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OPINION COMMITTEE

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Honorable Greg Abbott
Texas Attorney General
Opinions Division
P O Box 12518, Capitol Station
Austin, Texas 78711-2548

Re: Interpretation of Section 145.002 of the Texas Civil Practices and Remedies Code
As applicable to Landscape Contractors and Nurserymen

Dear General Abbott:

I respectfully request an opinion on the following interpretation of Section 145.002 of the Texas Civil Practices and Remedies Code, as it applies to Landscape Contractors and Nurserymen.

Under Section 145.001, the following definitions are listed:

- (1) "In-home service company" means a person who employs a person to enter another person's residence and for a fee repair:
 - (A) an appliance;
 - (B) the residence's heating, air-conditioning & ventilation system;
 - (C) the residence's plumbing system; or
 - (D) the residence's electrical system.
- (2) "residential delivery company" means a person who employs a person to, for a fee:
 - (A) deliver an item to another person's residence; and
 - (B) enter the residence to place, assemble, or install the item.

Section 145.002. - Criminal History Background Check.

An in-home service company or residential delivery company shall obtain from the Department of Public Safety or a private vendor approved by the department and offering services comparable to the services offered by the department all criminal history record information relating to an officer, employee, or prospective employee of the company whose job duties require or will require entry into another person's residence.

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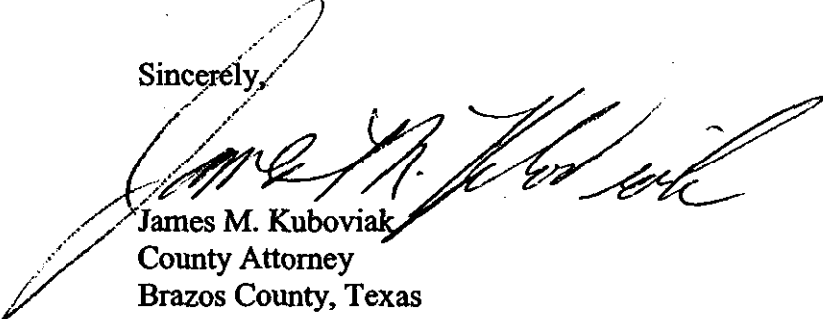
My First Question is: Does the employee background check established in the referenced statute apply to installers and repairmen of lawn sprinkler and landscape lighting systems?

If the answer is in the affirmative, then the Second Question is: Would the entry into the attached garage by a non-electrician or a non-plumber who is not a delivery person, be such a person as would be required to undergo a background search as set forth in section 145.002 of the Texas Civil Practices and Remedies Code? Since nursery and landscaping operations, in repairing and installing sprinklers and landscape lighting would involve only low voltage systems, and the connection to the electrical system of a residence could be made inside an attached garage and the waterline connection would be made outside the residence.

My Third and Final Question, "Would the statewide Electrician licensing act passed in 2003 specifically exempt this type of activity that nurserymen and landscape contractors engage in when installing lawn sprinklers and yard lighting"?

On behalf of the Brazos County Tax Assessor Collector, I wish to thank you for your time and attention on the issuance of this opinion.

Sincerely,



James M. Kuboviak
County Attorney
Brazos County, Texas