

2022 Regular Session

HOUSE BILL NO. 703

BY REPRESENTATIVE GREGORY MILLER

CONTRACTS: Provides relative to repair contracts following a natural disaster

1 AN ACT

2 To enact R.S. 9:2784.1, relative to repair contracts following a natural disaster; to provide
3 for venue for disputes arising from the contract; to provide for nullification of certain
4 terms; to provide for rescission of the contract; to provide for notice; to provide for
5 exceptions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:2784.1 is hereby enacted to read as follows:

8 §2784.1. Repair contracts entered into during a state of emergency; venue;
9 rescission

10 A.(1) The exclusive venue for any proceeding involving a dispute over a
11 disaster repair contract shall be the parish where the residence is located. If the
12 property is situated in more than one parish, the action may be brought in any parish
13 where the property is situated.

14 (2) Notwithstanding any provision of the law to the contrary, any provision,
15 clause, covenant, or agreement contained in, collateral to, or affecting a disaster
16 repair contract which purports to require any proceeding involving a dispute over
17 repairs to be brought in a venue other than a parish provided in Paragraph (1) of this
18 Subsection is contrary to the public policy of this state and is null, void, and
19 unenforceable.

1 B.(1) The owner of residential property who enters into a disaster repair
2 contract may cancel the contract within ten days of entering into the contract.

3 (2) If a homeowner elects to cancel a contract pursuant to this Subsection,
4 he may do so by hand-delivering notice thereof to the contractor or by mailing notice
5 by United States mail to the contractor at his last known address, or to his agent for
6 service of process.

7 (3) Cancellation made pursuant to this Subsection shall be without penalty
8 and all payments made by the homeowner before cancellation shall be refunded
9 promptly. This contractor shall be entitled to payment for the cost of work
10 performed and materials ordered or delivered prior to cancellation, along with
11 reasonable overhead.

12 (4) The right to cancel a contract pursuant to this Section shall expire at the
13 expiration of the disaster or emergency declaration or one year from the date of the
14 issuance of the disaster or emergency declaration, whichever occurs first.

15 C.(1) This Section shall not apply to material suppliers or materialmen for
16 sales to the owner of the affected residential property or deliveries to the affected
17 residential property of materials ordered by a contractor or subcontractor even if the
18 repair contract is cancelled pursuant to Subsection B of this Section.

19 (2) This Section shall not affect proper venue for an action on an open
20 account, promissory note, or contract for sales of materials by a material supplier
21 or materialman to the owner of the residential property as provided in Code of Civil
22 Procedure Articles 74.4 and 76.1.

23 D. Nothing in this Section shall affect the rights of any party provided in
24 R.S. 9:4801 et seq. or R.S. 9:2781.

25 E. For purposes of this Section, "disaster repair contract" means a contract
26 or subcontract entered into during the six month period following a gubernatorially
27 declared disaster or emergency following a natural disaster for repairs to a residential
28 property affected by the natural disaster.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 703 Reengrossed

2022 Regular Session

Gregory Miller

Abstract: Provides for the exclusive venue for disputes regarding disaster repair contracts, nullifies any contrary venue provisions, and permits the rescission of such contracts within 10 days of entering the contract.

Proposed law provides the exclusive venue for any proceeding involving a dispute over a disaster repair contract shall be the parish where the residence is located. If the property is situated in more than one parish, the action may be brought in any parish where the property is situated.

Proposed law further provides that any provision, clause, covenant, or agreement contained in, collateral to, or affecting a disaster repair contract following a natural disaster which purports to require any proceeding involving a dispute over repairs to be brought in a venue other than the parish provided in proposed law is contrary to the public policy of this state and is null, void, and unenforceable.

Proposed law provides that the owner of residential property who enters into a disaster repair contract may cancel the contract or subcontract within 10 days of entering into the contract or subcontract.

Proposed law further provides that if a homeowner elects to cancel a contract or subcontract, he may do so by hand-delivering notice thereof to the contractor or by mailing notice by U.S. mail to the contractor at his last known address, or to his agent for service of process.

Proposed law provides that cancellation made pursuant to proposed law shall be without penalty and all payments made by the homeowner before cancellation shall be refunded promptly. Further provides that the contractor shall be entitled to payment for the cost of work performed and materials ordered or delivered prior to cancellation, along with reasonable overhead.

Proposed law provides that the right to cancel a contract shall expire at the expiration of the disaster or emergency declaration or one year from the date of the issuance of the disaster or emergency declaration, whichever occurs first.

Proposed law shall not apply to material suppliers or materialmen for sales to the owner of the affected residential property or deliveries to the affected residential property of materials ordered by a contractor or subcontractor even if the repair contract is cancelled.

Proposed law shall not affect proper venue for an action on an open account, promissory note, or contract for sales of materials by a material supplier or materialman to the owner of the residential property.

Proposed law shall not affect the rights of any party provided in present law Private Works Act and provisions regarding claims on open accounts.

Proposed law defines "disaster repair contract" as a contract or subcontract entered into during the six month period following a gubernatorially declared disaster or emergency

following a natural disaster for repairs to a residential property affected by the natural disaster.

(Adds R.S. 9:2784.1)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Provide for bringing a dispute in a venue, rather than a forum or jurisdiction.
2. Provide for consistent use of the phrase "federally declared state of emergency following a natural disaster".
3. Allow for payment of the cost of work performed and material ordered or delivered prior to cancellation, along with reasonable overhead.
4. Create exceptions applicable to materialmen.
5. Create an exception for the rights of any party provided by the Private Works Act and the provision for claims on open accounts.

The House Floor Amendments to the engrossed bill:

1. Provide that proposed law apply to contracts or subcontracts entered into during the six month period following a gubernatorially declared disaster or emergency following a natural disaster for repairs to a residential property affected by the natural disaster.
2. Provide for the expiration of the right to cancel a contract.