

Texas Business & Commerce Code (2001)  
Chapter 17 - Deceptive Trade Practices  
Subchapter F - Going Out of Business Sales

**§17.81 Definition**

In this chapter "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.

**§17.82 Prohibited Conduct**

- (a) A person may not conduct a sale advertised with the phrase "going out of business," "closing out," "shutting doors forever," or "bankruptcy sale"; the word "foreclosure" or "bankruptcy"; or a similar phrase or word indicating that an enterprise is ceasing business unless the business is closing all of its operations in a county and in all of the counties immediately adjacent to that county and follows the procedures required by this subchapter.
- (b) A person may not fraudulently represent that the person is conducting a going out of business sale.

**§17.83 Business & Commerce Code**

- (a) To conduct a going out of business sale, a person must file an original inventory with the chief appraiser of the appraisal district in which the person's principal place of business in the state is located. The original inventory must be accompanied by a filing fee of \$20.
- (b) The original inventory must include:
  - (1) the name and address of the owner of the goods, wares, or merchandise to be sold;
  - (2) the name and address of the owner of the defunct business, the former stock in trade of which is to be offered for sale, and the full name of the defunct business;
  - (3) a description of the place where the liquidation sale is to be held;
  - (4) a statement of the beginning and ending dates of the sale;
  - (5) a complete and detailed inventory of the goods, wares, and merchandise to be offered on the beginning date of the sale and the total cost of those items; and
  - (6) a complete and detailed list of the goods, wares, and merchandise to be added to the inventory after the beginning date of the sale and the total cost of those items.

**§17.835 Notice of Filing of Original Inventory**

Not later than the fifth business day after the date on which a person files an original inventory under Section 17.83, the chief appraiser shall send notice of the filing to the comptroller, the county clerk of the county in which the person's principal place of business in the state is located, and the tax collector for each of the taxing units that tax the property described in the original inventory

### **§17.84 Permit**

- (a) After receiving an original inventory, the chief appraiser shall issue to the applicant a permit for a going out of business sale. The permit is valid for 120 days after the day that it is issued and is not renewable.
- (b) The permit holder must post the permit in a conspicuous place at the location of the going out of business sale.
- (c) Before advertising a going out of business sale, the permit holder shall deliver a copy of the permit to the person publishing or broadcasting the advertisement.

### **§17.85 Deadline for Orders**

A person may not sell an item at a going out of business sale if the person ordered the item after the beginning date of the sale.

### **§17.86 Sale Inventory**

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 goods, wares, and merchandise listed in the original inventory that have not been sold before the date that the sale inventory is filed. 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.

### **§17.87 Final Inventory**

Within 30 days after the day that the going out of business sale ends, the permit holder shall file with the chief appraiser a final inventory. The final inventory must include:

- (1) the name and address of the permit holder;
- (2) a statement of the disposition of the items listed in the original inventory that were not sold during the going out of business sale and the name and address of any person purchasing those items after the ending date of the sale; and
- (3) a description of the place where the sale was held.

### **§17.88 Disposition of Sale Items**

After a permit expires, the permit holder may not sell at retail an item offered at the sale covered by the permit.

### **§17.89 Later Sales**

A 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 person.

### **§17.90 Form of Inventory**

An inventory filed under this subchapter must be in the form of a sworn affidavit.

## **§17.91 Exceptions**

This subchapter does not apply to:

- (1) a sale conducted by a public officer as part of the officer's official duties;
- (2) a sale for which an accounting must be made to a court of law;
- (3) a sale conducted pursuant to an order of a court; or
- (4) a foreclosure sale pursuant to a deed of trust or other lien

## **§17.92 Penalty**

- (a) A person commits an offense if the person:
  - (1) conducts a sale in violation of Section 17.82 of this code;
  - (2) conducts a going out of business sale without a valid permit issued under Section 17.84 of this code;
  - (3) sells an item at a going out of business sale in violation of Section 17.85 of this code;
  - (4) fails to file an inventory required by Section 17.86 or 17.87 of this code; or
  - (5) sells an item at retail in violation of Section 17.88 of this code.
- (b) An offense under this section is a Class A misdemeanor.
- (c) Each day of violation constitutes a separate offense.

## **§17.93 Injunction**

The attorney general may bring an action to enjoin a violation of this subchapter.