

BILL ANALYSIS

C.S.H.B. 3441
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law makes a residential construction contract unenforceable if the builder fails to provide in the contract information identifying the builder and a disclosure relating to builder registration. This has the unintended affect of invalidating the lien of the lender that took assignment of the lien in connection with advancing funds for the construction. In these cases, the borrower and builder have both benefitted from the funds. The lien securing the loan from the lender should be preserved if a contract becomes unenforceable because of a builder's failure to include required contract provisions as the loan was required by both the borrower and the builder.

C.S.H.B. 3441 continues the validity of a lien transferred to a lender in connection with a residential construction contract, regardless of a whether the contract is made unenforceable because the builder failed to include certain information in the contract.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3441 amends the Property Code to establish that a builder's failure to include certain required information in a residential construction contract does not invalidate a lien of an entity that provided third-party financing to a homeowner for the construction of a new home or an improvement to an existing home under a residential construction contract or that renewed and extended financing for such a purpose.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3441 differs from the original by specifying that the bill relates to certain construction liens under the Texas Residential Construction Commission Act, rather than to the validity of such liens under the act.