

By: Laubenberg

H.B. No. 3947

A BILL TO BE ENTITLED

AN ACT

relating to judicial review of certain regulations that apply to state licensees.

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

SECTION 1. This Act may be cited as the Regulations with Economic Impact in Need of Scrutiny (REINS) Act.

SECTION 2. Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 151 to read as follows:

CHAPTER 151. REGULATIONS WITH ECONOMIC IMPACT IN NEED OF SCRUTINY

Sec. 151.001. PURPOSE OF CHAPTER. It is the purpose of this chapter to provide a judicial remedy to ensure that a state licensee has the right to engage in an occupation or business activity authorized by and regulated under state law without burdensome or inconsistent local regulation of the state licensee's occupation or lawful business activities.

Sec. 151.002. DEFINITIONS. In this chapter:

(1) "Local regulation" means any ordinance, rule, or regulation adopted by the governing body of a municipality that establishes requirements for, imposes restrictions on, or otherwise regulates the business activity of a state licensee within the municipality or the municipality's extraterritorial jurisdiction.

(2) "State licensee" means a person or entity that, under state law, in order to practice the person's occupation or

1 conduct the entity's business in this state, is required to obtain a
2 license, permit, registration certificate, or other evidence of
3 authority from, and is subject to regulation by, a state licensing
4 authority.

5 (3) "State licensing authority" means a state agency,
6 department, board, or commission or the executive or administrative
7 officer of a state agency, department, board, or commission.

8 Sec. 151.003. SUIT TO ENJOIN ENFORCMENT OF LOCAL
9 REGULATION. (a) A suit to enjoin enforcement of a local regulation
10 may be brought by a state licensee that is subject to the local
11 regulation if the local regulation:

12 (1) establishes requirements for, imposes
13 restrictions on, or otherwise regulates the business activity of
14 the state licensee in a manner that is more stringent than the
15 requirements, restrictions, and regulations imposed on the state
16 licensee under state law; or

17 (2) would result in an adverse economic impact on the
18 state licensee.

19 (b) A suit under this chapter must be brought in a district
20 court:

21 (1) for a judicial district in which any portion of the
22 territory of the municipality that adopted the local regulation is
23 located; or

24 (2) in Travis County.

25 (c) In a suit under this chapter, the state licensee must
26 show by a preponderance of the evidence that the local regulation
27 substantially burden's the state licensee's right to engage in an

1 occupation authorized by and regulated under state law or would
2 result in an adverse economic impact on the state licensee. In a
3 suit under this chapter, the state licensee may submit evidence
4 regarding the adverse economic impact of similar local regulations
5 in other jurisdictions inside or outside the state.

6 (d) If the state licensee meets the preponderance of the
7 evidence burden required by Subsection (c), the municipality has
8 the burden of establishing by clear and convincing evidence that
9 the local regulation that the municipality seeks to enforce:

- 10 (1) does not conflict with state law; and
11 (2) is necessary and narrowly tailored to protect
12 against actual and specific harm to the public health or safety.

13 (e) The district court may grant any prohibitory or
14 mandatory relief warranted by the facts, including a temporary
15 restraining order, temporary injunction, or permanent injunction.

16 (f) If a state licensee prevails in a suit brought under
17 this chapter, the court shall award the state licensee court costs
18 and reasonable and necessary attorney's fees to be paid by the
19 municipality.

20 SECTION 3. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2017.