

By: Kolkhorst

S.B. No. 1982

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain motor vehicle auctions.

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

SECTION 1. Section 1802.002(a), Occupations Code, is amended to read as follows:

(a) This chapter does not apply to:

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

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

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

(4) 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;

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

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

(A) a person who holds a security interest in the

1 property, including a mortgage; or

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

4 (i) the employee or agent is not otherwise
5 engaged in the auction business; and

6 (ii) all property for sale in the auction is
7 subject to a security agreement;

8 (7) a sale conducted by sealed bid without the option
9 of increasing or decreasing the amount of a bid;

10 (8) an auction conducted only for student training
11 purposes as part of a course of study approved by the department;

12 (9) an auction conducted by a posted stockyard or
13 market agency as defined by the federal Packers and Stockyards Act
14 (7 U.S.C. Section 181 et seq.), as amended;

15 (10) an auction of livestock conducted by a nonprofit
16 livestock trade association chartered in this state, if the auction
17 involves only the sale of livestock owned by members of the trade
18 association;

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

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

23 (B) involves only the sale of property owned by
24 the organization's members; ~~or~~

25 (12) a sale or auction conducted outside of this
26 state;

27 (13) a sale of motor vehicles at auction by a person

1 licensed under Chapter 2301 or 2302; or

2 (14) a sale of motor vehicles at auction by a person
3 who holds a wholesale motor vehicle auction general distinguishing
4 number or an independent motor vehicle general distinguishing
5 number issued by the Texas Department of Motor Vehicles.

6 SECTION 2. Section 1802.051, Occupations Code, is amended
7 by amending Subsection (c) and adding Subsection (d) to read as
8 follows:

9 (c) Except as provided by Subsection (d), an ~~[An]~~ individual
10 who is licensed under this chapter may not act as an auctioneer for
11 an entity unless the entity:

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

14 ~~(2) [holds a dealer general distinguishing number~~
15 ~~issued under Subchapter B, Chapter 503, Transportation Code, and~~
16 ~~the auction is for the purpose of auctioning vehicles as defined by~~
17 ~~Section 503.001, Transportation Code; or~~

18 ~~[(3)]~~ is a real estate brokerage firm that is operated
19 by a broker licensed by the Texas Real Estate Commission.

20 (d) An individual who is licensed under this chapter may
21 conduct an auction to sell motor vehicles, as defined by Section
22 501.002 or 502.001, Transportation Code, if the individual conducts
23 the auction for a person who holds a dealer general distinguishing
24 number or wholesale motor vehicle auction general distinguishing
25 number issued under Subchapter B, Chapter 503, Transportation Code,
26 or a license issued under Subchapter C, Chapter 2302, of this code.

27 SECTION 3. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2015.