

1-1 By: J. Davis of Harris (Senate Sponsor - Jackson) H.B. No. 1711
1-2 (In the Senate - Received from the House April 27, 2011;
1-3 May 2, 2011, read first time and referred to Committee on Economic
1-4 Development; May 13, 2011, reported favorably by the following
1-5 vote: Yeas 6, Nays 0; May 13, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to disaster remediation contracts.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Title 4, Business & Commerce Code, is amended by
1-11 adding Chapter 57 to read as follows:

1-12 CHAPTER 57. DISASTER REMEDIATION CONTRACTS

1-13 Sec. 57.001. DEFINITIONS. In this chapter:

1-14 (1) "Disaster remediation" means the removal,
1-15 cleaning, sanitizing, demolition, reconstruction, or other
1-16 treatment of improvements to real property performed because of
1-17 damage or destruction to that property caused by a natural
1-18 disaster.

1-19 (2) "Disaster remediation contractor" means a person
1-20 who engages in disaster remediation for compensation, other than a
1-21 person who has a permit, license, registration, or other
1-22 authorization from the Texas Commission on Environmental Quality
1-23 for the collection, transportation, treatment, storage,
1-24 processing, or disposal of solid waste.

1-25 (3) "Natural disaster" means the occurrence of
1-26 widespread or severe damage, injury, or loss of life or property
1-27 related to any natural cause, including fire, flood, earthquake,
1-28 wind, storm, or wave action, that results in a disaster declaration
1-29 by the governor under Chapter 418, Government Code.

1-30 (4) "Person" means an individual, corporation, trust,
1-31 partnership, association, or other private legal entity.

1-32 Sec. 57.002. APPLICABILITY OF CHAPTER. (a) Except as
1-33 provided by Subsection (b), this chapter applies to a contract
1-34 between a person and a disaster remediation contractor for the
1-35 performance of disaster remediation services on property owned or
1-36 leased by the person.

1-37 (b) This chapter does not apply to a contract between a
1-38 person and a disaster remediation contractor for the performance of
1-39 disaster remediation services on property owned or leased by the
1-40 person if the contractor maintains for at least one year preceding
1-41 the date of the contract a physical business address in:

1-42 (1) the county in which the property is located; or

1-43 (2) a county adjacent to the county in which the
1-44 property is located.

1-45 Sec. 57.003. DISASTER REMEDIATION CONTRACT REQUIREMENTS;
1-46 CERTAIN CONDUCT PROHIBITED. (a) A contract subject to this chapter
1-47 must be in writing.

1-48 (b) A disaster remediation contractor:

1-49 (1) may not require a person to make a full or partial
1-50 payment under a contract before the contractor begins work;

1-51 (2) may not require that the amount of any partial
1-52 payment under the contract exceed an amount reasonably
1-53 proportionate to the work performed, including any materials
1-54 delivered; and

1-55 (3) shall include in any contract for disaster
1-56 remediation services the following statement in conspicuous,
1-57 boldfaced type of at least 10 points in size: "This contract is
1-58 subject to Chapter 57, Business & Commerce Code. A contractor may
1-59 not require a full or partial payment before the contractor begins
1-60 work and may not require partial payments in an amount that exceeds
1-61 an amount reasonably proportionate to the work performed, including
1-62 any materials delivered."

1-63 Sec. 57.004. DECEPTIVE TRADE PRACTICE. A violation of this
1-64 chapter by a disaster remediation contractor is a false,

2-1 misleading, or deceptive act or practice as defined by Section
2-2 17.46(b), and any remedy under Subchapter E, Chapter 17, is
2-3 available for a violation of this chapter.

2-4 Sec. 57.005. WAIVER OF CHAPTER PROHIBITED. A person may not
2-5 waive this chapter by contract or other means. A purported waiver
2-6 of this chapter is void.

2-7 SECTION 2. The change in law made by this Act applies only
2-8 to a contract for the performance of disaster remediation services
2-9 that is entered into on or after the effective date of this Act. A
2-10 contract entered into before the effective date of this Act is
2-11 governed by the law in effect on the date the contract was entered
2-12 into, and the former law is continued in effect for that purpose.

2-13 SECTION 3. This Act takes effect September 1, 2011.

2-14

* * * * *