

Guide to “Going Out Of Business” Sales

What is a “Going out of business sale”?

- The Texas Business & Commerce Code, Chapter 17.81, Definition - **“going out of business sale”** means an offer to sell to the public, or the sale to the public of, goods, wares, and merchandise on the implied or direct representation by written or oral advertising that the sale is in anticipation of the termination of all of the operations of a business at all of its locations in a county and in all of the counties immediately adjacent to that county.

What does a business need to conduct this type of sale?

- A business/person who conducts a “going out of business” sale must file an application with an original inventory list/report with the Appraisal District for the county in which the person’s principal place of business is located. The application and original inventory must be accompanied by a filing fee of \$20.00.

Why does a business need to submit an application with the Appraisal District?

- The 77th Legislature amended The Texas Business & Commerce Code chapter 17 subchapter F. Those sections require a business/person that is going out of business to file an application with inventories of unsold items and acquire a permit with the Appraisal District.

Why is an application required for this type of sale?

- The purpose of this statute is to protect consumers from being victimized by fictitious sales conducted by businesses/persons who have no intention of closing their business.

What happens after an application is submitted?

- Once the application is submitted and approved, a permit shall be issued by the Chief Appraiser, which is valid for 120 days from the date of issuance. The permit holder shall post the permit in a noticeable place at the business location conducting the sale.
- Before the end of each 30-day period during the “going out of business sale” the permit holder shall file with the Chief Appraiser a sale inventory containing a complete and detailed list of the original inventory that has not been sold.
- A sale inventory must list items offered on the beginning date of the sale separately from the items added to the sale inventory after that date.
- A final inventory list is to be filed within 30 days after the day that the going out of business sale ends.
- After the permit expires, the permit holder may not sell at retail an item offered at the sale covered by the permit.

- The permit is non-renewable
- A business/person may not conduct a “going out of business” sale beginning within two years after the ending date of the most recent going out of business sale conducted by the business.
- A business/person commits a Class A misdemeanor for violating the provisions of the Texas Business and Commerce Code, Chapter 17, subchapter F.

What happens if a business/person fails to acquire a permit?

- The business/person who conducts a “going out of business” sale commits an offense. An offense under this section is a Class A misdemeanor

Are there any exceptions to this requirement?

- Yes, Texas Business and Commerce Code, Chapter 17, subchapter F does not apply to
 - A sale conducted by a public officer as part of the officer’s official duties
 - A sale for which an accounting must be made to a court of law
 - A sale conducted pursuant to an order of a court or
 - A foreclosure sale pursuant to a deed of trust or other lien