

BILL ANALYSIS

H.B. 2278
By: Deshotel
Economic Development
Committee Report (Amended)

BACKGROUND AND PURPOSE

The Texas Legislative Council is required by law (Section 323.007, Government Code) to carry out a complete nonsubstantive revision of the Texas statutes. The process involves reclassifying and rearranging the statutes in a more logical order, employing a numbering system and format that will accommodate future expansion of the law, eliminating repealed, invalid, duplicative, and other ineffective provisions, and improving the draftsmanship of the law, if practicable--all toward promoting the stated purpose of making the statutes "more accessible, understandable, and usable" without altering the sense, meaning, or effect of the law. In 1965 the council adopted a long-range plan of compiling the law into 26 codes arranged by general topics; the council now has a plan to compile the law into 27 codes.

Proposed Titles 4 through 15 and 99, Business & Commerce Code, proposed Subtitle C1, Title 12, Local Government Code, and additional related proposed provisions represent a nonsubstantive revision of certain statutes relating to business and commerce. The included provisions are revised in 12 new titles and one existing title in the Business & Commerce Code, in one new subtitle in the Local Government Code, and in other existing codes. The titles of the Business & Commerce Code are:

- Title 4. Business Opportunities and Agreements;
- Title 5. Regulation of Businesses and Services;
- Title 6. Sale or Transfer of Goods;
- Title 7. Receipts, Documents of Title, and Other Instruments;
- Title 8. Security Instruments;
- Title 9. Applicability of Law to Commercial Transactions;
- Title 10. Use of Telecommunications;
- Title 11. Personal Identity Information;
- Title 12. Rights and Duties of Consumers and Merchants;
- Title 13. Contests and Other Promotions;
- Title 14. Recordings;
- Title 15. Currency and Trade; and
- Title 99. Miscellaneous Commercial Provisions.

The new subtitle of Title 12, Local Government Code, which revises the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is:

Subtitle C1. Additional Planning and Development Provisions Applying to More Than One Type of Local Government.

Titles and subtitles of the proposed revision are further divided into chapters, subchapters, and sections as necessary to properly organize and renumber the affected law.

The council legal staff has taken meticulous care to ensure that no substantive change has been made in the law and to preserve any ambiguity or interpretation that may exist in current law.

The staff has developed an extensive mailing list, and drafts of the proposed provisions have been widely distributed for review and comment to interested individuals, organizations, businesses, industry representatives, and government agencies. The text of the proposed provisions has been made available on the Texas Legislative Council Internet site. The staff has studied the comments and suggestions of persons reviewing the proposed provisions and has taken action to satisfy the concerns expressed.

Proposed Titles 4 through 15 and 99, Business & Commerce Code, proposed Subtitle C1, Title 12, Local Government Code, and the additional related proposed provisions are a nonsubstantive revision of Texas law, meaning the substance of the law has not been altered. The sole purpose of these provisions is to compile the relevant law, arrange it in a logical fashion, and rewrite it without altering its meaning or legal effect. If a particular source statute is ambiguous and the ambiguity cannot be resolved without a potential substantive effect, the ambiguity is preserved.

RULEMAKING AUTHORITY

It is the opinion of the committee that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution but does recodify that authority already delegated by previous law.

ANALYSIS

The bill proposes Titles 4 through 15 and 99, Business & Commerce Code, Subtitle C1, Title 12, Local Government Code, and additional related provisions, which represent a nonsubstantive revision of certain statutes relating to business and commerce. The bill also includes conforming amendments to existing titles of the Business & Commerce Code, Local Government Code, and other codes necessary to continue without substantive change provisions of law not codified as part of the proposed titles of the Business & Commerce Code, proposed subtitle of the Local Government Code, or other related proposed provisions and to ensure that other substantive changes are not made. In addition, the bill repeals the laws that are revised in the bill. The bill also expressly repeals laws that have no continuing effect, including those that have been impliedly repealed. Finally, the bill includes a statement of the legislative intent of no substantive change.

EFFECTIVE DATE

The bill is effective April 1, 2009, in order to provide all affected parties a legislative cycle to review more closely the provisions the legislature has enacted in this bill.

EXPLANATION OF AMENDMENTS

The committee amendment to H.B. 2278 is a nonsubstantive change to the organization of the bill. The change moves the provision relating to liquefied petroleum gas containers from the proposed Subchapter M, Chapter 113, Natural Resources Code, to proposed Title 99, Business & Commerce Code, as Chapter 2002, as a result of comments received after the filing of the bill.