

By: J. Davis of Harris

H.B. No. 1711

A BILL TO BE ENTITLED

AN ACT

relating to disaster remediation contracts.

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, 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.

(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,

1 partnership, association, or other private legal entity.

2 Sec. 57.002. APPLICABILITY OF CHAPTER. (a) Except as
3 provided by Subsection (b), this chapter applies to a contract
4 between a person and a disaster remediation contractor for the
5 performance of disaster remediation services on property owned or
6 leased by the person.

7 (b) This chapter does not apply to a contract between a
8 person and a disaster remediation contractor for the performance of
9 disaster remediation services on property owned or leased by the
10 person if the contractor maintains for at least one year preceding
11 the date of the contract a physical business address in:

- 12 (1) the county in which the property is located; or
13 (2) a county adjacent to the county in which the
14 property is located.

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

18 (b) A disaster remediation contractor:

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

21 (2) may not require that the amount of any partial
22 payment under the contract exceed an amount reasonably
23 proportionate to the work performed, including any materials
24 delivered; and

25 (3) shall include in any contract for disaster
26 remediation services the following statement in conspicuous,
27 boldfaced type of at least 10 points in size: "This contract is

1 subject to Chapter 57, Business & Commerce Code. A contractor may
2 not require a full or partial payment before the contractor begins
3 work and may not require partial payments in an amount that exceeds
4 an amount reasonably proportionate to the work performed, including
5 any materials delivered."

6 Sec. 57.004. DECEPTIVE TRADE PRACTICE. A violation of this
7 chapter by a disaster remediation contractor is a false,
8 misleading, or deceptive act or practice as defined by Section
9 17.46(b), and any remedy under Subchapter E, Chapter 17, is
10 available for a violation of this chapter.

11 Sec. 57.005. WAIVER OF CHAPTER PROHIBITED. A person may not
12 waive this chapter by contract or other means. A purported waiver
13 of this chapter is void.

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

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