

By: Workman

H.B. No. 1124

A BILL TO BE ENTITLED

AN ACT

relating to adjudication of claims arising from written contracts with state agencies.

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

SECTION 1. Section 114.002, Civil Practice and Remedies Code, is amended to read as follows:

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]~~.

SECTION 2. Section 114.003, Civil Practice and Remedies Code, is amended to read as follows:

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.

SECTION 3. Section 114.004, Civil Practice and Remedies Code, is amended to read as follows:

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

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

10 (2) the amount owed for [~~written~~] change orders or
11 additional work the contractor is directed to perform by a state
12 agency in connection with the contract;

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

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

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

23 (1) consequential damages, except as expressly
24 allowed under Subsection (a)(1);

25 (2) exemplary damages; or

26 (3) damages for unabsorbed home office overhead.

27 SECTION 4. Chapter 114, Civil Practice and Remedies Code,

1 as amended by this Act, applies only to a claim arising under a
2 contract executed on or after the effective date of this Act. A
3 claim that arises under a contract executed before the effective
4 date of this Act is governed by the law applicable to the claim
5 immediately before the effective date of this Act, and that law is
6 continued in effect for that purpose.

7 SECTION 5. This Act takes effect September 1, 2015.