

By: Hilderbran

H.B. No. 264

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the use of customs brokers to obtain a refund of sales  
3 and use taxes and to the retention of the \$1 million total revenue  
4 exemption for the franchise tax.

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

6 SECTION 1. Section 111.00455(b), Tax Code, is amended to  
7 read as follows:

8 (b) The following are not contested cases under Subsection  
9 (a) and Section 2003.101, Government Code:

10 (1) a show cause hearing or any hearing not related to  
11 the collection, receipt, administration, or enforcement of the  
12 amount of a tax or fee imposed, or the penalty or interest  
13 associated with that amount, except for a hearing under Section  
14 [~~151.157(f), 151.1575(c), 151.712(g)~~], 154.1142[7] or 155.0592;

15 (2) a property value study hearing under Subchapter M,  
16 Chapter 403, Government Code;

17 (3) a hearing in which the issue relates to:

18 (A) Chapters 72-75, Property Code;

19 (B) forfeiture of a right to do business;

20 (C) a certificate of authority;

21 (D) articles of incorporation;

22 (E) a penalty imposed under Section 151.7031;

23 (F) the refusal or failure to settle under

24 Section 111.101; or

1 (G) a request for or revocation of an exemption  
2 from taxation; and

3 (4) any other hearing not related to the collection,  
4 receipt, administration, or enforcement of the amount of a tax or  
5 fee imposed, or the penalty or interest associated with that  
6 amount.

7 SECTION 2. Section 151.307(b), Tax Code, is amended to read  
8 as follows:

9 (b) When an exemption is claimed because tangible personal  
10 property is exported beyond the territorial limits of the United  
11 States, proof of export may be shown only by:

12 (1) a bill of lading issued by a licensed and  
13 certificated carrier of persons or property showing the seller as  
14 consignor, the buyer as consignee, and a delivery point outside the  
15 territorial limits of the United States;

16 (2) ~~[documentation:~~  
17 ~~[(A) provided by a United States Customs Broker~~  
18 ~~licensed by the comptroller under Section 151.157,~~

19 ~~[(B) certifying that delivery was made to a point~~  
20 ~~outside the territorial limits of the United States,~~

21 ~~[(C) that includes, in addition to any other~~  
22 ~~information required by the comptroller, a statement signed by the~~  
23 ~~person claiming the exemption that states that "Providing false~~  
24 ~~information to a customs broker is a Class B misdemeanor."], and~~

25 ~~[(D) to which a stamp issued under Section~~  
26 ~~151.158 is affixed in the manner required by that section or Section~~  
27 ~~151.157,~~

1           ~~(3)~~ import documents from the country of destination  
2 showing that the property was imported into a country other than the  
3 United States;

4           (3) ~~(4)~~ an original airway, ocean, or railroad bill  
5 of lading and a forwarder's receipt if an air, ocean, or rail  
6 freight forwarder takes possession of the property; or

7           (4) ~~(5)~~ any other manner provided by the comptroller  
8 for an enterprise authorized to make tax-free purchases under  
9 Section 151.156.

10           SECTION 3. Section 151.406(a), Tax Code, is amended to read  
11 as follows:

12           (a) Except as provided by Section 151.407, a tax report  
13 required by this chapter must:

14           (1) for sales tax purposes, show the amount of the  
15 total receipts of a seller for the reporting period;

16           (2) for use tax purposes, show the amount of the total  
17 receipts from sales by a retailer of taxable items during the  
18 reporting period for storage, use, or consumption in this state;

19           (3) show the amount of the total sales prices of  
20 taxable items that are subject to the use tax during the reporting  
21 period and that were acquired for storage, use, or consumption in  
22 this state by a purchaser who did not pay the tax to a retailer;

23           (4) show the amount of the taxes due for the reporting  
24 period; and

25           (5) ~~[show the amount of sales tax refunded for items~~  
26 ~~exported beyond the territorial limits of the United States after~~  
27 ~~receiving documentation under Section 151.307(b)(2); and~~

1           ~~[(6)]~~ include other information that the comptroller  
2 determines to be necessary for the proper administration of this  
3 chapter.

4           SECTION 4. The following provisions of the Tax Code are  
5 repealed:

- 6           (1) Section 151.157;
- 7           (2) Section 151.1575;
- 8           (3) Section 151.158;
- 9           (4) Section 151.159;
- 10          (5) Sections 151.307(c), (d), and (e);
- 11          (6) Section 151.712; and
- 12          (7) Section 151.713.

13          SECTION 5. Section 1(c), Chapter 286 (H.B. 4765), Acts of  
14 the 81st Legislature, Regular Session, 2009, is repealed.

15          SECTION 6. Section 2, Chapter 286 (H.B. 4765), Acts of the  
16 81st Legislature, Regular Session, 2009, which amended former  
17 Subsection (d), Section 171.002, Tax Code, is repealed.

18          SECTION 7. Section 3, Chapter 286 (H.B. 4765), Acts of the  
19 81st Legislature, Regular Session, 2009, which amended former  
20 Subsection (a), Section 171.0021, Tax Code, is repealed.

21          SECTION 8. Section 171.0021, Tax Code, is repealed.

22          SECTION 9. Section 171.1016(d), Tax Code, is repealed.

23          SECTION 10. The change in law made by this Act does not  
24 affect taxes imposed before the effective date of this Act. Taxes  
25 imposed before the effective date of this Act are governed by the  
26 law in effect when the taxes were imposed, and that law is continued  
27 in effect for purposes of the liability for and collection of those

1 taxes.

2           SECTION 11. (a) Except as provided by Subsection (b) of  
3 this section, this Act takes effect immediately if it receives a  
4 vote of two-thirds of all the members elected to each house, as  
5 provided by Section 39, Article III, Texas Constitution. If this  
6 Act does not receive the vote necessary for immediate effect, this  
7 Act takes effect September 1, 2011.

8           (b) Sections 1 through 4 of this Act take effect October 1,  
9 2011.