

CIVIL PRACTICE AND REMEDIES CODE

TITLE 4. LIABILITY IN TORT

CHAPTER 95. PROPERTY OWNER'S LIABILITY FOR ACTS OF INDEPENDENT
CONTRACTORS AND AMOUNT OF RECOVERY

Sec. 95.001. DEFINITIONS. In this chapter:

(1) "Claim" means a claim for damages caused by negligence, including a counterclaim, cross-claim, or third party claim.

(2) "Claimant" means a party making a claim subject to this chapter.

(3) "Property owner" means a person or entity that owns real property primarily used for commercial or business purposes.

Added by Acts 1995, 74th Leg., ch. 136, Sec. 2, eff. Sept. 1, 1996.

Sec. 95.002. APPLICABILITY. This chapter applies only to a claim:

(1) against a property owner, contractor, or subcontractor for personal injury, death, or property damage to an owner, a contractor, or a subcontractor or an employee of a contractor or subcontractor; and

(2) that arises from the condition or use of an improvement to real property where the contractor or subcontractor constructs, repairs, renovates, or modifies the improvement.

Added by Acts 1995, 74th Leg., ch. 136, Sec. 2, eff. Sept. 1, 1996.

Sec. 95.003. LIABILITY FOR ACTS OF INDEPENDENT CONTRACTORS. A property owner is not liable for personal injury, death, or property damage to a contractor, subcontractor, or an employee of a contractor or subcontractor who constructs, repairs, renovates, or modifies an improvement to real property, including personal injury, death, or property damage arising from the failure to provide a safe workplace unless:

(1) the property owner exercises or retains some control over the manner in which the work is performed, other than the right to order the work to start or stop or to inspect progress

or receive reports; and

(2) the property owner had actual knowledge of the danger or condition resulting in the personal injury, death, or property damage and failed to adequately warn.

Added by Acts 1995, 74th Leg., ch. 136, Sec. 2, eff. Sept. 1, 1996.

Sec. 95.004. EVIDENCE ADMISSIBLE. In the trial of a case against a contractor, subcontractor, or property owner for personal injury, property damage, or death to a contractor, a subcontractor, or an employee of a contractor or subcontractor that arises from the condition or use of an improvement to real property where the contractor or subcontractor constructs, repairs, renovates, or modifies the improvement, the trial judge, outside the presence of the jury, shall receive evidence of workers' compensation benefits paid and shall deduct the amount of the benefits from the damages awarded by the trier of fact. The deduction for workers' compensation benefits does not apply unless the workers' compensation carrier's subrogation rights have been waived.

Added by Acts 1995, 74th Leg., ch. 136, Sec. 2, eff. Sept. 1, 1996.