

By: Morrison

H.B. No. 3422

A BILL TO BE ENTITLED

1 AN ACT
2 relating to restrictions under disaster remediation contracts;
3 providing a civil penalty.

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

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

7 (1) "Disaster remediation" means the removal,
8 cleaning, sanitizing, demolition, reconstruction, or other
9 treatment of existing improvements to real property performed
10 because of damage or destruction to that property caused by a
11 natural disaster.

12 (2) "Disaster remediation contractor" means a person
13 who engages in disaster remediation for compensation, other than a
14 person who has a permit, license, registration, or other
15 authorization from the Texas Commission on Environmental Quality
16 for the collection, transportation, treatment, storage,
17 processing, or disposal of solid waste, but does not include an
18 entity approved by the Internal Revenue Service as tax exempt under
19 Section 501(c)(3), Internal Revenue Code of 1986.

20 SECTION 2. Section 58.003(b), Business & Commerce Code, is
21 amended to read as follows:

22 (b) A disaster remediation contractor:

23 (1) may not require a person to make a full or partial
24 payment under a contract before the contractor begins work, unless

1 the amount of such payment is held in escrow;

2 (2) may not require that the amount of any partial
3 payment under the contract exceed an amount reasonably
4 proportionate to the work performed, including any materials
5 delivered; and

6 (3) shall include in any contract for disaster
7 remediation services the following statement in conspicuous,
8 boldfaced type of at least 10 points in size: "This contract is
9 subject to Chapter 58, Business & Commerce Code. A contractor may
10 not require a full or partial payment before the contractor begins
11 work and may not require partial payments in an amount that exceeds
12 an amount reasonably proportionate to the work performed, including
13 any materials delivered."

14 SECTION 3. Section 58.004, Business & Commerce Code, is
15 amended to read as follows:

16 Sec. 58.004. DECEPTIVE TRADE PRACTICE; CIVIL PENALTY. (a)
17 A violation of this chapter by a disaster remediation contractor is
18 a false, misleading, or deceptive act or practice as defined by
19 Section 17.46(b), and any remedy under Subchapter E, Chapter 17, is
20 available for a violation of this chapter.

21 (b) A disaster remediation contractor who violates Section
22 58.003(b)(1) or (2) is liable to this state for a civil penalty in
23 an amount of not more than:

24 (1) \$500 for each violation that was committed without
25 the intent to defraud the person contracting for disaster
26 remediation services; or

27 (2) \$2,000 for each violation that was committed with

1 the intent to defraud the person contracting for disaster
2 remediation services.

3 (c) The attorney general may bring an action in the name of
4 this state against a disaster remediation contractor that violates
5 Section 58.003(b)(1) or (2) for recovery of a civil penalty imposed
6 under Subsection (b).

7 (d) An action under Subsection (c) may be brought in a
8 district court in:

9 (1) Travis County; or

10 (2) a county in which any part of the violation occurs.

11 SECTION 4. The changes in law made by this Act apply only to
12 a disaster remediation contract entered into on or after the
13 effective date of this Act. A disaster remediation contract
14 entered into before the effective date of this Act is governed by
15 the law in effect when the contract was entered into, and the former
16 law is continued in effect for that purpose.

17 SECTION 5. This Act takes effect September 1, 2021.