

By: Paddie

H.B. No. 3702

A BILL TO BE ENTITLED

1 AN ACT

2 Relating to prohibiting the enactment of a law that imposes a tax on  
3 certain transactions that either convey a security or involve  
4 specified derivative contracts.

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

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

8 Sec. 101.010. Provisions Relating to Securities Market  
9 Operators (a) After January 1, 2022, no law may be enacted that  
10 imposes an occupation tax upon a Registered Securities Market  
11 Operator or a tax upon a securities transaction of a Registered  
12 Securities Market Operator.

13 (b) The term "Registered Securities Market Operator" means  
14 a self-regulatory organization, national securities exchange,  
15 financial institution, alternative trading system, trade reporting  
16 facility, broker, dealer, clearing agency, or transfer agent, as  
17 those terms are defined in the Securities Exchange Act of 1934, 15  
18 U.S.C. 78a et seq., or a board of trade, commodities pool operator,  
19 derivatives clearing organization, electronic trading facility, or  
20 organized exchange, as that term is defined in the Commodities  
21 Futures Exchange Act, 7 U.S.C. 1 et seq., or an affiliate,  
22 subsidiary, or facility thereof, to the extent that such Regulated  
23 Securities Market Operator is subject to registration with and  
24 regulation by the U.S. Securities and Exchange Commission or the

1 U.S. Commodities Futures Trading Commission.

2 (c) The term "security" or "securities" means the  
3 definition of that term set forth in the Securities Exchange Act of  
4 1934, 15 U.S.C. § 78c(a)(10).

5 (d) The term "securities transaction" means the purchase or  
6 sale of securities by a Registered Securities Market Operator on  
7 behalf of a customer, any contract or agreement to do the same, and  
8 any service by a Registered Securities Market Operator to  
9 facilitate, match parties to, process, report, clear, or settle the  
10 purchase or sale of securities on behalf of a customer.

11 (d) This section does not prohibit:

12 (1) the imposition of a general business tax measured  
13 by business activity;

14 (2) the imposition of a tax on the production of  
15 minerals;

16 (3) the imposition of a tax on insurance premiums;

17 (4) the imposition of a general sales tax on tangible  
18 personal property or services;

19 (5) the imposition of a fee based on the cost of  
20 processing documents; or

21 (6) the change of a rate of a tax in existence on  
22 January 1, 2022.

23 SECTION 2. This Act takes effect January 1, 2022, but only if the  
24 constitutional amendment proposed by the 87th Legislature, Regular  
25 Session, 2021, to authorize the legislature to prohibiting the  
26 enactment of a law that imposes a tax on certain transactions that  
27 either convey a security or involve specified derivative contracts

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1 is approved by the voters. If that amendment is not approved by the  
2 voters, this Act has no effect.