

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 The following provisions are repealed: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

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

27 (d) A person either convicted or receiving deferred

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

10 (1) the person does not request the weapon before the
11 61st day after the date of the judgment of conviction or the order
12 placing the person on deferred adjudication;

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

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

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

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

26 (e) If the person found in possession of a weapon is
27 convicted of an offense involving the use of the weapon, before the

1 61st day after the date of conviction the court entering judgment of
2 conviction shall order destruction of the weapon, sale at public
3 sale by the law enforcement agency holding the weapon or by an
4 auctioneer [~~licensed under Chapter 1802, Occupations Code~~], or
5 forfeiture to the state for use by the law enforcement agency
6 holding the weapon or by a county forensic laboratory designated by
7 the court. If the court entering judgment of conviction does not
8 order the destruction, sale, or forfeiture of the weapon within the
9 period prescribed by this subsection, the law enforcement agency
10 holding the weapon may request an order of destruction, sale, or
11 forfeiture of the weapon from a magistrate. Only a firearms dealer
12 licensed under 18 U.S.C. Section 923 may purchase a weapon at public
13 sale under this subsection. Proceeds from the sale of a seized
14 weapon under this subsection shall be transferred, after the
15 deduction of court costs to which a district court clerk is entitled
16 under Article 59.05(f), followed by the deduction of auction costs,
17 to the law enforcement agency holding the weapon.

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

20 (a) If a judge grants community supervision to a defendant
21 convicted of an offense under Section 42.09, 42.091, 42.092, or
22 42.10, Penal Code, the judge may require the defendant to[+]

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

26 [(2)] attend a responsible pet owner course sponsored
27 by a municipal animal shelter, as defined by Section 823.001,

1 Health and Safety Code, that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (a) A certificate of insurance coverage or other evidence of
27 coverage showing that either a professional employer organization

1 [~~license holder~~] or a client maintains workers' compensation
2 insurance coverage constitutes proof of workers' compensation
3 insurance coverage for the organization [~~license holder~~] and the
4 client with respect to all covered employees of the organization
5 [~~license holder~~] and the client. The state and a political
6 subdivision of the state shall accept a certificate of insurance
7 coverage or other evidence of coverage described by this section as
8 proof of workers' compensation coverage under Chapter 406.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (a-2) A fully insured welfare benefit plan offered to the
25 covered employees of a professional employer organization [~~license~~
26 ~~holder~~] and provided by an insurance company authorized to provide
27 that insurance in this state or a self-funded health benefit plan

1 sponsored by a professional employer organization [~~license holder~~]
2 as provided by Section 91.0411 shall be treated for purposes of
3 state law as a single employer welfare benefit plan.

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

9 (1) the type of coverage;

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

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

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

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

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

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

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

26 (c) The commissioner may, on notice and opportunity for all
27 interested persons to be heard, adopt rules and issue orders

1 reasonably necessary to augment and implement the regulation of
2 benefit plans sponsored by a professional employer organization
3 [~~license holder~~] that are not fully insured. The commissioner may
4 not adopt a rule that requires clients or covered employees to be
5 members of an association or group in the same trade or industry in
6 order to be covered by a [~~license holder-sponsored~~] benefit plan
7 that is not fully insured. The rules must include all requirements
8 that must be met by the organization [~~license holder~~] and the plan,
9 including:

- 10 (1) initial and final approval requirements;
- 11 (2) authority to prescribe forms and items to be
12 submitted to the commissioner by the organization [~~license holder~~];
- 13 (3) a fidelity bond;
- 14 (4) use of an independent actuary;
- 15 (5) use of a third-party administrator;
- 16 (6) authority for the commissioner to examine an
17 application or a plan;
- 18 (7) the minimum number of clients and covered
19 employees covered by the plan;
- 20 (8) standards for those natural persons managing the
21 plan;
- 22 (9) the minimum amount of gross contributions;
- 23 (10) the minimum amount of written commitment, binder,
24 or policy for stop-loss insurance;
- 25 (11) the minimum amount of reserves; and
- 26 (12) a fee in an amount reasonable and necessary to
27 defray the costs of administering this section to be deposited to

1 the credit of the operating fund of the Texas Department of
2 Insurance.

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

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

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

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

18 (a-1) The client and the professional employer organization
19 shall specify in the professional employer services agreement
20 whether the parties have elected to obtain workers' compensation
21 insurance coverage for the covered employees and shall specify
22 which party must maintain coverage. If the organization [~~license~~
23 ~~holder~~] maintains workers' compensation insurance coverage for the
24 client, an individual who is an executive employee, as described by
25 Section 406.097, of the client is eligible to be treated as an
26 executive employee for premium calculation and classification
27 purposes. A copy of the professional employer services agreement

1 must be provided to the Texas Department of Insurance on request.
2 Information obtained by the Texas Department of Insurance under
3 this section is confidential and not subject to disclosure under
4 Chapter 552, Government Code.

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

13 (c) For workers' compensation insurance purposes, a
14 professional employer organization [~~license holder~~] and the
15 organization's [~~license holder's~~] client shall be coemployers. If
16 either a professional employer organization [~~license holder~~] or a
17 client elects to obtain workers' compensation insurance coverage
18 for covered employees, the client and the organization [~~license~~
19 ~~holder~~] are subject to Sections 406.005, 406.034, 408.001, and
20 411.032.

21 (d) If a professional employer organization [~~license~~
22 ~~holder~~] or a client does not elect to obtain workers' compensation
23 insurance coverage for covered employees, both the organization
24 [~~license holder~~] and the client are subject to Sections 406.004,
25 406.005, 406.033, and 411.032.

26 (e) After the expiration of the two-year period under
27 Subsection (b), if the client elects to obtain workers'

1 compensation insurance coverage for covered employees through
2 coverage maintained by the client, or if the professional employer
3 services agreement is terminated and the client elects to maintain,
4 through coverage maintained by the client or through coverage
5 maintained by a successor professional employer organization,
6 workers' compensation insurance coverage for employees previously
7 covered by the former professional employer organization's policy,
8 the premium for the workers' compensation insurance coverage for
9 the client shall be based on the lower of:

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

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

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

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

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

26 (h) The professional employer organization [~~license holder~~]
27 shall provide the information described by Subsection (g) in

1 writing from the organization's [~~license holder's~~] own records, if
2 the organization [~~license holder~~] is a qualified self-insurer, or
3 from information the organization [~~license holder~~] received from
4 the organization's [~~license holder's~~] workers' compensation
5 insurance provider following the organization's [~~license holder's~~]
6 request under Section 2051.151, Insurance Code, not later than the
7 60th day after the date the organization [~~license holder~~] receives
8 the client's written request. For purposes of this subsection,
9 information is considered to be provided to the client on the date
10 the information is:

- 11 (1) received by the United States Postal Service; or
- 12 (2) personally delivered to the client.

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

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

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

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

- 1 (1) the client; or
2 (2) another professional employer organization
3 ~~[license holder]~~ under a prior professional employer services
4 agreement with that client.

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

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

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

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

- 26 (1) insurance premiums;
27 (2) benefit and welfare plans;

1 (3) other employee withholding; and

2 (4) any other expressed responsibility within the
3 scope of the professional employer services agreement for
4 fulfilling the duties imposed under this section and Sections
5 91.032 and~~[7]~~ 91.047~~[, and 91.048]~~.

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

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

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

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

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

19 SUBCHAPTER E. [~~PROHIBITED ACTS,~~] ENFORCEMENT

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

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

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

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

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

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

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

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

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

27 (1) a procurement made because of a public calamity

1 that requires the immediate appropriation of money to relieve the
2 necessity of the municipality's residents or to preserve the
3 property of the municipality;

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

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

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

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

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

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

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

18 (B) films, manuscripts, or books;

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

20 (D) captive replacement parts or components for
21 equipment;

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

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

1 benefits;

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

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

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

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

15 (12) personal property sold:

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

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

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

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

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

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

3 (15) electricity; or

4 (16) advertising, other than legal notices.

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

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

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

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

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

18 (4) a personal or professional service;

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

23 (6) any land or right-of-way;

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

26 (A) items for which competition is precluded
27 because of the existence of patents, copyrights, secret processes,

1 or monopolies;

2 (B) films, manuscripts, or books;

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

5 (D) captive replacement parts or components for
6 equipment;

7 (8) an item of food;

8 (9) personal property sold:

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

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

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

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

18 (11) vehicle and equipment repairs.

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

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

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

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

5 (1) an attorney licensed in this state;

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

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

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

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

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

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

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

24 (9) a transaction involving:

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

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

1 lot;

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

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

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

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

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

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

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

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

1 into under Subsection (c);

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

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

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

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

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

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

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

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

21 (A) \$50,000; or

22 (B) the amount of an expenditure under a contract
23 that would require a municipality to comply with Section
24 252.021(a), Local Government Code;

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

27 (3) the contract is for services or property for which

1 there is only one source or for which it is otherwise impracticable
2 to obtain competition, including:

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

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

7 (C) captive replacement parts or components for
8 equipment;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (1) selling or offering to sell, if the sale or offer

1 is not made to avoid a requirement of this chapter, a vehicle the
2 person acquired for personal or business use to:

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

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

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

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

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

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

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

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

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

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

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

5 SECTION 30. Article [42A.511](#), Code of Criminal Procedure, as
6 amended by this Act, applies to a defendant placed on community
7 supervision on or after the effective date of this Act, regardless
8 of whether the offense for which the defendant was placed on
9 community supervision was committed before, on, or after the
10 effective date of this Act.

11 SECTION 31. On the effective date of this Act:

- 12 (1) the Auctioneer Advisory Board is abolished; and
13 (2) money in the auctioneer education and recovery
14 fund is transferred to the general revenue fund.

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

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

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