

By: Smith of Harris

H.B. No. 1513

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to construction contract trust funds and the  
3 misapplication of those funds.

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

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

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

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

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

19 SECTION 2. Section 162.001, Property Code, is amended by  
20 adding Subsection (d) to read as follows:

21 (d) Trust funds paid to a creditor under this chapter are  
22 not property or an interest in property of a debtor who is a trustee  
23 described by Section 162.002.

24 SECTION 3. Section 162.003, Property Code, is amended to

1 read as follows:

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

8           (b) A property owner is a beneficiary of trust funds  
9 described by Section 162.001 in connection with a residential  
10 construction contract, including funds deposited into a  
11 construction account described by Section 162.006.

12           SECTION 4. Section 162.004, Property Code, is amended by  
13 adding Subsection (c) to read as follows:

14           (c) Regardless of whether a construction contract is  
15 covered by a statutory or common law payment bond, this chapter  
16 applies to a public or private construction contract for the  
17 improvement of specific real property in this state.

18           SECTION 5. Section 162.031, Property Code, is amended by  
19 adding Subsection (d) to read as follows:

20           (d) A trustee who commingles trust funds with other funds in  
21 the trustee's possession does not defeat a trust created by this  
22 chapter.

23           SECTION 6. This Act takes effect September 1, 2009.