

By: Bell of Kaufman, Button, Hefner, Romero,
Leach

H.B. No. 3287

Substitute the following for H.B. No. 3287:

By: Button

C.S.H.B. No. 3287

A BILL TO BE ENTITLED

AN ACT

relating to construction contract trust funds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 162, Property Code, is amended by adding Section 162.011 to read as follows:

Sec. 162.011. FUNDS RESERVED OR REQUIRED TO BE RESERVED.

(a) Funds reserved or required to be reserved by a property owner under Section 53.101 are trust funds under this chapter only to the extent that:

(1) beneficiaries have perfected a mechanic's or materialman's lien claim to those reserved funds under Subchapter E, Chapter 53; and

(2) the property is subject to a senior lien in favor of a lender.

(b) 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 under Section 53.101 are not trust funds under this chapter until the lender disburses those funds to the owner.

(c) Notwithstanding Section 162.003(a), funds reserved or required to be reserved under Section 53.101 that an owner in good faith releases to a contractor or subcontractor before the end of the period described by Section 53.101 are not trust funds under

this chapter.

SECTION 2. Section 162.003(a), Property Code, is amended to read as follows:

(a) 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 this state is a beneficiary of any trust funds:

(1) paid or received in connection with the improvement; or

(2) reserved or required to be reserved under Section 53.101 in connection with the improvement.

SECTION 3. Section 162.031, Property Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A trustee's failure to reserve funds that were required to be reserved under Section 53.101 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 this section.

SECTION 4. Section 162.032, Property Code, is amended by adding Subsection (d) to read as follows:

(d) 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.

SECTION 5. Subchapter B, Chapter 162, Property Code, is amended by adding Section 162.034 to read as follows:

1 Sec. 162.034. ATTORNEY'S FEES AND COSTS. The court shall
2 award costs and reasonable attorney's fees to a prevailing party in
3 an action brought under this chapter.

4 SECTION 6. (a) Except as provided by Subsection (b) of this
5 section, the changes in law made by this Act apply only to a
6 construction contract that is entered into on or after the
7 effective date of this Act.

8 (b) Section 162.034, Property Code, as added by this Act,
9 applies only to an action commenced on or after the effective date
10 of this Act.

11 SECTION 7. This Act takes effect September 1, 2025.