

BILL ANALYSIS

Senate Research Center
76R9835 PAM-F

H.B. 2054
By: Solomons (Shapleigh)
Economic Development
5/10/1999
Engrossed

DIGEST

Currently, Chapter 53, Property Code, governs relationships between individuals involved in mechanics', contractors', or materialmen's liens. H.B. 2054 clarifies existing statutes concerning construction on residential properties and disclosure statements, by amending existing language in the Property Code.

PURPOSE

As proposed, H.B. 2054 clarifies existing statutes concerning construction on residential properties and disclosure statements, by amending existing language in the Property Code.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 53.001, Property Code, by adding Subsection (15), to define "completion."

SECTION 2. Amends Section 53.055(a), Property Code, to require an affidavit to be sent by the fifth, rather than one business, day after it is filed with the county clerk.

SECTION 3. Amends Sections 53.057(a) and (e), Property Code, to authorize a claimant to give notice instead of or in addition to notice under Section 53.252, Property Code. Provides that if the claim relates to a residential construction project under certain sections, the claimant is not required to give certain notice. Deletes a reference to Subchapter K.

SECTION 4. Amends Section 53.158, Property Code, to require a suit to be brought to foreclose a lien within two years after the last day a claimant may file the lien, rather than the date of filing the lien, or within one year after termination or abandonment of the work. Requires a certain suit to be brought within one year after the last day a claimant may file a lien affidavit, or within one year after completion, termination, or abandonment of the work under the original contract under which the lien is claimed, whichever is later. Deletes text regarding an anniversary.

SECTION 5. Amends Section 53.205(a), Property Code, to provide that the bond protects all individuals with a claim that relates to a residential construction project, under Subchapter K.

SECTION 6. Amends Sections 53.206(a) and (b), Property Code, to specify that a person is not required to give notice to the surety under Sections 53.058(b) or 53.253(c), under certain conditions. Deletes references to Subsection (b) and Section 53.058, Property Code. Makes conforming and nonsubstantive changes.

SECTION 7. Amends Section 53.207(a), Property Code, to make a conforming change.

SECTION 8. Amends Section 53.255(b), Property Code, as follows:

- (b) Requires the disclosure statement to read substantially similar to the following:
New heading: CONVEYANCE TO CONTRACTOR NOT REQUIRED. Specifies that a contractor is not required to supply certain information if a written waiver is signed. Clarifies that each time a contractor requests payment for work performed, the contractor is required to provide

a disbursement statement that lists certain information regarding subcontractors and suppliers. Establishes personal liability for choosing not to, rather than failing, to withhold certain money, and a contractor's failure to pay the claim. Deletes text regarding monthly money disbursements.

SECTION 9. Amends Section 53.256, Property Code, by amending Subsections (a) and (b) and adding Subsection (d), to require a certain list to include text regarding a waiver of a right to receive updated information. Authorizes an owner to waive the right to receive the list of subcontractors, suppliers, and updated information. Sets forth waiver requirements. Makes nonsubstantive changes.

SECTION 10. Amends Sections 53.258(a), (b), and (e), Property Code, to require the original contractor to provide the owner with a disbursement statement, at a certain time. Sets forth authorized information in the disbursement. Requires a certain procedure for the original contractor to provide the disbursement statement. Requires the lender to obtain a disbursement, rather than periodic, statement. Specifies that an original contractor's failure to comply with this section does not invalidate certain matters. Deletes text regarding the original contractor.

SECTION 11. Amends Section 53.260, Property Code, as follows:

Sec. 53.260. New heading: CONVEYANCE TO CONTRACTOR NOT REQUIRED.

SECTION 12. Repealer: Section 53.106(e), Property Code (regarding a definition for "completion").

SECTION 13. Effective date: September 1, 1999.
Makes application of this Act prospective.

SECTION 14. Emergency clause.