

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2481
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Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to interested parties, recently enacted legislation made several changes to Occupations Code provisions regulating auctioneers, including eliminating the associate auctioneer license, which removed an important path for people working to become a licensed auctioneer through auction experience in lieu of passing an examination. The parties have expressed additional concerns regarding the changes in law and contend that the requirement to have an auctioneer license to perform certain activities may not be necessary. C.S.H.B. 2481 seeks to amend current law to address these concerns.

C.S.H.B. 2481 amends current law relating to the licensing and regulation of auctioneers, associate auctioneers, and auctions, requires an occupational license, and requires a fee.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 3 (Section 1802.004, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1802.001, Occupations Code, by amending Subdivisions (1), (5), and (10) and adding Subdivision (2), to redefine "advisory board," "auctioneer," and "personal property" and to define "associate auctioneer."

SECTION 2. Amends Section 1802.002(a), Occupations Code, as follows:

(a) Provides that this chapter does not apply to certain sales and auctions, including a sale or auction conducted by an auctioneer while the auctioneer is physically located outside of this state, a sale of motor vehicles at auction by a person licensed under Chapter 2301 (Sale or Lease of Motor Vehicles) or 2302 (Salvage Vehicle Dealers), a sale of motor vehicles at auction by a person who holds a wholesale motor vehicle auction general distinguishing number or an independent motor vehicle general distinguishing number issued by the Texas Department of Motor Vehicles, or an auction of property through the Internet.

Deletes existing text providing that this chapter does not apply to a sale conducted by any person of the person's property if the person is not engaged in the business of selling property at auction on a recurring basis. Renumbers subdivision designations appropriate to amendments in this subsection.

SECTION 3. Amends Subchapter A, Chapter 1802, Occupations Code, by adding Section 1802.004, as follows:

Sec. 1802.004. ADVERTISEMENT OF AUCTION. Requires the Texas Commission of Licensing and Regulation (TCLR), by rule, to adopt standards for the advertisement of an auction by an auctioneer or associate auctioneer licensed under this chapter.

SECTION 4. Amends Section 1802.051, Occupations Code, by amending Subsections (a) and (c) and adding Subsection (d), as follows:

(a) Prohibits a person from acting as an auctioneer or associate auctioneer, rather than an auctioneer of real or personal property, in this state unless the person holds a license issued by the executive director of the Texas Department of Licensing and Regulation (executive director; TDLR) under this chapter.

(c) Prohibits an individual who is licensed under this chapter, except as provided by Subsection (d), from acting as an auctioneer for an entity unless the entity:

(1) is an auction company owned or operated by an individual who is licensed under this chapter; or

(2) is a real estate brokerage firm that is operated by a broker licensed by the Texas Real Estate Commission.

Deletes existing Subdivision (2) text prohibiting an individual who is licensed under this chapter from acting as an auctioneer for an entity unless the entity holds a dealer general distinguishing number issued under Subchapter B (General Distinguishing Number), Chapter 503, Transportation Code, and the auction is for the purpose of auctioning vehicles as defined by Section 503.001 (Definitions), Transportation Code.

(d) Authorizes an individual who is licensed under this chapter to conduct an auction to sell motor vehicles, as defined by Section 501.002 (Definitions) or 502.001 (Definitions), Transportation Code, for a person who holds:

(1) a dealer general distinguishing number or a wholesale motor vehicle auction general distinguishing number issued under Subchapter B, Chapter 503, Transportation Code; or

(2) a license issued under Subchapter C (License Requirements), Chapter 2302.

SECTION 5. Amends Section 1802.052(a), Occupations Code, to provide that an individual is eligible for an auctioneer's license if the individual fulfills certain criteria, including the individual shows proof of employment by a licensed auctioneer for at least two years and participation in at least 10 auctions during that employment. Makes nonsubstantive changes.

SECTION 6. Amends Subchapter B, Chapter 1802, Occupations Code, by adding Section 1802.053, as follows:

Sec. 1802.053. ELIGIBILITY FOR ASSOCIATE AUCTIONEER LICENSE. Provides that an individual is eligible for an associate auctioneer license if the individual is:

(1) a citizen of the United States or a legal alien; and

(2) employed under the direct supervision of an auctioneer licensed under this chapter.

SECTION 7. Amends Section 1802.054, Occupations Code, as follows:

Sec. 1802.054. APPLICATION FOR LICENSE. Requires that the application be accompanied by certain fees and information, including the required application fee, rather than required license fee. Makes nonsubstantive changes.

SECTION 8. Amends Section 1802.055, Occupations Code, as follows:

Sec. 1802.055. APPLICATION FOR EXAMINATION. Deletes the designation of Subsection (a) and requires that the application be accompanied by the application fee, rather than examination fee.

Deletes existing Subsection (b) requiring the executive director, on receipt of an examination application and fee, to furnish the applicant with study materials and references on which the examination will be based and a schedule specifying the dates and places the examination will be offered. Deletes existing Subsection (c) authorizing the applicant to take the examination at any scheduled offering not later than the 90th day after the date the applicant receives the study materials.

SECTION 9. Amends Section 1802.059(a), Occupations Code, to require the executive director to accept the applicant's auctioneer's license submitted under Subsection (a)(2) (requiring an applicant for an auctioneer's license that is licensed from another state to submit to the executive director a certified copy of the auctioneer's license issued to the applicant by the state or political subdivision in which the applicant resides) as proof of the applicant's professional competence and waive the examination or employment and training requirements of Section 1802.052 (Eligibility for Auctioneer's License) if the state or political subdivision that issued the nonresident a license extends similar recognition and courtesies to this state.

SECTION 10. Amends the heading to Subchapter C, Chapter 1802, Occupations Code, to read as follows:

SUBCHAPTER C. AUCTIONEER ADVISORY BOARD

SECTION 11. Amends the heading to Section 1802.101, Occupations Code, to read as follows:

Sec. 1802.101. AUCTIONEER ADVISORY BOARD.

SECTION 12. Amends Section 1802.106, Occupations Code, as follows:

Sec. 1802.106. COMPENSATION. Prohibits a member appointed under Section 1802.102(a)(1) (requiring the advisory board to consist of certain members) from receiving compensation for serving on the Auctioneer Advisory Board (advisory board). Deletes the designation of Subdivision (1). Deletes existing Subdivision (2) prohibiting a member appointed under Section 1802.102(a)(1) from receiving reimbursement for expenses.

SECTION 13. Amends Section 1802.107, Occupations Code, as follows:

Sec. 1802.107. MEETINGS. Requires the advisory board to meet at the call of the presiding officer of TCLR or the executive director of TDLR, rather than authorizing the advisory board to meet at other times at the call of the presiding officer of TCLR or executive director. Deletes existing Subsection (a) requiring the advisory board to meet at least quarterly each calendar year. Deletes the designation of Subsection (b).

SECTION 14. Amends Section 2301.362, Occupations Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Authorizes a dealer, except as provided by Subsections (b) and (c), rather than Subsection (b), to only sell or offer to sell a motor vehicle from an established and permanent place of business that meets certain criteria.

(c) Authorizes a dealer to sell, offer to sell, including by consignment, or exchange at a public auction an antique motor vehicle that is at least 25 years of age or a special interest vehicle that is at least 12 years of age or that has been the subject of a retail sale.

(d) Defines "special interest vehicle" for purposes of this section.

SECTION 15. Repealers: Sections 1802.001(12) (defining "recurring basis") and 1802.051(b) (requiring an auctioneer who advertises to conduct an auction in this state to provide the auctioneer's name and license number in the advertisement), Occupations Code.

SECTION 16. Requires TCLR, not later than March 1, 2016, to adopt rules necessary to implement the changes in law made by this Act.

SECTION 17. (a) Provides that, notwithstanding Chapter 1802, Occupations Code, as amended by this Act, a person is not required to hold a license issued under that chapter to act as an associate auctioneer until March 1, 2016.

(b) Authorizes an individual who was licensed by TDLR as an associate auctioneer on or before June 14, 2013, to apply the individual's work experience participating in auctions as an associate auctioneer on or before June 14, 2013, toward the individual's eligibility for an auctioneer's license under Chapter 1802, Occupations Code.

SECTION 18. Effective date: September 1, 2015.