

BILL ANALYSIS

C.S.H.B. 1711
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Economic & Small Business Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

During the time period following natural disasters, consumers are especially vulnerable to deceptive trade practices. To protect consumers who need improvements to their property because of damage or destruction caused by a natural disaster, contractors involved in the disaster remediation process should not be allowed to require an upfront payment. C.S.H.B. 1711 seeks to improve access to reliable and responsible disaster remediation contractors in the state of Texas by establishing disaster remediation contract requirements and prohibiting certain conduct in connection with a disaster remediation contract.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1711 amends the Business & Commerce Code to require a disaster remediation contract between a person and a disaster remediation contractor to be in writing if the contract is for the performance of disaster remediation services on property owned or leased by the person. The bill defines "disaster remediation contractor" to mean a person who engages in disaster remediation for compensation, other than a person who has a permit, license, registration, or other authorization from the Texas Commission on Environmental Quality for the collection, transportation, treatment, storage, processing, or disposal of solid waste.

C.S.H.B. 1711 prohibits the contractor from requiring the person to make a full or partial payment under such a contract before the contractor begins work and from requiring that the amount of any partial payment under the contract exceed an amount reasonably proportionate to the work performed, including any materials delivered. The bill requires a disaster remediation contractor to include in any contract for disaster remediation services a statement of those prohibited actions relating to the contract and provides the wording and format for the statement.

C.S.H.B. 1711 makes a violation of its provisions by a disaster remediation contractor a false, misleading, or deceptive act or practice and makes available for a violation of the bill's provisions any remedy under provisions of law relating to deceptive trade practices and consumer protection. The bill prohibits a person from waiving the bill's provisions by contract or other means and makes a purported waiver void. The bill defines "disaster remediation," "natural disaster," and "person" for purposes of its provisions.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1711, in provisions defining "disaster remediation contractor," contains a provision not included in the original specifying that the term does not include a person who has a permit, license, registration, or other authorization from the Texas Commission on Environmental Quality for certain purposes.

C.S.H.B. 1711, in provisions prohibiting any partial payment under a disaster remediation contract from exceeding a certain amount and requiring the prohibition to be included in the required statement in a contract for disaster remediation services, contains a provision not included in the original specifying that the amount that may not be exceeded includes any materials delivered.

C.S.H.B. 1711 omits a provision included in the original establishing a criminal penalty for a violation of its provisions.