

1-1 By: Morrison (Senate Sponsor - Kolkhorst) H.B. No. 2856
 1-2 (In the Senate - Received from the House May 6, 2019;
 1-3 May 6, 2019, read first time and referred to Committee on Business
 1-4 & Commerce; May 20, 2019, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
 1-6 May 20, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16			X	
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 2856 By: Nichols

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to restrictions under disaster remediation contracts;
 1-22 creating a criminal offense.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Sections 58.001(1) and (2), Business & Commerce
 1-25 Code, are amended to read as follows:

1-26 (1) "Disaster remediation" means the removal,
 1-27 cleaning, sanitizing, demolition, reconstruction, or other
 1-28 treatment of existing improvements to real property performed
 1-29 because of damage or destruction to that property caused by a
 1-30 natural disaster.

1-31 (2) "Disaster remediation contractor" means a person
 1-32 who engages in disaster remediation for compensation, other than a
 1-33 person who has a permit, license, registration, or other
 1-34 authorization from the Texas Commission on Environmental Quality
 1-35 for the collection, transportation, treatment, storage,
 1-36 processing, or disposal of solid waste, but does not include an
 1-37 entity approved by the Internal Revenue Service as tax exempt under
 1-38 Section 501(c)(3), Internal Revenue Code of 1986.

1-39 SECTION 2. Section 58.004, Business & Commerce Code, is
 1-40 amended to read as follows:

1-41 Sec. 58.004. PENALTIES [~~DECEPTIVE TRADE PRACTICE~~]. (a) A
 1-42 violation of this chapter by a disaster remediation contractor is a
 1-43 false, misleading, or deceptive act or practice as defined by
 1-44 Section 17.46(b), and any remedy under Subchapter E, Chapter 17, is
 1-45 available for a violation of this chapter.

1-46 (b) A disaster remediation contractor who violates Section
 1-47 58.003(b)(1) or (2) commits an offense. An offense under this
 1-48 section is:

1-49 (1) a Class B misdemeanor if the offense was committed
 1-50 without the intent to defraud the person contracting for disaster
 1-51 remediation services; or

1-52 (2) a felony of the third degree if the offense was
 1-53 committed with the intent to defraud the person contracting for
 1-54 disaster remediation services.

1-55 (c) It is a defense to prosecution under this section if the
 1-56 disaster remediation contractor refunds any payment made in
 1-57 violation of Section 58.003(b)(1) or (2) not later than the 15th day
 1-58 following the receipt of a written demand alleging a violation of
 1-59 Section 58.003(b)(1) or (2) sent by certified mail to the disaster
 1-60 remediation contractor's last known business address or the address

2-1 of the disaster remediation contractor's registered agent.

2-2 SECTION 3. The changes in law made by this Act apply only to
2-3 a disaster remediation contract entered into on or after the
2-4 effective date of this Act. A disaster remediation contract
2-5 entered into before the effective date of this Act is governed by
2-6 the law in effect when the contract was entered into, and the former
2-7 law is continued in effect for that purpose.

2-8 SECTION 4. This Act takes effect September 1, 2019.

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