

By: Hughes

S.B. No. 737

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to adjudication of claims arising from certain written  
3 contracts with state agencies.

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

5 SECTION 1. Section 114.003, Civil Practice and Remedies  
6 Code, is amended to read as follows:

7 Sec. 114.003. WAIVER OF IMMUNITY TO SUIT FOR CERTAIN  
8 CLAIMS. A state agency that is authorized by statute or the  
9 constitution to enter into a contract and that enters into a  
10 contract subject to this chapter waives sovereign immunity to suit  
11 for the purpose of adjudicating a claim for breach [~~of an express~~  
12 ~~provision~~] of the contract, subject to the terms and conditions of  
13 this chapter.

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

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

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

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

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

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

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

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

14           (2) exemplary damages; or

15           (3) damages for unabsorbed home office overhead.

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

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