

By: Leach

H.B. No. 2899

A BILL TO BE ENTITLED

AN ACT

relating to civil liability and responsibility for defects in the plans, specifications, or other documents for the construction or repair of roads, highways, and related improvements.

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

SECTION 1. Title 6, Transportation Code, is amended by adding Chapter 473 to read as follows:

CHAPTER 473. RESPONSIBILITY FOR DEFECTS IN PLANS AND SPECIFICATIONS

Sec. 473.001. DEFINITIONS. In this chapter:

(1) "Contract" means a contract for the construction or repair of a road or highway of any number of lanes, with or without grade separation, owned or operated by a governmental entity, and any improvement, extension, or expansion to that road or highway, including:

(A) an improvement to relieve traffic congestion and promote safety;

(B) a bridge, tunnel, overpass, underpass, interchange, service road ramp, entrance plaza, approach, or tollhouse; and

(C) a parking area or structure, rest stop, park, or other improvement or amenity the governmental entity considers necessary, useful, or beneficial for the operation of a road or highway.

1           (2) "Contractor" means a person who is required to  
2 perform work under a contract.

3           (3) "Governmental entity" means (A) the Texas  
4 Department of Transportation or (B) any political subdivision of  
5 the state that is acting under Chapter 284, Chapter 366, Chapter  
6 370, or Chapter 431 of the Transportation Code.

7           (4) "Project specifications" means plans, reports,  
8 designs, or specifications prepared by a governmental entity, or by  
9 a third party retained by a governmental entity under separate  
10 contract.

11           Sec. 473.002 APPLICABILITY OF CHAPTER TO GOVERNMENTAL  
12 ENTITIES. This chapter applies to a governmental entity authorized  
13 by state law to make a contract and to any contractor with whom a  
14 governmental entity enters into a contract.

15           Sec. 473.003. LIMITATION ON CONTRACTOR'S RESPONSIBILITY  
16 FOR CERTAIN DEFECTS. (a) A contractor who enters into a contract  
17 as defined by this chapter with a governmental entity is not civilly  
18 liable or otherwise responsible for the accuracy, adequacy,  
19 sufficiency, suitability, or feasibility of any project  
20 specifications and is not liable for any damage that is caused by:

21                   (1) a defect in those project specifications; or

22                   (2) the errors, omissions, or negligent acts of a  
23 governmental entity, or of a third party retained by a governmental  
24 entity under separate contract, in the rendition or conduct of  
25 professional duties arising out of or related to the project  
26 specifications.

27           (b) A covenant or promise in a contract governed by this

1 chapter is void and unenforceable to the extent it conflicts with  
2 subsection (a).

3 SECTION 2. (a) The changes in law made by this Act do not  
4 apply to a contract that is entered into before the effective date  
5 of this Act. Such a contract is governed by the law in effect when  
6 the contract was entered into, and the former law is continued in  
7 effect for that purpose.

8 (b) A contract subject to this chapter with a governmental  
9 entity that is entered into before the effective date of this Act,  
10 and any subcontract or purchase order for furnishing labor or  
11 materials associated with that contract, regardless of whether the  
12 purchase order is entered into before, on, or after the effective  
13 date of this Act, is governed by the law in effect when the original  
14 contract was entered into, and the former law is continued in effect  
15 for that purpose.

16 SECTION 3. This Act takes effect immediately if it receives  
17 a vote of two-thirds of all the members elected to each house, as  
18 provided by Section 39, Article III, Texas Constitution. If this  
19 Act does not receive the vote necessary for immediate effect, this  
20 Act takes effect September 1, 2019.