

SB 5773-S2.E - DIGEST

(AS OF SENATE 2ND READING 3/15/03)

Finds that the vast majority of contractors engaged in the business of constructing or remodeling owner-occupied single-family homes are both technically proficient in their trade and able to manage their business dealings in accordance with the highest standards.

Finds, however, that in those relatively few, but all-too-frequent, instances where prime contractors on such construction or remodeling projects intentionally or unintentionally mismanage payments received from homeowners that are intended for subcontractors, suppliers, and others, existing provisions are inadequate to protect homeowners. Additionally, the toll on an individual homeowner's personal economic and emotional condition that such financial mismanagement by this small fraction of prime contractors is not adequately balanced against the responsibilities, obligations, and possible penalties that contractors bear for such mismanagement.

Finds that it is necessary to: (1) Clearly establish that prime contractors have a duty to properly manage funds received from homeowners that are intended for suppliers, subcontractors, and others, and to hold those who fail in this duty personally responsible for such financial mismanagement;

(2) Increase awareness by homeowners to the potential for liens against their residence if contractors fail to pay suppliers and subcontractors as promised;

(3) Clarify the right of homeowners to require that prime contractors maintain deposits and other similar payments in a trust account for the homeowner, when the homeowner elects to do so; and

(4) Increase opportunities for homeowners to become better educated about ways to protect themselves from financial mismanagement by those few contractors who are unable or unwilling to meet the financial management standards set by the vast majority of residential contractors in this state.

Declares an intent that liabilities of contractors and subcontractors arising from mismanagement of funds received from or for the benefit of homeowners should be disfavored by courts addressing whether or not such liabilities should be dischargeable in bankruptcy. If the mismanagement rises to the level of criminal conduct, nothing in this act is intended to interfere with criminal prosecution.

Takes effect July 1, 2006.