

BILL ANALYSIS

C.S.H.B. 4876
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Trade, Workforce & Economic Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that single family housing in Texas has become more expensive due to factors including major population growth, increased costs of land, material, infrastructure and permitting, and local regulatory constraints. The bill author has also informed the committee that increased development of condominiums have helped address increased housing costs by offering the opportunity for more homes on less land at lower costs, and with less burden on local infrastructure. The bill author has further informed the committee that, however, a deposit made by a purchaser for a condominium unit must be held in an escrow account and may not be used for construction of the project, a restriction that does not apply to non-condominium homes. C.S.H.B. 4876 seeks to address this issue and help increase the housing supply by providing for escrow deposits to be used for condominium construction.

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. 4876 amends the Property Code to authorize a declarant, if a contract or reservation agreement to purchase a condominium unit provides, in bold or underlined type, that the deposit made for the purchase or reservation of the unit may be used for actual development and construction costs and the declarant obtains and maintains a surety bond or insurance that meets specified conditions under the bill's provisions, to withdraw escrow funds when development or construction of improvements to the condominium project begins. The bill restricts the use of funds to actual development and construction costs of the project in which the unit is located. For these purposes, the bill establishes that actual development and construction costs include expenditures for demolition, site clearing, permit fees, impact fees, and utility reservation fees, as well as architectural, consultant, engineering, and surveying fees that directly relate to construction and development of the condominium project or the easements and rights appurtenant to the project, but do not include expenditures for the following:

- salaries, commissions, or expenses of salespersons;
- advertising, marketing, or promotional purposes; or
- loan fees, principal and interest on loans, attorney fees, accounting fees, or insurance costs.

The bill requires the deposits made for the purchase or reservation of the unit and used for actual development and construction costs to be, as applicable:

- applied as a credit against the purchase price of the unit at closing;

- delivered to the declarant because of the purchaser's default under the contract to purchase the unit; or
- refunded to the purchaser because of the declarant's default under the contract to purchase the unit.

C.S.H.B. 4876 requires the bond or insurance to be issued by an insurer licensed in Texas in favor of the purchaser in an amount adequate to cover the amount of the deposit to be withdrawn from escrow funds for development or construction costs. The bill prohibits the declarant from withdrawing an amount from the escrow funds greater than the face amount of the bond or the insurance coverage amount and requires the bond or insurance to be payable to the purchaser if the purchaser obtains a final judgment against the declarant requiring the declarant to return the deposit under the purchase agreement. The bill authorizes the bond or issuance to be either in the form of an individual bond or policy for each deposit accepted by the declarant or in the form of a blanket bond or policy assuring the return of all deposits received by the declarant. The bill establishes that the party holding escrow funds who releases any portion of the funds to the declarant has no obligation to monitor the progress of construction or the expenditure of the funds by the declarant and exempts that party from liability to any purchaser for the release of funds under these provisions.

C.S.H.B. 4876, with respect to the condition under which a deposit for the purchase or reservation of a condominium unit that is placed in escrow and held in Texas by an applicable entity is refunded to the purchaser, clarifies that the refund is because of the declarant's default under a contract to purchase the unit.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 4876 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 authorized the declarant, if a contract to purchase a condominium unit provides that the deposit made in connection with the purchase or reservation of the unit may be used for construction costs and the declarant obtains and maintains the requisite surety bond or insurance, to withdraw escrow funds when construction of improvements begins, the substitute instead authorizes the declarant, if a contract or reservation agreement to purchase a unit provides, in bold or underlined type, that the deposit made for the purchase or reservation of the unit may be used for actual development and construction costs and the declarant obtains and maintains the requisite surety bond or insurance, to withdraw escrow funds when development or construction of improvements to the condominium project begins. Whereas the introduced restricted the use of the withdrawn funds to actual building and construction costs of the project in which the unit is located, the substitute restricts the use of the withdrawn funds to actual development and construction costs of such a project.

The substitute includes provisions absent from the introduced that do the following:

- set out the expenditures included in and excluded from actual development and construction costs; and
- require the deposits made for the purchase or reservation of the unit and used for actual development and construction costs to be, as applicable:
 - applied as a credit against the purchase price of the unit at closing;
 - delivered to the declarant because of the purchaser's default under the contract to purchase the unit; or

- refunded to the purchaser because of the declarant's default under the contract to purchase the unit.

The substitute includes a provision absent from the introduced that, with respect to the condition under which a deposit for the purchase or reservation of a condominium unit that is placed in escrow and held in Texas by an applicable entity is refunded to the purchaser, clarifies that the refund is because of the declarant's default under a contract to purchase the unit.