87R1910 JCG-F

By:  Swanson H.B. No. 610

A BILL TO BE ENTITLED

AN ACT

relating to judicial review of certain local laws applicable to state license holders.

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 Security (REINS) Act.

SECTION 2.  The purpose of this Act is to provide a judicial remedy to ensure that a state license holder 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 license holder's occupation or lawful business activities.

SECTION 3.  Title 2, Occupations Code, is amended by adding Chapter 60 to read as follows:

CHAPTER 60. JUDICIAL REVIEW OF CERTAIN LOCAL LAWS AFFECTING LICENSE HOLDERS

Sec. 60.001.  DEFINITIONS. In this chapter:

(1)  "Local law" means an ordinance, rule, regulation, or other measure adopted by the governing body of a municipality that establishes requirements for, imposes restrictions on, or otherwise regulates the occupation or business activity of a license holder within the municipality or the municipality's extraterritorial jurisdiction.

(2)  "License holder" means an individual or entity that, under state law, in order to practice the individual's occupation or conduct the entity's business in this state, is required to obtain a license, permit, registration certificate, or other evidence of authority from, and is subject to regulation by, a state licensing authority.

(3)  "State licensing authority" means a state agency, department, board, or commission or the executive or administrative officer of a state agency, department, board, or commission that issues a license, permit, registration certificate, or other evidence of authority to an individual or entity authorizing the individual to practice the individual's occupation or the entity to conduct the entity's business in this state.

Sec. 60.002.  SUIT TO ENJOIN ENFORCEMENT OF CERTAIN LOCAL LAWS AFFECTING LICENSE HOLDERS. (a) A license holder subject to a local law may bring an action under this section to enjoin the enforcement of the local law if the local law:

(1)  establishes requirements for, imposes restrictions on, or otherwise regulates the occupation or business activity of the license holder in a manner that is more stringent than the requirements, restrictions, and regulations imposed on the license holder under state law; or

(2)  would result in an adverse economic impact on the license holder.

(b)  A license holder must bring the action in a district court in:

(1)  a county that includes any territory of the municipality that adopted the local law; or

(2)  Travis County.

(c)  The license holder bringing the action under this section must show by a preponderance of the evidence that the local law is a local law described by Subsection (a). The license holder may provide evidence regarding the adverse economic impact of similar local laws in other jurisdictions inside or outside of this state.

(d)  If the license holder satisfies the burden of proof required by Subsection (c), the municipality defending the action has the burden of establishing by clear and convincing evidence that the local law:

(1)  does not conflict with state law; and

(2)  is necessary and narrowly tailored to protect against actual and specific harm to the public's health or safety.

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

(f)  If the license holder prevails in the action, the court shall award to the license holder court costs and reasonable and necessary attorney's fees to be paid by the municipality defending the action.

SECTION 4.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.