

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 contract for repairs to residential property that was entered into while the property
12 was under a federally declared state of emergency following a natural disaster shall
13 be the parish where the residence is located. If the property is situated in more than
14 one parish, the action may be brought in any parish where the property is situated.

15 (2) Notwithstanding any provision of the law to the contrary, any provision,
16 clause, covenant, or agreement contained in, collateral to, or affecting a contract or
17 subcontract for repairs on residential property entered into while the property was
18 under a federally declared state of emergency following a natural disaster which
19 purports to require any proceeding involving a dispute over repairs to be brought in

1 a venue other than a parish provided in Paragraph (1) of this Subsection is contrary
2 to the public policy of this state and is null, void, and unenforceable.

3 B.(1) The owner of residential property who enters into a contract or
4 subcontract for repairs on residential property entered into while the property is
5 under a federally declared state of emergency following a natural disaster may cancel
6 the contract or subcontract within ten days of entering into the contract or
7 subcontract.

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

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

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

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

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

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 Engrossed

2022 Regular Session

Gregory Miller

Abstract: Provides for the exclusive venue for disputes regarding contracts for repairs to residential property entered into while the property was under a federally declared state of emergency following a natural disaster, nullifies any contrary venue provisions, and permits 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 contract for repairs to residential property that was entered into while the property was under a federally declared state of emergency following a natural disaster 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 contract or subcontract for repairs on residential property entered into while the property was under a federally declared state of emergency 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 contract or subcontract for repairs on residential property entered into while the property is under a federally declared state of emergency following a natural disaster 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 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.

(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.