

1 AN ACT

2 relating to restrictions under disaster remediation contracts;
3 creating a criminal offense.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

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

12 (2) "Disaster remediation contractor" means a person
13 who engages in disaster remediation for compensation, other than a
14 person who has a permit, license, registration, or other
15 authorization from the Texas Commission on Environmental Quality
16 for the collection, transportation, treatment, storage,
17 processing, or disposal of solid waste, but does not include an
18 entity approved by the Internal Revenue Service as tax exempt under
19 Section 501(c)(3), Internal Revenue Code of 1986.

20 SECTION 2. Section 58.004, Business & Commerce Code, is
21 amended to read as follows:

22 Sec. 58.004. PENALTIES [~~DECEPTIVE TRADE PRACTICE~~]. (a) A
23 violation of this chapter by a disaster remediation contractor is a
24 false, misleading, or deceptive act or practice as defined by

1 Section 17.46(b), and any remedy under Subchapter E, Chapter 17, is
2 available for a violation of this chapter.

3 (b) A disaster remediation contractor who violates Section
4 58.003(b)(1) or (2) commits an offense. An offense under this
5 section is:

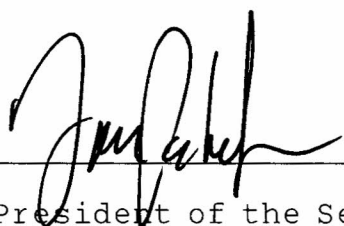
6 (1) a Class B misdemeanor if the offense was committed
7 without the intent to defraud the person contracting for disaster
8 remediation services; or

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

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

19 SECTION 3. The changes in law made by this Act apply only to
20 a disaster remediation contract entered into on or after the
21 effective date of this Act. A disaster remediation contract
22 entered into before the effective date of this Act is governed by
23 the law in effect when the contract was entered into, and the former
24 law is continued in effect for that purpose.

25 SECTION 4. This Act takes effect September 1, 2019.



President of the Senate



Speaker of the House

I certify that H.B. No. 2856 was passed by the House on May 3, 2019, by the following vote: Yeas 134, Nays 6, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2856 on May 24, 2019, by the following vote: Yeas 135, Nays 5, 2 present, not voting.



Chief Clerk of the House

I certify that H.B. No. 2856 was passed by the Senate, with amendments, on May 22, 2019, by the following vote: Yeas 31, Nays 0.

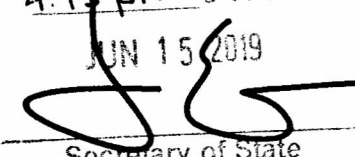


Secretary of the Senate

APPROVED: _____

Date

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4:45 pm O'CLOCK
JUN 15 2019

Secretary of State

PROCLAMATION
BY THE
Governor of the State of Texas
41-3659

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 2856 as passed by the Eighty-Sixth Texas Legislature, Regular Session, because of the following objections:

House Bill 2856 attempts to address the very real problem of disaster-remediation contractors who take advantage of disaster victims. But it does so with a stiff criminal penalty in an area where civil remedies already exist, which could discourage well-intentioned, quality tradespeople from seeking work in Texas following a disaster. This could inadvertently harm victims and impede recovery. We must take a more measured approach to this issue—as was done in House Bill 2320, which I have signed into law this session. I look forward to working with the author next session.

Since the Eighty-Sixth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.



IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 15th day of June, 2019.


GREG ABBOTT
Governor of Texas

ATTESTED BY:


JOE ESPARZA
Deputy Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4:45pm O'CLOCK
JUN 15 2019