

BILL ANALYSIS

C.S.H.B. 2928
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Certain Texas construction subcontractors assert that subcontractors may have problems with the receipt of payment for services rendered. Under current law, contractors and subcontractors on a project are required to be paid on that project in a timely fashion. However, some general contractors have withheld payments to subcontractors based on disputes on another project. C.S.H.B. 2928 seeks to ensure that subcontractors get paid for the work that they do.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 2928 amends the Property Code to establish that a good faith dispute concerning the amount owed for a payment to contractors and subcontractors requested or required under a contract for construction of or improvements to certain residential buildings does not include a dispute relating to a contract, work order, contractual arrangement, or any other agreement between the parties that is not related to the contract for construction under which payment is requested or required. The bill establishes that a trustee of construction payments has misapplied trust funds if the trustee retains or otherwise diverts trust funds due to a dispute, including an alleged default, arising under a construction contract other than the contract in connection with which the trust funds were received by or placed under the control or direction of the trustee.

C.S.H.B. 2928 applies only to a contract that is entered into on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2928 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute omits the following provisions from the introduced:

- a provision that made a construction contract provision that allows a party to the contract to wholly or partially withhold payment owed under one contract to satisfy a claim or damages alleged by another contract voidable by the party whose payment may be withheld;
- an authorization for a court to award costs and reasonable attorney's fees in an action brought in an action relating to misapplication of trust funds; and
- a provision making the bill's provisions applicable only to an action commenced on or after the bill's effective date.