A BILL TO BE ENTITLED

AN ACT

relating to state preemption of certain municipal and county regulation.

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

SECTION 1. This Act shall be known as the Texas Regulatory Consistency Act.

SECTION 2. The legislature finds that:

(1) the state has historically been the exclusive regulator of many aspects of commerce and trade in this state;

(2) in recent years, several local jurisdictions have sought to establish their own regulations of commerce that are different than the state’s regulations; and

(3) the local regulations have led to a patchwork of regulations that apply inconsistently across this state.

SECTION 3. The purpose of this Act is to provide statewide consistency by returning sovereign regulatory powers to the state where those powers belong in accordance with Section 5, Article XI, Texas Constitution.

SECTION 4. This Act may not be construed to prohibit:

(1) a municipality or county from building or maintaining a road or imposing a tax; or

(2) a home-rule municipality from providing the same services a general-law municipality is authorized to provide.

SECTION 5. Chapter 1, Agriculture Code, is amended by
adding Section 1.004 to read as follows:

Sec. 1.004. FIELD PREEMPTION. Unless expressly authorized by another statute, a municipality or county may not adopt, enforce, or maintain an ordinance, order, or rule regulating conduct in a field of regulation that is occupied by a provision of this code. An ordinance, order, or rule that violates this section is void, unenforceable, and inconsistent with this code.

SECTION 6. Chapter 1, Business & Commerce Code, is amended by adding Section 1.109 to read as follows:

Sec. 1.109. FIELD PREEMPTION. Unless expressly authorized by another statute, a municipality or county may not adopt, enforce, or maintain an ordinance, order, or rule regulating conduct in a field of regulation that is occupied by a provision of this code. An ordinance, order, or rule that violates this section is void, unenforceable, and inconsistent with this code.

SECTION 7. Title 5, Civil Practice and Remedies Code, is amended by adding Chapter 102A to read as follows:

CHAPTER 102A. MUNICIPAL AND COUNTY LIABILITY FOR PREEMPTED REGULATION

Sec. 102A.001. DEFINITION. In this chapter, "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation, any legal or commercial entity, or protected or registered series of a for-profit entity.

Sec. 102A.002. LIABILITY FOR CERTAIN PREEMPTED REGULATION. Any person who has sustained an injury in fact, actual or
threatened, from a municipal or county ordinance, order, or rule
adopted or enforced by a municipality, county, or municipal or
county official acting in an official capacity in violation of any
of the following provisions or a membership association
representing the person has standing to bring and may bring an
action against the municipality, county, or official:

(1) Section 1.004, Agriculture Code;
(2) Section 1.109, Business & Commerce Code;
(3) Section 1.004, Finance Code;
(4) Section 30.005, Insurance Code;
(5) Section 1.005, Labor Code;
(6) Section 1.003, Natural Resources Code;
(7) Section 1.004, Occupations Code; or
(8) Section 1.004, Property Code.

Sec. 102A.003. REMEDIES. A claimant is entitled to recover
in an action brought under this chapter:

(1) compensatory damages for the costs and reasonable
attorney's fees incurred in defending against an action brought by
the defendant to enforce the law that is the basis for the action;
(2) declaratory and injunctive relief; and
(3) costs and reasonable attorney's fees.

Sec. 102A.004. IMMUNITY WAIVER AND PROHIBITED DEFENSES.
(a) Governmental immunity of a municipality or county to suit and
from liability is waived to the extent of liability created by this
chapter.
(b) Official and qualified immunity may not be asserted as a
defense in an action brought under this chapter.
Sec. 102A.005. VENUE. (a) Notwithstanding any other law, including Chapter 15, a claimant may bring an action under this chapter in:

(1) the county in which all or a substantial part of the events giving rise to the cause of action occurred;

(2) if the defendant is a municipality or municipal official, a county in which the municipality is located or a county contiguous to a county in which the municipality is located; or

(3) if the defendant is a county or county official, a county contiguous to the county.

(b) If the action is brought in a venue authorized by this section, the action may not be transferred to a different venue without the written consent of all parties.

SECTION 8. Chapter 1, Finance Code, is amended by adding Section 1.004 to read as follows:

Sec. 1.004. FIELD PREEMPTION. Unless expressly authorized by another statute, a municipality or county may not adopt, enforce, or maintain an ordinance, order, or rule regulating conduct in a field of regulation that is occupied by a provision of this code. An ordinance, order, or rule that violates this section is void, unenforceable, and inconsistent with this code.

SECTION 9. Chapter 30, Insurance Code, is amended by adding Section 30.005 to read as follows:

Sec. 30.005. FIELD PREEMPTION. Unless expressly authorized by another statute, a municipality or county may not adopt, enforce, or maintain an ordinance, order, or rule regulating conduct in a field of regulation that is occupied by a provision of
this code. An ordinance, order, or rule that violates this section
is void, unenforceable, and inconsistent with this code.

SECTION 10. Chapter 1, Labor Code, is amended by adding
Section 1.005 to read as follows:

Sec. 1.005. FIELD PREEMPTION. (a) Unless expressly
authorized by another statute, a municipality or county may not
adopt, enforce, or maintain an ordinance, order, or rule regulating
conduct in a field of regulation that is occupied by a provision of
this code. An ordinance, order, or rule that violates this section
is void, unenforceable, and inconsistent with this code.

(b) For purposes of Subsection (a), a field occupied by a
provision of this code includes employment leave, hiring practices,
breaks, employment benefits, scheduling practices, and any other
terms of employment that exceed or conflict with federal or state
law for employers other than a municipality or county.

SECTION 11. Chapter 1, Natural Resources Code, is amended
by adding Section 1.003 to read as follows:

Sec. 1.003. FIELD PREEMPTION. Unless expressly authorized
by another statute, a municipality or county may not adopt,
reserve, or maintain an ordinance, order, or rule regulating
conduct in a field of regulation that is occupied by a provision of
this code. An ordinance, order, or rule that violates this section
is void, unenforceable, and inconsistent with this code.

SECTION 12. Chapter 1, Occupations Code, is amended by
adding Section 1.004 to read as follows:

Sec. 1.004. FIELD PREEMPTION. Unless expressly authorized
by another statute, a municipality or county may not adopt,
enforce, or maintain an ordinance, order, or rule regulating conduct in a field of regulation that is occupied by a provision of this code. An ordinance, order, or rule that violates this section is void, unenforceable, and inconsistent with this code.

SECTION 13. Chapter 1, Property Code, is amended by adding Section 1.004 to read as follows:

Sec. 1.004. FIELD PREEMPTION. Unless expressly authorized by another statute, a municipality or county may not adopt, enforce, or maintain an ordinance, order, or rule regulating conduct in a field of regulation that is occupied by a provision of this code. An ordinance, order, or rule that violates this section is void, unenforceable, and inconsistent with this code.

SECTION 14. Chapter 102A, Civil Practice and Remedies Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act.

SECTION 15. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.