

By: Lambert

H.B. No. 4876

Substitute the following for H.B. No. 4876:

By: Button

C.S.H.B. No. 4876

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the withdrawal of certain deposits placed in escrow in
3 connection with the purchase or reservation of a condominium unit.

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

5 SECTION 1. Section 82.158, Property Code, is amended to
6 read as follows:

7 Sec. 82.158. ESCROW OF DEPOSITS. (a) Except as provided by
8 Subsection (b), a [A] deposit for [made in connection with] the
9 purchase or reservation of a unit from a declarant shall be placed
10 in escrow and held in this state in an account designated for that
11 purpose by a real estate broker, an attorney, a title insurance
12 company licensed in this state, an independent bonded escrow
13 company, or an institution whose accounts are insured by a
14 governmental agency or instrumentality until delivered to the
15 declarant at closing, delivered to the declarant because of the
16 purchaser's default under a contract to purchase the unit, or
17 refunded to the purchaser because of the declarant's default under
18 a contract to purchase the unit. Escrow deposits may be placed in
19 interest-bearing accounts, and the interest is payable as may be
20 agreed in writing between the declarant and the purchaser.

21 (b) If a contract or reservation agreement to purchase a
22 unit provides, in bold or underlined type, that the deposit made for
23 the purchase or reservation of the unit may be used for actual
24 development and construction costs and the declarant obtains and

1 maintains a surety bond or insurance as described by Subsection
2 (d), the declarant may withdraw escrow funds when development or
3 construction of improvements to the condominium project begins.
4 The funds may be used only for actual development and construction
5 costs of the project in which the unit is located. For the purposes
6 of this subsection, actual development and construction costs:

7 (1) include expenditures for demolition, site
8 clearing, permit fees, impact fees, and utility reservation fees,
9 as well as architectural, consultant, engineering, and surveying
10 fees that directly relate to construction and development of the
11 condominium project or the easements and rights appurtenant to the
12 project; and

13 (2) do not include expenditures for:

14 (A) salaries, commissions, or expenses of
15 salespersons;

16 (B) advertising, marketing, or promotional
17 purposes; or

18 (C) loan fees, principal and interest on loans,
19 attorney fees, accounting fees, or insurance costs.

20 (c) The deposits made for the purchase or reservation of the
21 unit and used for actual development and construction costs shall
22 be, as applicable:

23 (1) applied as a credit against the purchase price of
24 the unit at closing;

25 (2) delivered to the declarant because of the
26 purchaser's default under the contract to purchase the unit; or

27 (3) refunded to the purchaser because of the

1 declarant's default under the contract to purchase the unit.

2 (d) The bond or insurance required under Subsection (b) must
3 be issued by an insurer licensed in this state in favor of the
4 purchaser in an amount adequate to cover the amount of the deposit
5 to be withdrawn from escrow funds under Subsection (b). The
6 declarant may not withdraw an amount from the escrow funds greater
7 than the face amount of the bond or the insurance coverage amount.
8 The bond or insurance must be payable to the purchaser if the
9 purchaser obtains a final judgment against the declarant requiring
10 the declarant to return the deposit under the purchase agreement.
11 The bond or insurance may be either in the form of an individual
12 bond or policy for each deposit accepted by the declarant or in the
13 form of a blanket bond or policy assuring the return of all deposits
14 received by the declarant.

15 (e) The party holding escrow funds who releases any portion
16 of the funds to the declarant has no obligation to monitor the
17 progress of construction or the expenditure of the funds by the
18 declarant and is not liable to any purchaser for the release of
19 funds under this section.

20 SECTION 2. This Act takes effect September 1, 2025.