

By: Harrison

H.B. No. 1817

A BILL TO BE ENTITLED

AN ACT

relating to the deregulation of certain activities and occupations.

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

SECTION 1. The following provisions are repealed:

- (1) Title 9, Agriculture Code;
- (2) Article 42A.511(b), Code of Criminal Procedure;
- (3) Sections 91.001(1), (2-a), (4), (8), (8-a), (11), and (18), Labor Code;
- (4) Section 91.002, Labor Code;
- (5) Section 91.008, Labor Code;
- (6) Subchapter B, Chapter 91, Labor Code;
- (7) Section 91.045, Labor Code;
- (8) Section 91.048, Labor Code;
- (9) Section 91.061, Labor Code;
- (10) Chapter 802, Occupations Code;
- (11) Sections 1305.002(11-b) and (12), Occupations Code;
- (12) Section 1305.1601, Occupations Code;
- (13) Section 1305.1605, Occupations Code;
- (14) Section 1305.162(e), Occupations Code; and
- (15) Chapter 1802, Occupations Code.

SECTION 2. Section 22.001(1), Business & Commerce Code, is amended to read as follows:

- (1) "Auction company" means a person who engages in

1 the business of arranging, managing, sponsoring, advertising, or
2 conducting auctions ~~[has the meaning assigned by Section 1802.001,~~
3 ~~Occupations Code]~~.

4 SECTION 3. Articles 18.19(c), (d), and (e), Code of
5 Criminal Procedure, are amended to read as follows:

6 (c) If there is no prosecution or conviction for an offense
7 involving the weapon seized, the magistrate to whom the seizure was
8 reported shall, before the 61st day after the date the magistrate
9 determines that there will be no prosecution or conviction, notify
10 in writing the person found in possession of the weapon that the
11 person is entitled to the weapon upon written request to the
12 magistrate. The magistrate shall order the weapon returned to the
13 person found in possession before the 61st day after the date the
14 magistrate receives a request from the person. If the weapon is not
15 requested before the 61st day after the date of notification, the
16 magistrate shall, before the 121st day after the date of
17 notification, order the weapon destroyed, sold at public sale by
18 the law enforcement agency holding the weapon or by an auctioneer
19 ~~[licensed under Chapter 1802, Occupations Code]~~, or forfeited to
20 the state for use by the law enforcement agency holding the weapon
21 or by a county forensic laboratory designated by the magistrate. If
22 the magistrate does not order the return, destruction, sale, or
23 forfeiture of the weapon within the applicable period prescribed by
24 this subsection, the law enforcement agency holding the weapon may
25 request an order of destruction, sale, or forfeiture of the weapon
26 from the magistrate. Only a firearms dealer licensed under 18
27 U.S.C. Section 923 may purchase a weapon at public sale under this

1 subsection. Proceeds from the sale of a seized weapon under this
2 subsection shall be transferred, after the deduction of court costs
3 to which a district court clerk is entitled under Article 59.05(f),
4 followed by the deduction of auction costs, to the law enforcement
5 agency holding the weapon.

6 (d) A person either convicted or receiving deferred
7 adjudication under Chapter 46, Penal Code, is entitled to the
8 weapon seized upon request to the court in which the person was
9 convicted or placed on deferred adjudication. However, the court
10 entering the judgment shall order the weapon destroyed, sold at
11 public sale by the law enforcement agency holding the weapon or by
12 an auctioneer [~~licensed under Chapter 1802, Occupations Code~~], or
13 forfeited to the state for use by the law enforcement agency holding
14 the weapon or by a county forensic laboratory designated by the
15 court if:

16 (1) the person does not request the weapon before the
17 61st day after the date of the judgment of conviction or the order
18 placing the person on deferred adjudication;

19 (2) the person has been previously convicted under
20 Chapter 46, Penal Code;

21 (3) the weapon is one defined as a prohibited weapon
22 under Chapter 46, Penal Code;

23 (4) the offense for which the person is convicted or
24 receives deferred adjudication was committed in or on the premises
25 of a playground, school, video arcade facility, or youth center, as
26 those terms are defined by Section 481.134, Health and Safety Code;
27 or

1 (5) the court determines based on the prior criminal
2 history of the defendant or based on the circumstances surrounding
3 the commission of the offense that possession of the seized weapon
4 would pose a threat to the community or one or more individuals.

5 (e) If the person found in possession of a weapon is
6 convicted of an offense involving the use of the weapon, before the
7 61st day after the date of conviction the court entering judgment of
8 conviction shall order destruction of the weapon, sale at public
9 sale by the law enforcement agency holding the weapon or by an
10 auctioneer [~~licensed under Chapter 1802, Occupations Code~~], or
11 forfeiture to the state for use by the law enforcement agency
12 holding the weapon or by a county forensic laboratory designated by
13 the court. If the court entering judgment of conviction does not
14 order the destruction, sale, or forfeiture of the weapon within the
15 period prescribed by this subsection, the law enforcement agency
16 holding the weapon may request an order of destruction, sale, or
17 forfeiture of the weapon from a magistrate. Only a firearms dealer
18 licensed under 18 U.S.C. Section 923 may purchase a weapon at public
19 sale under this subsection. Proceeds from the sale of a seized
20 weapon under this subsection shall be transferred, after the
21 deduction of court costs to which a district court clerk is entitled
22 under Article 59.05(f), followed by the deduction of auction costs,
23 to the law enforcement agency holding the weapon.

24 SECTION 4. Article 42A.511(a), Code of Criminal Procedure,
25 is amended to read as follows:

26 (a) If a judge grants community supervision to a defendant
27 convicted of an offense under Section 42.09, 42.091, 42.092, or

1 42.10, Penal Code, the judge may require the defendant to[÷

2 ~~[(1) complete an online responsible pet owner course~~
3 ~~approved and certified by the Texas Department of Licensing and~~
4 ~~Regulation; or~~

5 ~~[(2)]~~ attend a responsible pet owner course sponsored
6 by a municipal animal shelter, as defined by Section 823.001,
7 Health and Safety Code, that:

8 (1) ~~[(A)]~~ receives federal, state, county, or
9 municipal funds; and

10 (2) ~~[(B)]~~ serves the county in which the court is
11 located.

12 SECTION 5. Section 411.093(a), Government Code, is amended
13 to read as follows:

14 (a) The Texas Department of Licensing and Regulation is
15 entitled to obtain criminal history record information as provided
16 by Subsection (b) that relates to:

17 (1) an applicant for or the holder of:

18 (A) a driver education instructor license under
19 Chapter 1001, Education Code;

20 (B) a license under Chapter 202, Occupations
21 Code;

22 (C) a license under Chapter 401, Occupations
23 Code;

24 (D) a license under Chapter 402, Occupations
25 Code; or

26 (E) an instructor license or motorcycle school
27 license under Chapter 662, Transportation Code; or

1 (2) ~~[a person who is:~~

2 ~~[(A) an applicant for or the holder of a license~~
3 ~~under Chapter 91, Labor Code, or~~

4 ~~[(B) a controlling person, as defined by Chapter~~
5 ~~91, Labor Code, of an entity described by Paragraph (A), or~~

6 ~~[(3)]~~ a person who:

7 (A) is an applicant for or the holder of a license
8 under Chapter 455, Occupations Code; or

9 (B) has an interest described under Section
10 455.1525(e), Occupations Code, in an entity described by Paragraph
11 (A).

12 SECTION 6. Section 2165.456(g), Government Code, is amended
13 to read as follows:

14 (g) If a person may legally possess the weapon in this
15 state:

16 (1) the forfeited weapon may be sold at public sale by
17 an auctioneer ~~[licensed under Chapter 1802, Occupations Code]~~; or

18 (2) the law enforcement agency holding the weapon may
19 release the weapon to another person if:

20 (A) the person:

21 (i) claims a right to or interest in the
22 weapon and provides an affidavit confirming that the person wholly
23 or partly owns the weapon or otherwise has a right to or interest in
24 the weapon; or

25 (ii) is an alternate person designated by
26 the person under Section 2165.453(d) or 2165.454(c)(4); and

27 (B) for a weapon that is a firearm, the law

1 enforcement agency conducts a check of state and national criminal
2 history record information and verifies that the person may
3 lawfully possess a firearm under 18 U.S.C. Section 922(g).

4 SECTION 7. Section 91.001(3), Labor Code, is amended to
5 read as follows:

6 (3) "Client" means any person who enters into a
7 professional employer services agreement with a professional
8 employer organization ~~[license holder]~~.

9 SECTION 8. Section 91.003, Labor Code, is amended to read as
10 follows:

11 Sec. 91.003. INTERAGENCY COOPERATION. (a) Each state
12 agency that in performing duties under other law affects the
13 regulation of professional employer services shall cooperate with
14 ~~[the department and]~~ other state agencies as necessary to implement
15 and enforce this chapter.

16 (b) In particular, the Texas Workforce Commission, the
17 division of workers' compensation of the Texas Department of
18 Insurance, the Department of Assistive and Rehabilitative
19 Services, and the attorney general's office shall assist in the
20 implementation of this chapter ~~[and shall provide information to~~
21 ~~the department on request]~~.

22 SECTION 9. Sections 91.004(a) and (c), Labor Code, are
23 amended to read as follows:

24 (a) This chapter does not exempt a client of a professional
25 employer organization ~~[license holder]~~, or any covered employee,
26 from any other license requirements imposed under local, state, or
27 federal law.

1 (c) A professional employer organization [~~license holder~~]
2 is not engaged in the unauthorized practice of an occupation,
3 trade, or profession that is licensed, certified, or otherwise
4 regulated by a governmental entity solely by entering into a
5 professional employer services agreement with a client and covered
6 employees.

7 SECTION 10. Section 91.005, Labor Code, is amended to read
8 as follows:

9 Sec. 91.005. APPLICATION OF CERTAIN PROCUREMENT LAWS. With
10 respect to a bid, contract, purchase order, or agreement entered
11 into with the state or a political subdivision of the state, a
12 client's status or certification as a small, minority-owned,
13 disadvantaged, or woman-owned business enterprise or as a
14 historically underutilized business is not affected because the
15 client has entered into a professional employer services agreement
16 with [~~a license holder~~] or uses the services of a professional
17 employer organization [~~license holder~~].

18 SECTION 11. Section 91.006(a), Labor Code, is amended to
19 read as follows:

20 (a) A certificate of insurance coverage or other evidence of
21 coverage showing that either a professional employer organization
22 [~~license holder~~] or a client maintains workers' compensation
23 insurance coverage constitutes proof of workers' compensation
24 insurance coverage for the organization [~~license holder~~] and the
25 client with respect to all covered employees of the organization
26 [~~license holder~~] and the client. The state and a political
27 subdivision of the state shall accept a certificate of insurance

1 coverage or other evidence of coverage described by this section as
2 proof of workers' compensation coverage under Chapter 406.

3 SECTION 12. Sections 91.031(a) and (b), Labor Code, are
4 amended to read as follows:

5 (a) A professional employer organization [~~license holder~~]
6 shall establish the terms of a professional employer services
7 agreement by a written contract between the organization [~~license~~
8 ~~holder~~] and the client.

9 (b) The professional employer organization [~~license holder~~]
10 shall give written notice of the agreement as it affects covered
11 employees to each covered employee.

12 SECTION 13. Section 91.032(a), Labor Code, is amended to
13 read as follows:

14 (a) A professional employer services agreement between a
15 professional employer organization [~~license holder~~] and a client
16 must provide that the organization [~~license holder~~]:

17 (1) shares, as provided by Subsection (b), with the
18 client the right of direction and control over covered employees;

19 (2) assumes responsibility for the payment of wages to
20 the covered employees without regard to payments by the client to
21 the organization [~~license holder~~];

22 (3) assumes responsibility for the payment of payroll
23 taxes and collection of taxes from payroll on covered employees;

24 (4) shares, as provided by Subsection (b), with the
25 client the right to hire, fire, discipline, and reassign the
26 covered employees; and

27 (5) shares, as provided by Subsection (b), with the

1 client the right of direction and control over the adoption of
2 employment and safety policies and the management of workers'
3 compensation claims, claim filings, and related procedures.

4 SECTION 14. The heading to Subchapter D, Chapter 91, Labor
5 Code, is amended to read as follows:

6 SUBCHAPTER D. POWERS AND DUTIES OF PROFESSIONAL EMPLOYER

7 ORGANIZATION [~~LICENSE HOLDER~~]

8 SECTION 15. Section 91.041, Labor Code, is amended to read
9 as follows:

10 Sec. 91.041. EMPLOYEE BENEFIT PLANS; REQUIRED DISCLOSURE;
11 OTHER REPORTS. (a) A client and professional employer
12 organization [~~license holder~~] are each considered an employer under
13 the laws of this state for purposes of sponsoring retirement and
14 welfare benefit plans for covered employees.

15 (a-1) A professional employer organization [~~license holder~~]
16 may sponsor a single welfare benefit plan under which eligible
17 covered employees of one or more clients may elect to participate.

18 (a-2) A fully insured welfare benefit plan offered to the
19 covered employees of a professional employer organization [~~license~~
20 ~~holder~~] and provided by an insurance company authorized to provide
21 that insurance in this state or a self-funded health benefit plan
22 sponsored by a professional employer organization [~~license holder~~]
23 as provided by Section 91.0411 shall be treated for purposes of
24 state law as a single employer welfare benefit plan.

25 (b) With respect to any insurance or benefit plan provided
26 by a professional employer organization [~~license holder~~] for the
27 benefit of its assigned employees, the organization [~~a license~~

1 ~~holder]~~ shall disclose the following information to [~~the~~
2 ~~department,~~] each client[~~,~~] and its covered employees:

3 (1) the type of coverage;

4 (2) the identity of each insurer for each type of
5 coverage;

6 (3) the amount of benefits provided for each type of
7 coverage and to whom or in whose behalf benefits are to be paid;

8 (4) the policy limits on each insurance policy; and

9 (5) whether the coverage is fully insured, partially
10 insured, or fully self-funded.

11 ~~[(c) The commission by rule may require a license holder to~~
12 ~~file other reports that are reasonably necessary for the~~
13 ~~implementation of this chapter.]~~

14 SECTION 16. Sections [91.0411](#)(b), (c), (e), and (f), Labor
15 Code, are amended to read as follows:

16 (b) A professional employer organization [~~license holder~~]
17 may sponsor a benefit plan that is not fully insured if the
18 organization [~~license holder~~] meets the requirements of this
19 section and is approved to sponsor the plan by the commissioner.

20 (c) The commissioner may, on notice and opportunity for all
21 interested persons to be heard, adopt rules and issue orders
22 reasonably necessary to augment and implement the regulation of
23 benefit plans sponsored by a professional employer organization
24 [~~license holder~~] that are not fully insured. The commissioner may
25 not adopt a rule that requires clients or covered employees to be
26 members of an association or group in the same trade or industry in
27 order to be covered by a [~~license holder-sponsored~~] benefit plan

1 that is not fully insured. The rules must include all requirements
2 that must be met by the organization [~~license holder~~] and the plan,
3 including:

- 4 (1) initial and final approval requirements;
- 5 (2) authority to prescribe forms and items to be
6 submitted to the commissioner by the organization [~~license holder~~];
- 7 (3) a fidelity bond;
- 8 (4) use of an independent actuary;
- 9 (5) use of a third-party administrator;
- 10 (6) authority for the commissioner to examine an
11 application or a plan;
- 12 (7) the minimum number of clients and covered
13 employees covered by the plan;
- 14 (8) standards for those natural persons managing the
15 plan;
- 16 (9) the minimum amount of gross contributions;
- 17 (10) the minimum amount of written commitment, binder,
18 or policy for stop-loss insurance;
- 19 (11) the minimum amount of reserves; and
- 20 (12) a fee in an amount reasonable and necessary to
21 defray the costs of administering this section to be deposited to
22 the credit of the operating fund of the Texas Department of
23 Insurance.

24 (e) Each professional employer organization [~~license~~
25 ~~holder~~] under this section shall appoint the commissioner as its
26 resident agent for purposes of service of process. The fee for that
27 service is \$50, payable at the time of appointment.

1 (f) The commissioner may examine the affairs of any plan and
2 shall have access to the records of the plan. The commissioner may
3 examine under oath a manager or employee of the professional
4 employer organization [~~license holder~~] in connection with the plan.

5 SECTION 17. Sections 91.042(a), (a-1), (b), (c), (d), (e),
6 (g), (h), and (i), Labor Code, are amended to read as follows:

7 (a) A professional employer organization [~~license holder~~]
8 or client may elect to obtain workers' compensation insurance
9 coverage for covered employees through an insurance company as
10 defined under Section 401.011(28) or through self-insurance as
11 provided under Chapter 407.

12 (a-1) The client and the professional employer organization
13 shall specify in the professional employer services agreement
14 whether the parties have elected to obtain workers' compensation
15 insurance coverage for the covered employees and shall specify
16 which party must maintain coverage. If the organization [~~license~~
17 ~~holder~~] maintains workers' compensation insurance coverage for the
18 client, an individual who is an executive employee, as described by
19 Section 406.097, of the client is eligible to be treated as an
20 executive employee for premium calculation and classification
21 purposes. A copy of the professional employer services agreement
22 must be provided to the Texas Department of Insurance on request.
23 Information obtained by the Texas Department of Insurance under
24 this section is confidential and not subject to disclosure under
25 Chapter 552, Government Code.

26 (b) If a professional employer organization [~~license~~
27 ~~holder~~] maintains workers' compensation insurance coverage for

covered employees, the organization [~~license holder~~] shall pay workers' compensation insurance premiums for the covered employees based on the experience rating of the client for the first two years the covered employees are covered under the [~~professional employer~~] organization's policy and as further provided by rule by the Texas Department of Insurance.

(c) For workers' compensation insurance purposes, a professional employer organization [~~license holder~~] and the organization's [~~license holder's~~] client shall be coemployers. If either a professional employer organization [~~license holder~~] or a client elects to obtain workers' compensation insurance coverage for covered employees, the client and the organization [~~license holder~~] are subject to Sections 406.005, 406.034, 408.001, and 411.032.

(d) If a professional employer organization [~~license holder~~] or a client does not elect to obtain workers' compensation insurance coverage for covered employees, both the organization [~~license holder~~] and the client are subject to Sections 406.004, 406.005, 406.033, and 411.032.

(e) After the expiration of the two-year period under Subsection (b), if the client elects to obtain workers' compensation insurance coverage for covered employees through coverage maintained by the client, or if the professional employer services agreement is terminated and the client elects to maintain, through coverage maintained by the client or through coverage maintained by a successor professional employer organization, workers' compensation insurance coverage for employees previously

covered by the former professional employer organization's policy, the premium for the workers' compensation insurance coverage for the client shall be based on the lower of:

(1) the experience modifier of the client before being covered under the professional employer organization's coverage; or

(2) the experience modifier of the former professional employer organization [~~license holder~~] at the time the client's coverage under the professional employer organization's coverage is terminated.

(g) On the written request of a client, a professional employer organization [~~license holder~~] that elects to provide workers' compensation insurance for covered employees shall provide to the client a list of:

(1) claims associated with that client made against the organization's [~~license holder's~~] workers' compensation policy; and

(2) payments made and reserves established on each claim.

(h) The professional employer organization [~~license holder~~] shall provide the information described by Subsection (g) in writing from the organization's [~~license holder's~~] own records, if the organization [~~license holder~~] is a qualified self-insurer, or from information the organization [~~license holder~~] received from the organization's [~~license holder's~~] workers' compensation insurance provider following the organization's [~~license holder's~~] request under Section [2051.151](#), Insurance Code, not later than the

60th day after the date the organization [~~license holder~~] receives the client's written request. For purposes of this subsection, information is considered to be provided to the client on the date the information is:

(1) received by the United States Postal Service; or

(2) personally delivered to the client.

(i) A professional employer organization [~~license holder~~] that fails to comply with Subsection (g) or (h) commits a Class D administrative violation as provided by Section 415.011.

SECTION 18. Section 91.044, Labor Code, is amended to read as follows:

Sec. 91.044. UNEMPLOYMENT TAXES; PAYROLL. (a) A professional employer organization [~~license holder~~] is the employer of a covered employee for purposes of Subtitle A, Title 4, and, except for wages subject to Section 91.032(c), for purposes of Chapter 61.

(a-1) A professional employer organization [~~license holder~~] may, in a calendar year during which an employee becomes a covered employee of the organization [~~license holder~~], apply toward the maximum amount of taxable wages established in Section 201.082(1) any wages paid to the employee in that calendar year by:

(1) the client; or

(2) another professional employer organization [~~license holder~~] under a prior professional employer services agreement with that client.

(a-2) In addition to any other reports required to be filed by law, a professional employer organization [~~license holder~~] shall

1 report quarterly to the Texas Workforce Commission on a form
2 prescribed by the Texas Workforce Commission the name, address,
3 telephone number, federal income tax identification number, and
4 classification code according to the North American Industry
5 Classification System of each client.

6 (b) For purposes of Subtitle A, Title 4, in the event of the
7 termination of a contract between a professional employer
8 organization [~~license holder~~] and a client or the failure by a
9 professional employer organization to submit reports or make tax
10 payments as required by that subtitle, the contracting client shall
11 be treated as a new employer without a previous experience record
12 unless that client is otherwise eligible for an experience rating.

13 SECTION 19. Section 91.046, Labor Code, is amended to read
14 as follows:

15 Sec. 91.046. CONTRACTUAL DUTIES. Each professional
16 employer organization [~~license holder~~] is responsible for the
17 organization's [~~license holder's~~] contractual duties and
18 responsibilities to manage, maintain, collect, and make timely
19 payments for:

20 (1) insurance premiums;
21 (2) benefit and welfare plans;
22 (3) other employee withholding; and
23 (4) any other expressed responsibility within the
24 scope of the professional employer services agreement for
25 fulfilling the duties imposed under this section and Sections
26 91.032 and[7] 91.047[~~7~~ and ~~91.048~~].

27 SECTION 20. Section 91.047, Labor Code, is amended to read

1 as follows:

2 Sec. 91.047. COMPLIANCE WITH OTHER LAWS. Each professional
3 employer organization [~~license holder~~] shall comply with all
4 appropriate state and federal laws relating to reporting,
5 sponsoring, filing, and maintaining benefit and welfare plans.

6 SECTION 21. Section 91.049, Labor Code, is amended to read
7 as follows:

8 Sec. 91.049. AGENT FOR SERVICE OF PROCESS. Each
9 professional employer organization [~~license holder~~] shall maintain
10 a registered agent for the service of process in this state.

11 SECTION 22. The heading to Subchapter E, Chapter 91, Labor
12 Code, is amended to read as follows:

13 SUBCHAPTER E. [~~PROHIBITED ACTS,~~] ENFORCEMENT

14 SECTION 23. Section 91.062(a), Labor Code, is amended to
15 read as follows:

16 (a) A state agency with duties related to the regulation of
17 professional employer services [~~The executive director~~] may notify
18 the attorney general of a violation of this chapter. The attorney
19 general may apply to a district court in Travis County for
20 permission to file for quo warranto relief, injunctive relief, or
21 both.

22 SECTION 24. Section 415.011, Labor Code, is amended to read
23 as follows:

24 Sec. 415.011. NOTICE OF PROFESSIONAL EMPLOYER ORGANIZATION
25 WORKERS' COMPENSATION CLAIM AND PAYMENT INFORMATION;
26 ADMINISTRATIVE VIOLATION. (a) In this section, "professional
27 employer organization" [~~"license holder"~~] has the meaning assigned

1 by Section 91.001.

2 (a-1) Except as provided by Subsection (c), a professional
3 employer organization [~~license holder~~] commits a violation if the
4 organization [~~license holder~~] fails to provide the information
5 required by Sections 91.042(g) and (h).

6 (b) A violation under Subsection (a-1) [~~(a)~~] is an
7 administrative violation.

8 (c) A professional employer organization [~~license holder~~]
9 does not commit an administrative violation under this section if
10 the organization [~~license holder~~] requested the information
11 required by Sections 91.042(g) and (h) from the organization's
12 [~~license holder's~~] workers' compensation insurance provider and the
13 provider does not provide the information to the organization
14 [~~license holder~~] within the required time. A professional employer
15 organization [~~license holder~~] shall notify the Texas Department of
16 Insurance of a provider's failure to comply with the requirements
17 of Section 2051.151, Insurance Code.

18 SECTION 25. Section 252.022(a), Local Government Code, is
19 amended to read as follows:

20 (a) This chapter does not apply to an expenditure for:

21 (1) a procurement made because of a public calamity
22 that requires the immediate appropriation of money to relieve the
23 necessity of the municipality's residents or to preserve the
24 property of the municipality;

25 (2) a procurement necessary to preserve or protect the
26 public health or safety of the municipality's residents;

27 (3) a procurement necessary because of unforeseen

1 damage to public machinery, equipment, or other property;

2 (4) a procurement for personal, professional, or
3 planning services;

4 (5) a procurement for work that is performed and paid
5 for by the day as the work progresses;

6 (6) a purchase of land or a right-of-way;

7 (7) a procurement of items that are available from
8 only one source, including:

9 (A) items that are available from only one source
10 because of patents, copyrights, secret processes, or natural
11 monopolies;

12 (B) films, manuscripts, or books;

13 (C) gas, water, and other utility services;

14 (D) captive replacement parts or components for
15 equipment;

16 (E) books, papers, and other library materials
17 for a public library that are available only from the persons
18 holding exclusive distribution rights to the materials; and

19 (F) management services provided by a nonprofit
20 organization to a municipal museum, park, zoo, or other facility to
21 which the organization has provided significant financial or other
22 benefits;

23 (8) a purchase of rare books, papers, and other
24 library materials for a public library;

25 (9) paving drainage, street widening, and other public
26 improvements, or related matters, if at least one-third of the cost
27 is to be paid by or through special assessments levied on property

1 that will benefit from the improvements;

2 (10) a public improvement project, already in
3 progress, authorized by the voters of the municipality, for which
4 there is a deficiency of funds for completing the project in
5 accordance with the plans and purposes authorized by the voters;

6 (11) a payment under a contract by which a developer
7 participates in the construction of a public improvement as
8 provided by Subchapter C, Chapter 212;

9 (12) personal property sold:

10 (A) at an auction [~~by a state licensed~~
11 ~~auctioneer~~];

12 (B) at a going out of business sale held in
13 compliance with Subchapter F, Chapter 17, Business & Commerce Code;

14 (C) by a political subdivision of this state, a
15 state agency of this state, or an entity of the federal government;
16 or

17 (D) under an interlocal contract for cooperative
18 purchasing administered by a regional planning commission
19 established under Chapter 391;

20 (13) services performed by blind or severely disabled
21 persons;

22 (14) goods purchased by a municipality for subsequent
23 retail sale by the municipality;

24 (15) electricity; or

25 (16) advertising, other than legal notices.

26 SECTION 26. Section 262.024(a), Local Government Code, is
27 amended to read as follows:

1 (a) A contract for the purchase of any of the following
2 items is exempt from the requirement established by Section 262.023
3 if the commissioners court by order grants the exemption:

4 (1) an item that must be purchased in a case of public
5 calamity if it is necessary to make the purchase promptly to relieve
6 the necessity of the citizens or to preserve the property of the
7 county;

8 (2) an item necessary to preserve or protect the
9 public health or safety of the residents of the county;

10 (3) an item necessary because of unforeseen damage to
11 public property;

12 (4) a personal or professional service;

13 (5) any individual work performed and paid for by the
14 day, as the work progresses, provided that no individual is
15 compensated under this subsection for more than 20 working days in
16 any three month period;

17 (6) any land or right-of-way;

18 (7) an item that can be obtained from only one source,
19 including:

20 (A) items for which competition is precluded
21 because of the existence of patents, copyrights, secret processes,
22 or monopolies;

23 (B) films, manuscripts, or books;

24 (C) electric power, gas, water, and other utility
25 services; and

26 (D) captive replacement parts or components for
27 equipment;

1 (8) an item of food;

2 (9) personal property sold:

3 (A) at an auction [~~by a state licensed~~
4 ~~auctioneer~~];

5 (B) at a going out of business sale held in
6 compliance with Subchapter F, Chapter 17, Business & Commerce Code;
7 or

8 (C) by a political subdivision of this state, a
9 state agency of this state, or an entity of the federal government;

10 (10) any work performed under a contract for community
11 and economic development made by a county under Section 381.004; or

12 (11) vehicle and equipment repairs.

13 SECTION 27. Section 263.153(c), Local Government Code, is
14 amended to read as follows:

15 (c) A county that contracts with an auctioneer [~~licensed~~
16 ~~under Chapter 1802, Occupations Code,~~] who uses an Internet auction
17 site offering online bidding through the Internet to sell surplus
18 or salvage property under this subchapter having an estimated value
19 of not more than \$500 shall satisfy the notice requirement under
20 this section by posting the property on the site for at least 10
21 days unless the property is sold before the 10th day.

22 SECTION 28. Section 365.006(g), Local Government Code, is
23 amended to read as follows:

24 (g) If a person may legally possess the weapon in this
25 state:

26 (1) the forfeited weapon may be sold at public sale by
27 an auctioneer [~~licensed under Chapter 1802, Occupations Code~~]; or

1 (2) the law enforcement agency holding the weapon may
2 release the weapon to another person if:

3 (A) the person:

4 (i) claims a right to or interest in the
5 weapon and provides an affidavit confirming that the person wholly
6 or partly owns the weapon or otherwise has a right to or interest in
7 the weapon; or

8 (ii) is an alternate person designated by
9 the person under Section 365.003(d) or 365.004(c)(4); and

10 (B) for a weapon that is a firearm, the law
11 enforcement agency conducts a check of state and national criminal
12 history record information and verifies that the person may
13 lawfully possess a firearm under 18 U.S.C. Section 922(g).

14 SECTION 29. Section 1101.005, Occupations Code, is amended
15 to read as follows:

16 Sec. 1101.005. APPLICABILITY OF CHAPTER. This chapter
17 does not apply to:

18 (1) an attorney licensed in this state;

19 (2) an attorney-in-fact authorized under a power of
20 attorney to conduct not more than three real estate transactions
21 annually;

22 (3) a public official while engaged in official
23 duties;

24 (4) an auctioneer [~~licensed under Chapter 1802~~] while
25 conducting the sale of real estate by auction if the auctioneer does
26 not perform another act of a broker;

27 (5) a person conducting a real estate transaction

1 under a court order or the authority of a will or written trust
2 instrument;

3 (6) a person employed by an owner in the sale of
4 structures and land on which structures are located if the
5 structures are erected by the owner in the course of the owner's
6 business;

7 (7) an on-site manager of an apartment complex;

8 (8) an owner or the owner's employee who leases the
9 owner's improved or unimproved real estate; or

10 (9) a transaction involving:

11 (A) the sale, lease, or transfer of a mineral or
12 mining interest in real property;

13 (B) the sale, lease, or transfer of a cemetery
14 lot;

15 (C) the lease or management of a hotel or motel;
16 or

17 (D) the sale of real property under a power of
18 sale conferred by a deed of trust or other contract lien.

19 SECTION 30. Section 1305.102(a), Occupations Code, is
20 amended to read as follows:

21 (a) The commission shall adopt rules for the licensing of
22 electricians, sign electricians, electrical sign contractors,
23 electrical contractors, ~~[journeyman industrial electricians,~~
24 ~~journeyman linemen]~~ residential appliance installers, and
25 residential appliance installation contractors as prescribed by
26 this chapter.

27 SECTION 31. Sections 33.25(b), (f), and (g), Tax Code, are

1 amended to read as follows:

2 (b) The commissioners court of a county by official action
3 may authorize a peace officer or the collector for the county
4 charged with selling property under this subchapter by public
5 auction to enter into an agreement with an auctioneer [~~a person who~~
6 ~~holds an auctioneer's license~~] to advertise the auction sale of the
7 property and to conduct the auction sale of the property. The
8 agreement may provide for on-line bidding and sale.

9 (f) The proceeds of a sale of property under this section
10 shall be applied to:

11 (1) any compensation owed to or any expense advanced
12 by the [~~licensed~~] auctioneer under an agreement entered into under
13 Subsection (b) or a service provider under an agreement entered
14 into under Subsection (c);

15 (2) all usual costs, expenses, and fees of the seizure
16 and sale, payable to the peace officer conducting the sale;

17 (3) all additional expenses incurred in advertising
18 the sale or in removing, storing, preserving, or safeguarding the
19 seized property pending its sale;

20 (4) all usual court costs payable to the clerk of the
21 court that issued the tax warrant; and

22 (5) taxes, penalties, interest, and attorney's fees
23 included in the application for warrant.

24 (g) The peace officer or [~~licensed~~] auctioneer conducting
25 the sale shall pay all proceeds from the sale to the collector
26 designated in the tax warrant for distribution as required by
27 Subsection (f).

SECTION 32. Section 151.3503(a), Tax Code, is amended to read as follows:

(a) The following are exempted from the taxes imposed by this chapter:

(1) a service performed by an employee for the employee's employer in the regular course of business, within the scope of the employee's duties, and for which the employee is paid regular wages or salary;

(2) a service performed by an employee of a temporary employment service for a host employer to supplement the host employer's existing work force on a temporary basis, if:

(A) the service is normally performed by the host employer's own employees;

(B) the host employer provides all supplies and equipment necessary to perform the service, other than personal protective equipment provided by the temporary employment service pursuant to a federal law or regulation;

(C) the host employer does not rent, lease, purchase, or otherwise acquire for use the supplies and equipment described by Paragraph (B), other than the personal protective equipment described by that paragraph, from the temporary employment service or an entity that is a member of an affiliated group of which the temporary employment service is also a member; and

(D) the host employer has the sole right to supervise, direct, and control the work performed by the employee of the temporary employment service as necessary to conduct the

1 host employer's business or to comply with any licensing,
2 statutory, or regulatory requirement applicable to the host
3 employer; or

4 (3) a service performed by covered employees of a
5 professional employer organization[~~, either licensed under Chapter~~
6 ~~91, Labor Code, or exempt from the licensing requirements of that~~
7 ~~chapter,~~] for a client under a written contract that provides for
8 shared employment responsibilities between the professional
9 employer organization and the client for the covered employees,
10 most of whom must have been previously employed by the client.

11 SECTION 33. Section 151.3503(c), Tax Code, is amended by
12 adding Subdivision (2-a) to read as follows:

13 (2-a) "Professional employer organization" has the
14 meaning assigned by Section 91.001, Labor Code.

15 SECTION 34. Section 460.406(c), Transportation Code, is
16 amended to read as follows:

17 (c) The board of directors may authorize the negotiation of
18 a contract without competitive sealed bids or proposals if:

19 (1) the aggregate amount involved in the contract is
20 less than the greater of:

21 (A) \$50,000; or

22 (B) the amount of an expenditure under a contract
23 that would require a municipality to comply with Section
24 252.021(a), Local Government Code;

25 (2) the contract is for construction for which not
26 more than one bid or proposal is received;

27 (3) the contract is for services or property for which

1 there is only one source or for which it is otherwise impracticable
2 to obtain competition, including:

3 (A) items that are available from only one source
4 because of patents, copyrights, secret processes, or natural
5 monopolies;

6 (B) gas, water, and other utility services; and

7 (C) captive replacement parts or components for
8 equipment;

9 (4) the contract is to respond to an emergency for
10 which the public exigency does not permit the delay incident to the
11 competitive process;

12 (5) the contract is for personal, professional, or
13 planning services;

14 (6) the contract, without regard to form and which may
15 include bonds, notes, loan agreements, or other obligations, is for
16 the purpose of borrowing money or is a part of a transaction
17 relating to the borrowing of money, including:

18 (A) a credit support agreement, such as a line or
19 letter of credit or other debt guaranty;

20 (B) a bond, note, debt sale or purchase, trustee,
21 paying agent, remarketing agent, indexing agent, or similar
22 agreement;

23 (C) an agreement with a securities dealer,
24 broker, or underwriter; and

25 (D) any other contract or agreement considered by
26 the board of directors to be appropriate or necessary in support of
27 the authority's financing activities;

1 (7) the contract is for work that is performed and paid
2 for by the day as the work progresses;

3 (8) the contract is for the lease or purchase of an
4 interest in land;

5 (9) the contract is for the purchase of personal
6 property sold:

7 (A) at an auction [~~by a state licensed~~
8 ~~auctioneer~~];

9 (B) at a going out of business sale held in
10 compliance with Subchapter F, Chapter 17, Business & Commerce Code;
11 or

12 (C) by a political subdivision of this state, a
13 state agency, or an entity of the federal government;

14 (10) the contract is for services performed by persons
15 who are blind or have severe disabilities;

16 (11) the contract is for the purchase of electricity;

17 (12) the contract is one for an authority project and
18 awarded for alternate project delivery using the procedures,
19 requirements, and limitations under Subchapters E, F, G, H, and I,
20 Chapter 2269, Government Code; or

21 (13) the contract is for fare enforcement officer
22 services under Section 460.1092.

23 SECTION 35. Sections 503.024(b) and (d), Transportation
24 Code, are amended to read as follows:

25 (b) For the purposes of Section 503.021, a person is not
26 engaging in business as a dealer by:

27 (1) selling or offering to sell, if the sale or offer

1 is not made to avoid a requirement of this chapter, a vehicle the
2 person acquired for personal or business use to:

3 (A) a person other than a retail buyer if not sold
4 or offered through an [~~a licensed~~] auctioneer; or

5 (B) any person if the sale or offer is made
6 through an [~~a licensed~~] auctioneer;

7 (2) selling, in a manner provided by law for the forced
8 sale of vehicles, a vehicle in which the person holds a security
9 interest;

10 (3) acting under a court order as a receiver, trustee,
11 administrator, executor, guardian, or other appointed person;

12 (4) selling a vehicle the person acquired from the
13 vehicle's owner as a result of paying an insurance claim if the
14 person is an insurance company;

15 (5) selling an antique passenger car or truck that is
16 at least 25 years of age; or

17 (6) selling a special interest vehicle that is at
18 least 12 years of age if the person is a collector.

19 (d) For the purposes of Section 503.021, an [~~a licensed~~]
20 auctioneer is not engaging in business as a dealer by, as a bid
21 caller, selling or offering to sell property, including a business
22 that holds the title to any number of vehicles, to the highest
23 bidder at a bona fide auction if:

24 (1) legal or equitable title does not pass to the
25 auctioneer;

26 (2) the auction is not held to avoid a requirement of
27 this chapter; and

1 (3) for an auction of vehicles owned legally or
2 equitably by a person who holds a general distinguishing number,
3 the auction is conducted at the location for which the general
4 distinguishing number was issued.

5 SECTION 36. Article [42A.511](#), Code of Criminal Procedure, as
6 amended by this Act, applies to a defendant placed on community
7 supervision on or after the effective date of this Act, regardless
8 of whether the offense for which the defendant was placed on
9 community supervision was committed before, on, or after the
10 effective date of this Act.

11 SECTION 37. On the effective date of this Act:

12 (1) the Auctioneer Advisory Board is abolished; and

13 (2) money in the auctioneer education and recovery
14 fund is transferred to the general revenue fund.

15 SECTION 38. On the effective date of this Act, a pending
16 regulatory action, including a complaint investigation,
17 disciplinary action, or administrative penalty proceeding, of the
18 Texas Department of Licensing and Regulation with respect to a
19 license, permit, or certification issued under a law repealed by
20 this Act, is terminated.

21 SECTION 39. On the effective date of this Act, a license,
22 permit, or certification issued under a law repealed by this Act
23 expires.

24 SECTION 40. This Act takes effect September 1, 2025.