if authorized by the county commissioners court (Sec. 51.302, Government Code) . . . not to exceed $5;

(B) for each civil suit filed, for court-related purposes for the support of the judiciary and for civil legal services to an indigent:

(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.151, Local Government Code) . . . $45; or

(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.151, Local Government Code) . . . $50;

(C) to fund the improvement of Dallas County civil court facilities, if authorized by the county commissioners court (Sec. 51.705, Government Code) . . . not more than $15; and

(D) on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent:

CITY CLERK DEPT.
08 JAN 17 AM 11:41

(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.152, Local Government Code) . . . $5; or

(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.152, Local Government Code) . . . $10;

(6) for filing a suit, including an appeal from an inferior court:

(A) for a suit with 10 or fewer plaintiffs (Sec. 51.317, Government Code) . . . $50;

(B) for a suit with at least 11 but not more than 25 plaintiffs (Sec. 51.317, Government Code) . . . $75;

(C) for a suit with at least 26 but not more than 100 plaintiffs (Sec. 51.317, Government Code) . . . $100;

(D) for a suit with at least 101 but not more than 500 plaintiffs (Sec. 51.317, Government Code) . . . $125;

(E) for a suit with at least 501 but not more than 1,000 plaintiffs (Sec. 51.317, Government Code) . . . $150; or

(F) for a suit with more than 1,000 plaintiffs (Sec. 51.317, Government Code) . . . $200;

(7) for filing a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition (Sec. 51.317, Government Code) . . . $15;

(8) for issuing a citation or other writ or process not otherwise provided for, including one copy, when requested at the time a suit or action is filed (Sec. 51.317, Government Code) . . . $8;

CITY CLERK DEPT.
08 JAN 17 AM 11:41

(9) for records management and preservation (Sec. 51.317, Government Code) . . . $10;

(10) for issuing a subpoena, including one copy (Sec. 51.318, Government Code) . . . $8;

(11) for issuing a citation, commission for deposition, writ of execution, order of sale, writ of execution and order of sale, writ of injunction, writ of garnishment, writ of attachment, or writ of sequestration not provided for in Section 51.317, or any other writ or process not otherwise provided for, including one copy if required by law (Sec. 51.318, Government Code) . . . $8;

(12) for searching files or records to locate a cause when the docket number is not provided (Sec. 51.318, Government Code) . . . $5;

(13) for searching files or records to ascertain the existence of an instrument or record in the district clerk's office (Sec. 51.318, Government Code) . . . $5;

(14) for abstracting a judgment (Sec. 51.318, Government Code) . . . $8;

(15) for approving a bond (Sec. 51.318, Government Code) . . . $4;

(16) for a certified copy of a record, judgment, order, pleading, or paper on file or of record in the district clerk's office, including certificate and seal, for each page or part of a page (Sec. 51.318, Government Code) . . . $1;

(17) for a noncertified copy, for each page or part of a page (Sec. 51.318, Government Code) . . . not to exceed $1;

CITY CLERK DEPT.
08 JAN 17 AM 11:41

(18) jury fee (Sec. 51.604, Government Code) . . . $30;

(19) for filing a report of divorce or annulment (Sec. 194.002, Health and Safety Code) . . . $1;

(20) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . $4;

(21) additional filing fee for family protection on filing a suit for dissolution of a marriage under Chapter 6, Family Code, if authorized by the county commissioners court (Sec. 51.961, Government Code) . . . not to exceed $30;

(22) fee on filing a suit for dissolution of a marriage for services of child support department in Harris County, if authorized by the county commissioners court (Sec. 152.1074, Human Resources Code) . . . not to exceed $12;

(22-a) a child support service fee in Nueces County if ordered by the commissioners court and assessed by the court (Sec. 152.1844, Human Resources Code) . . . not to exceed $5 a month payable annually in advance;

(22-b) a service fee to be paid by a person ordered by a district court to pay child or spousal support:

(A) in Collin County if authorized by the juvenile board (Sec. 152.0492, Human Resources Code) . . . not to exceed $2.50 added to first support payment each month;

(B) in Johnson County if authorized by the juvenile board (Sec. 152.1322, Human Resources Code) . . . $1.00 added to first support payment each month; and

(C) in Montague County (Sec. 152.1752, Human

CITY CLERK DEPT.
08 JAN 17 AM 11:41

Resources Code) . . . $1 if fee is ordered to be paid monthly, 50 cents if fee is ordered to be paid semimonthly or weekly;

(22-c) attorney's fees as an additional cost in Montague County on a finding of contempt of court for failure to pay child or spousal support if the contempt action is initiated by the probation department (Sec. 152.1752, Human Resources Code) . . . $15;

(23) fee on filing a suit requesting an adoption in Montague County (Sec. 152.1752, Human Resources Code) . . . $25;

(24) court cost on citation for contempt of court for failure to comply with child support order in Nueces County, if authorized by the commissioners court (Sec. 152.1844, Human Resources Code) . . . not to exceed $10;

(25) fee on filing a suit for divorce in Orange County (Sec. 152.1873, Human Resources Code) . . . not less than $5;

(26) court costs on citation for contempt of court in Orange County for failure to comply with a child support order or order providing for possession of or access to a child (Sec. 152.1873, Human Resources Code) . . . amount determined by district clerk;

(27) fee on filing a suit requesting an adoption in Orange County (Sec. 152.1874, Human Resources Code) . . . not less than $25;

(28) fee on filing a suit requesting an adoption in Wichita County (Sec. 152.2496, Human Resources Code) . . . $100;

(29) additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court

CITY CLERK DEPT.
08 JAN 17 AM 11:41

(Sec. 291.008, Local Government Code) . . . not to exceed $5;

(30) additional filing fee for filing documents not subject to certain filing fees to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . $1;

(31) additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed $20;

(32) court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed $35;

(33) when administering a case for the Rockwall County Court at Law (Sec. 25.2012, Government Code) . . . civil fees and court costs as if the case had been filed in district court;

(34) at a hearing held by an associate judge in Dallas County, a court cost to preserve the record, in the absence of a court reporter, by other means (Sec. 54.509, Government Code) . . . as assessed by the referring court or associate judge;

(35) at a hearing held by an associate judge in Duval County, a court cost to preserve the record (Sec. 54.1151, Government Code, as added by Chapter 1150, Acts of the 78th Legislature, Regular Session, 2003) . . . as imposed by the referring court or associate judge;

(36) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn

CITY CLERK DEPT.
08 JAN 17 AM 11:12

declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(37) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid;

(38) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding;

(39) fee for performing a service:

CITY CLERK DEPT.
08 JAN 17 AM 11:42

(A) related to the matter of the estate of a deceased person (Sec. 51.319, Government Code) . . . the same fee allowed the county clerk for those services;

(B) related to the matter of a minor (Sec. 51.319, Government Code) . . . the same fee allowed the county clerk for the service;

(C) of serving process by certified or registered mail (Sec. 51.319, Government Code) . . . the same fee a sheriff or constable is authorized to charge for the service under Section 118.131, Local Government Code; and

(D) prescribed or authorized by law but for which no fee is set (Sec. 51.319, Government Code) . . . a reasonable fee;

(40) court costs, which may include expert witness fees in Travis County in an action in which the plaintiff prevails against an insurer for economic damages sustained by the plaintiff as a result of unfair discrimination (Sec. 544.054, Insurance Code) . . . court costs and reasonable and necessary expert witness fees;

(41) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding;

(42) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code) . . . probable cost of the guardianship proceeding; [~~and~~]

CITY CLERK DEPT.
08 JAN 17 AM 11:42

(43) fee for filing an additional petition for review of an appraisal review board order relating to certain regulated property running through or operating in more than one county after the first petition for review relating to the same property is filed for a tax year (Sec. 42.221, Tax Code) . . . $5;

(44) court costs for each special commissioner in an eminent domain proceeding (Sec. 21.047, Property Code) . . . as taxed by the court, $10 or more; and

(45) court costs and attorney's fees in an eminent domain proceeding (Sec. 21.047, Property Code) . . . as taxed by the court and as reasonable, respectively.

SECTION 17. Section 101.081, Government Code, is amended to read as follows:

Sec. 101.081. STATUTORY COUNTY COURT FEES AND COSTS. The clerk of a statutory county court shall collect fees and costs as follows:

(1) court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court (Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed $10;

(2) appellate judicial system filing fees:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than $5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than $5;

(C) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than $5;

CITY CLERK DEPT.
09 JAN 17 AM 11:42

(D) Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than $5; and

(E) Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than $5;

(3) an official court reporter fee, County Court at Law No. 2 of Bexar County (Sec. 25.0172, Government Code) . . . $3;

(4) a court reporter fee when testimony is taken in a county court at law in McLennan County (Sec. 25.1572, Government Code) . . . $3;

(5) a stenographer fee, if a record or part of a record is made:

(A) in a county court at law in Hidalgo County (Sec. 25.1102, Government Code) . . . $20; and

(B) in a county court at law in Nolan County (Sec. 25.1792, Government Code) . . . $25;

(6) jury fee (Sec. 51.604, Government Code) . . . $22;

(7) an additional filing fee:

(A) for each civil case filed to be used for court-related purposes for the support of the judiciary, if authorized by the county commissioners court (Sec. 51.702, Government Code) . . . $40;

(B) to fund the improvement of Dallas County civil court facilities, if authorized by the county commissioners court (Sec. 51.705, Government Code) . . . not more than $15; and

(C) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or

CITY CLERK DEPT.
08 JAN 17 AM 11:42

third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $5;

(8) for filing an application for registration of death (Sec. 193.007, Health and Safety Code) . . . $1;

(9) fee for judge's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed $50;

(10) fee for prosecutor's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed $50;

(11) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . $4;

(12) additional filing fee to fund contingency fund for liability insurance, if authorized by the county commissioners court (Sec. 82.003, Local Government Code) . . . not to exceed $5;

(13) civil court actions (Sec. 118.052, Local Government Code):

(A) filing of original action (Secs. 118.052 and 118.053, Local Government Code):

(i) garnishment after judgment (Sec. 118.052, Local Government Code) . . . $15; and

(ii) all others (Sec. 118.052, Local Government Code) . . . $40;

(B) filing of action other than original (Secs. 118.052 and 118.054, Local Government Code) . . . $30; and

(C) services rendered after judgment in original

CITY CLERK DEPT.
08 JAN 17 AM 11:42

action (Secs. 118.052 and 118.0545, Local Government Code):

(i) abstract of judgment (Sec. 118.052, Local Government Code) . . . $5; and

(ii) execution, order of sale, writ, or other process (Sec. 118.052, Local Government Code) . . . $5;

(14) probate court actions (Sec. 118.052, Local Government Code):

(A) probate original action (Secs. 118.052 and 118.055, Local Government Code):

(i) probate of a will with independent executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title (Sec. 118.052, Local Government Code) . . . $40;

(ii) community survivors (Sec. 118.052, Local Government Code) . . . $40;

(iii) small estates (Sec. 118.052, Local Government Code) . . . $40;

(iv) declarations of heirship (Sec. 118.052, Local Government Code) . . . $40;

(v) mental health or chemical dependency services (Sec. 118.052, Local Government Code) . . . $40; and

(vi) additional, special fee (Secs. 118.052 and 118.064, Local Government Code) . . . $5;

(B) services in pending probate action (Secs. 118.052 and 118.056, Local Government Code):

(i) filing an inventory and appraisement after the 120th day after the date of the initial filing of the

CITY CLERK DEPT.
08 JAN 17 AM 11:42

action (Sec. 118.052, Local Government Code) . . . $25;

(ii) approving and recording bond (Sec. 118.052, Local Government Code) . . . $3;

(iii) administering oath (Sec. 118.052, Local Government Code) . . . $2;

(iv) filing annual or final account of estate (Sec. 118.052, Local Government Code) . . . $25;

(v) filing application for sale of real or personal property (Sec. 118.052, Local Government Code) . . . $25;

(vi) filing annual or final report of guardian of a person (Sec. 118.052, Local Government Code) . . . $10; and

(vii) filing a document not listed under this paragraph after the filing of an order approving the inventory and appraisement or after the 120th day after the date of the initial filing of the action, whichever occurs first (Secs. 118.052 and 191.007, Local Government Code), if more than 25 pages . . . $25;

(C) adverse probate action (Secs. 118.052 and 118.057, Local Government Code) . . . $40; and

(D) claim against estate (Secs. 118.052 and 118.058, Local Government Code) . . . $2;

(15) other fees (Sec. 118.052, Local Government Code):

(A) issuing document (Secs. 118.052 and 118.059, Local Government Code):

(i) original document and one copy (Sec. 118.052, Local Government Code) . . . $4; and

CITY CLERK DEPT.
08 JAN 17 AM 11:42

(ii) each additional set of an original and one copy (Sec. 118.052, Local Government Code) . . . $4;

(B) certified papers (Secs. 118.052 and 118.060, Local Government Code):

(i) for the clerk's certificate (Sec. 118.052, Local Government Code) . . . $5; and

(ii) a fee per page or part of a page (Sec. 118.052, Local Government Code) . . . $1;

(C) noncertified papers, for each page or part of a page (Secs. 118.052 and 118.0605, Local Government Code) . . . $1;

(D) letters testamentary, letter of guardianship, letter of administration, or abstract of judgment (Secs. 118.052 and 118.061, Local Government Code) . . . $2;

(E) safekeeping of wills (Secs. 118.052 and 118.062, Local Government Code) . . . $5;

(F) mail service of process (Secs. 118.052 and 118.063, Local Government Code) . . . same as sheriff; and

(G) records management and preservation fee (Secs. 118.052, 118.0546, and 118.0645, Local Government Code) . . . $5;

(16) additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . not to exceed $5;

(17) additional filing fee for filing documents not subject to certain filing fees to fund the courthouse security fund, if authorized by the county commissioners court (Sec.

CITY CLERK DEPT.
08 JAN 17 AM 11:42

291.008, Local Government Code) . . . $1;

(18) additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed $20;

(19) court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed $35;

(20) fee for deposit of a will with the county clerk during testator's lifetime (Sec. 71, Texas Probate Code) . . . $3;

(21) court cost for each special commissioner in an eminent domain proceeding (Sec. 21.047, Property Code) . . . as taxed by the court, $10 or more;

(21-a) court costs and attorney's fees in an eminent domain proceeding (Sec. 21.047, Property Code) . . . as taxed by the court and as reasonable, respectively;

(22) fee for county attorney in a suit regarding a railroad company's failure to keep roadbed and right-of-way in proper condition (Art. 6327, Vernon's Texas Civil Statutes) . . . $10;

(23) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas

CITY CLERK DEPT.
98 JAN 17 AM 11:12

Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(24) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid;

(25) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding;

(26) the official court reporter's fee taxed as costs in civil actions in a statutory county court:

(A) in Bexar County Courts at Law:

(i) Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 (Sec. 25.0172, Government Code) . . . taxed in the same manner as

CITY CLERK DEPT.
08 JAN 17 AM 11:42

the fee is taxed in district court; and

(ii) No. 2 (Sec. 25.0172, Government Code) . . . $3;

(B) in Galveston County (Sec. 25.0862, Government Code) . . . taxed in the same manner as the fee is taxed in civil cases in the district courts; and

(C) in Parker County (Sec. 25.1862, Government Code) . . . taxed in the same manner as the fee is taxed in civil cases in the district courts;

(27) a stenographer's fee as costs in each civil, criminal, and probate case in which a record is made by the official court reporter in a statutory county court in Nolan County (Sec. 25.1792, Government Code) . . . $25;

(28) in Brazoria County, in matters of concurrent jurisdiction with the district court, fees (Sec. 25.0222, Government Code) . . . as prescribed by law for district judges according to the nature of the matter;

(29) in Nueces County, in matters of concurrent jurisdiction with the district court, with certain exceptions, fees (Sec. 25.1802, Government Code) . . . equal to those in district court cases;

(30) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding;

(31) security deposit on filing, by any person other

CITY CLERK DEPT.
08 JAN 17 AM 11:42

than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code) . . . probable cost of the guardianship proceeding;

(32) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Secs. 571.017 and 571.018, Health and Safety Code) . . . reasonable compensation to the following persons appointed under the Texas Mental Health Code:

(A) attorneys;

(B) physicians;

(C) language interpreters;

(D) sign interpreters; and

(E) masters;

(33) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Sec. 571.018, Health and Safety Code):

(A) attorney's fees;

(B) physician examination fees;

(C) expense of transportation to a mental health facility or to a federal agency not to exceed $50 if transporting within the same county and not to exceed the reasonable cost of transportation if transporting between counties;

(D) costs and salary supplements authorized under Section 574.031, Health and Safety Code; and

(E) prosecutors' fees authorized under Section 574.031, Health and Safety Code;

CITY CLERK DEPT.
03 JAN 17 AM 11:42

(34) expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated (Sec. 574.008, Health and Safety Code) . . . actual expenses unless certain arrangements are made to hold the hearing in the county in which the patient is receiving services;

(35) expenses for expert witness testimony for an indigent patient (Sec. 574.010, Health and Safety Code) . . . if authorized by the court as reimbursement to the attorney ad litem, court-approved expenses;

(36) fee for judge's services for holding a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50;

(37) expenses to reimburse judge for holding a hearing in a hospital or location other than the county courthouse (Sec. 574.031, Health and Safety Code) . . . reasonable and necessary expenses as certified;

(38) fee for services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed $50; and

(39) a fee not otherwise listed in this section that is required to be collected under Section 25.0008, Government Code (Sec. 25.0008, Government Code), in a county other than Brazos, Cameron, Ellis, Guadalupe, Harris, Henderson, Liberty, Moore, Nolan, Panola, Parker, Starr, Victoria, and Williamson . . . as

CITY CLERK DEPT.
08 JAN 17 AM 11:42

prescribed by law relating to county judges' fees.

SECTION 18. Section 552.0037, Government Code, is repealed.

SECTION 19. Not later than January 1, 2009, the comptroller shall:

(1) identify all public and private entities with eminent domain authority; and

(2) make recommendations to the legislature and the governor regarding:

(A) which entities have, need, or should have eminent domain authority;

(B) whether that eminent domain authority of those entities should be continued, expanded, or limited; and

(C) the cause and effect of continuing, eliminating, expanding, or limiting the eminent domain authority of those entities.

SECTION 20. The changes in law made by Chapter 2206, Government Code, and Chapter 21, Property Code, as amended by this Act, apply only to a condemnation proceeding in which the petition is filed on or after the effective date of this Act and to any property condemned through the proceeding. A condemnation proceeding in which the petition is filed before the effective date of this Act and any property condemned through the proceeding is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 21. Section 111.0195, Natural Resources Code, as added by this Act, applies only to a condemnation proceeding in which the petition is filed on or after the effective date of this

CITY CLERK DEPT.
08 JAN 17 AM 11:52

Act and to any property condemned through the proceeding. A condemnation proceeding in which the petition is filed before the effective date of this Act and any property condemned through the proceeding is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 22. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2007.

(b) Sections 4 and 13 of this Act, amending Sections 21.023 and 21.103, Property Code, take effect on the date on which the constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, allowing a governmental entity to sell property acquired through eminent domain back to the previous owners at the price the entity paid to acquire the property takes effect. If that amendment is not approved by the voters, Sections 4 and 13 of this Act have no effect.

CITY CLERK DEPT.
08 JAN 17 AM 11:52

President of the Senate

Speaker of the House

I certify that H.B. No. 2006 was passed by the House on May 8, 2007, by the following vote: Yeas 143, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2006 on May 26, 2007, by the following vote: Yeas 125, Nays 11, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2006 was passed by the Senate, with amendments, on May 22, 2007, by the following vote: Yeas 28, Nays 2.

Secretary of the Senate

APPROVED: _____

Date

_____

Governor