88R11359 MAW-D

By:  Harrison H.B. No. 3081

A BILL TO BE ENTITLED

AN ACT

relating to the deregulation of certain activities and occupations.

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

SECTION 1.  The following provisions are repealed:

(1)  Title 9, Agriculture Code;

(2)  Article 42A.511(b), Code of Criminal Procedure;

(3)  Sections 91.001(1), (4), (8), (8-a), and (11), Labor Code;

(4)  Section 91.002, Labor Code;

(5)  Section 91.008, Labor Code;

(6)  Subchapter B, Chapter 91, Labor Code;

(7)  Section 91.045, Labor Code;

(8)  Section 91.048, Labor Code;

(9)  Section 91.061, Labor Code;

(10)  Chapter 802, Occupations Code;

(11)  Sections 1305.002(11-b) and (12), Occupations Code;

(12)  Section 1305.1601, Occupations Code;

(13)  Section 1305.1605, Occupations Code;

(14)  Section 1305.162(e), Occupations Code; and

(15)  Chapter 1802, Occupations Code.

SECTION 2.  Articles 18.19(c), (d), and (e), Code of Criminal Procedure, are amended to read as follows:

(c)  If there is no prosecution or conviction for an offense involving the weapon seized, the magistrate to whom the seizure was reported shall, before the 61st day after the date the magistrate determines that there will be no prosecution or conviction, notify in writing the person found in possession of the weapon that the person is entitled to the weapon upon written request to the magistrate. The magistrate shall order the weapon returned to the person found in possession before the 61st day after the date the magistrate receives a request from the person. If the weapon is not requested before the 61st day after the date of notification, the magistrate shall, before the 121st day after the date of notification, order the weapon destroyed, sold at public sale by the law enforcement agency holding the weapon or by an auctioneer [~~licensed under Chapter 1802, Occupations Code~~], or forfeited to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory designated by the magistrate. If the magistrate does not order the return, destruction, sale, or forfeiture of the weapon within the applicable period prescribed by this subsection, the law enforcement agency holding the weapon may request an order of destruction, sale, or forfeiture of the weapon from the magistrate. Only a firearms dealer licensed under 18 U.S.C. Section 923 may purchase a weapon at public sale under this subsection. Proceeds from the sale of a  seized weapon under this subsection shall be transferred, after the deduction of court costs to which a district court clerk is entitled under Article 59.05(f), followed by the deduction of auction costs, to the law enforcement agency holding the weapon.

(d)  A person either convicted or receiving deferred adjudication under Chapter 46, Penal Code, is entitled to the weapon seized upon request to the court in which the person was convicted or placed on deferred adjudication. However, the court entering the judgment shall order the weapon destroyed, sold at public sale by the law enforcement agency holding the weapon or by an auctioneer [~~licensed under Chapter 1802, Occupations Code~~],  or forfeited to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory designated by the court if:

(1)  the person does not request the weapon before the 61st day after the date of the judgment of conviction or the order placing the person on deferred adjudication;

(2)  the person has been previously convicted under Chapter 46, Penal Code;

(3)  the weapon is one defined as a prohibited weapon under Chapter 46, Penal Code;

(4)  the offense for which the person is convicted or receives deferred adjudication was committed in or on the premises of a playground, school, video arcade facility, or youth center, as those terms are defined by Section 481.134, Health and Safety Code; or

(5)  the court determines based on the prior criminal history of the defendant or based on the circumstances surrounding the commission of the offense that possession of the seized weapon would pose a threat to the community or one or more individuals.

(e)  If the person found in possession of a weapon is convicted of an offense involving the use of the weapon, before the 61st day after the date of conviction the court entering judgment of conviction shall order destruction of the weapon, sale at public sale by the law enforcement agency holding the weapon or by an auctioneer [~~licensed under Chapter 1802, Occupations Code~~],  or forfeiture to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory designated by the court. If the court entering judgment of conviction does not order the destruction, sale, or forfeiture of the weapon within the period prescribed by this subsection, the law enforcement agency holding the weapon may request an order of destruction, sale, or forfeiture of the weapon from a magistrate. Only a firearms dealer licensed under 18 U.S.C. Section 923 may purchase a weapon at public sale under this subsection. Proceeds from the sale of a seized weapon under this subsection shall be transferred, after the deduction of court costs to which a district court clerk is entitled under Article 59.05(f), followed by the deduction of auction costs, to the law enforcement agency holding the weapon.

SECTION 3.  Article 42A.511(a), Code of Criminal Procedure, is amended to read as follows:

(a)  If a judge grants community supervision to a defendant convicted of an offense under Section 42.09, 42.091, 42.092, or 42.10, Penal Code, the judge may require the defendant to[~~:~~

[~~(1)  complete an online responsible pet owner course approved and certified by the Texas Department of Licensing and Regulation; or~~

[~~(2)~~]  attend a responsible pet owner course sponsored by a municipal animal shelter, as defined by Section 823.001, Health and Safety Code, that:

(1) [~~(A)~~]  receives federal, state, county, or municipal funds; and

(2) [~~(B)~~]  serves the county in which the court is located.

SECTION 4.  Sections 91.001(3) and (18), Labor Code, are amended to read as follows:

(3)  "Client" means any person who enters into a professional employer services agreement with a professional employer organization [~~license holder~~].

(18)  "Working capital" of a professional employer organization [~~an applicant~~] means the organization's [~~applicant's~~] current assets minus [~~the applicant's~~] current liabilities as determined by generally accepted accounting principles.

SECTION 5.  Section 91.003, Labor Code, is amended to read as follows:

Sec. 91.003.  INTERAGENCY COOPERATION. (a) Each state agency that in performing duties under other law affects the regulation of professional employer services shall cooperate with [~~the department and~~] other state agencies as necessary to implement and enforce this chapter.

(b)  In particular, the Texas Workforce Commission, the division of workers' compensation of the Texas Department of Insurance, the Department of Assistive and Rehabilitative Services, and the attorney general's office shall assist in the implementation of this chapter [~~and shall provide information to the department on request~~].

SECTION 6.  Sections 91.004(a) and (c), Labor Code, are amended to read as follows:

(a)  This chapter does not exempt a client of a professional employer organization [~~license holder~~], or any covered employee, from any other license requirements imposed under local, state, or federal law.

(c)  A professional employer organization [~~license holder~~] is not engaged in the unauthorized practice of an occupation, trade, or profession that is licensed, certified, or otherwise regulated by a governmental entity solely by entering into a professional employer services agreement with a client and covered employees.

SECTION 7.  Section 91.005, Labor Code, is amended to read as follows:

Sec. 91.005.  APPLICATION OF CERTAIN PROCUREMENT LAWS. With respect to a bid, contract, purchase order, or agreement entered into with the state or a political subdivision of the state, a client's status or certification as a small, minority-owned, disadvantaged, or woman-owned business enterprise or as a historically underutilized business is not affected because the client has entered into a professional employer services agreement with [~~a license holder~~] or uses the services of a professional employer organization [~~license holder~~].

SECTION 8.  Section 91.006(a), Labor Code, is amended to read as follows:

(a)  A certificate of insurance coverage or other evidence of coverage showing that either a professional employer organization [~~license holder~~] or a client maintains workers' compensation insurance coverage constitutes proof of workers' compensation insurance coverage for the organization [~~license holder~~] and the client with respect to all covered employees of the organization [~~license holder~~] and the client. The state and a political subdivision of the state shall accept a certificate of insurance coverage or other evidence of coverage described by this section as proof of workers' compensation coverage under Chapter 406.

SECTION 9.  Sections 91.031(a) and (b), Labor Code, are amended to read as follows:

(a)  A professional employer organization [~~license holder~~] shall establish the terms of a professional employer services agreement by a written contract between the organization [~~license holder~~] and the client.

(b)  The professional employer organization [~~license holder~~] shall give written notice of the agreement as it affects covered employees to each covered employee.

SECTION 10.  Section 91.032(a), Labor Code, is amended to read as follows:

(a)  A professional employer services agreement between a professional employer organization [~~license holder~~] and a client must provide that the organization [~~license holder~~]:

(1)  shares, as provided by Subsection (b), with the client the right of direction and control over covered employees;

(2)  assumes responsibility for the payment of wages to the covered employees without regard to payments by the client to the organization [~~license holder~~];

(3)  assumes responsibility for the payment of payroll taxes and collection of taxes from payroll on covered employees;

(4)  shares, as provided by Subsection (b), with the client the right to hire, fire, discipline, and reassign the covered employees; and

(5)  shares, as provided by Subsection (b), with the client the right of direction and control over the adoption of employment and safety policies and the management of workers' compensation claims, claim filings, and related procedures.

SECTION 11.  The heading to Subchapter D, Chapter 91, Labor Code, is amended to read as follows:

SUBCHAPTER D. POWERS AND DUTIES OF PROFESSIONAL EMPLOYER ORGANIZATION [~~LICENSE HOLDER~~]

SECTION 12.  Section 91.041, Labor Code, is amended to read as follows:

Sec. 91.041.  EMPLOYEE BENEFIT PLANS; REQUIRED DISCLOSURE; OTHER REPORTS. (a) A client and professional employer organization [~~license holder~~] are each considered an employer under the laws of this state for purposes of sponsoring retirement and welfare benefit plans for covered employees.

(a-1)  A professional employer organization [~~license holder~~] may sponsor a single welfare benefit plan under which eligible covered employees of one or more clients may elect to participate.

(a-2)  A fully insured welfare benefit plan offered to the covered employees of a professional employer organization [~~license holder~~] and provided by an insurance company authorized to provide that insurance in this state or a self-funded health benefit plan sponsored by a professional employer organization [~~license holder~~] as provided by Section 91.0411 shall be treated for purposes of state law as a single employer welfare benefit plan.

(b)  With respect to any insurance or benefit plan provided by a professional employer organization [~~license holder~~] for the benefit of its assigned employees, the organization [~~a license holder~~] shall disclose the following information to [~~the department,~~] each client[~~,~~] and its covered employees:

(1)  the type of coverage;

(2)  the identity of each insurer for each type of coverage;

(3)  the amount of benefits provided for each type of coverage and to whom or in whose behalf benefits are to be paid;

(4)  the policy limits on each insurance policy; and

(5)  whether the coverage is fully insured, partially insured, or fully self-funded.

[~~(c)  The commission by rule may require a license holder to file other reports that are reasonably necessary for the implementation of this chapter.~~]

SECTION 13.  Sections 91.0411(b), (c), (e), and (f), Labor Code, are amended to read as follows:

(b)  A professional employer organization [~~license holder~~] may sponsor a benefit plan that is not fully insured if the organization [~~license holder~~] meets the requirements of this section and is approved to sponsor the plan by the commissioner.

(c)  The commissioner may, on notice and opportunity for all interested persons to be heard, adopt rules and issue orders reasonably necessary to augment and implement the regulation of benefit plans sponsored by a professional employer organization [~~license holder~~] that are not fully insured. The commissioner may not adopt a rule that requires clients or covered employees to be members of an association or group in the same trade or industry in order to be covered by a [~~license holder-sponsored~~] benefit plan that is not fully insured. The rules must include all requirements that must be met by the organization [~~license holder~~] and the plan, including:

(1)  initial and final approval requirements;

(2)  authority to prescribe forms and items to be submitted to the commissioner by the organization [~~license holder~~];

(3)  a fidelity bond;

(4)  use of an independent actuary;

(5)  use of a third-party administrator;

(6)  authority for the commissioner to examine an application or a plan;

(7)  the minimum number of clients and covered employees covered by the plan;

(8)  standards for those natural persons managing the plan;

(9)  the minimum amount of gross contributions;

(10)  the minimum amount of written commitment, binder, or policy for stop-loss insurance;

(11)  the minimum amount of reserves; and

(12)  a fee in an amount reasonable and necessary to defray the costs of administering this section to be deposited to the credit of the operating fund of the Texas Department of Insurance.

(e)  Each professional employer organization [~~license holder~~] under this section shall appoint the commissioner as its resident agent for purposes of service of process. The fee for that service is $50, payable at the time of appointment.

(f)  The commissioner may examine the affairs of any plan and shall have access to the records of the plan. The commissioner may examine under oath a manager or employee of the professional employer organization [~~license holder~~] in connection with the plan.

SECTION 14.  Sections 91.042(a), (a-1), (b), (c), (d), (e), (g), (h), and (i), Labor Code, are amended to read as follows:

(a)  A professional employer organization [~~license holder~~] or client may elect to obtain workers' compensation insurance coverage for covered employees through an insurance company as defined under Section 401.011(28) or through self-insurance as provided under Chapter 407.

(a-1)  The client and the professional employer organization shall specify in the professional employer services agreement whether the parties have elected to obtain workers' compensation insurance coverage for the covered employees and shall specify which party must maintain coverage. If the organization [~~license holder~~] maintains workers' compensation insurance coverage for the client, an individual who is an executive employee, as described by Section 406.097, of the client is eligible to be treated as an executive employee for premium calculation and classification purposes. A copy of the professional employer services agreement must be provided to the Texas Department of Insurance on request. Information obtained by the Texas Department of Insurance under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

(b)  If a professional employer organization [~~license holder~~] maintains workers' compensation insurance coverage for covered employees, the organization [~~license holder~~] shall pay workers' compensation insurance premiums for the covered employees based on the experience rating of the client for the first two years the covered employees are covered under the [~~professional employer~~] organization's policy and as further provided by rule by the Texas Department of Insurance.

(c)  For workers' compensation insurance purposes, a professional employer organization [~~license holder~~] and the organization's [~~license holder's~~] client shall be coemployers. If either a professional employer organization [~~license holder~~] or a client elects to obtain workers' compensation insurance coverage for covered employees, the client and the organization [~~license holder~~] are subject to Sections 406.005, 406.034, 408.001, and 411.032.

(d)  If a professional employer organization [~~license holder~~] or a client does not elect to obtain workers' compensation insurance coverage for covered employees, both the organization [~~license holder~~] and the client are subject to Sections 406.004, 406.005, 406.033, and 411.032.

(e)  After the expiration of the two-year period under Subsection (b), if the client elects to obtain workers' compensation insurance coverage for covered employees through coverage maintained by the client, or if the professional employer services agreement is terminated and the client elects to maintain, through coverage maintained by the client or through coverage maintained by a successor professional employer organization, workers' compensation insurance coverage for employees previously covered by the former professional employer organization's policy, the premium for the workers' compensation insurance coverage for the client shall be based on the lower of:

(1)  the experience modifier of the client before being covered under the professional employer organization's coverage; or

(2)  the experience modifier of the former professional employer organization [~~license holder~~] at the time the client's coverage under the professional employer organization's coverage is terminated.

(g)  On the written request of a client, a professional employer organization [~~license holder~~] that elects to provide workers' compensation insurance for covered employees shall provide to the client a list of:

(1)  claims associated with that client made against the organization's [~~license holder's~~] workers' compensation policy; and

(2)  payments made and reserves established on each claim.

(h)  The professional employer organization [~~license holder~~] shall provide the information described by Subsection (g) in writing from the organization's [~~license holder's~~] own records, if the organization [~~license holder~~] is a qualified self-insurer, or from information the organization [~~license holder~~] received from the organization's [~~license holder's~~] workers' compensation insurance provider following the organization's [~~license holder's~~] request under Section 2051.151, Insurance Code, not later than the 60th day after the date the organization [~~license holder~~] receives the client's written request. For purposes of this subsection, information is considered to be provided to the client on the date the information is:

(1)  received by the United States Postal Service; or

(2)  personally delivered to the client.

(i)  A professional employer organization [~~license holder~~] that fails to comply with Subsection (g) or (h) commits a Class D administrative violation as provided by Section 415.011.

SECTION 15.  Section 91.044, Labor Code, is amended to read as follows:

Sec. 91.044.  UNEMPLOYMENT TAXES; PAYROLL. (a) A professional employer organization [~~license holder~~] is the employer of a covered employee for purposes of Subtitle A, Title 4, and, except for wages subject to Section 91.032(c), for purposes of Chapter 61.

(a-1)  A professional employer organization [~~license holder~~] may, in a calendar year during which an employee becomes a covered employee of the organization [~~license holder~~], apply toward the maximum amount of taxable wages established in Section 201.082(1) any wages paid to the employee in that calendar year by:

(1)  the client; or

(2)  another professional employer organization [~~license holder~~] under a prior professional employer services agreement with that client.

(a-2)  In addition to any other reports required to be filed by law, a professional employer organization [~~license holder~~] shall report quarterly to the Texas Workforce Commission on a form prescribed by the Texas Workforce Commission the name, address, telephone number, federal income tax identification number, and classification code according to the North American Industry Classification System of each client.

(b)  For purposes of Subtitle A, Title 4, in the event of the termination of a contract between a professional employer organization [~~license holder~~] and a client or the failure by a professional employer organization to submit reports or make tax payments as required by that subtitle, the contracting client shall be treated as a new employer without a previous experience record unless that client is otherwise eligible for an experience rating.

SECTION 16.  Section 91.046, Labor Code, is amended to read as follows:

Sec. 91.046.  CONTRACTUAL DUTIES. Each professional employer organization [~~license holder~~] is responsible for the organization's [~~license holder's~~] contractual duties and responsibilities to manage, maintain, collect, and make timely payments for:

(1)  insurance premiums;

(2)  benefit and welfare plans;

(3)  other employee withholding; and

(4)  any other expressed responsibility within the scope of the professional employer services agreement for fulfilling the duties imposed under this section and Sections 91.032 and[~~,~~] 91.047[~~, and 91.048~~].

SECTION 17.  Section 91.047, Labor Code, is amended to read as follows:

Sec. 91.047.  COMPLIANCE WITH OTHER LAWS. Each professional employer organization [~~license holder~~] shall comply with all appropriate state and federal laws relating to reporting, sponsoring, filing, and maintaining benefit and welfare plans.

SECTION 18.  Section 91.049, Labor Code, is amended to read as follows:

Sec. 91.049.  AGENT FOR SERVICE OF PROCESS. Each professional employer organization [~~license holder~~] shall maintain a registered agent for the service of process in this state.

SECTION 19.  The heading to Subchapter E, Chapter 91, Labor Code, is amended to read as follows:

SUBCHAPTER E. [~~PROHIBITED ACTS;~~] ENFORCEMENT

SECTION 20.  Section 91.062(a), Labor Code, is amended to read as follows:

(a)  A state agency with duties related to the regulation of professional employer services [~~The executive director~~] may notify the attorney general of a violation of this chapter. The attorney general may apply to a district court in Travis County for permission to file for quo warranto relief, injunctive relief, or both.

SECTION 21.  Section 415.011, Labor Code, is amended to read as follows:

Sec. 415.011.  NOTICE OF PROFESSIONAL EMPLOYER ORGANIZATION WORKERS' COMPENSATION CLAIM AND PAYMENT INFORMATION; ADMINISTRATIVE VIOLATION. (a) In this section, "professional employer organization" [~~"license holder"~~] has the meaning assigned by Section 91.001.

(a-1)  Except as provided by Subsection (c), a professional employer organization [~~license holder~~] commits a violation if the organization [~~license holder~~] fails to provide the information required by Sections 91.042(g) and (h).

(b)  A violation under Subsection (a-1) [~~(a)~~] is an administrative violation.

(c)  A professional employer organization [~~license holder~~] does not commit an administrative violation under this section if the organization [~~license holder~~] requested the information required by Sections 91.042(g) and (h) from the organization's [~~license holder's~~] workers' compensation insurance provider and the provider does not provide the information to the organization [~~license holder~~] within the required time. A professional employer organization [~~license holder~~] shall notify the Texas Department of Insurance of a provider's failure to comply with the requirements of Section 2051.151, Insurance Code.

SECTION 22.  Section 252.022(a), Local Government Code, is amended to read as follows:

(a)  This chapter does not apply to an expenditure for:

(1)  a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;

(2)  a procurement necessary to preserve or protect the public health or safety of the municipality's residents;

(3)  a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;

(4)  a procurement for personal, professional, or planning services;

(5)  a procurement for work that is performed and paid for by the day as the work progresses;

(6)  a purchase of land or a right-of-way;

(7)  a procurement of items that are available from only one source, including:

(A)  items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;

(B)  films, manuscripts, or books;

(C)  gas, water, and other utility services;

(D)  captive replacement parts or components for equipment;

(E)  books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and

(F)  management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits;

(8)  a purchase of rare books, papers, and other library materials for a public library;

(9)  paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;

(10)  a public improvement project, already in progress, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;

(11)  a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212;

(12)  personal property sold:

(A)  at an auction [~~by a state licensed auctioneer~~];

(B)  at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code;

(C)  by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or

(D)  under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391;

(13)  services performed by blind or severely disabled persons;

(14)  goods purchased by a municipality for subsequent retail sale by the municipality;

(15)  electricity; or

(16)  advertising, other than legal notices.

SECTION 23.  Section 262.024(a), Local Government Code, is amended to read as follows:

(a)  A contract for the purchase of any of the following items is exempt from the requirement established by Section 262.023 if the commissioners court by order grants the exemption:

(1)  an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the county;

(2)  an item necessary to preserve or protect the public health or safety of the residents of the county;

(3)  an item necessary because of unforeseen damage to public property;

(4)  a personal or professional service;

(5)  any individual work performed and paid for by the day, as the work progresses, provided that no individual is compensated under this subsection for more than 20 working days in any three month period;

(6)  any land or right-of-way;

(7)  an item that can be obtained from only one source, including:

(A)  items for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;

(B)  films, manuscripts, or books;

(C)  electric power, gas, water, and other utility services; and

(D)  captive replacement parts or components for equipment;

(8)  an item of food;

(9)  personal property sold:

(A)  at an auction [~~by a state licensed auctioneer~~];

(B)  at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; or

(C)  by a political subdivision of this state, a state agency of this state, or an entity of the federal government;

(10)  any work performed under a contract for community and economic development made by a county under Section 381.004; or

(11)  vehicle and equipment repairs.

SECTION 24.  Section 263.153(c), Local Government Code, is amended to read as follows:

(c)  A county that contracts with an auctioneer [~~licensed under Chapter 1802, Occupations Code,~~] who uses an Internet auction site offering online bidding through the Internet to sell surplus or salvage property under this subchapter having an estimated value of not more than $500 shall satisfy the notice requirement under this section by posting the property on the site for at least 10 days unless the property is sold before the 10th day.

SECTION 25.  Section 1101.005, Occupations Code, is amended to read as follows:

Sec. 1101.005.  APPLICABILITY OF CHAPTER.  This chapter does not apply to:

(1)  an attorney licensed in this state;

(2)  an attorney-in-fact authorized under a power of attorney to conduct not more than three real estate transactions annually;

(3)  a public official while engaged in official duties;

(4)  an auctioneer [~~licensed under Chapter 1802~~] while conducting the sale of real estate by auction if the auctioneer does not perform another act of a broker;

(5)  a person conducting a real estate transaction under a court order or the authority of a will or written trust instrument;

(6)  a person employed by an owner in the sale of structures and land on which structures are located if the structures are erected by the owner in the course of the owner's business;

(7)  an on-site manager of an apartment complex;

(8)  an owner or the owner's employee who leases the owner's improved or unimproved real estate; or

(9)  a transaction involving:

(A)  the sale, lease, or transfer of a mineral or mining interest in real property;

(B)  the sale, lease, or transfer of a cemetery lot;

(C)  the lease or management of a hotel or motel; or

(D)  the sale of real property under a power of sale conferred by a deed of trust or other contract lien.

SECTION 26.  Section 1305.102(a), Occupations Code, is amended to read as follows:

(a)  The commission shall adopt rules for the licensing of electricians, sign electricians, electrical sign contractors, electrical contractors, [~~journeyman industrial electricians, journeyman linemen,~~] residential appliance installers, and residential appliance installation contractors as prescribed by this chapter.

SECTION 27.  Sections 33.25(b), (f), and (g), Tax Code, are amended to read as follows:

(b)  The commissioners court of a county by official action may authorize a peace officer or the collector for the county charged with selling property under this subchapter by public auction to enter into an agreement with an auctioneer [~~a person who holds an auctioneer's license~~] to advertise the auction sale of the property and to conduct the auction sale of the property. The agreement may provide for on-line bidding and sale.

(f)  The proceeds of a sale of property under this section shall be applied to:

(1)  any compensation owed to or any expense advanced by the [~~licensed~~] auctioneer under an agreement entered into under Subsection (b) or a service provider under an agreement entered into under Subsection (c);

(2)  all usual costs, expenses, and fees of the seizure and sale, payable to the peace officer conducting the sale;

(3)  all additional expenses incurred in advertising the sale or in removing, storing, preserving, or safeguarding the seized property pending its sale;

(4)  all usual court costs payable to the clerk of the court that issued the tax warrant; and

(5)  taxes, penalties, interest, and attorney's fees included in the application for warrant.

(g)  The peace officer or [~~licensed~~] auctioneer conducting the sale shall pay all proceeds from the sale to the collector designated in the tax warrant for distribution as required by Subsection (f).

SECTION 28.  Section 460.406(c), Transportation Code, is amended to read as follows:

(c)  The board of directors may authorize the negotiation of a contract without competitive sealed bids or proposals if:

(1)  the aggregate amount involved in the contract is less than the greater of:

(A)  $50,000; or

(B)  the amount of an expenditure under a contract that would require a municipality to comply with Section 252.021(a), Local Government Code;

(2)  the contract is for construction for which not more than one bid or proposal is received;

(3)  the contract is for services or property for which there is only one source or for which it is otherwise impracticable to obtain competition, including:

(A)  items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;

(B)  gas, water, and other utility services; and

(C)  captive replacement parts or components for equipment;

(4)  the contract is to respond to an emergency for which the public exigency does not permit the delay incident to the competitive process;

(5)  the contract is for personal, professional, or planning services;

(6)  the contract, without regard to form and which may include bonds, notes, loan agreements, or other obligations, is for the purpose of borrowing money or is a part of a transaction relating to the borrowing of money, including:

(A)  a credit support agreement, such as a line or letter of credit or other debt guaranty;

(B)  a bond, note, debt sale or purchase, trustee, paying agent, remarketing agent, indexing agent, or similar agreement;

(C)  an agreement with a securities dealer, broker, or underwriter; and

(D)  any other contract or agreement considered by the board of directors to be appropriate or necessary in support of the authority's financing activities;

(7)  the contract is for work that is performed and paid for by the day as the work progresses;

(8)  the contract is for the lease or purchase of an interest in land;

(9)  the contract is for the purchase of personal property sold:

(A)  at an auction [~~by a state licensed auctioneer~~];

(B)  at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; or

(C)  by a political subdivision of this state, a state agency, or an entity of the federal government;

(10)  the contract is for services performed by persons who are blind or have severe disabilities;

(11)  the contract is for the purchase of electricity;

(12)  the contract is one for an authority project and awarded for alternate project delivery using the procedures, requirements, and limitations under Subchapters E, F, G, H, and I, Chapter 2269, Government Code; or

(13)  the contract is for fare enforcement officer services under Section 460.1092.

SECTION 29.  Sections 503.024(b) and (d), Transportation Code, are amended to read as follows:

(b)  For the purposes of Section 503.021, a person is not engaging in business as a dealer by:

(1)  selling or offering to sell, if the sale or offer is not made to avoid a requirement of this chapter, a vehicle the person acquired for personal or business use to:

(A)  a person other than a retail buyer if not sold or offered through an [~~a licensed~~] auctioneer; or

(B)  any person if the sale or offer is made through an [~~a licensed~~] auctioneer;

(2)  selling, in a manner provided by law for the forced sale of vehicles, a vehicle in which the person holds a security interest;

(3)  acting under a court order as a receiver, trustee, administrator, executor, guardian, or other appointed person;

(4)  selling a vehicle the person acquired from the vehicle's owner as a result of paying an insurance claim if the person is an insurance company;

(5)  selling an antique passenger car or truck that is at least 25 years of age; or

(6)  selling a special interest vehicle that is at least 12 years of age if the person is a collector.

(d)  For the purposes of Section 503.021, an [~~a licensed~~] auctioneer is not engaging in business as a dealer by, as a bid caller, selling or offering to sell property, including a business that holds the title to any number of vehicles, to the highest bidder at a bona fide auction if:

(1)  legal or equitable title does not pass to the auctioneer;

(2)  the auction is not held to avoid a requirement of this chapter; and

(3)  for an auction of vehicles owned legally or equitably by a person who holds a general distinguishing number, the auction is conducted at the location for which the general distinguishing number was issued.

SECTION 30.  Article 42A.511, Code of Criminal Procedure, as amended by this Act, applies to a defendant placed on community supervision on or after the effective date of this Act, regardless of whether the offense for which the defendant was placed on community supervision was committed before, on, or after the effective date of this Act.

SECTION 31.  On the effective date of this Act:

(1)  the Auctioneer Advisory Board is abolished; and

(2)  money in the auctioneer education and recovery fund is transferred to the general revenue fund.

SECTION 32.  On the effective date of this Act, a pending regulatory action, including a complaint investigation, disciplinary action, or administrative penalty proceeding, of the Texas Department of Licensing and Regulation with respect to a license, permit, or certification issued under a law repealed by this Act, is terminated.

SECTION 33.  On the effective date of this Act, a license, permit, or certification issued under a law repealed by this Act expires.

SECTION 34.  This Act takes effect September 1, 2023.