

Chapter 859

S.B. No. 938

1 AN ACT

2 relating to an exemption from the franchise tax and certain filing
3 fees for certain businesses owned by veterans during an initial
4 period of operation in the state.

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

6 SECTION 1. Subchapter A, Chapter 12, Business Organizations
7 Code, is amended by adding Section 12.005 to read as follows:

8 Sec. 12.005. FEE WAIVER FOR NEW VETERAN-OWNED BUSINESS.

9 The secretary of state shall waive all fees imposed under
10 Subchapter D, Chapter 4, for an entity that is a new veteran-owned
11 business as defined by Section 171.0005, Tax Code, until the
12 earlier of:

13 (1) the fifth anniversary of the date on which the
14 entity was formed; or

15 (2) the date the entity ceases to qualify as a new
16 veteran-owned business as defined by Section 171.0005, Tax Code.

17 SECTION 2. Section 171.0001(4), Tax Code, is amended to
18 read as follows:

19 (4) "Beginning date" means:

20 (A) except as provided by Paragraph (B):

21 (i) for a taxable entity chartered or
22 organized in this state, the date on which the taxable entity's
23 charter or organization takes effect; and

24 (ii) [~~B~~] for any other taxable entity,

1 the date on which the taxable entity begins doing business in this
2 state; or

3 (B) for a taxable entity that qualifies as a new
4 veteran-owned business as defined by Section 171.0005, the earlier
5 of:

6 (i) the fifth anniversary of the date on
7 which the taxable entity begins doing business in this state; or

8 (ii) the date the taxable entity ceases to
9 qualify as a new veteran-owned business as defined by Section
10 171.0005.

11 SECTION 3. Effective January 1, 2026, Section 171.0001(4),
12 Tax Code, is amended to read as follows:

13 (4) "Beginning date" means:

14 (A) for a taxable entity chartered or organized
15 in this state, the date on which the taxable entity's charter or
16 organization takes effect; and

17 (B) for any other taxable entity, the date on
18 which the taxable entity begins doing business in this state.

19 SECTION 4. Subchapter A, Chapter 171, Tax Code, is amended
20 by adding Section 171.0005 to read as follows:

21 Sec. 171.0005. DEFINITION OF NEW VETERAN-OWNED BUSINESS.

22 (a) A taxable entity is a new veteran-owned business only if the
23 taxable entity is a new business in which each owner is a natural
24 person who:

25 (1) served in and was honorably discharged from a
26 branch of the United States armed forces; and

27 (2) provides verification to the comptroller of the

1 person's service and discharge required by Subdivision (1).

2 (b) The Texas Veterans Commission shall provide to a person
3 who meets the requirements of Subsection (a)(1) written
4 verification of that status in a form required by the comptroller.
5 The comptroller shall adopt rules prescribing the form and content
6 of the verification and the manner in which the verification may be
7 provided to the comptroller.

8 (c) For purposes of Subsection (a), a new business is a
9 taxable entity that:

10 (1) is chartered or organized or otherwise formed in
11 this state; and

12 (2) first begins doing business in this state on or
13 after January 1, 2022.

14 SECTION 5. Section 171.001, Tax Code, is amended by adding
15 Subsection (d) to read as follows:

16 (d) Notwithstanding Subsection (a), the tax imposed under
17 this chapter is not imposed on a taxable entity that qualifies as a
18 new veteran-owned business as defined by Section 171.0005 until the
19 earlier of:

20 (1) the fifth anniversary of the date on which the
21 taxable entity begins doing business in this state; or

22 (2) the date the taxable entity ceases to qualify as a
23 new veteran-owned business as defined by Section 171.0005.

24 SECTION 6. Section 171.063(g), Tax Code, is amended to read
25 as follows:

26 (g) If a corporation's federal tax exemption is withdrawn by
27 the Internal Revenue Service for failure of the corporation to

1 qualify or maintain its qualification for the exemption, the
2 corporation's exemption under this section ends on the effective
3 date of that withdrawal by the Internal Revenue Service. The
4 effective date of the withdrawal is considered the corporation's
5 beginning date for purposes of determining the corporation's
6 privilege periods and for all other purposes of this chapter,
7 except that if the corporation would have been subject to Section
8 171.001(d) in the absence of the federal tax exemption, and the
9 effective date of the withdrawal is a date earlier than the date the
10 corporation would have become subject to the franchise tax as
11 provided by Section 171.001(d), the date the corporation would have
12 become subject to the franchise tax under that section is
13 considered the corporation's beginning date for those purposes.

14 SECTION 7. Effective January 1, 2026, Section 171.063(g),
15 Tax Code, is amended to read as follows:

16 (g) If a corporation's federal tax exemption is withdrawn by
17 the Internal Revenue Service for failure of the corporation to
18 qualify or maintain its qualification for the exemption, the
19 corporation's exemption under this section ends on the effective
20 date of that withdrawal by the Internal Revenue Service. The
21 effective date of the withdrawal is considered the corporation's
22 beginning date for purposes of determining the corporation's
23 privilege periods and for all other purposes of this chapter.

24 SECTION 8. Section 171.204, Tax Code, is amended by adding
25 Subsection (d) to read as follows:

26 (d) The comptroller may require a taxable entity on which
27 the tax imposed under this chapter is not imposed solely because of

1 the application of Section 171.001(d) to file an information report
2 stating the taxable entity's beginning date as determined under
3 Section 171.0001(4)(B) and any other information the comptroller
4 determines necessary. The comptroller may not require the taxable
5 entity to report or compute its margin.

6 SECTION 9. Effective January 1, 2026, the following
7 provisions are repealed:

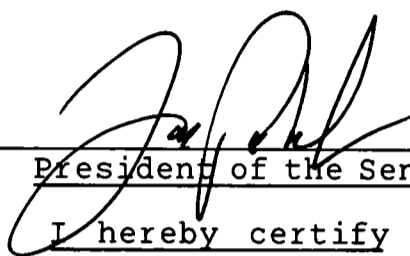
- 8 (1) Section 12.005, Business Organizations Code;
- 9 (2) Section 171.0005, Tax Code;
- 10 (3) Section 171.001(d), Tax Code; and
- 11 (4) Section 171.204(d), Tax Code.

12 SECTION 10. The changes in law made by this Act that take
13 effect January 1, 2026, do not apply to a business that first
14 qualifies before that date as a new veteran-owned business as
15 defined by Section 171.0005, Tax Code, as that section exists
16 immediately before that date. A business that first qualifies
17 before January 1, 2026, as a new veteran-owned business is governed
18 by the law in effect immediately before that date, and that law is
19 continued in effect for that purpose.

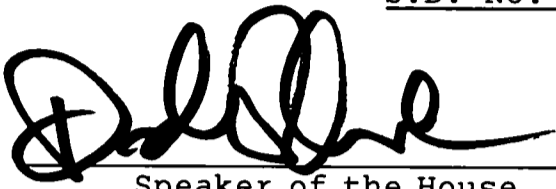
20 SECTION 11. The agency is required to implement this Act
21 only if the legislature appropriates money specifically for that
22 purpose. If the legislature does not appropriate money
23 specifically for that purpose, the commission may, but is not
24 required to, implement this Act using other appropriations
25 available for the purpose.

26 SECTION 12. Except as otherwise provided by this Act, this
27 Act takes effect January 1, 2022.

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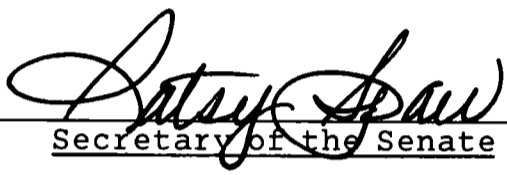


President of the Senate



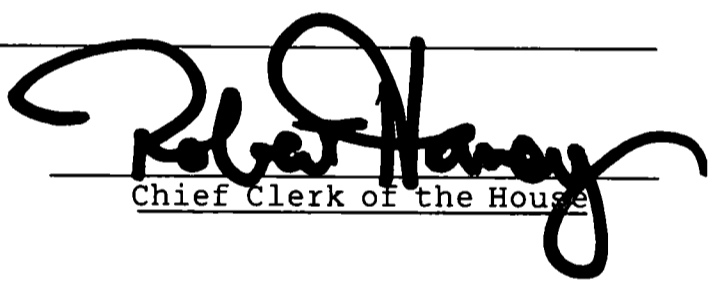
Speaker of the House

I hereby certify that S.B. No. 938 passed the Senate on April 13, 2021, by the following vote: Yeas 31, Nays 0. _____



Secretary of the Senate

I hereby certify that S.B. No. 938 passed the House on May 25, 2021, by the following vote: Yeas 104, Nays 1, one present not voting. _____



Chief Clerk of the House

Approved:

6-14-21

Date



Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2 pm O'CLOCK

JUN 16 2021



Secretary of State