

BUSINESS AND COMMERCE CODE

TITLE 4. BUSINESS OPPORTUNITIES AND AGREEMENTS

CHAPTER 58. DISASTER REMEDIATION CONTRACTS

Sec. 58.001. DEFINITIONS. In this chapter:

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

(2) "Disaster remediation contractor" means a person who engages in disaster remediation for compensation, other than a person who has a permit, license, registration, or other authorization from the Texas Commission on Environmental Quality for the collection, transportation, treatment, storage, processing, or disposal of solid waste.

(3) "Natural disaster" means the occurrence of widespread or severe damage, injury, or loss of life or property related to any natural cause, including fire, flood, earthquake, wind, storm, or wave action, that results in a disaster declaration by the governor or a local disaster declaration by a county judge under Chapter 418, Government Code.

(4) "Person" means an individual, corporation, trust, partnership, association, or other private legal entity.

Added by Acts 2011, 82nd Leg., R.S., Ch. 979 (H.B. 1711), Sec. 1, eff. September 1, 2011.

Redesignated from Business and Commerce Code, Chapter 57 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(2), eff. September 1, 2013.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 270 (H.B. 762), Sec. 1, eff. September 1, 2013.

Sec. 58.002. APPLICABILITY OF CHAPTER. (a) 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) 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.

Added by Acts 2011, 82nd Leg., R.S., Ch. 979 (H.B. 1711), Sec. 1, eff. September 1, 2011.

Redesignated from Business and Commerce Code, Chapter 57 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(2), eff. September 1, 2013.

Sec. 58.003. DISASTER REMEDIATION CONTRACT REQUIREMENTS; CERTAIN CONDUCT PROHIBITED. (a) A contract subject to this chapter must be in writing.

(b) A disaster remediation contractor:

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

(2) may not require 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) shall 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 58, 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."

Added by Acts 2011, 82nd Leg., R.S., Ch. 979 (H.B. 1711), Sec. 1, eff. September 1, 2011.

Redesignated from Business and Commerce Code, Chapter 57 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(2), eff.

September 1, 2013.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(1), eff. September 1, 2013.

Sec. 58.004. DECEPTIVE TRADE PRACTICE. 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), and any remedy under Subchapter E, Chapter 17, is available for a violation of this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 979 (H.B. 1711), Sec. 1, eff. September 1, 2011.

Redesignated from Business and Commerce Code, Chapter 57 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(2), eff. September 1, 2013.

Sec. 58.005. WAIVER OF CHAPTER PROHIBITED. A person may not waive this chapter by contract or other means. A purported waiver of this chapter is void.

Added by Acts 2011, 82nd Leg., R.S., Ch. 979 (H.B. 1711), Sec. 1, eff. September 1, 2011.

Redesignated from Business and Commerce Code, Chapter 57 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(2), eff. September 1, 2013.