CHAPTER 548

S.B. No. 1701

AN ACT
relating to the franchise arrangements excluded from the Business Opportunity Act.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subsection (b), Section 51.003, Business & Commerce Code, as effective April 1, 2009, is amended to read as follows:

(b) In this chapter, “business opportunity” does not include:

(1) the sale or lease of an established and ongoing business or enterprise that has actively conducted business before the sale or lease, whether composed of one or more than one component business or enterprise, if the sale or lease represents an isolated transaction or series of transactions involving a bona fide change of ownership or control of the business or enterprise or liquidation of the business or enterprise;

(2) a sale by a retailer of goods or services under a contract or other agreement to sell the inventory of one or more ongoing leased departments to a purchaser who is granted the right to sell the goods or services within or adjoining a retail business establishment as a department or division of the retail business establishment;

(3) a transaction that is:

(A) regulated by the Texas Department of Licensing and Regulation, the Texas Department of Insurance, the Texas Real Estate Commission, or the director of the Motor Vehicle Division of the Texas Department of Transportation; and

(B) engaged in by a person licensed by one of those agencies;

(4) a real estate syndication;

(5) a sale or lease to a business enterprise that also sells or leases products, equipment, or supplies or performs services:

(A) that are not supplied by the seller; and

(B) that the purchaser does not use with the seller’s products, equipment, supplies, or services;

(6) the offer or sale of a franchise as described by the Petroleum Marketing Practices Act (15 U.S.C. Section 2801 et seq.) and its subsequent amendments;

(7) the offer or sale of a business opportunity if the seller:

(A) has a net worth of $25 million or more according to the seller’s audited balance sheet as of a date not earlier than the 13th month before the date of the transaction; or

(B) is at least 80 percent owned by another person who:

(i) in writing unconditionally guarantees performance by the person offering the business opportunity plan; and

(ii) has a net worth of more than $25 million according to the person’s most recent audited balance sheet as of a date not earlier than the 13th month before the date of the transaction; or

(8) an arrangement defined as a franchise by 16 C.F.R. Part 436 [Section 436.2(a)] and its subsequent amendments if:

(A) the franchisor complies in all material respects in this state with 16 C.F.R. Part 436 and each order or other action of the Federal Trade Commission; and

(B) before offering for sale or selling a franchise in this state, a person files with the secretary of state a notice containing:
(i) the name of the franchisor;
(ii) the name under which the franchisor intends to transact business; and
(iii) the franchisor’s principal business address.

SECTION 2. This Act takes effect September 1, 2009.

Passed the Senate on April 23, 2009: Yeas 30, Nays 0; passed the House on May 26, 2009: Yeas 144, Nays 0, one present not voting.

Approved June 19, 2009.

Effective September 1, 2009, except as shown in § 1.

CHAPTER 549

S.B. No. 1712

AN ACT
relating to the authority of the Matagorda County Hospital District of Matagorda County, Texas, to lease property.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 1057.106, Special District Local Laws Code, is amended to read as follows:

Sec. 1057.106. LEASES. (a) The board may lease district property, including facilities or equipment, to individuals, companies, corporations, or other legal entities on terms the board determines further the district’s purposes.

(b) The term of a lease under this section may not exceed 99 [25] years.

SECTION 2. 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, 2009.

Passed the Senate on April 16, 2009: Yeas 31, Nays 0; passed the House on May 26, 2009: Yeas 147, Nays 0, one present not voting.

Approved June 19, 2009.


CHAPTER 550

S.B. No. 1771

AN ACT
relating to the availability and continuation of certain health benefit plan coverage.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subtitle A, Title 8, Insurance Code, is amended by adding Chapter 1202A to read as follows:

CHAPTER 1202A. TEMPORARY EXTENSION OF ELECTION PERIOD FOR CONTINUATION OF CERTAIN COVERAGE

Sec. 1202A.001. EXTENSION OF ELECTION PERIOD. (a) For the purposes of this section, an “extended election eligible individual” means an employee, member, dependent, or enrollee:

(1) who became eligible for continuation coverage due to involuntary termination, other than involuntary termination for cause, under Subchapter F, Chapter 1251, or Subchapter 1253