

CIVIL PRACTICE AND REMEDIES CODE
TITLE 5. GOVERNMENTAL LIABILITY
CHAPTER 114. ADJUDICATION OF CLAIMS ARISING UNDER WRITTEN
CONTRACTS WITH STATE AGENCIES

Sec. 114.001. DEFINITIONS. In this chapter:

(1) "Adjudication" of a claim means the bringing of a civil suit and prosecution to final judgment in county or state court.

(2) "Contract subject to this chapter" means a written contract stating the essential terms of the agreement for providing goods or services to the state agency that is properly executed on behalf of the state agency. The term does not include a contract that is subject to Section 201.112, Transportation Code.

(3) "State agency" means an agency, department, commission, bureau, board, office, council, court, or other entity that is in any branch of state government and that is created by the constitution or a statute of this state, including a university system or a system of higher education. The term does not include a county, municipality, court of a county or municipality, special purpose district, or other political subdivision of this state.
Added by Acts 2013, 83rd Leg., R.S., Ch. 1260 (H.B. 586), Sec. 1, eff. September 1, 2013.

Sec. 114.002. APPLICABILITY. This chapter applies only to a claim for breach of a written contract for engineering, architectural, or construction services or for materials related to engineering, architectural, or construction services brought by a party to the written contract, in which the amount in controversy is not less than \$250,000, excluding penalties, costs, expenses, prejudgment interest, and attorney's fees.
Added by Acts 2013, 83rd Leg., R.S., Ch. 1260 (H.B. 586), Sec. 1, eff. September 1, 2013.

Sec. 114.003. WAIVER OF IMMUNITY TO SUIT FOR CERTAIN CLAIMS. A state agency that is authorized by statute or the constitution to enter into a contract and that enters into a

contract subject to this chapter waives sovereign immunity to suit for the purpose of adjudicating a claim for breach of an express provision of the contract, subject to the terms and conditions of this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1260 (H.B. 586), Sec. 1, eff. September 1, 2013.

Sec. 114.004. LIMITATIONS ON ADJUDICATION AWARDS. (a) The total amount of money awarded in an adjudication brought against a state agency for breach of an express provision of a contract subject to this chapter is limited to the following:

(1) the balance due and owed by the state agency under the contract as it may have been amended, including any amount owed as compensation for the increased cost to perform the work as a direct result of owner-caused delays or acceleration if the contract expressly provides for that compensation;

(2) the amount owed for written change orders;

(3) reasonable and necessary attorney's fees based on an hourly rate that are equitable and just if the contract expressly provides that recovery of attorney's fees is available to all parties to the contract; and

(4) interest at the rate specified by the contract or, if a rate is not specified, the rate for postjudgment interest under Section 304.003(c), Finance Code, but not to exceed 10 percent.

(b) Damages awarded in an adjudication brought against a state agency arising under a contract subject to this chapter may not include:

(1) consequential damages;

(2) exemplary damages; or

(3) damages for unabsorbed home office overhead.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1260 (H.B. 586), Sec. 1, eff. September 1, 2013.

Sec. 114.005. CONTRACTUAL ADJUDICATION PROCEDURES ENFORCEABLE. Adjudication procedures, including requirements for serving notices or engaging in alternative dispute resolution proceedings before bringing a suit or an arbitration proceeding,

that are stated in the contract subject to this chapter or that are established by the state agency and expressly incorporated into the contract are enforceable, except to the extent those procedures conflict with the terms of this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1260 (H.B. 586), Sec. 1, eff. September 1, 2013.

Sec. 114.006. NO WAIVER OF OTHER DEFENSES. This chapter does not waive a defense or a limitation on damages available to a party to a contract, other than a bar against suit based on sovereign immunity.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1260 (H.B. 586), Sec. 1, eff. September 1, 2013.

Sec. 114.007. NO WAIVER OF IMMUNITY TO SUIT IN FEDERAL COURT. This chapter does not waive sovereign immunity to suit in federal court.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1260 (H.B. 586), Sec. 1, eff. September 1, 2013.

Sec. 114.008. NO WAIVER OF IMMUNITY TO SUIT FOR TORT LIABILITY. This chapter does not waive sovereign immunity to a claim arising from a cause of action for negligence, fraud, tortious interference with a contract, or any other tort.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1260 (H.B. 586), Sec. 1, eff. September 1, 2013.

Sec. 114.009. EMPLOYMENT CONTRACTS EXEMPT. This chapter does not apply to an employment contract between a state agency and an employee of that agency.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1260 (H.B. 586), Sec. 1, eff. September 1, 2013.

Sec. 114.010. VENUE. A suit under this chapter may be brought in a district court in:

(1) a county in which the events or omissions giving rise to the claim occurred; or

(2) a county in which the principal office of the state agency is located.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1260 (H.B. 586), Sec. 1, eff. September 1, 2013.

Sec. 114.011. LIMITATION ON REMEDIES. Satisfaction and payment of any judgment under this chapter may not be paid from funds appropriated to the state agency from general revenue unless the funds are specifically appropriated for that purpose. Property of the state or any agency, department, or office of the state is not subject to seizure, attachment, garnishment, or any other creditors' remedy to satisfy a judgment taken under this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1260 (H.B. 586), Sec. 1, eff. September 1, 2013.

Sec. 114.012. EXCLUSIVE REMEDY. A claim to which this chapter applies may not be brought under Chapter 2260, Government Code, against the state or a unit of state government as defined by Section 2260.001, Government Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1260 (H.B. 586), Sec. 1, eff. September 1, 2013.

Sec. 114.013. REPORT. Before January 1 of each even-numbered year, each state agency shall report to the governor, the comptroller, and each house of the legislature the cost of defense to the state agency and the office of the attorney general in an adjudication brought against the agency under a contract subject to this chapter. Included in the report shall be the amount claimed in any adjudication pending on the date of the report.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1260 (H.B. 586), Sec. 1, eff. September 1, 2013.