

AN ACT

relating to construction contract trust funds and the misapplication of those 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 162.001, Property Code, is amended by adding Subsection (d) to read as follows:

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

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.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1513 was passed by the House on April 22, 2009, by the following vote: Yeas 149, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1513 was passed by the Senate on May 19, 2009, by the following vote: Yeas 30, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor