

By: Springer

S.B. No. 44

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to a prohibition on the enactment of a law imposing an  
3 occupation tax on certain entities that enter into transactions  
4 conveying securities or imposing a tax on certain securities  
5 transactions.

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

7 SECTION 1. Chapter 101, Tax Code, is amended by adding  
8 Section 101.010 to read as follows:

9 Sec. 101.010. LIMITATION: TAXES IMPOSED ON SECURITIES  
10 TRANSACTIONS AND ENTITIES ENGAGING IN SECURITIES TRANSACTIONS. (a)  
11 In this section:

12 (1) "Registered securities market operator" means any  
13 of the following entities, to the extent the entity is subject to  
14 registration with and regulation by the United States Securities  
15 and Exchange Commission or the United States Commodity Futures  
16 Trading Commission, or the successor in function to either  
17 commission:

18 (A) a self-regulatory organization, financial  
19 institution, alternative trading system, broker, dealer, clearing  
20 agency, or transfer agent, as those terms are defined by the  
21 Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) in  
22 effect on January 1, 2021, or a regulation adopted under that Act in  
23 effect on that date;

24 (B) an exchange that is registered as a national

1 securities exchange under Section 6 of the Securities Exchange Act  
2 of 1934 (15 U.S.C. Section 78f);

3 (C) a board of trade, commodity pool operator,  
4 derivatives clearing organization, electronic trading facility, or  
5 organized exchange, as those terms are defined by the Commodity  
6 Exchange Act (7 U.S.C. Section 1 et seq.) in effect on January 1,  
7 2021;

8 (D) an affiliate, subsidiary, or facility of an  
9 entity described by Paragraph (A), (B), or (C); or

10 (E) an OTC reporting facility, as that term is  
11 defined by rules promulgated by the Financial Industry Regulatory  
12 Authority and in effect on January 1, 2021.

13 (2) "Securities transaction" means the purchase or  
14 sale of a security, a contract or agreement to purchase or sell a  
15 security, or a service to facilitate, match parties to, process,  
16 report, clear, or settle the purchase or sale of a security on  
17 behalf of a customer.

18 (3) "Security" has the meaning assigned by the  
19 Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) in  
20 effect on January 1, 2021.

21 (b) Notwithstanding any other law, the legislature may not  
22 enact a law that imposes:

23 (1) an occupation tax on a registered securities  
24 market operator; or

25 (2) a tax on a securities transaction conducted by a  
26 registered securities market operator.

27 (c) This section does not prohibit:

- 1           (1) the imposition of:
- 2                 (A) a general business tax measured by business
- 3 activity;
- 4                 (B) a tax on the production of minerals;
- 5                 (C) a tax on insurance premiums;
- 6                 (D) sales and use taxes on tangible personal
- 7 property or services; or
- 8                 (E) a fee based on the cost of processing or
- 9 creating documents; or
- 10           (2) a change in the rate of a tax in existence on
- 11 December 1, 2021.

12           SECTION 2. This Act takes effect December 1, 2021.