

1-1 By: Creighton S.B. No. 807
1-2 (In the Senate - Filed February 9, 2017; February 22, 2017,
1-3 read first time and referred to Committee on State Affairs;
1-4 April 25, 2017, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; April 25, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Huffman	X		
1-9	Hughes	X		
1-10	Birdwell	X		
1-11	Creighton	X		
1-12	Estes	X		
1-13	Lucio	X		
1-14	Nelson	X		
1-15	Schwertner	X		
1-16	Zaffirini	X		

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to choice of law and venue for certain construction
1-20 contracts.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. The heading to Chapter 272, Business & Commerce
1-23 Code, is amended to read as follows:

1-24 CHAPTER 272. LAW APPLICABLE TO CERTAIN CONSTRUCTION CONTRACTS [~~FOR~~
1-25 ~~CONSTRUCTION OR REPAIR OF REAL PROPERTY IMPROVEMENTS]~~

1-26 SECTION 2. Chapter 272, Business & Commerce Code, is
1-27 amended by adding Section 272.0001 and amending Sections 272.001
1-28 and 272.002 to read as follows:

1-29 Sec. 272.0001. DEFINITION. In this chapter, "construction
1-30 contract" means a contract, subcontract, or agreement entered into
1-31 or made by an owner, architect, engineer, contractor, construction
1-32 manager, subcontractor, supplier, or material or equipment lessor
1-33 for the design, construction, alteration, renovation, remodeling,
1-34 repair, or maintenance of, or for the furnishing of material or
1-35 equipment for, a building, structure, appurtenance, or other
1-36 improvement to or on public or private real property, including
1-37 moving, demolition, and excavation connected with the real
1-38 property. The term includes an agreement to which an architect,
1-39 engineer, or contractor and an owner's lender are parties regarding
1-40 an assignment of the construction contract or other modifications
1-41 thereto.

1-42 Sec. 272.001. VOIDABLE CONTRACT PROVISION. (a) This
1-43 section applies only to a construction contract concerning [that is
1-44 principally for the construction or repair of an improvement to]
1-45 real property located in this state.

1-46 (b) If a construction contract or an agreement collateral to
1-47 or affecting the construction contract contains a provision making
1-48 the contract or agreement or any conflict arising under the
1-49 contract or agreement subject to another state's law, litigation in
1-50 the courts of another state, or arbitration in another state, that
1-51 provision is voidable by a [the] party obligated by the contract or
1-52 agreement to perform the work that is the subject of the
1-53 construction contract [or repair].

1-54 Sec. 272.002. INAPPLICABILITY OF CHAPTER [CONTRACT
1-55 PRINCIPALLY FOR CONSTRUCTION OR REPAIR OF REAL PROPERTY
1-56 IMPROVEMENTS]. This chapter does not apply to a construction
1-57 [(a) For purposes of this chapter, a contract is principally for
1-58 the construction or repair of an improvement to real property
1-59 located in this state if the contract obligates a party, as the
1-60 party's principal obligation under the contract, to provide labor
1-61 or labor and materials as a general contractor or subcontractor for

2-1 ~~the construction or repair of an improvement to real property~~
2-2 ~~located in this state.~~

2-3 ~~[(b) For purposes of this chapter, a contract is not~~
2-4 ~~principally for the construction or repair of an improvement to~~
2-5 ~~real property located in this state if the] contract that:~~

2-6 (1) is a partnership agreement or other agreement
2-7 governing an entity or trust;

2-8 (2) provides for a loan or other extension of credit
2-9 and the party promising to perform the work that is the subject of
2-10 the construction contract ~~[construct or repair the improvement]~~ is
2-11 doing so as part of the party's agreements with the lender or other
2-12 person who extends credit; or

2-13 (3) is for the management of real property or
2-14 improvements and the obligation to perform the work that is the
2-15 subject of the construction contract ~~[construct or repair the~~
2-16 ~~improvement]~~ is part of that management.

2-17 ~~[(c) Subsections (a) and (b) do not provide an exclusive~~
2-18 ~~list of the situations in which a contract is or is not principally~~
2-19 ~~for the construction or repair of an improvement to real property~~
2-20 ~~located in this state.]~~

2-21 SECTION 3. The changes in law made by this Act apply only to
2-22 a contract, or an agreement collateral to or affecting a contract,
2-23 entered into on or after the effective date of this Act. A
2-24 contract, or an agreement collateral to or affecting a contract,
2-25 entered into before the effective date of this Act is governed by
2-26 the law as it existed immediately before the effective date of this
2-27 Act, and that law is continued in effect for that purpose.

2-28 SECTION 4. This Act takes effect September 1, 2017.

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