

By: Cyrier

H.B. No. 1185

A BILL TO BE ENTITLED

AN ACT

relating to limitations on adjudication awards arising from certain written contracts with state agencies.

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

SECTION 1. Section 114.002, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 114.002. APPLICABILITY. This chapter applies only to a claim for breach of a written contract that is related to real property or improvements to real property and is for engineering, architectural, or construction services or for materials related to engineering, architectural, or construction services, brought by a party to the written contract, in which the amount in controversy is not less than \$250,000, excluding penalties, costs, expenses, prejudgment interest, and attorney's fees.

SECTION 2. Section 114.004, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 114.004. LIMITATIONS ON ADJUDICATION AWARDS. (a) The total amount of money awarded in an adjudication brought against a state agency for breach of an express provision of a contract subject to this chapter is limited to the following:

(1) the balance due and owed by the state agency under the contract as it may have been amended, including any amount owed as compensation for the increased cost to perform the work as a direct result of owner-caused delays or acceleration [~~if the~~

1 ~~contract expressly provides for that compensation];~~

2 (2) the amount owed for written change orders;

3 (3) reasonable and necessary attorney's fees that are
4 equitable and just [~~based on an hourly rate that are equitable and~~
5 ~~just if the contract expressly provides that recovery of attorney's~~
6 ~~fees is available to all parties to the contract)]; and~~

7 (4) interest at the rate specified by the contract or,
8 if a rate is not specified, the rate for postjudgment interest under
9 Section 304.003(c), Finance Code, but not to exceed 10 percent.

10 (b) Damages awarded in an adjudication brought against a
11 state agency arising under a contract subject to this chapter may
12 not include:

13 (1) consequential damages, except as expressly
14 allowed under Subsection (a)(1);

15 (2) exemplary damages; or

16 (3) damages for unabsorbed home office overhead.

17 SECTION 3. Chapter 114, Civil Practice and Remedies Code,
18 as amended by this Act, applies only to a claim arising under a
19 contract executed on or after the effective date of this Act. A
20 claim that arises under a contract executed before the effective
21 date of this Act is governed by the law as it existed immediately
22 before the effective date of this Act, and that law is continued in
23 effect for that purpose.

24 SECTION 4. This Act takes effect September 1, 2019.