

By: Chisum

H.B. No. 365

A BILL TO BE ENTITLED

AN ACT

relating to the exemption from regulation of certain charitable, religious, or civic organizations engaged in auction activities.

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

SECTION 1. Section 1802.002, Occupations Code, is amended to read as follows:

Sec. 1802.002. APPLICABILITY. This chapter does not apply to:

(1) a sale conducted by order of a United States court under Title 11, United States Code;

(2) a sale conducted by an employee of the United States, this state, or a political subdivision of this state in the course and scope of employment;

(3) a sale conducted by a charitable, religious, or civic [or nonprofit] organization, including an organization having a tax exempt status under Section 501(c), Internal Revenue Code of 1986, or organized as a nonprofit entity, if the person organizing, arranging, or conducting the auction [auctioneer] receives no compensation;

(4) a sale conducted by an individual of the individual's property if the individual is not engaged in the business of selling property as an auctioneer on a recurring basis;

(5) a foreclosure sale of real property personally conducted by a trustee under a deed of trust;

1 (6) a foreclosure sale of personal property personally
2 conducted by:

3 (A) a person who holds a security interest in the
4 property, including a mortgage; or

5 (B) an employee or agent of a person described by
6 Paragraph (A) acting in the course and scope of employment, if:

7 (i) the employee or agent is not otherwise
8 engaged in the auction business; and

9 (ii) all property for sale in the auction is
10 subject to a security agreement;

11 (7) a sale conducted by sealed bid;

12 (8) an auction conducted only for student training
13 purposes as part of a course of study approved by the executive
14 director for auctioneers;

15 (9) an auction conducted by a posted stockyard or
16 market agency as defined by the federal Packers and Stockyards Act
17 (7 U.S.C. Section 181 et seq.), as amended;

18 (10) an auction of livestock conducted by a nonprofit
19 livestock trade association chartered in this state, if the auction
20 involves only the sale of livestock owned by members of the trade
21 association; or

22 (11) an auction conducted by a charitable or nonprofit
23 organization chartered in this state, if the auction:

24 (A) is part of a fair that is organized under
25 state, county, or municipal authority; and

26 (B) involves only the sale of property owned by
27 the organization's members.

1 SECTION 2. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2007.