

By: J. Davis of Harris

H.B. No. 1711

A BILL TO BE ENTITLED
AN ACT

relating to disaster remediation contracts; providing penalties.

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

SECTION 1. Title 4, Business & Commerce Code, is amended by adding Chapter 57 to read as follows:

CHAPTER 57. DISASTER REMEDIATION CONTRACTS

Sec. 57.001. DEFINITIONS. In this chapter:

(1) "Disaster remediation" means the removal, cleaning, sanitizing, demolition, reconstruction, or other treatment of improvements to real property performed because of damage or destruction to that property caused by a natural disaster.

(2) "Disaster remediation contractor" means a person who engages in disaster remediation for compensation.

(3) "Natural disaster" means the occurrence of widespread or severe damage, injury, or loss of life or property related to any natural cause, including fire, flood, earthquake, wind, storm, or wave action, that results in a disaster declaration by the governor under Chapter 418, Government Code.

(4) "Person" means an individual, corporation, trust, partnership, association, or other private legal entity.

Sec. 57.002. APPLICABILITY OF CHAPTER. This chapter applies to a contract between a person and a disaster remediation contractor for the performance of disaster remediation services on property owned or leased by the person.

Sec. 57.003. DISASTER REMEDIATION CONTRACT REQUIREMENTS; CERTAIN CONDUCT PROHIBITED. (a) A contract subject to this chapter must be in writing.

(b) A disaster remediation contractor:

(1) may not require a person to make a full or partial payment under a contract before the contractor begins work;

(2) may not require that the amount of any partial payment under the contract exceed an amount reasonably proportionate to the work performed; and

(3) shall include in any contract for disaster remediation services the following statement in conspicuous, boldfaced type of at least 10 points in size: "This contract is subject to Chapter 57, Business & Commerce Code. A contractor may not require a full or partial payment before the contractor begins work and may not require partial payments in an amount that exceeds an amount reasonably proportionate to the work performed."

Sec. 57.004. DECEPTIVE TRADE PRACTICE. A violation of this chapter by a disaster remediation contractor is a false, misleading, or deceptive act or practice as defined by Section 17.46(b), and any remedy under Subchapter E, Chapter 17, is available for a violation of this chapter.

Sec. 57.005. CRIMINAL PENALTY. (a) A disaster remediation contractor commits an offense if the contractor violates this chapter.

(b) An offense under this section is a Class B misdemeanor.

(c) Venue for an offense under this section is in the county in which the offense is committed.

Sec. 57.006. WAIVER OF CHAPTER PROHIBITED. A person may not waive this chapter by contract or other means. A purported waiver of this chapter is void.

SECTION 2. The change in law made by this Act applies only to a contract for the performance of disaster remediation services that is entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2011.