

BILL ANALYSIS

Senate Research Center
87R21763 NC-F

H.B. 3503
By: Lambert; Darby (Creighton)
State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Property Code has been amended many times over the years and includes archaic references to old Vernon's Statutes and to law that has been repealed. H.B. 3503 seeks to provide nonsubstantive cleanup changes with regard to outdated references in the Property Code.

H.B. 3503 amends current law relating to the correction or removal of certain obsolete provisions of the Property Code.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 27.001(4), (5), and (8), Property Code, to redefine "construction defect," "contractor," and "structural failure" for Chapter 27 (Residential Construction Liability).

SECTION 2. Amends Section 27.003(a), Property Code, as follows:

(a) Deletes existing text providing that, in an action to recover damages or other relief arising from a construction defect, if an assignee of the claimant or a person subrogated to the rights of a claimant fails to request state-sponsored inspection and dispute resolution under Chapter 428 (State-Sponsored Inspection and Dispute Resolution Process), if applicable, before performing repairs, the contractor is not liable for the cost of any repairs or any percentage of damages caused by repairs made to a construction defect at the request of an assignee of the claimant or a person subrogated to the rights of a claimant by a person other than the contractor or an agent, employee, or subcontractor of the contractor.

SECTION 3. Amends Sections 27.004(a), (b), (c), and (d), Property Code, as follows:

(a) Deletes existing text entitling a contractor, in a claim subject to Subtitle D (State-Sponsored Inspection and Dispute Resolution Process; Statutory Warranty and Building and Performance Standards), Title 16 (Texas Residential Construction Commission Act), to make an offer of repair in accordance with Subsection (b). Deletes existing text providing that a claimant is not required to give written notice to a contractor under this subsection in a claim subject to Subtitle D, Title 16. Makes a conforming change.

(b) Deletes existing text authorizing a contractor, not later than the 15th day after the date of a final, unappealable determination of a dispute under Subtitle D, Title 16, if applicable, if Subtitle D, Title 16, does not apply, to make a written offer of settlement to the claimant. Makes a nonsubstantive change.

(c) Deletes existing text providing that if compliance with Subtitle D, Title 16, is impracticable because of the necessity of initiating an action at an earlier date to prevent expiration of the statute of limitations or if the complaint is asserted as a counterclaim, compliance with Subtitle D, Title 16, or the notice is not required. Deletes existing text

requiring the claimant, if Subtitle D, Title 16, applies to the complaint, simultaneously with the filing of an action by a claimant, to submit a request under Section 428.001 (Request for Resolution). Deletes existing text authorizing the inspection provided for by Subsection (a), if Subtitle D, Title 16, does not apply, to be made not later than the 75th day after the date of service of the suit, request for arbitration, or counterclaim on the contractor, and authorizing the offer provided for by Subsection (b) to be made not later than the 15th day after the date the state-sponsored inspection and dispute resolution process is completed, if Subtitle D, Title 16, applies, or not later than the 60th day after the date of service, if Subtitle D, Title 16, does not apply.

(d) Makes conforming changes to this subsection.

SECTION 4. Amends Section 53.172, Property Code, as follows:

Sec. 53.172. BOND REQUIREMENTS. Requires that the bond to indemnify against a fixed lien:

(1)-(4) makes no changes to these subdivisions;

(5) be executed by certain entities, including a corporate surety authorized and admitted to do business under the law in this state and licensed by this state to execute the bond as surety, subject to Subchapter A (Certain Required or Permitted Obligations), Chapter 3503 (Surety Bonds and Related Instruments), Insurance Code, rather than subject to Section 1, Chapter 87, Acts of the 56th Legislature, Regular Session, 1959 (Article 7.19-1 (Bond of Surety Company), Vernon's Texas Insurance Code); and

(6) makes no changes to this subdivision.

SECTION 5. Amends Section 74.3013(h), Property Code, as follows:

(h) Provides that, in Section 74.3013 (Delivery of Money for Rural Scholarship, Economic Development, and Energy Efficiency Assistance), a nonprofit cooperative corporation means a cooperative corporation organized under Chapters 51 (Farmers' Cooperative Societies) and 52 (Cooperative Marketing Associations), Agriculture Code, the Texas Nonprofit Corporation Law, as described by Section 1.008(d) (relating to the citation of certain provisions as the "Texas Nonprofit Corporation Law"), Business Organizations Code, the Texas Cooperative Association Law, as described by Section 1.008(i) (relating to the citation of certain provisions as the "Texas Cooperative Association Law"), Business Organizations Code, and Chapter 161 (Electric Cooperative Corporations), Utilities Code.

Deletes existing text providing that in this section, a nonprofit cooperative corporation means a cooperative corporation organized under Chapters 51 and 52, Agriculture Code, the Texas Non-Profit Corporation Act (Article 1396-1.01 (Short Title, Captions, Parts, Articles, Sections, Subsections and Paragraphs) et seq., Vernon's Texas Civil Statutes), and the Cooperative Association Act (Article 1396-50.01 (Cooperative Association Act), Vernon's Texas Civil Statutes).

SECTION 6. Amends Sections 112.058(c) and (d), Property Code, to make conforming changes.

SECTION 7. Amends Section 202.002(b), Property Code, to provide that Chapter 202 (Construction and Enforcement of Restrictive Covenants) does not affect the requirements of Chapter 123 (Community Homes for Persons with Disabilities), Human Resources Code, rather than the Community Homes for Disabled Persons Location Act (Article 1011n, Vernon's Texas Civil Statutes).

SECTION 8. Amends Section 202.003(b), Property Code, to redefine "family home" for Subsection (b) (relating to prohibiting a dedicatory instrument or restrictive covenant from being construed to prevent the use of property as a family home).

SECTION 9. Amends Section 204.004(b), Property Code, to make conforming changes.

SECTION 10. Amends Section 204.010(a), Property Code, to make conforming changes.

SECTION 11. (1) Repealer: Section 5.018 (Disclosure of Absence of Certain Warranties), Property Code.

(2) Repealers: Sections 27.001(3) (relating to the definition of "commission" as the Texas Residential Construction Commission) and (9) (relating to the definition of "third-party inspector"), Property Code.

(3) Repealer: Section 27.004(1) (relating to certain procedures and provisions applicable to the inspection and completion of repairs made in the settlement of certain claims), Property Code.

(4) Repealer: Section 27.007(c) (relating to providing that a disclosure statement is not required in a contract relating to certain registered homes), Property Code.

SECTION 12. Effective date: upon passage or September 1, 2021.