

By: McClendon

H.B. No. 1209

A BILL TO BE ENTITLED

AN ACT

relating to beneficiaries of construction payment trust funds.

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

SECTION 1. Section 162.001(c), Property Code, is amended to read as follows:

(c) A fee payable to a contractor is not considered trust funds if:

(1) the [~~If a~~] contractor and property owner have entered into a written construction contract for the improvement of specific real property in this state before the commencement of construction of the improvement and the contract provides for the payment by the owner of the costs of construction and a reasonable fee specified in the contract payable to the contractor; and

(2) [~~r~~] the fee is earned as provided by the contract and paid to the contractor or disbursed from a construction account described by Section 162.006, if applicable [~~is not considered trust funds~~].

SECTION 2. 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

1 in connection with the improvement.

2 (b) A property owner is a beneficiary of trust funds
3 described by Section 162.001 in connection with a residential
4 construction contract, including funds deposited into a
5 construction account described by Section 162.006.

6 SECTION 3. The change in law made by this Act applies only
7 to funds that become trust funds under Section 162.001, Property
8 Code, as amended by this Act, on or after the effective date of this
9 Act. Funds that become trust funds before the effective date of
10 this Act are governed by the law in effect immediately before the
11 effective date of this Act, and that law is continued in effect for
12 that purpose.

13 SECTION 4. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2009.