Consultation Report on Improvement Measures of Voter Registration System

Constitutional and Mainland Affairs Bureau

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Chapter One: Introduction

- Following the 2011 District Council ("DC") Election, there were complaints and media reports about suspected false registered addresses of electors. To address the public concerns, the Administration conducted a comprehensive review of the existing voter registration ("VR") system and proposed a number of enhancement measures at the end of 2011. The subject was discussed at the meeting of Legislative Council ("LegCo") Panel on Constitutional Affairs ("the CA Panel") on 19 December 2011 and a motion debate at the LegCo on 21 December 2011.
- 1.2 In the light of the comments made by the LegCo Members, the Registration and Electoral Office ("REO") has implemented a number of measures to improve the VR system starting from January 2012. The measures implemented are set out in the following paragraphs.

Enhanced checking performed by the REO

1.3 The enhanced checking includes stepping up the follow-up checks on undelivered poll cards for the 2011 DC Election by sending inquiry letters to the electors concerned to ask for address proof; stepping up the existing checks based on additional parameters, such as when the number of surnames of electors in an address exceeds a certain figure; and implementing random checks on around 3% to 5% of existing electors within the 2012 VR cycle.

Enhanced publicity measures

In February 2012, REO sent letters to all registered electors to inform them of the VR arrangement for the new DC (second) functional constituency in the LegCo Election to be held in September 2012. The letters also remind electors to update their residential addresses if there has been any change. This is complemented by other publicity measures such as TV and radio Announcements in the Public Interests ("APIs"), posters and newspaper advertisements. During the 2012 VR Campaign, the message will also be strengthened on the importance for new registration to provide accurate information and for registered electors to update their residential addresses.

Additional checks on lists of buildings already or to be demolished

1.5 The REO has liaised with the Buildings Department and the Rating and Valuation Department to conduct checks on the list of buildings which have been demolished recently and buildings which will be demolished soon. Through this exercise, the REO has identified around 600 electors whose registered addresses no longer exist. The REO will include these electors in the statutory inquiry process.

Enhanced cross-matching with other government departments on the residential addresses of electors

- 1.6 At present, the REO conducts cross-matching of information of electors with a number of departments (including the Immigration Department, the Housing Department, the Housing Society and the Home Affairs Department). In early March 2012, the REO has commenced a full-scale cross-matching exercise with the Housing Department and the Housing Society to verify the accuracy of the registered addresses of registered electors who are residing in housing estates managed by the two authorities. REO is also exploring the technical feasibility and usefulness of expanding the cross-matching work with more departments. Any cross-matching to be conducted by the REO will comply with the provisions of the Personal Data (Privacy) Ordinance (Cap. 486) and the Privacy Commission for Personal Data ("PCPD") has been consulted to confirm that the arrangements are in order.
- 1.7 Meanwhile, the Constitutional and Mainland Affairs Bureau ("CMAB") conducted a public consultation from 16 January to 2 March 2012 on a number of further improvement measures related to VR which are fundamental and may involve legislative amendments. The consultation finished on 2 March 2012. This report sets out the outcome of the consultation and the Administration's final position on those further measures.

Chapter Two: Public Consultation on Improvement Measures of Voter Registration System

- 2.1 The Consultation Paper on Improvement Measures of Voter Registration System sought public views on a number of proposed further improvement measures. These proposals are:
 - (a) whether to introduce a requirement that address proof should be provided as standard supporting evidence at the same time when a person applies for registration as a geographical constituency ("GC") elector or when a registered elector applies for change of his residential address ("the proposed requirement for address proof");
 - (b) whether to introduce penalty for registered electors who fail to report change of addresses or to introduce penalty for registered electors who fail to report change of addresses before the statutory deadline for reporting change of registered particulars and vote in an election afterwards ("the proposed penalty concerning update of address");
 - (c) whether the existing statutory deadlines for VR should be amended to allow sufficient time for the Electoral Registration Officer to complete the checking and the verification processes, and for the public to inspect and to lodge claims and objections, before the publication of the final register. A tentative proposed timetable as compared with the existing timetable is at the **Annex** ("the proposed amendment to the statutory deadlines");
 - (d) whether the voter register for public inspection should also set out electors in accordance with principal residential addresses so as to show the relevant electors' names in the same address, which will facilitate the public to identify irregularities in respect of residential addresses. Currently, the register format sets out the electors' names followed by their principal residential addresses only ("the proposed amendment to the register format");

- (e) whether to require an elector to produce the poll card at the polling station before he or she can cast vote ("the proposed requirement for poll cards"); and
- (f) whether the existing offences under the Electoral Affairs Commission (Registration of Electors) (LegCo GCs) (DC Constituencies) Regulation (Cap. 541A) on declaration should be transferred to the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) ("ECICO") as corrupt conduct or illegal conduct and be enforced by the Independent Commission Against Corruption ("ICAC"). If yes, whether and to what extent the existing penalty level for such offences should be raised having regard to the maximum penalties for corrupt conduct or illegal conduct under the ECICO. If not, whether and to what extent the existing penalty level for such offences should be raised under Cap. 541A ("the proposed transfer of offence").
- The consultation ran from 16 January to 2 March 2012. Throughout the period, the consultation paper was available at the Public Enquiry Service Centres of District Offices, and the CMAB's website. A radio API was launched to encourage the public to submit their views. The consultation paper was also discussed at a special meeting of the CA Panel with deputations on 17 February 2012. The Administration reported the summary of views and the Administration's initial position of the consultation at the CA Panel meeting on 19 March 2012.

Written submissions

- 2.3 During the public consultation period, a total of 39 written submissions were received. They included submissions from political parties, LegCo and DC members, organizations and groups as well as individuals. A summary of the views received is set out in Chapters 3 to 9.
- 2.4 The written submissions on the improvement measures of voter registration submitted by members of the public and organizations (including political parties/groups and organizations) by means including mail, email, and facsimile are at the **Appendix** and are available for pubic inspection at the CMAB office and CMAB's website.

Opinion survey

- 2.5 The Hong Kong Institute of Asia-Pacific Studies of the Chinese University of Hong Kong conducted an opinion survey by telephone interviews from 19 to 23 December 2011¹. The survey interviewed 805 people aged 18 or above. A summary of the survey findings is set out below:
 - (a) 63.9% of the interviewees considered that it is unacceptable for electors not to report to the authority the change of their residential addresses after moving, while 27.2% considered it acceptable;
 - (b) 86.7% and 87.6% of the interviewees supported the proposed requirement for address proof for new and updated registrations respectively;
 - (c) 58.3% of the interviewees were against the proposed penalty concerning update of address, while 37% supported;
 - (d) 79.6% of the interviewees supported the random checks which require the electors concerned to provide address proof. 16.1% were against the proposal;
 - (e) 53.9% of the interviewees considered that the proposed enhancement measures would not affect the desire to register as voters. 41.4% worried that the proposal might affect the desire to register as voters; and
 - (f) 64.2% of the interviewees considered that the proposed enhancement measures could effectively prevent "vote-rigging" activities. 26.6% considered that the proposal might not be able to prevent "vote-rigging" activities.

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The result of the opinion survey can be found at http://www.cuhk.edu.hk/hkiaps/tellab/pdf/telepress/12/Press Release 20120104.pdf (Chinese only)

Chapter Three: Opinions on the proposed requirement for address proof

A total of 20 submissions received commented on this proposal. About 60% of these submissions were against the proposed requirement for address proof for new or updated registrations. The remaining 40% were supportive. Please refer to the **Appendix** for details.

Written submissions received from political parties/groups

The Democratic Party

3.2 The Democratic Party was against the proposed requirement for address proof. It instead supported the Administration to enhance checking including random checks, to cover 10% of all existing electors. According to an opinion poll conducted by the Democratic Party, only 25% of the interviewees supported the proposed requirement for address proof on new registration; 50% of the interviewees supported enhancing the enforcement of the existing legislation.

The Liberal Party

3.3 The Liberal Party was against the proposal because the proposal was cumbersome, arousing privacy concerns, and hindering the VR system. It stressed that voting right was an important right of the Hong Kong people, and that depriving a person of his voting right because he could not provide an address proof would be a violation of the right to vote provided for under the Basic Law; and that the measure would cause inconvenience to the public.

The Civic Party

3.4 The Civic Party supported the proposed requirement for address proof on new or updated registration because the proposal might enhance the accuracy of the registration particulars of electors. The Civic Party suggested that in implementing the proposal, the public should be facilitated in making application so that the proposal would not affect the desire to register as voters.

Furthermore, care should be given to those who might have problem in providing address proof. In any event, a person should not be deprived of his/her voting right because he/she cannot provide address proof with justifiable grounds. The public should be allowed to take an oath in lieu of the requirement for address proof.

The New People's Party

3.5 The New People's Party was against the proposed requirement for address proof because the proposal would cause inconvenience to the public.

Written submissions received from members of the public and organizations

The Law Society of Hong Kong

The Law Society of Hong Kong considered that the proposed requirement for address proof did not appear to be unduly onerous. It expressed concerns that there might be problems for certain members of the public (e.g. "cage dwellers") to provide address proof. It also expressed concern that the proposal could deter new voters from registering and also existing voters from re-registering their new addresses. It also considered that the proposal would not be fool-proof and could be manipulated.

The Society for Community Organization

3.7 The Society for Community Organization considered that the proposed requirement for address proof was too cumbersome and would cause inconvenience, and people might give up on registering as a result. It pointed out that making false declarations was already a criminal offence under the current legislation and considered that the Administration should not require electors to produce address proof.

Other Organizations and/or Individuals

3.8 The views of the other organizations and members of the public were largely split. While some supported the proposed requirement for address proof, others opposed on the grounds that it might discourage people from registering and that some people might not be able to produce address proofs. Some considered that the proposal could be replaced by enhancing the checking performed by the REO instead.

Summary

3.9 While some respondents supported the proposal, more worried that the proposal was cumbersome and would deter the public from registering as voters. Some submissions questioned whether the proposal would deprive a person's voting right if he or she could not provide a valid address proof. Some raised questions on the effectiveness of the proposal and whether the proposal could be replaced by enhancing the checking performed by the REO.

Chapter Four: Opinions on the proposed penalty concerning update of address

4.1 A total of 26 submissions received commented on this proposal. About 65% of these submissions were against the proposed introduction of penalty, while the other 35% supported the proposal. Amongst the latter, 67% considered that the penalty should only apply to registered electors who fail to report change of addresses before the statutory deadline and vote in an election afterwards. Please refer to the **Appendix** for details of the submissions.

Written submissions received from political parties/groups

The Democratic Party

4.2 The Democratic Party considered that a more lenient approach should be adopted in dealing with electors who do not report change in residential addresses after moving. It suggested that an elector should only be penalized if he had not reported change in residential address after one DC or LegCo ordinary election and he or she subsequently voted in that election.

The Liberal Party

4.3 The Liberal Party was against the proposal because the proposal should be discussed further. It also considered that the proposal was cumbersome and might not solve the problem.

The Civic Party

4.4 The Civic Party was against the proposed penalty because there was already existing legislation to deal with corrupt conduct in elections. It suggested the Administration should step up enforcement against organized corrupt conduct instead of targeting the ordinary public who might have forgotten to report change of their residential addresses. It considered that the proposal would affect the desire to register as voters. It considered that it was more important for the REO to step up the existing checks instead of imposing sanction on the ordinary public.

The New People's Party

4.5 The New People's Party was against the proposed penalty because it would be unreasonable to introduce any penalty to a voluntary voter registration system. It considered that the proposal could be replaced by enhancing checking by the REO.

Written submissions received from members of the public and organizations

The Law Society of Hong Kong

4.6 The Law Society of Hong Kong was against the proposed penalty. It considered that if a voter provided a false address in the self-declaration on the existing form, this act was already a statutory offence.

The Society for Community Organization

4.7 The Society for Community Organization was supportive of the proposed penalty only for registered electors who fail to report change of addresses before the statutory deadline but still vote in a subsequent election(s). However, it opposed the proposed penalty for all registered electors, regardless of whether they voted in subsequent elections because voter registration is voluntary.

Other Organizations and/or Individuals

4.8 Most respondents who commented on the proposed introduction of penalty were against the proposal. Most of those who supported agreed that the penalties should be applicable to those electors who fail to report change of addresses before the statutory deadline and vote in subsequent election(s). A number of respondents said they would like to withdraw from the voter register if penalties were introduced.

Summary

4.9 The written submissions revealed that the public was not in favour of introducing penalty concerning update of address, particularly for those who have not voted in subsequent elections. The views received generally considered it important to protect the voting rights of the permanent residents of Hong Kong. The submissions received expressed concerns that the proposal would cause undue nuisance to the public and might affect the desire to register as electors. Some considered that the existing offence and penalty in respect of false declaration and corrupt conduct were sufficient and queried whether the proposal could be replaced by enhancing the checking performed by the REO.

Chapter Five: Opinions on the proposed amendment to the statutory deadlines

A total of 8 submissions received commented on this proposal. About 62% of these submissions supported advancing the deadlines (but only 40% of them specifically expressed support for the proposed amendments at the **Annex**); and the other 38% of the submissions were against the proposal. Amongst the latter, some expressed concern that the proposal might affect the desire to register as electors and the voter turnout rates at elections. Some considered that advancing the VR deadlines would render the voter register to be used at the elections less up-to-date. Please refer to the **Appendix** for details of the submissions.

Written submissions received from political parties/groups

The Democratic Party

5.2 Democratic Party supported the proposed amendment to the statutory deadlines, advancing the voter registration deadline in a DC election year from 16 July to 1 April. It considered that this arrangement would allow more time for the public to inspect the information recorded in the voter registers.

The Civic Party

5.3 The Civic Party was against the proposed amendment to the statutory deadlines because the existing statutory deadlines were already too far ahead of the polling days, and hence affecting the desire to register as voters. It considered that it is the responsibility of the REO to verify the voter registers. The Civic Party was against further advancing the statutory deadlines in order to allow the public to inspect the voter registers.

Written submissions received from members of the public and organizations

The Law Society of Hong Kong

The Law Society of Hong Kong supported the proposed amendment to the statutory deadlines. It considered that the validity of the voter register could be addressed by enhanced administrative measures and self-policing. If the voter registration cycle was closed earlier, it might provide enough time for candidates to examine the voter registers before the relevant election. The Law Society considered that the Electoral Affairs Commission should be more vigilant and the candidates should be entitled to examine the voter register earlier.

Other Organizations and/or Individuals

One other organization and two individuals supported the proposal. One individual was of the view that extra resources should be allocated to the REO to shorten the period of advancement. Another individual expressed that the deadline for submission for VR should not be advanced even if other deadlines were. There were also one other organization and one individual who opposed the proposal: the organization considered that no changes should be made to the timetable, while some extra manpower should be placed to check, verify and update the information of electors instead.

Summary

5.6 The respondents were more inclined towards advancing the statutory deadlines. However, it is also noted that some respondents suggested that extra resources should be allocated to the REO to shorten the checking period, so that the public could have more time to inspect the voter register without advancing the deadline.

Chapter Six: Opinions on the proposed amendment to the register format

A total of 11 submissions received commented on this proposal. About 60% of these submissions supported the proposed amendment to the register format. However, the rest considered that the proposal might infringe on personal privacy. Please refer to the **Appendix** for details of the submissions.

Written submissions received from political parties/groups

The Democratic Party

6.2 The Democratic Party supported the proposal. It was of the view that the proposal could facilitate the public to check whether there were any irregular registrations in a particular address, and that the proposal should be applicable to both the Provisional Register and the Final Register.

The Civic Party

6.3 The Civic Party opposed the proposal. It considered that the proposal might be counter-effective and might lead to many problems on protection of personal privacy. It suggested that the register should maintain its present format, but candidates, political parties and academic institutions should be allowed to assess the register more easily for monitoring the elections.

The New People's Party

6.4 The New People's Party was against the proposal because the proposal might infringe on personal privacy and the Administration should assess the implications of the proposal carefully.

Written submissions received from members of the public and organizations

The Law Society

6.5 The Law Society of Hong Kong did not express a position on the proposal. However, it pointed out that the proposal was not fool-proof and could be manipulated.

The Power for Democracy

The Power for Democracy supported the proposal because it was difficult for electors to check whether there were any vote-riggings at their addresses under the current system. The proposal could facilitate the public to check whether there were any irregular registrations at their addresses.

Other Organizations and/or Individuals

A number of individuals also opposed the proposal. Some of them suggested that the Administration should set up a deregistration mechanism if the proposal was pursued.

Summary

Respondents generally supported the proposed amendment to the format of the voter register. However, quite some respondents and political parties expressed their concerns on privacy issues, and that the Administration should take due care to address these concerns if it were to pursue the proposal.

Chapter Seven: Opinions on the proposed requirement for poll cards

A total of 15 submissions received commented on this proposal. A majority (about 73%) of these submissions were against the proposed requirement for poll cards. They generally considered that this would cause unreasonable inconvenience to the electors and might infringe the voting rights of the permanent residents of Hong Kong. Please refer to the **Appendix** for details of the submissions.

Written submissions received from political parties/groups

The Democratic Party

7.2 The Democratic Party was against the proposed requirement because electors might find it troublesome. Poll cards might also be wrongly delivered or the electors might forget to bring the poll cards with them. The voter turnout rate might be adversely affected.

The Liberal Party

7.3 The Liberal Party considered that voter right was an important right of the Hong Kong public, and that depriving a person of his/her voting right because he/she had forgotten to bring the poll card would be in violation of the right to vote as provided for under the Basic Law. The requirement might cause inconvenience to the public as well.

The New People's Party

7.4 The New People's Party was against the proposed requirement because it might deprive those who had forgotten to bring or lost the poll cards of their voting rights, while adding little value to the improvement of the VR system.

Written submissions received from members of the public and organizations

The Law Society of Hong Kong

7.5 The Law Society of Hong Kong considered the proposed requirement for poll cards could be a trap for the unwary. It considered that a voter casting a vote in the wrong constituency could be subject to penalties and it would be impossible to anticipate every possibility in relation to the use of poll cards. It also considered that it should be the Administration's responsibility to prevent systematic fraud and the administrative measures should not be too onerous or impinge on the voting right.

Other Organizations and/or Individuals

7.6 Many other organizations and individuals shared the views that requiring electors to bring along the polling card would be troublesome and the Administration should not deprive electors' rights to vote in elections. An individual who supported the proposal suggested that polling cards could be re-issued at polling stations in order not to deprive electors' rights to vote.

Summary

7.7 Most respondents considered that the proposal would deprive electors' rights to vote and that the proposal would bring negative impact on the voter turnout rate. Even those who supported the proposal agreed that, should the proposal be implemented, some sort of arrangements should be made for those electors who forgot to bring their polling cards.

Chapter Eight: Opinions on the proposed transfer of offence

A total of 7 submissions received commented on this proposal. A majority (about 86%) of these submissions supported the proposed transfer of the existing offences on false declaration under Cap. 541A to the ECICO, to be enforced by the ICAC. They recognized that the proposal would enhance the deterrent effect and enforcement efficiency. Please refer to the **Appendix** for details of the submissions.

Written submissions received from political parties/groups

The Democratic Party

8.2 The Democratic Party supported the proposed transfer of offence, considering that the proposal would enhance the deterrent effect and enforcement efficiency.

The New People's Party

8.3 The New People's Party supported the proposed transfer of offence to be enforced by the ICAC.

Written submissions received from members of the public and organizations

The Law Society of Hong Kong

8.4 The Law Society of Hong Kong was not in favour of the proposed transfer of offence because the proposal could deter voter registration.

Other Organizations and/or Individuals

8.5 There were also several other organizations and individuals who supported the proposal in order to increase the deterring effect against possible election corruptions.

Summary

8.6 In light of the seriousness of corrupt conducts in elections, a majority of the respondents were supportive of transferring the enforcement actions to a single enforcement agency and increasing the penalty. Yet, the submissions did not indicate clearly to what extent the existing penalty level should be raised.

Chapter Nine: Other views on voter registration

Definitions of "ordinarily reside in Hong Kong" and "principal residential address"

9.1 Some respondents, including political parties, organizations and individuals, suggested that the Administration should clarify the definition of "ordinarily reside in Hong Kong" and "principal residential address". Some respondents raised some hypothetical cases, such as whether Hong Kong permanent residents who had resided in Mainland China after retirement should be eligible to vote. The respondents were of the view that the Administration should clarify the definitions so that electors who should be disqualified to vote would not vote in an election mistakenly. Please refer to the **Appendix** for details of the submissions.

Chapter Ten: Conclusion – the Administration's final position on the proposals

The proposed requirement for address proof

10.1 In light of the views received, the Administration will not pursue the proposal for the time being. The Administration has stepped up efforts in enhancing the accuracy of the register by increasing the extent of checks including using a more targeted approach, as well as random checks on those new applications.

The proposed penalty concerning update of address

10.2 In light of the views received, the Administration will not pursue the proposal.

The proposed amendment to the statutory deadlines

10.3 In light of the small number of submissions received which commented on this proposal, the Administration will need to consider the proposal further. In any case, any adjustments to the deadlines will require legislative amendments which can only be done by the next-term government.

The proposed amendment to the register format

10.4 In light of the concerns raised, the Administration has consulted the PCPD on the proposal. The PCPD is of the view that the proposal may be within the definition of "election-related purposes" as the proposal would only involve a new sorting sequence and would not involve disclosure of additional personal data of voters. Based on the above information, PCPD considers that the proposal is not inconsistent with Data Protection Principle 3 in Schedule 1 to the Personal Data (Privacy) Ordinance (Cap. 486), which is about the use (including disclosure or transfer) of personal data. Considering that the proposal will facilitate electors to inspect the register to help identify irregularities, the Administration has proposed to introduce a Committee Stage Amendment in the Electoral Legislation (Miscellaneous Amendments) Bill 2012 to implement the proposal.

The proposed requirement for poll cards

10.5 In light of the views received, the Administration will not pursue the proposal.

The proposed transfer of offence

10.6 In light of the small number of submissions received which commented on this proposal, the Administration will need to consider the proposal further, taking into account the views of the REO, the Department of Justice and the relevant law enforcement agencies.

Other views on voter registration

10.7 The definitions of "ordinarily reside in Hong Kong" and "principal residential address" are outside the scope of the consultation paper. The Administration has explained that these are complicated issues which have to be handled carefully by the next-term government, especially as it involves the fundamental right to vote by Hong Kong permanent residents. Other factors, including the freedom of movement and travel by the Hong Kong permanent residents enjoyed and protected under the Basic Law, have to be taken into consideration as well.

Tentative Proposed Amendments to the Statutory Deadlines for Voter Registration and the Relevant Provisions

Major Event	Statutory deadlines in a non-District Council election year		Statutory deadlines in a District Council election year		Relevant Provisions
	Existing	Proposed	Existing	Proposed	
The statutory deadline for an applicant to apply to the Electoral Registration Officer ("ERO") for registration in the Provisional Register ("PR").	16 May	1 Feb	16 Jul	1 Apr	Section 4 of Cap. 541A ² and section 19 of Cap. 541B ³
If the ERO requires an applicant to provide further particulars relating to the application, the statutory deadline for an applicant to provide such particulars.	25 May	15 Feb	25 Jul	15 Apr	Section 5 of Cap. 541A and section 21 of Cap. 541B
The statutory deadline for the ERO to publish and make available the PR and Omissions List ("OL") for public inspection.	15 Jun	30 Apr	15 Aug	30 Jun	Section 32 of the LCO and section 14 of the Schedule to the CEEO
After inspecting the PR and OL, the statutory deadline for the public to make an objection to or make a claim on the registration in the PR, or to apply for updating the registration particulars in the Final Register ("FR").	29 Jun	15 Jun	29 Aug	15 Aug	Sections 10, 13, 14, 15 and 17 of Cap. 541A and sections 25, 29, 30, 31 and 33 of Cap. 541B
The statutory deadline for the Revising Officer to fix a hearing for and rule each notice of objection or notice of claim received.	11 Jul	11 Jul	11 Sept	11 Sept	Section 18 of Cap. 541A and section 34 of Cap. 541B
The statutory deadline for ERO to publish and make available the FR for public inspection.	25 Jul	25 Jul	25 Sept	25 Sept	Section 32 of the LCO and section 14 of the Schedule to the CEEO
Relevant election	September		November		Not applicable

² Cap. 541A stands for the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541A).

³ Cap. 541B stands for the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541B).