

AN ACT

relating to restrictions under disaster remediation contracts;
creating a criminal offense.

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

SECTION 1. Sections 58.001(1) and (2), Business & Commerce
Code, are amended to read as follows:

(1) "Disaster remediation" means the removal,
cleaning, sanitizing, demolition, reconstruction, or other
treatment of existing 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, but does not include an
entity approved by the Internal Revenue Service as tax exempt under
Section 501(c)(3), Internal Revenue Code of 1986.

SECTION 2. Section 58.004, Business & Commerce Code, is
amended to read as follows:

Sec. 58.004. PENALTIES [~~DECEPTIVE TRADE PRACTICE~~]. (a) A
violation of this chapter by a disaster remediation contractor is a
false, misleading, or deceptive act or practice as defined by

1 Section 17.46(b), and any remedy under Subchapter E, Chapter 17, is
2 available for a violation of this chapter.

3 (b) A disaster remediation contractor who violates Section
4 58.003(b)(1) or (2) commits an offense. An offense under this
5 section is:

6 (1) a Class B misdemeanor if the offense was committed
7 without the intent to defraud the person contracting for disaster
8 remediation services; or

9 (2) a felony of the third degree if the offense was
10 committed with the intent to defraud the person contracting for
11 disaster remediation services.

12 (c) It is a defense to prosecution under this section if the
13 disaster remediation contractor refunds any payment made in
14 violation of Section 58.003(b)(1) or (2) not later than the 15th day
15 following the receipt of a written demand alleging a violation of
16 Section 58.003(b)(1) or (2) sent by certified mail to the disaster
17 remediation contractor's last known business address or the address
18 of the disaster remediation contractor's registered agent.

19 SECTION 3. The changes in law made by this Act apply only to
20 a disaster remediation contract entered into on or after the
21 effective date of this Act. A disaster remediation contract
22 entered into before the effective date of this Act is governed by
23 the law in effect when the contract was entered into, and the former
24 law is continued in effect for that purpose.

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

H.B. No. 2856

President of the Senate

Speaker of the House

I certify that H.B. No. 2856 was passed by the House on May 3, 2019, by the following vote: Yeas 134, Nays 6, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2856 on May 24, 2019, by the following vote: Yeas 135, Nays 5, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2856 was passed by the Senate, with amendments, on May 22, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor