

SUBJECT: Allowing recovery of attorney's fees for breach of a construction contract

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Leach, Davis, Julie Johnson, Krause, Middleton, Moody, Schofield, Smith

0 nays

1 absent — Dutton

WITNESSES: For — Ben Westcott and Corbin Van Arsdale, AGC-Texas Building Branch; Brian Carroll, American Subcontractor Association; (*Registered, but did not testify*: Will McAdams, Associated Builders and Contractors of Texas; Allison Greer Francis, CHCS; Nathaniel Hilbrandt, Reliable Revolutionaries)

Against — None

BACKGROUND: Civil Practice and Remedies Code sec. 130.001 defines “construction contract” as a contract or agreement made and entered into by an owner, contractor, subcontractor, registered architect, licensed engineer, or supplier concerning the design, construction, alteration, repair, or maintenance of a building, structure, appurtenance, road, highway, bridge, dam, levee, or other improvement to or on real property, including moving, demolition, and excavation connected with the real property.

DIGEST: CSHB 2416 would specify that a person could recover reasonable attorney's fees from an individual, corporation, or other entity from which recovery was permitted as compensatory damages for breach of a construction contract.

This provision could not be construed to create or imply a private cause of action or independent basis to recover attorney's fees.

The bill would take effect September 1, 2021, and would apply only to a

cause of action that accrued on or after that date.