

SB 6740-S - DIGEST

(DIGEST OF PROPOSED 1ST SUBSTITUTE)

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, negligently, 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. Consequently, the legislature finds that it is necessary to: (1) Clearly establish when prime contractors are personally responsible for mismanagement of funds received from or on behalf of homeowners that are intended for suppliers, subcontractors, and others;

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

(3) 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.

Recognizes the independence of the federal bankruptcy courts, but nonetheless encourages such courts, when addressing whether or not to discharge liabilities of contractors arising under this act due to the mismanagement of funds received from or for the benefit of homeowners, to adopt a policy disfavoring the discharge of such liabilities in bankruptcy. If the mismanagement rises to the level of criminal conduct, nothing in this act is intended to interfere with criminal prosecution.