

BILL ANALYSIS

C.S.H.B. 3287
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Trade, Workforce & Economic Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that, since 1909, Texas law has required 10 percent of the amount of a contract for a construction project on non-public property to be reserved to secure the payment of the contractors and suppliers upon completion of the project. The bill author has also informed the committee that although current law grants contractors and suppliers a right to file a mechanic's and materialman's lien against the property, and to foreclose on that lien if the contractor or supplier never receives the payment of reserved funds, if an owner defaults on their construction loan and the lender forecloses, all mechanic's or materialman's liens are null and void. C.S.H.B. 3287 seeks to address this issue by applying statutory provisions establishing protections for certain funds related to a construction contract to those funds required to be reserved under a construction contract.

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. 3287 amends the Property Code to classify funds reserved or required to be reserved by a property owner for the benefit of claimants of a mechanic's, contractor's, or materialman's lien as trust funds under state law governing construction payments, loan receipts, and the misapplication of trust funds, only to the extent that the following is true:

- beneficiaries have perfected a mechanic's or materialman's lien claim to those reserved funds; and
- the property is subject to a senior lien in favor of a lender.

C.S.H.B. 3287 establishes the following:

- if an owner finances the construction of improvements to real property through a loan from a lender independent of the owner that is secured wholly or partly by a lien on the property, funds reserved or required to be reserved for the benefit of claimants of a mechanic's, contractor's, or materialman's lien are not trust funds until the lender disburses those funds to the owner; and
- funds reserved or required to be reserved for the benefit of claimants of a mechanic's, contractor's, or materialman's lien that an owner in good faith releases to a contractor or subcontractor before the end of the 30-day period are not trust funds.

C.S.H.B. 3287 establishes that 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 Texas is a beneficiary of any such trust funds reserved or required to be reserved in connection with the improvement.

C.S.H.B. 3287 establishes that a trustee's failure to reserve funds that were required to be reserved for the construction or repair of a new or existing single-family house, duplex, triplex, or quadruplex, to be used for residential purposes, including improvements appurtenant to the residence, is not misapplication of trust funds under state law. The bill exempts a trustee from liability for any damages to a beneficiary for misapplication of trust funds unless the trustee misapplied trust funds with intent to defraud. The bill requires a court to award costs and reasonable attorney's fees to a beneficiary who prevails in an action brought against a trustee under that state law.

C.S.H.B. 3287 applies only to a construction contract entered into on or after the bill's effective date and only to an applicable action that is commenced on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3287 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.

Whereas the introduced classified funds reserved or required to be reserved for the benefit of claimants of a mechanic's, contractor's, or materialman's lien as trust funds under state law governing construction payments, loan receipts, and the misapplication of trust funds, unless the funds are reserved or required to be reserved for the construction or repair of a new or existing single-family house, duplex, triplex, or quadruplex, to be used for residential purposes, including improvements appurtenant to the residence, the substitute classifies funds reserved or required to be reserved by a property owner for the benefit of claimants of a mechanic's, contractor's, or materialman's lien as trust funds under state law governing construction payments, loan receipts, and the misapplication of trust funds, only to the extent that the following is true:

- beneficiaries have perfected a mechanic's or materialman's lien claim to those reserved funds; and
- the property is subject to a senior lien in favor of a lender.

The substitute includes provisions that were not in the introduced that establish the following:

- if an owner finances the construction of improvements to real property through a loan from a lender independent of the owner that is secured wholly or partly by a lien on the property, funds reserved or required to be reserved for the benefit of claimants of a mechanic's, contractor's, or materialman's lien are not trust funds until the lender disburses those funds to the owner;
- that funds reserved or required to be reserved for the benefit of claimants of a mechanic's, contractor's, or materialman's lien that an owner in good faith releases to a contractor or subcontractor before the end of the 30-day period are not trust funds;
- that a trustee's failure to reserve funds that were required to be reserved for the construction or repair of a new or existing single-family house, duplex, triplex, or quadruplex, to be used for residential purposes, including improvements appurtenant to the residence, is not misapplication of trust funds under state law; and
- that a trustee is not liable for any damages to a beneficiary for misapplication of trust funds unless the trustee misapplied trust funds with intent to defraud.