

BILL ANALYSIS

Senate Research Center

H.B. 1711
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Economic Development
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the time period following natural disasters consumers are especially vulnerable to deceptive trade practices. To protect consumers from bad players in the industry, contractors involved in the disaster remediation process should not be allowed to require an upfront payment. H.B. 1711 seeks to improve access to reliable and responsible disaster remediation contractors in the State of Texas.

H.B. 1711 amends current law relating to disaster remediation contracts.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 4, Business & Commerce Code, by adding Chapter 57, as follows:

CHAPTER 57. DISASTER REMEDIATION CONTRACTS

Sec. 57.001. DEFINITIONS. Defines, in this chapter, "disaster remediation," "disaster remediation contractor," "natural disaster," and "person."

Sec. 57.002. APPLICABILITY OF CHAPTER. (a) Provides that, except as provided by Subsection (b), this chapter applies to a contract between a person and a disaster remediation contractor for the performance of disaster remediation services on property owned or leased by the person.

(b) Provides that this chapter does not apply to a contract between a person and a disaster remediation contractor for the performance of disaster remediation services on property owned or leased by the person if the contractor maintains for at least one year preceding the date of the contract a physical business address in:

- (1) the county in which the property is located; or
- (2) a county adjacent to the county in which the property is located.

Sec. 57.003. DISASTER REMEDIATION CONTRACT REQUIREMENTS; CERTAIN CONDUCT PROHIBITED. (a) Requires that a contract subject to this chapter be in writing.

(b) Provides that a disaster remediation contractor:

- (1) is prohibited from requiring a person to make a full or partial payment under a contract before the contractor begins work;

(2) is prohibited from requiring that the amount of any partial payment under the contract exceed an amount reasonably proportionate to the work performed, including any materials delivered; and

(3) is required to include in any contract for disaster remediation services the following statement in conspicuous, boldfaced type of at least 10 points in size: "This contract is subject to Chapter 57, Business & Commerce Code. A contractor may not require a full or partial payment before the contractor begins work and may not require partial payments in an amount that exceeds an amount reasonably proportionate to the work performed, including any materials delivered."

Sec. 57.004. **DECEPTIVE TRADE PRACTICE.** Provides that a violation of this chapter by a disaster remediation contractor is a false, misleading, or deceptive act or practice as defined by Section 17.46(b) (defining "false, misleading, or deceptive acts or practices"), and any remedy under Subchapter E (Deceptive Trade Practices and Consumer Protection), Chapter 17 (Deceptive Trade Practices), is available for a violation of this chapter.

Sec. 57.005. **WAIVER OF CHAPTER PROHIBITED.** Prohibits a person from waiving this chapter by contract or other means. Provides that a purported waiver of this chapter is void.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2011.