

1-1 By: Kolkhorst S.B. No. 985
 1-2 (In the Senate - Filed February 21, 2019; March 1, 2019,
 1-3 read first time and referred to Committee on Business & Commerce;
 1-4 April 30, 2019, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 30, 2019,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-8 | | | | |
| 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 S.B. No. 985 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 58.003(b), Business & Commerce Code, is
 1-40 amended to read as follows:

1-41 (b) A disaster remediation contractor:

1-42 (1) may not require a person to make a full or partial
 1-43 payment under a contract before the contractor begins work, unless
 1-44 the amount of such payment is held in escrow with an escrow officer
 1-45 who meets the requirements of Section 2652.001, Insurance Code;

1-46 (2) may not require that the amount of any partial
 1-47 payment under the contract exceed an amount reasonably
 1-48 proportionate to the work performed, including any materials
 1-49 delivered; and

1-50 (3) shall include in any contract for disaster
 1-51 remediation services the following statement in conspicuous,
 1-52 boldfaced type of at least 10 points in size: "This contract is
 1-53 subject to Chapter 58, Business & Commerce Code. A contractor may
 1-54 not require a full or partial payment before the contractor begins
 1-55 work and may not require partial payments in an amount that exceeds
 1-56 an amount reasonably proportionate to the work performed, including
 1-57 any materials delivered."

1-58 SECTION 3. Section 58.004, Business & Commerce Code, is
 1-59 amended to read as follows:

1-60 Sec. 58.004. PENALTIES [~~DECEPTIVE TRADE PRACTICE~~]. (a) A

2-1 violation of this chapter by a disaster remediation contractor is a
2-2 false, misleading, or deceptive act or practice as defined by
2-3 Section 17.46(b), and any remedy under Subchapter E, Chapter 17, is
2-4 available for a violation of this chapter.

2-5 (b) A disaster remediation contractor who violates Section
2-6 58.003(b)(1) or (2) commits an offense. An offense under this
2-7 section is:

2-8 (1) a Class B misdemeanor if the offense was committed
2-9 without the intent to defraud the person contracting for disaster
2-10 remediation services; or

2-11 (2) a felony of the third degree if the offense was
2-12 committed with the intent to defraud the person contracting for
2-13 disaster remediation services.

2-14 (c) It is a defense to prosecution under this section if the
2-15 disaster remediation contractor refunds any payment made in
2-16 violation of Section 58.003(b)(1) or (2) not later than the 15th day
2-17 following the receipt of a written demand alleging a violation of
2-18 Section 58.003(b)(1) or (2) sent by certified mail to the disaster
2-19 remediation contractor's last known business address or the address
2-20 of the disaster remediation contractor's registered agent.

2-21 SECTION 4. The changes in law made by this Act apply only to
2-22 a disaster remediation contract entered into on or after the
2-23 effective date of this Act. A disaster remediation contract
2-24 entered into before the effective date of this Act is governed by
2-25 the law in effect when the contract was entered into, and the former
2-26 law is continued in effect for that purpose.

2-27 SECTION 5. This Act takes effect September 1, 2019.

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