

Amend CSHB 1038 as follows:

(1) On page 1, line 6, strike "Subsection (c)" and substitute "Subsections (c) and (d)".

(2) On page 2, strike lines 3 through 9 and substitute the following:

(c) A provision of a contract described by Section 41.001(b)(3) that requires the parties to submit a dispute arising under the contract to binding arbitration must:

(1) be conspicuously printed or typed in a size equal to at least 14-point bold type or the computer equivalent; and

(2) provide a space immediately adjacent to the provision for the owner's signature to indicate acknowledgment of notice of the provision.

(d) A provision described by Subsection (c) is not enforceable against the owner unless the requirements of Subsection (c) are met and the owner signs the space acknowledging notice of the provision.

(3) Strike SECTION 20 of the bill and substitute the following:

SECTION 20. Section 426.003, Property Code, is amended by amending Subsection (b) to read as follows:

(b) A builder who enters into a contract for the construction of a new home or an improvement to an existing home in which the value of the work exceeds \$20,000 [~~transaction governed by this title, other than the transfer of title of a new home from the builder to the seller,~~] shall register the home involved in the transaction with the commission. The registration must:

(1) include the information required by the commission by rule;

(2) be accompanied by the fee required by Subsection (c); and

(3) be delivered to the commission not later than the 15th day after the earlier of:

(A) the date the construction is substantially completed [~~of the agreement that describes the transaction between the homeowner and the builder~~]; or

(B) the date the new home is occupied, if the

contract is for the construction of a new home [~~commencement of the work on the home~~].

(4) Add the following appropriately numbered SECTIONS and renumber the SECTIONS of the bill accordingly:

SECTION _____. Section 162.003, Property Code, is amended to read as follows:

Sec. 162.003. BENEFICIARIES OF TRUST FUNDS. (a) An artisan, laborer, mechanic, contractor, subcontractor, or materialman who labors or who furnishes labor or material for the construction or repair of an improvement on specific real property in this state is a beneficiary of any trust funds paid or received in connection with the improvement.

(b) A homeowner, as defined by Section 401.002, is a beneficiary of trust funds paid in connection with a residential construction contract governed by Title 16 and held for the purpose of satisfying the cost of materials and workmanship for labor and materials provided by persons described by Subsection (a) for the homeowner under the contract.

SECTION _____. Section 162.006(a), Property Code, is amended to read as follows:

(a) A contractor who enters into a written contract with a property owner or homeowner, as defined by Section 401.002, to construct improvements to [~~a~~] residential property [~~homestead~~] for an amount exceeding \$5,000 shall deposit the trust funds in a construction account in a financial institution.

SECTION _____. Subtitle C, Title 16, Property Code, is amended by adding Chapter 420 to read as follows:

CHAPTER 420. BUILDING CONTRACT PROVISIONS

Sec. 420.001. REQUIRED WRITTEN DISCLOSURE. Before beginning work on a project to construct a new home or an improvement to an existing home when the cost of the work exceeds \$10,000, a builder must provide a notice to the homeowner in at least 14-point bold type that gives the telephone number of the commission and states:

STATE LAW REQUIRES THAT A PERSON HOLD A CERTIFICATE OF REGISTRATION FROM THE TEXAS RESIDENTIAL CONSTRUCTION COMMISSION IF THE PERSON CONTRACTS TO CONSTRUCT A NEW HOME OR IF THE PERSON

CONTRACTS TO CONSTRUCT AN IMPROVEMENT TO AN EXISTING HOME AND THE TOTAL COST OF THE IMPROVEMENT IS \$10,000 OR MORE (INCLUDING LABOR AND MATERIALS).

BUILDERS ARE REGULATED BY LAWS DESIGNED TO PROTECT THE PUBLIC. YOU MAY CONTACT THE COMMISSION AT [insert commission's telephone number] TO FIND OUT WHETHER THE BUILDER HAS A VALID CERTIFICATE OF REGISTRATION. THE COMMISSION HAS COMPLETE INFORMATION ON THE HISTORY OF BUILDERS, INCLUDING ANY SUSPENSION, REVOCATION, COMPLAINT, AND RESOLUTION OF COMPLAINT.

IF YOU HAVE A COMPLAINT AGAINST A BUILDER, YOU MAY CONTACT THE TOLL-FREE TELEPHONE NUMBER TO OBTAIN A COMPLAINT FORM AND FURTHER INFORMATION.

IF THE BUILDER FAILED TO COMPLETE THE WORK OR PERFORMED POOR QUALITY WORK, YOU MAY FILE A COMPLAINT WITH THE COMMISSION BY CONTACTING THE TOLL-FREE TELEPHONE NUMBER. YOU MUST FILE ALL COMPLAINTS WITHIN TWO YEARS OF THE DATE THE BUILDER ABANDONED THE PROJECT OR PERFORMED THE POOR QUALITY WORK.

Sec. 420.002. REQUIRED CONTRACT PROVISIONS. A contract for the construction of a new home or an improvement to an existing home when the cost of the work exceeds \$10,000 is not enforceable against a homeowner unless the contract:

(1) contains the builder's name, physical address, and certificate of registration number; and

(2) contains the notice required by Section 420.001.

Sec. 420.003. BINDING ARBITRATION CONTRACT PROVISION. (a) A provision in a contract for the construction of a new home, or the improvement of an existing home in which the value of the work exceeds \$10,000, that requires the parties to submit a dispute arising under the contract to binding arbitration must:

(1) be conspicuously printed or typed in a size equal to at least 14-point bold type or the computer equivalent; and

(2) provide a space immediately adjacent to the provision for the homeowner's signature to indicate acceptance of the provision.

(b) A provision described by Subsection (a) is not enforceable against the homeowner unless the requirements of Subsection (a) are met and the homeowner signs the space accepting

the provision.