CIVIL PRACTICE
AND REMEDIES CODE

A NONSUBSTANTIVE REVISION
OF THE STATUTES RELATING TO
CIVIL PROCEDURE AND CIVIL
REMEDIES AND LIABILITIES
( Including amendments made by
Acts of the 68th Legislature, Regular Session
and First Called Session, 1983)

To be submitted to the Legislature
as part of the
Texas Legislative Council's
Statutory Revision Program

Austin, Texas
April, 1984
APPENDIX D
V.A.C.S. Art. 5429b-2. CODE CONSTRUCTION ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1.01. PURPOSE. This Act provides rules to aid in the construction of codes (and amendments to them) enacted pursuant to the state's continuing statutory revision program. The rules set out in this Act are not intended to be exclusive but are meant to describe and clarify common situations in order to guide the preparation and construction of the codes.

Sec. 1.02. APPLICABILITY. This Act applies to
(1) each code enacted by the 60th or a subsequent Legislature as part of the state's continuing statutory revision program;
(2) each amendment, repeal, revision, and reenactment of a code, or provision thereof, which amendment, repeal, revision, or reenactment is enacted by the 60th or a subsequent Legislature;
(3) each repeal of a statute by a code; and
(4) each rule promulgated under a code.

Sec. 1.03. CITATION OF CODES. A code may be cited by its name followed by the specific part concerned. For example:
(1) Business & Commerce Code, Tit. 1;
(2) Business & Commerce Code, Ch. 5;
(3) Business & Commerce Code, Sec. 9.304;
(4) Business & Commerce Code, Sec. 15.06(a);
(5) Business & Commerce Code, Sec. 17.18(b)(1)(B)(ii).

Sec. 1.04. GENERAL DEFINITIONS. The following definitions apply unless the statute or context in which the word or phrase is used requires a different definition:
(1) "oath" includes affirmation;
(2) "person" includes corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity;
(3) "population" means that shown by the most recent federal
decennial census;

(4) "property" means real and personal property;
(5) "rule" includes regulation;
(6) "signed" includes any symbol executed or adopted by a person with present intention to authenticate a writing;
(7) "state", when referring to a part of the United States, includes any state, district, commonwealth, territory, insular possession of the United States, and any area subject to the legislative authority of the United States of America;
(8) "swear" includes affirm;
(9) "United States" includes department, bureau, and any other agency of the United States of America;
(10) "week" means seven consecutive days;
(11) "written" includes any representation of words, letters, symbols, or figures; and
(12) "year" means 12 consecutive months.

SUBCHAPTER B. CONSTRUCTION OF WORDS AND PHRASES

Sec. 2.01. COMMON AND TECHNICAL USAGE OF WORDS. Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

Sec. 2.02. TENSE, NUMBER, AND GENDER. (a) Words in the present tense include the future tense.
(b) The singular includes the plural, and the plural includes the singular.
(c) Words of one gender include the other genders.

Sec. 2.03. AUTHORITY AND QUORUM OF PUBLIC BODY. (a) A grant of authority to three or more persons as a public body confers the authority upon a majority of the number of members fixed by statute.
(b) A quorum of a public body is a majority of the number of members fixed by statute.

Sec. 2.04. COMPUTATION OF TIME. (a) In computing a period
of days, the first day is excluded and the last day is included.

(b) If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

(c) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

Sec. 2.05. REFERENCE TO A SERIES. If a statute refers to a series of numbers or letters, the first and last numbers or letters are included.

SUBCHAPTER C. CONSTRUCTION OF STATUTES

Sec. 3.01. INTENTIONS IN ENACTMENT OF STATUTES. In enacting a statute, it is presumed that

(1) compliance with the constitutions of this state and the United States is intended;

(2) the entire statute is intended to be effective;

(3) a just and reasonable result is intended;

(4) a result feasible of execution is intended; and

(5) public interest is favored over any private interest.

Sec. 3.02. PROSPECTIVE OPERATION OF STATUTES. A statute is presumed to be prospective in its operation unless expressly made retrospective.

Sec. 3.03. CONSTRUCTION AIDS. In construing a statute, whether or not the statute is considered ambiguous on its face, a court may consider among other matters the

(1) object sought to be attained;

(2) circumstances under which the statute was enacted;

(3) legislative history;

(4) common law or former statutory provisions, including laws upon the same or similar objects;

(5) consequences of a particular construction;
administrative construction of the statute; and
(7) title, preamble, and emergency provision.

Sec. 3.04. CAPTIONS NOT PART OF STATUTE. Title, subtitle, chapter, subchapter, and section captions do not limit or expand the meaning of any statute.

Sec. 3.05. IRRECONCILABLE STATUTES AND AMENDMENTS. (a) Except as provided in Section 3.11(d) of this Act, if statutes enacted at the same or different sessions of the legislature are irreconcilable, the statute latest in date of enactment prevails.

(b) Except as provided in Section 3.11(d) of this Act, if amendments to the same statute are enacted at the same session of the legislature, one amendment without reference to another, the amendments shall be harmonized, if possible, so that effect may be given to each. If the amendments are irreconcilable, the latest in date of enactment prevails.

Sec. 3.06. SPECIAL OR LOCAL PROVISION PREVAILS OVER GENERAL. If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later enactment and the manifest intent is that the general provision prevail.

Sec. 3.07. STATUTORY REFERENCES. Unless expressly provided otherwise, a reference to any portion of a statute applies to all reenactments, revisions, or amendments of the statute.

Sec. 3.08. UNIFORM CONSTRUCTION OF UNIFORM ACTS. A uniform act included in a code shall be construed to effectuate its general purpose to make uniform the law of those states which enact it.

Sec. 3.09. ENROLLED BILL CONTROLS. If the language of the enrolled bill version of a statute conflicts with the language of any subsequent printing or reprinting of the statute, the language of the enrolled bill version controls.

Sec. 3.10. REPEAL OF REPEALING STATUTE. The repeal of a
repealing statute does not revive the statute originally repealed nor impair the effect of any saving provision in it.

Sec. 3.11. SAVING PROVISIONS. (a) Except as provided in Subsection (b) of this section, the reenactment, revision, amendment, or repeal of a statute does not affect

(1) the prior operation of the statute or any prior action taken under it;

(2) any validation, cure, right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred under it;

(3) any violation of the statute, or any penalty, forfeiture, or punishment incurred in respect to it, prior to the amendment or repeal; or

(4) any investigation, proceeding, or remedy in respect to any privilege, obligation, liability, penalty, forfeiture, or punishment; and the investigation, proceeding, or remedy may be instituted, continued, or enforced, and the penalty, forfeiture, or punishment imposed, as if the statute had not been repealed or amended.

(b) If the penalty, forfeiture, or punishment for any offense is reduced by a reenactment, revision, or amendment of a statute, the penalty, forfeiture, or punishment (if not already imposed) shall be imposed according to the statute as amended.

(c) The repeal of a statute by a code does not affect an amendment, revision, or reenactment of the statute by the same legislature which enacted the code. The amendment, revision, or reenactment is preserved and given effect as part of the code provision which revised the statute so amended, revised, or reenacted.

(d) If any provision of a code conflicts with a statute enacted by the same legislature which enacted the code, the statute controls.

Sec. 3.12. SEVERABILITY OF STATUTES. If any Act passed by the Legislature shall contain a provision for severability, such
provision shall prevail in the interpretation of such statute. If any Act passed by the Legislature shall contain a provision for non-severability, such provision shall prevail in the interpretation of such statute. In the absence of such determination by the Legislature in a particular Act for severability or non-severability, the following construction of such Act shall prevail: If any provision of a statute or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the statute which can be given effect without the invalid provision or application, and to this end the provisions of the statute are severable.