

BILL ANALYSIS

C.S.H.B. 3288
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Trade, Workforce & Economic Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that there is a trend of general contractors inserting language into subcontracts that allows the general contractor to withhold payment to a subcontractor on one project based on a dispute regarding another project, a practice that is contrary to the basic tenets of contract law. Each construction job is bid separately, and each construction job has a separate contract that should stand on its own. C.S.H.B. 3288 seeks to address this issue by clarifying that withholding funds on a construction project due to a dispute regarding another construction project qualifies as a misapplication of trust funds under current law regarding certain construction payments.

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. 3288 amends the Property Code to establish that an applicable trustee, other than an owner, who 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 has misapplied the trust funds. These provisions apply only to a trustee who receives trust funds or who has control or direction of trust funds in connection with a nonresidential construction contract. For these purposes, the bill defines "owner" as the person or entity that owns or controls the premises at which construction of improvements is to be performed and is responsible for payment to the contractor for the construction of those improvements.

C.S.H.B. 3288 applies only to a contract that is entered into on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3288 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.

Both the introduced and substitute establish circumstances under which a trustee has misapplied trust funds. However, the substitute specifies that a trustee for those purposes is a trustee other than an owner, whereas the introduced did not include that specification, and includes the following provisions absent from the introduced:

- a provision specifying that the bill's provisions apply to a trustee who receives trust funds or who has control or direction of trust funds in connection with a nonresidential construction contract; and
- provisions defining "owner" for purposes of the bill's provisions.