

1-1 By: Chisum (Senate Sponsor - Seliger) H.B. No. 365  
1-2 (In the Senate - Received from the House March 29, 2007;  
1-3 April 3, 2007, read first time and referred to Committee on  
1-4 Business and Commerce; May 2, 2007, reported favorably by the  
1-5 following vote: Yeas 9, Nays 0; May 2, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the exemption from regulation of certain charitable,  
1-9 religious, or civic organizations engaged in auction activities.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 1802.002, Occupations Code, is amended  
1-12 to read as follows:

1-13 Sec. 1802.002. APPLICABILITY. This chapter does not apply  
1-14 to:

1-15 (1) a sale conducted by order of a United States court  
1-16 under Title 11, United States Code;

1-17 (2) a sale conducted by an employee of the United  
1-18 States, this state, or a political subdivision of this state in the  
1-19 course and scope of employment;

1-20 (3) a sale conducted by a charitable, religious, or  
1-21 civic [~~or nonprofit~~] organization, including an organization  
1-22 having a tax exempt status under Section 501(c), Internal Revenue  
1-23 Code of 1986, or organized as a nonprofit entity, if the person  
1-24 organizing, arranging, or conducting the auction [~~auctioneer~~]  
1-25 receives no compensation;

1-26 (4) a sale conducted by an individual of the  
1-27 individual's property if the individual is not engaged in the  
1-28 business of selling property as an auctioneer on a recurring basis;

1-29 (5) a foreclosure sale of real property personally  
1-30 conducted by a trustee under a deed of trust;

1-31 (6) a foreclosure sale of personal property personally  
1-32 conducted by:

1-33 (A) a person who holds a security interest in the  
1-34 property, including a mortgage; or

1-35 (B) an employee or agent of a person described by  
1-36 Paragraph (A) acting in the course and scope of employment, if:

1-37 (i) the employee or agent is not otherwise  
1-38 engaged in the auction business; and

1-39 (ii) all property for sale in the auction is  
1-40 subject to a security agreement;

1-41 (7) a sale conducted by sealed bid;

1-42 (8) an auction conducted only for student training  
1-43 purposes as part of a course of study approved by the executive  
1-44 director for auctioneers;

1-45 (9) an auction conducted by a posted stockyard or  
1-46 market agency as defined by the federal Packers and Stockyards Act  
1-47 (7 U.S.C. Section 181 et seq.), as amended;

1-48 (10) an auction of livestock conducted by a nonprofit  
1-49 livestock trade association chartered in this state, if the auction  
1-50 involves only the sale of livestock owned by members of the trade  
1-51 association; or

1-52 (11) an auction conducted by a charitable or nonprofit  
1-53 organization chartered in this state, if the auction:

1-54 (A) is part of a fair that is organized under  
1-55 state, county, or municipal authority; and

1-56 (B) involves only the sale of property owned by  
1-57 the organization's members.

1-58 SECTION 2. This Act takes effect immediately if it receives  
1-59 a vote of two-thirds of all the members elected to each house, as  
1-60 provided by Section 39, Article III, Texas Constitution. If this  
1-61 Act does not receive the vote necessary for immediate effect, this  
1-62 Act takes effect September 1, 2007.

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