

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1274  
By: Wentworth  
Economic Development  
5/12/1999  
Committee Report (Substituted)

### **DIGEST**

Currently, the Property Code does not adequately protect subcontractors from the ability of general contractors and owners to withhold the payment of statutory retainage without incurring a penalty. When no legitimate threat exists where a retainage will be used to satisfy a perfected claim by a protected class under Chapter 53, Property Code, subcontractors are not protected from a unilateral decision by a general contractor or owner to withhold or delay statutory retainage payments. "Retainage" means a percentage of the contract price is retained by an owner during the progress of work under an original contract for which a mechanic's lien may be claimed and for 30 days after the work is completed. The retained funds secure payment to those who furnish material and labor for any contractor or subcontractor in the performance of work. C.S.S.B. 1274 would set forth procedures involving the retainage of payments to real property construction subcontractors.

### **PURPOSE**

As proposed, C.S.S.B. 1274 sets forth procedures involving the retainage of payments to real property construction subcontractors.

### **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 Chapter 53A, Property Code, by adding Section 53.004, as follows:

Sec. 53.004. RETAINAGE. Provides that any retainage withheld accrues interest at the prime rate. Sets forth an interest accrual rate for retainage withheld after a certain time. Defines "prime rate." Sets forth provisions for the end of accrual on retained funds.

SECTION 2. Effective date: September 1, 1999.  
Makes application of this Act prospective.