

1 AN ACT

2 relating to the exemption from regulation of certain charitable,
3 religious, or civic organizations engaged in auction activities.

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

5 SECTION 1. Section 1802.002, Occupations Code, is amended
6 to read as follows:

7 Sec. 1802.002. APPLICABILITY. This chapter does not apply
8 to:

9 (1) a sale conducted by order of a United States court
10 under Title 11, United States Code;

11 (2) a sale conducted by an employee of the United
12 States, this state, or a political subdivision of this state in the
13 course and scope of employment;

14 (3) a sale conducted by a charitable, religious, or
15 civic [or nonprofit] organization, including an organization
16 having a tax exempt status under Section 501(c), Internal Revenue
17 Code of 1986, or organized as a nonprofit entity, if the person
18 organizing, arranging, or conducting the auction [auctioneer]
19 receives no compensation;

20 (4) a sale conducted by an individual of the
21 individual's property if the individual is not engaged in the
22 business of selling property as an auctioneer on a recurring basis;

23 (5) a foreclosure sale of real property personally
24 conducted by a trustee under a deed of trust;

1 (6) a foreclosure sale of personal property personally
2 conducted by:

3 (A) a person who holds a security interest in the
4 property, including a mortgage; or

5 (B) an employee or agent of a person described by
6 Paragraph (A) acting in the course and scope of employment, if:

7 (1) the employee or agent is not otherwise
8 engaged in the auction business; and

9 (11) all property for sale in the auction is
10 subject to a security agreement;

11 (7) a sale conducted by sealed bid;

12 (8) an auction conducted only for student training
13 purposes as part of a course of study approved by the executive
14 director for auctioneers;

15 (9) an auction conducted by a posted stockyard or
16 market agency as defined by the federal Packers and Stockyards Act
17 (7 U.S.C. Section 181 et seq.), as amended;

18 (10) an auction of livestock conducted by a nonprofit
19 livestock trade association chartered in this state, if the auction
20 involves only the sale of livestock owned by members of the trade
21 association; or

22 (11) an auction conducted by a charitable or nonprofit
23 organization chartered in this state, if the auction:

24 (A) is part of a fair that is organized under
25 state, county, or municipal authority; and

26 (B) involves only the sale of property owned by
27 the organization's members.

1 SECTION 2. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2007.

David Newkirk

President of the Senate

Jim Cradick

Speaker of the House

I certify that H.B. No. 365 was passed by the House on March 28, 2007, by the following vote: Yeas 145, Nays 0, 2 present, not voting.

Robert Haney
Chief Clerk of the House

I certify that H.B. No. 365 was passed by the Senate on May 10, 2007, by the following vote: Yeas 31, Nays 0.

Letsy Spaw
Secretary of the Senate

APPROVED: 24 MAY 07

Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3:45 P.M. '07

MAY 21 2007
Roger Williams