



# **Property Rights and Tax (PRT) Committee**

*Policies for Review*

*September 2018*

## **Banking Regulations (PRT-1)**

WHEREAS, credit availability is crucial to agricultural production on account of drought, fluctuating prices and other economic conditions; and

WHEREAS, credit availability has been severely restricted, in part because of tightened bank regulation and loan examination by the Comptroller of the Currency, and this restricts the flexibility of community banks to consider character, equity and performance; now, therefore, be it

RESOLVED, that TSCRA requests that the Comptroller of the Currency change its bank regulation and loan examination policies to allow community bankers increased flexibility to consider character, equity and performance rather than merely cash flow.

*new 6/15/96, revised 10/2/09, renewed 9/27/13, renewed 9/25/15*

**RECOMMENDATION: DELETE (Consolidate financial policies under MKT)**

## **Farm Credit System (PRT-2)**

WHEREAS, TSCRA believes that the preservation of the Farm Credit System is essential to the long-term, best interests of our nation's farmers, ranchers and agricultural cooperatives; and

WHEREAS, farmers, ranchers and cooperatives are better served by a system which puts greater emphasis on local values, needs of the individual borrower, and programs and options that will assist borrowers at the local level; now, therefore, be it

RESOLVED, that TSCRA supports Farm Credit System laws and regulations that:

1. Guarantee that stockholder-owners will continue to control the Farm Credit System; and
2. Require that the Farm Credit System will continue to provide farmers and ranchers with a sound, adequate and dependable source of agricultural credit at reasonable rates; and
3. Continue to provide a meaningful program of loan restructuring; and
4. Protect borrower stock to the maximum extent possible.

*new 3/18/87, revised 1992, revised 10/2/09, revised 9/27/13, revised 9/27/17*

**RECOMMENDATION: DELETE (Consolidate financial policies under MKT)**

## **Federal Control Over Privately-Owned Lands (PRT-5)**

WHEREAS, persistent and ever-intensifying efforts have been made by the federal government to extend control over privately-owned lands and associated property rights, including groundwater and surface water, in the United States; and

WHEREAS, such federal regulation is often attempted without legislative or judicial mandate; and

WHEREAS, efforts to establish such controls continue unabated and frequently by an arcane and covert method which makes response in a timely and effective manner by concerned landowners and other citizens difficult or impossible; now, therefore, be it

RESOLVED, that TSCRA supports efforts that would prevent such incursions into the private sector by the federal government without specific authorization by the U.S. Congress; and, be it further

RESOLVED, that any such federal action be widely publicized throughout the nation and that proper hearings for the public be held before any Congressional or regulatory agency action is taken so that concerned landowners and other citizens have adequate time to be informed, develop responses and be represented at any such hearings.

*new 6/8/82, revised 1992, revised 10/2/09, revised 9/27/13, revised 9/26/14*

**RECOMMENDATION: RENEW**

**Eminent Domain Fairness  
(PRT-8)**

WHEREAS, it is recognized that the exercise of eminent domain powers is a valid governmental function; and

WHEREAS, it is recognized that there have been abuses by governmental and private entities possessing eminent domain powers; and

WHEREAS, the exercise of eminent domain should be appropriately limited and subject to the strict scrutiny of Texas courts; and

WHEREAS, actions to compel the taking of private property under law should be transparent and subject to review; and

WHEREAS, it is essential that property owners be fully compensated and treated with fairness when forced to relinquish property rights; now, therefore, be it

RESOLVED, that TSCRA supports legislation to amend the Texas Constitution and other laws to ensure fair treatment of property owners by requiring condemnors to:

1. Provide the property owner with the condemnor's (a) statement or certificate evidencing its right to exercise eminent domain, (b) resolution authorizing the taking of the property, and (c) letter to the Texas Comptroller registering the right of eminent domain; and
2. Provide advance written notice and complete information to the property owner regarding the project and the rights of the property owner prior to any negotiations; and
3. Negotiate in good faith and make a good faith offer in an amount designed to induce the voluntary transfer of property rights; and
4. Provide the property owner, at the time of the original offer, with an estimate of reasonable attorneys' fees required to evaluate the offer and proposed taking and make an additional offer to pay this amount in a final settlement; and
5. Furnish to the property owner all appraisals and the form of easement agreement in a reasonable time frame so that the property owner has adequate time for review prior to any court proceedings; and
6. Include the terms of the easement in the legal adjudication of the condemnation, and include in those terms a provision that property owners' remedies for any breach by condemnor, in addition to damages, shall include injunctive relief; and
7. Require the specific proposed use of the easement, including infrastructure specifications and products to be transmitted, to be identified in the terms of the easement agreement, with the provision that the condemnor may not deviate from or expand the proposed use without an amendment to the easement to include the changed use and additional compensation to property owner as mutually agreed upon; and
8. Provide compensation for all losses suffered by the property owner, including the appraised fair market value of the property taken, damage to the remainder, cost to cure, and diminution of access; and
9. Provide compensation to the property owner of all costs and expenses, including attorney's fees, when the condemnor misuses the legal process or unnecessarily threatens the interests of property owners; and
10. Provide compensation to the property owner of all costs and expenses, including appraisal and attorney's fees, when the award by the special commissioners or the trial court is greater than the condemnor's original offer; and
11. Provide written notice to the property owner of its option to reacquire the condemned property, or property conveyed in lieu of condemnation, and all associated property rights, including mineral and groundwater rights, for the price paid by the condemnor, if the original project causing the condemnation does not progress or is not completed within a reasonable time; and
12. Provide advance written notice to the property owner of any intent to survey or access the property and secure written consent from the property owner before entering the property; and

13. Provide the property owner with an indemnity, proof of insurance, or written assurance that any damages occasioned by the survey or other activities, including construction, on the property will be the responsibility of the condemnor; and
14. Assume full responsibility for all activities of the condemnor and any contractors, including reasonable measures to monitor all gates, cattle guards, and fences securing livestock, and repair or replace any such gates, cattle guards, and/or fences that are damaged; and
15. Prohibit access beyond the proposed and final condemnation area for unauthorized purposes; and
16. Reserve to the property owner all rights to groundwater and minerals, unless the taking is specifically designated for the taking of groundwater pursuant to Texas law; and
17. Limit the width of any temporary or permanent easement to the minimum essential for the proposed project, restore any surface area and vegetation, and take steps to prevent and/or eliminate the invasion of noxious plants; and
18. Pursue alignments along existing right of ways of other utilities and along property boundaries to minimize damages to the property owner; and
19. Adhere to objective routing standards, in the case of pipelines, similar to those in place at the PUC for power lines, and further acquire approval from the RRC for the proposed routing through a contested case hearing process; and
20. Deposit the full award amount with the trial court prior to any appeal of a final judgment.

*new 3/16/88, revised 10/2/09, revised 9/27/13, revised 9/26/14, revised 9/25/15, revised 9/29/17*

**RECOMMENDATION: RENEW**

#### **Estate and Gift Tax Repeal (PRT-11)**

WHEREAS, the federal estate tax is a tremendous and unfair burden on family ranching operations and other family-run businesses, causing the dissolution of many of these operations, or the forced sale or mortgaging of essential assets; and

WHEREAS, TSCRA has been a very strong opponent of the estate tax and has been on record for the repeal of the estate tax for many years; now, therefore, be it

RESOLVED, that TSCRA unequivocally supports, first and foremost, the full and final repeal of the federal estate and gift tax; and, be it further

RESOLVED, that until such time as the estate and gift tax is fully and finally repealed, TSCRA supports estate and gift tax laws and regulations that will significantly reduce the burden of estate and gift taxes on family ranching operations, including:

1. Increased exemption levels, and
2. Exemption levels that are indexed for inflation, and
3. Step up in the basis of asset value when asset ownership is transferred, and
4. Estate planning tools, such as family limited partnerships that utilize asset discounting; and, be it further

RESOLVED, that TSCRA strongly opposes any proposal to increase the estate or gift tax liability of family ranching operations.

*new 3/28/01, revised 10/2/09, renewed 9/27/13, revised 9/29/17*

**RECOMMENDATION: RENEW**

**County and Municipal Regulation  
(PRT-17)**

WHEREAS, the population of Texas continues to increase at a rapid pace and has generated many pressures on the private property rights of landowners; and

WHEREAS, this population growth has also created new challenges for local governments such as counties and municipalities; and

WHEREAS, many counties desire to expand their regulatory authority in unincorporated areas in order to control land use and groundwater; and

WHEREAS, many municipalities desire to expand their regulatory authority through forced annexation, expansion of extraterritorial jurisdiction (ETJ) boundaries and more restrictive land use regulation; and

WHEREAS, landowners with property subject to forced annexation, ETJ expansion or more restrictive land use regulation are often faced with expensive legal battles in order to protect their property rights; now, therefore, be it

RESOLVED, that TSCRA support legislative efforts that limit the authority of municipalities to annex land without landowner consent; and, be it further

RESOLVED, that TSCRA support legislative efforts that better inform and provide additional rights to landowners faced with annexation or inclusion in a municipalities ETJ; and, be it further

RESOLVED, that TSCRA oppose legislative and/or regulatory efforts by counties to gain more regulatory authority in unincorporated areas; and, be it further

RESOLVED, that TSCRA oppose legislative and/or regulatory efforts by municipalities to gain more land through forced annexation and/or ETJ expansion.

*new 9/26/12, renewed 9/26/14, revised 9/30/16*

**RECOMMENDATION: REVISE**