

By: Solomons, et al.

H.B. No. 629

A BILL TO BE ENTITLED

AN ACT

relating to notice required for a mechanic's, contractor's, or
materialman's lien in certain circumstances.

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

SECTION 1. Section 53.103, Property Code, is amended to
read as follows:

Sec. 53.103. LIEN ON RETAINED FUNDS. A claimant has a lien
on the retained funds if the claimant:

(1) sends the notices required by this chapter in the
time and manner required; and

(2) files an affidavit claiming a lien not later than
the 30th day after:

(A) the work is completed; or

(B) for a project that is not a residential
construction project, the earlier of:

(i) the date the work is completed; or

(ii) the date the original contractor
terminates work or abandons performance under the original
contract.

SECTION 2. Subchapter E, Chapter 53, Property Code, is
amended by adding Section 53.107 to read as follows:

Sec. 53.107. NOTICE RELATING TO TERMINATION OF WORK OR
ABANDONMENT OF PERFORMANCE BY ORIGINAL CONTRACTOR. (a) Not later
than the 10th day after the date an original contractor terminates

1 work or abandons performance under the original contract, the owner
2 shall give notice to each subcontractor who, before the date of
3 termination or abandonment, has:

4 (1) given notice to the owner as provided by Section
5 53.056, 53.057, or 53.058; or

6 (2) sent to the owner by certified or registered mail a
7 written request for notice of termination or abandonment.

8 (b) The notice must contain:

9 (1) the name and address of the owner;

10 (2) the name and address of the original contractor;

11 (3) a description, legally sufficient for
12 identification, of the real property on which the improvements are
13 located;

14 (4) a general description of the improvements agreed
15 to be furnished under the original contract;

16 (5) a statement that the original contract has been
17 terminated or that performance under the contract has been
18 abandoned;

19 (6) the date of the termination or abandonment; and

20 (7) a conspicuous statement that a claimant may not
21 have a lien on the retained funds unless the claimant files an
22 affidavit claiming a lien not later than the 30th day after the date
23 of the termination or abandonment.

24 (c) A notice sent on or before the 10th day after the date of
25 termination or abandonment is prima facie evidence of the date the
26 original contract was terminated or work was abandoned for purposes
27 of this subchapter.

1 (d) A subcontractor who fails to file a lien affidavit in
2 the time prescribed by Section 53.103(2) has a lien under this
3 subchapter if:

4 (1) the subcontractor otherwise complies with this
5 chapter; and

6 (2) the owner did not provide the subcontractor notice
7 as required by this section.

8 (e) This section does not apply to a residential
9 construction project.

10 SECTION 3. This Act applies only to a subcontractor who
11 claims a lien as provided by Subchapter E, Chapter 53, Property
12 Code, as amended by this Act, if that claim arises under an original
13 contract entered into on or after the effective date of this Act. A
14 claim that arises under a contract entered into before the
15 effective date of this Act is governed by the law as it existed
16 immediately before the effective date of this Act, and that law is
17 continued in effect for that purpose.

18 SECTION 4. This Act takes effect September 1, 2005.