

By: King of Zavala

H.B. No. 2995

A BILL TO BE ENTITLED

1 AN ACT

2 relating to staff leasing services licenseholders as persons who  
3 may obtain a mechanic's lien on real property or perfect a claim  
4 against a statutory payment bond.

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

6 SECTION 1. Section 53.001, Property Code, is amended to  
7 read as follows:

8 Sec. 53.001. DEFINITIONS. In this chapter:

9 (1) "Contract price" means the cost to the owner for  
10 any part of construction or repair performed under an original  
11 contract.

12 (2) "Improvement" includes:

13 (A) abutting sidewalks and streets and utilities  
14 in or on those sidewalks and streets;

15 (B) clearing, grubbing, draining, or fencing of  
16 land;

17 (C) wells, cisterns, tanks, reservoirs, or  
18 artificial lakes or pools made for supplying or storing water;

19 (D) pumps, siphons, and windmills or other  
20 machinery or apparatuses used for raising water for stock, domestic  
21 use, or irrigation; and

22 (E) planting orchard trees, grubbing out  
23 orchards and replacing trees, and pruning of orchard trees.

24 (3) "Labor" means labor used in the direct prosecution

1 of the work.

2 (4) "Material" means all or part of:

3 (A) the material, machinery, fixtures, or tools  
4 incorporated into the work, consumed in the direct prosecution of  
5 the work, or ordered and delivered for incorporation or  
6 consumption;

7 (B) rent at a reasonable rate and actual running  
8 repairs at a reasonable cost for construction equipment used or  
9 reasonably required and delivered for use in the direct prosecution  
10 of the work at the site of the construction or repair; or

11 (C) power, water, fuel, and lubricants consumed  
12 or ordered and delivered for consumption in the direct prosecution  
13 of the work.

14 (5) "Mechanic's lien" means the lien provided by this  
15 chapter.

16 (6) "Original contract" means an agreement to which an  
17 owner is a party either directly or by implication of law.

18 (7) "Original contractor" means a person contracting  
19 with an owner either directly or through the owner's agent.

20 (8) "Residence" means a single-family house, duplex,  
21 triplex, or quadruplex or a unit in a multiunit structure used for  
22 residential purposes that is:

23 (A) owned by one or more adult persons; and

24 (B) used or intended to be used as a dwelling by  
25 one of the owners.

26 (9) "Residential construction contract" means a  
27 contract between an owner and a contractor in which the contractor

1 agrees to construct or repair the owner's residence, including  
2 improvements appurtenant to the residence.

3 (10) "Residential construction project" means a  
4 project for the construction or repair of a new or existing  
5 residence, including improvements appurtenant to the residence, as  
6 provided by a residential construction contract.

7 (11) "Retainage" means an amount representing part of  
8 a contract payment that is not required to be paid to the claimant  
9 within the month following the month in which labor is performed,  
10 material is furnished, or specially fabricated material is  
11 delivered. The term does not include retainage under Subchapter E.

12 (12) "Specially fabricated material" means material  
13 fabricated for use as a component of the construction or repair so  
14 as to be reasonably unsuitable for use elsewhere.

15 (13) "Subcontractor" means a person who has furnished  
16 labor or materials to fulfill an obligation to an original  
17 contractor or to a subcontractor to perform all or part of the work  
18 required by an original contract. The term includes a staff leasing  
19 services company holding a license under Chapter 91, Labor Code,  
20 whose employees perform labor to fulfill an obligation to an  
21 original contractor or to a subcontractor.

22 (14) "Work" means any part of construction or repair  
23 performed under an original contract.

24 (15) "Completion" of an original contract means the  
25 actual completion of the work, including any extras or change  
26 orders reasonably required or contemplated under the original  
27 contract, other than warranty work or replacement or repair of the

1 work performed under the contract.

2 SECTION 2. Section 2253.001, Government Code, is amended to  
3 read as follows:

4 Sec. 2253.001. DEFINITIONS. In this chapter:

5 (1) "Governmental entity" means a governmental or  
6 quasi-governmental authority authorized by state law to make a  
7 public work contract, including:

8 (A) the state, a county, or a municipality;

9 (B) a department, board, or agency of the state,  
10 a county, or a municipality; and

11 (C) a school district or a subdivision of a  
12 school district.

13 (2) "Payment bond beneficiary" means a person for  
14 whose protection and use this chapter requires a payment bond.

15 (3) "Prime contractor" means a person, firm, or  
16 corporation that makes a public work contract with a governmental  
17 entity.

18 (4) "Public work contract" means a contract for  
19 constructing, altering, or repairing a public building or carrying  
20 out or completing any public work.

21 (5) "Public work labor" means labor used directly to  
22 carry out a public work.

23 (6) "Public work material" means:

24 (A) material used, or ordered and delivered for  
25 use, directly to carry out a public work;

26 (B) specially fabricated material;

27 (C) reasonable rental and actual running repair

1 costs for construction equipment used, or reasonably required and  
2 delivered for use, directly to carry out work at the project site;  
3 or

4 (D) power, water, fuel, and lubricants used, or  
5 ordered and delivered for use, directly to carry out a public work.

6 (7) "Retainage" means the part of the payments under a  
7 public work contract that are not required to be paid within the  
8 month after the month in which the public work labor is performed or  
9 public work material is delivered under the contract.

10 (8) "Specially fabricated material" means material  
11 ordered by a prime contractor or subcontractor that is:

12 (A) specially fabricated for use in a public  
13 work; and

14 (B) reasonably unsuitable for another use.

15 (9) "Subcontractor" means a person, firm, or  
16 corporation that provides public work labor or material to fulfill  
17 an obligation to a prime contractor or to a subcontractor for the  
18 performance and installation of any of the work required by a public  
19 work contract. The term includes a staff leasing services company  
20 holding a license under Chapter 91, Labor Code, whose employees  
21 perform public work labor to fulfill an obligation to a prime  
22 contractor or to a subcontractor.

23 SECTION 3. This Act takes effect September 1, 2005, and  
24 applies only to labor performed under or by virtue of a contract  
25 entered into on or after that date. Labor performed under or by  
26 virtue of a contract entered into before that date is governed by  
27 the law in effect immediately before that date, and that law is

1 continued in effect for that purpose.