

1-1 By: Smith of Harris (Senate Sponsor - Jackson) H.B. No. 1513  
1-2 (In the Senate - Received from the House April 23, 2009;  
1-3 April 24, 2009, read first time and referred to Committee on  
1-4 Business and Commerce; May 14, 2009, reported favorably by the  
1-5 following vote: Yeas 8, Nays 0; May 14, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to construction contract trust funds and the  
1-9 misapplication of those funds.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 162.001(c), Property Code, is amended to  
1-12 read as follows:

1-13 (c) A fee payable to a contractor is not considered trust  
1-14 funds if:

1-15 (1) the [If a] contractor and property owner have  
1-16 entered into a written construction contract for the improvement of  
1-17 specific real property in this state before the commencement of  
1-18 construction of the improvement and the contract provides for the  
1-19 payment by the owner of the costs of construction and a reasonable  
1-20 fee specified in the contract payable to the contractor; and

1-21 (2) [r] the fee is earned as provided by the contract  
1-22 and paid to the contractor or disbursed from a construction account  
1-23 described by Section 162.006, if applicable [is not considered  
1-24 trust funds].

1-25 SECTION 2. Section 162.001, Property Code, is amended by  
1-26 adding Subsection (d) to read as follows:

1-27 (d) Trust funds paid to a creditor under this chapter are  
1-28 not property or an interest in property of a debtor who is a trustee  
1-29 described by Section 162.002.

1-30 SECTION 3. Section 162.003, Property Code, is amended to  
1-31 read as follows:

1-32 Sec. 162.003. BENEFICIARIES OF TRUST FUNDS. (a) An  
1-33 artisan, laborer, mechanic, contractor, subcontractor, or  
1-34 materialman who labors or who furnishes labor or material for the  
1-35 construction or repair of an improvement on specific real property  
1-36 in this state is a beneficiary of any trust funds paid or received  
1-37 in connection with the improvement.

1-38 (b) A property owner is a beneficiary of trust funds  
1-39 described by Section 162.001 in connection with a residential  
1-40 construction contract, including funds deposited into a  
1-41 construction account described by Section 162.006.

1-42 SECTION 4. Section 162.004, Property Code, is amended by  
1-43 adding Subsection (c) to read as follows:

1-44 (c) Regardless of whether a construction contract is  
1-45 covered by a statutory or common law payment bond, this chapter  
1-46 applies to a public or private construction contract for the  
1-47 improvement of specific real property in this state.

1-48 SECTION 5. Section 162.031, Property Code, is amended by  
1-49 adding Subsection (d) to read as follows:

1-50 (d) A trustee who commingles trust funds with other funds in  
1-51 the trustee's possession does not defeat a trust created by this  
1-52 chapter.

1-53 SECTION 6. This Act takes effect September 1, 2009.

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