

By: Guillen

H.B. No. 3712

Substitute the following for H.B. No. 3712:

By: Button

C.S.H.B. No. 3712

A BILL TO BE ENTITLED

AN ACT

relating to funds reserved or retained for certain construction materials.

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

SECTION 1. Section 2252.032, Government Code, is amended by amending Subsection (e) and adding Subsection (e-1) to read as follows:

(e) A governmental entity may not withhold retainage:

(1) after completion of the work required to be performed under the contract by the prime contractor, including during the warranty period; ~~or~~

(2) for the purpose of requiring the prime contractor, after completion of the work required to be performed under the contract, to perform work on manufactured goods or systems that were:

(A) specified by the designer of record; and

(B) properly installed by the contractor; or

(3) for specially fabricated material that:

(A) has been delivered by a subcontractor and accepted by the governmental entity and the prime contractor at the site or off-site; and

(B) is covered by a manufacturer's warranty:

(i) under a contract with the governmental entity; or

1                   (ii) assigned to the governmental entity by  
2 the prime contractor.

3           (e-1) Subsection (e)(3) does not apply to funds for the  
4 value of the installation of the specially fabricated material by a  
5 subcontractor.

6           SECTION 2. Section 53.101, Property Code, is amended by  
7 amending Subsection (a) and adding Subsections (a-1) and (a-2) to  
8 read as follows:

9           (a) Except as provided by Subsection (a-1), during ~~[During]~~  
10 the progress of work under an original contract for which a  
11 mechanic's lien may be claimed and for 30 days after the work under  
12 the contract is completed, the owner shall reserve:

13                   (1) 10 percent of the contract price of the work to the  
14 owner; or

15                   (2) 10 percent of the value of the work, measured by  
16 the proportion that the work done bears to the work to be done,  
17 using the contract price or, if there is no contract price, using  
18 the reasonable value of the completed work.

19           (a-1) An owner is not required to reserve under this section  
20 and may not retain under a contract funds for specially fabricated  
21 material that:

22                   (1) has been delivered by a subcontractor and accepted  
23 by the owner or a contractor or subcontractor at the site or  
24 off-site; and

25                   (2) is covered by a manufacturer's warranty under a  
26 contract with the owner or a contractor or subcontractor.

27           (a-2) Subsection (a-1) does not apply to funds for the value

1 of the installation of specially fabricated material by a  
2 subcontractor.

3       SECTION 3. The changes in law made by this Act apply only to  
4 an original contract that is entered into on or after the effective  
5 date of this Act. An original contract entered into before the  
6 effective date of this Act is governed by the law as it existed  
7 immediately before the effective date of this Act, and the former  
8 law is continued in effect for that purpose.

9       SECTION 4. This Act takes effect September 1, 2025.