

TENNESSEE LIEN STATUTES

T. C. A. § 66-11-101 - Definitions

Effective: July 1, 2013

As used in this chapter, unless the context otherwise requires:

(1) “Contract” means an agreement for improving real property, written or unwritten, express or implied, and includes extras as defined in this section;

(2) “Contract price” means the amount agreed upon by the contracting parties to be paid for performing work or labor or for furnishing materials, machinery, equipment, services, overhead and profit, included in the contract, increased or diminished by the price of extras or breach of contract, including defects in workmanship or materials. If no price is agreed upon by the contracting parties, “contract price” means the reasonable value of all work, labor, materials, services, equipment, machinery, overhead and profit included in the contract;

(3) “Extras” means labor, materials, services, equipment, machinery, overhead and profit, for improving real property, authorized by the owner and not included in previous contracts;

(4)(A) “Furnish materials” means:

(i) To supply materials that are intended to be and are incorporated in the improvement;

(ii) To supply materials that are intended to be and are delivered to the site of the improvement and become normal wastage in construction operations;

(iii) To specially fabricate materials for incorporation in the improvement and, if not delivered to the site of the improvement, are not readily resalable by the lienor;

(iv) To supply materials that are used for the construction and do not remain in the improvement, subject to diminution by the salvage value of such material; or

(v) To supply tools, equipment, or machinery as permitted by § 66-11-102(g);

(B) The delivery of materials to the site of the improvement shall be *prima facie* evidence of incorporation of such materials in the improvement;

(5) “Improvement” means the result of any action or any activity in furtherance of constructing, erecting, altering, repairing, demolishing, removing, or furnishing materials or labor for any building, structure, appurtenance to the building or structure, fixture, bridge, driveway, private roadway, sidewalk, walkway, wharf, sewer, utility, watering system, or other similar enhancement, or any part thereof, on, connected with, or beneath the surface; the drilling and finishing of a well, other than a well for gas or oil; the furnishing of any work and labor relating to the placement of tile for the drainage of any lot or land; the excavation, cleanup, or removal of hazardous and nonhazardous material or waste from real property; the enhancement or embellishment of real property by seeding, sodding, or the planting on real

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property of any shrubs, trees, plants, vines, small fruits, flowers, nursery stock, or vegetation or decorative materials of any kind; the taking down, cleanup, or removal of any existing shrubs, trees, plants, vines, small fruits, flowers, nursery stock, or vegetation or decorative materials of any kind then existing; excavating, grading or filling to establish a grade; the work of land surveying, as defined in § 62-18-102, and the performance of architectural or engineering work, as defined in title 62, chapter 2, with respect to an improvement actually made to the real estate. As the context requires, “improvement” also means the real property thus improved;

(6) “Laborer” means any individual who, under contract, of any degree of remoteness, personally performs labor for improving real property on the site of the improvement;

(7) “Lienor” means any person having a lien or right of lien on real property by virtue of this chapter, and includes the person’s successor in interest;

(8) “Owner” includes the owner in fee of real property, or of a less estate in real property, a lessee for a term of years, a vendee in possession under a contract for the purchase of real property, and any person having any right, title or interest, legal or equitable, in real property, that may be sold under process;

(9) “Owner-occupant” means any owner of real property who, at the time the owner contracts for the improvement of the real property, occupies the real property as the owner’s principal place of residence;

(10) “Perform”, when used in connection with the words labor or services, means performance by the lienor or by another for the lienor;

(11) “Person” means an individual, corporation, limited liability company, partnership, limited partnership, sole proprietorship, joint venture, association, trust, estate, or other legal or commercial entity;

(12) “Prime contractor” means a person, including a land surveyor as defined in § 62-18-102, a person licensed to practice architecture or engineering under title 62, chapter 2, and any person other than a remote contractor who supervises or performs work or labor or who furnishes material, services, equipment, or machinery in furtherance of any improvement; provided, that the person is in direct privity of contract with an owner, or the owner’s agent, of the improvement. A “prime contractor” also includes a person who takes over from a prime contractor the entire remaining work under such a contract;

(13) “Real property” includes real estate, lands, tenements and hereditaments, corporeal and incorporeal, and fixtures and improvements thereon;

(14) “Remote contractor” means a person, including a land surveyor as defined in § 62-18-102 and a person licensed to practice architecture or engineering under title 62, chapter 2, who provides work or labor or who furnishes material, services, equipment or machinery in furtherance of any improvement under a contract with a person other than an owner;

(15) “Single family residence” means any real property owned and occupied by no one other than the owner and the owner’s immediate family; and

(16) “Visible commencement of operations” means the first actual work of improving upon the land or the first delivery to the site of the improvement of materials, that remain on the land until actually incorporated in the improvement, of such manifest and substantial character as to notify interested persons that an improvement is being made or is about to be made on the land, excluding, however, demolition, surveying, excavating, clearing, filling or grading, placement of sewer or drainage lines or other utility lines or work preparatory therefor, erection of temporary security fencing and the delivery of materials therefor.

T. C. A. § 66-11-102 - Contract price; work and materials

Effective: July 10, 2015

(a) There shall be a lien on any lot or tract of real property upon which an improvement has been made by a prime contractor or any remote contractor; provided, that the lienor has complied with title 62, chapter 6. If the lienor has not fully complied with title 62, chapter 6, no lien is established by this chapter. The lien shall secure the contract price.

(b) The lien established by this section shall include a lien on any lot or tract of real property in favor of any land surveyor who has, by contract with the owner or agent of the owner of the real property, performed on the property the practice of land surveying, as defined in [§ 62-18-102](#). The lien shall secure the contract price.

(c)(1) The lien established by this section shall include a lien on any lot or tract of real property upon which an improvement has been made, by contract with the owner or the owner’s agent, in favor of any person licensed to practice architecture or engineering under title 62, chapter 2, for architectural or engineering services performed with respect to the improvement actually made. The lien shall secure the contract price.

(2) The lien provided for in subdivision (c)(1) shall attach as of the time of visible commencement of operations as provided in [§ 66-11-104](#).

(3) This subsection (c) shall not apply to owner-occupants of one-family or two-family detached unit homes.

(d) Notwithstanding any other provision of this chapter, no prime contractor or remote contractor of a lessee of real property may encumber the fee estate unless the lessee is deemed to be the fee owner’s agent. In determining whether a lessee is the fee owner’s agent, the court shall determine whether the fee owner has the right to control the conduct of the lessee with respect to the improvement and shall consider:

(1) Whether the lease requires the lessee to construct a specific improvement on the fee owner’s property;

(2) Whether the cost of the improvement actually is borne by the fee owner through corresponding offsets in the amount of rent the lessee pays;

(3) Whether the fee owner maintains control over the improvement; and

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- (4) Whether the improvement becomes the property of the fee owner at the end of the lease.
- (e) A lien arising under this chapter shall not include in the lien amount any interest, service charges, late fees, attorney fees, or other amounts to which the lienor may be entitled by contract or law that do not result in an improvement to the real property or are otherwise not permitted by this chapter.
- (f) When a lienor, without default, is prevented from completely performing the lienor's part, the lienor is entitled to a lien for as much of the contract price as the lienor has performed in proportion to the contract price for the whole, and the lienor's claim shall be adjusted accordingly.
- (g) A lien for furnishing tools, equipment, or machinery arises under this chapter to the following extent:
 - (1) For the reasonable rental value for the period of actual use and any reasonable period of nonuse taken into account in the rental contract; except that the reasonable rental value and reasonable periods of use and nonuse need not be determined solely by the contract; or
 - (2) For the purchase price of the tools, equipment or machinery, but the lien for the price only arises if the tools, equipment or machinery were purchased for use in the course of the particular improvement and have no substantial value to the lienor after the completion of the improvement on which they were used.

T. C. A. § 66-11-103 - Owners spouse; contract Effective: May 18, 2007

When the contract for improving real property is made with a husband or a wife who is not separated and living apart from that person's spouse, and the property is owned by the other spouse or by both spouses, the spouse who is the contracting party shall be deemed to be the agent of the other spouse unless the other spouse serves the prime contractor with written notice of that spouse's objection to the contract within ten (10) days after learning of the contract.

T. C. A. § 66-11-104 - Attachment; time Effective: July 1, 2013

- (a) The lien provided by this chapter shall attach and take effect from the time of the visible commencement of operations, excluding however, demolition, surveying, excavating, clearing, filling or grading, placement of sewer or drainage lines, or other utility lines or work preparatory therefor, erection of temporary security fencing and the delivery of materials therefor.
- (b) If there is a cessation of all operations at the site of the improvement for more than ninety (90) days and a subsequent visible resumption of operations, any lien for labor performed or for materials furnished after the visible resumption of operations shall attach and take effect only from the visible resumption of operations.
- (c) Nothing in this section shall affect the priority or parity of any liens as established by any section of this chapter.

T. C. A. § 66-11-105 - Extent; property removal

Effective: May 18, 2007

(a) The lien shall extend to, and only to, the owner's right, title or interest in the real property and improvements on the real property existing at the time of the visible commencement of operations or thereafter acquired or constructed.

(b) If any part of the real property or improvements subject to the lien is removed by the owner or any other person at any time before discharge of the lien, the removal shall not affect the rights of the lienor either in respect to the real property and improvements or the part so removed.

T. C. A. § 66-11-106 - Lien duration

Effective: May 18, 2007

A prime contractor's lien shall continue for one (1) year after the date the improvement is complete or is abandoned, and until the final decision of any suit properly brought within that time for its enforcement.

T. C. A. § 66-11-107 - Laborers lien; priority

Effective: May 18, 2007

All liens provided by this chapter, except those of laborers, shall be on a parity, and shall be treated pro rata. All liens of laborers shall be on a parity one with another, and shall have priority over all other liens created by this chapter.

T. C. A. § 66-11-108 - Mortgages; priority

Effective: July 10, 2015

If the contract for an improvement is made with a mortgagor, the liens provided by this chapter shall be on a parity with any preexisting mortgage, but only for the Contract Price.

~~If the contract for an improvement is made with a mortgagor, and the lienor has served the mortgagee with written notice of the same by certified or registered mail before the work is begun or materials furnished by the lienor, and the mortgagee gives written consent thereto by certified or registered mail, the lien provided by this chapter to that lienor shall have priority over the mortgage; and if the mortgagee fails to serve a written objection by certified or registered mail within ten (10) days after receipt of the notice, the mortgagee's consent shall be implied; provided, that the person giving notice shall include a name and return address to which the written objection shall be served. If notice is not served in accordance with this section, then the lien shall not have priority over a mortgage otherwise entitled to priority over the lien under applicable law.~~

T. C. A. § 66-11-109 - Liens not created by this chapter

~~Effective: July 10, 2015~~

~~Section 66-11-108 shall also apply to any other person claiming a lien not created by this chapter.~~

T. C. A. § 66-11-110 - Judgment liens; effect

Effective: May 18, 2007

A judgment lien of record shall not defeat a lien provided by this chapter, if the lien provided by this chapter is fixed on the real property in good faith and without collusion.

T. C. A. § 66-11-111 - Contracts; recording; notice

Effective: May 18, 2007

Where the lienor's contract is in writing, and has been acknowledged, or in lieu of acknowledgment is sworn to by the prime contractor as to its execution by the owner, it may be recorded in the lien book in the register of deeds of the county where the real property, or any part of the affected real property, lies. Subsequent purchasers or encumbrancers for value shall be deemed to have notice of the lien so long as the recorded contract sets forth the contract price and describes the real property with reasonable certainty. Nothing in this section shall affect the priority of a lien as set forth in TCA §66-11-108.

T. C. A. § 66-11-112 - Sworn statements; notice; abandonment

Effective: July 10, 2015

(a) In order to preserve the priority of the lien provided by this chapter as of the date of its attachment, as concerns subsequent purchasers or encumbrancers for a valuable consideration without notice of the lien, though not as concerns the owner, or a mortgagee under T.C.A. §66-11-108, the lienor, who has not recorded the lienor's contract pursuant to § 66-11-111, is required to record in the office of the register of deeds of the county where the real property, or any part affected, lies, a sworn statement of the amount for, and a reasonably certain description of the real property on, which the lien is claimed. The recording party shall pay filing fees, and shall be provided a receipt for the filing fees, which amount shall be part of the lien amount. Recordation is required to be done no later than ninety (90) days after the date the improvement is complete or is abandoned, prior to which time the lien shall be effective as against the purchasers or encumbrancers without the recordation. The owner shall serve thirty (30) days' notice on prime contractors and on all of those lienors who have served notice in accordance with § 66-11-145 prior to the owner's transfer of any interest to a subsequent purchaser or encumbrancer for a valuable consideration. If the sworn statement is not recorded within that time, the lien's priority as to subsequent purchasers or encumbrancers shall be determined as if it attached as of the time the sworn statement is recorded.

(b) A building, structure or improvement shall be deemed to have been abandoned for purposes of this chapter when there is a cessation of operation for a period of ninety (90) days and an intent on the part of the owner or prime contractor to cease operations permanently, or at least for an indefinite period.

(c) Any other provision to the contrary notwithstanding, any lien acquired under contract executed on or after April 17, 1972, by virtue of § 66-11-141, may be filed within ninety (90) days after completion of the structure that is, or is intended to be, furnished water by virtue of drilling a well.

(d) The statement provided for in subsection (a) may be in substantially the following form:

NOTICE OF LIEN

State of _____

County of _____

_____ being first duly sworn, says that _____, the Lien Claimant, furnished certain material or performed certain work or labor in furtherance of improvements to the real property hereinafter described, in pursuance of a certain contract, with _____, [the owner, prime contractor, remote contractor, or other person, as the case may be]. The first of the work or labor was performed or the first of the material, services, equipment, or machinery was furnished on the _____ day of _____, ____ (year). The last of the work or labor was performed or the last of the material, services, equipment, or machinery was furnished on the _____ day of __, _____ (year), and there is justly and truly due Lien Claimant therefor from _____, [the owner, prime contractor, remote contractor, or other person, as the case may be] over and above all legal setoffs, the sum of _____ dollars, for which amount Lien Claimant claims a lien under [T.C.A. §§ 66-11-101, et seq.](#) on the real property, of which _____ is or was the owner, which is described as follows:

Lienor

[Notary Acknowledgment]

T. C. A. § 66-11-113 - Exempt materials
Effective: May 18, 2007

Whenever materials have been furnished to improve real property and delivered to the real property by or for a lienor, and payment for the materials has not been made by the owner of the real property, the materials shall not be subject to attachment, execution, or other legal process to enforce any debt due by the purchaser of the materials, except a debt due for the purchase price of the materials, so long as in good faith the materials are about to be applied to improve the real property; but if the owner has made payment for materials furnished, the materials shall not be subject to attachment, execution, or other process to enforce any debt, including the debt due for the purchase price for the materials.

T. C. A. § 66-11-114 - Materials; repossession
Effective: May 18, 2007

(a) If for any reason an improvement is abandoned before completion or, though completed, materials delivered are not used for the improvement, a person who furnished materials for the improvement that have not been incorporated in the improvement, and for which the person has not received payment, may repossess and remove the materials; and thereupon the person shall not be entitled to any lien on the real property or improvements for the price of the materials, but shall have the same rights in regard to the materials as if the person had never parted with the possession.

(b)(1) The right to repossess and remove the materials shall not be affected by their sale, encumbrance, attachment or transfer from the site of the improvement subsequent to delivery to the site, except that the right to repossess shall not be effective as against a purchaser or encumbrancer of the materials in good

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faith whose interest in the materials arose since removal from the site of the improvement, or as against a creditor attaching after the removal.

(2) The right of repossession and removal given by this section shall extend only to materials whose purchase price does not exceed the amount remaining due to the person repossessing; but where materials have been partly paid for, the person delivering them may repossess them as allowed in this section on refunding the part of the purchase price that has been paid.

T. C. A. § 66-11-115 - Remote contractors; notice of lien

Effective: May 18, 2007

(a) Every remote contractor shall have the lien provided by this part for work or labor performed or materials, services, equipment, or machinery furnished by the remote contractor in furtherance of the improvement; provided, that the remote contractor:

(1) Satisfies all of the requirements set forth in [§ 66-11-145](#), if applicable; and

(2) Within the time provided for recording sworn statements set out in [§ 66-11-112\(a\)](#), serves a notice of lien, in writing, on the owner of the property on which the improvement is being made.

(b) The lien shall continue for the period of ninety (90) days from the date of service of notice in favor of the remote contractor, and until the final termination of any suit for its enforcement properly brought pursuant to [§ 66-11-126](#) within that period.

(c) The notice of lien may be in substantially the form provided in [§ 66-11-112\(d\)](#).

(§§ 116-17 repealed)

T. C. A. § 66-11-118 - Multiple lots or improvements

Effective: May 18, 2007

(a)(1) Where the amount due is for work or labor performed or materials, services, equipment, or machinery furnished for a single improvement on contiguous or adjacent lots, parcels or tracts of land and the work or labor is performed or the materials, services, equipment, or machinery is furnished under the same contract or contracts, a lienor shall be required to serve or record only one (1) claim of lien covering the entire claim against the real property.

(2) If two (2) or more lots, parcels, or tracts of land are improved under the same contract or contracts and the improvements are not to be operated as a single improvement, a lienor who has performed work or labor or furnished materials, services, equipment, or machinery for the improvement shall, in claiming a lien, apportion the lienor's contract price between the several lots, parcels, or tracts of land and improvements on the lots, parcels, or tracts of land, and serve a separate notice of lien for the amount claimed against each lot, parcel, or tract of land and the improvements on the lot, parcel, or tract of land.

(b)(1) Unless the improvements are to be operated as a single improvement, whenever more than one (1)

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building or unit is constructed upon or other improvement is made to a single lot, parcel or tract of land or to contiguous lots, parcels or tracts of land, the visible commencement of operations as defined in this chapter with respect to each separate building, unit or other improvement shall not be deemed to constitute or otherwise relate to the visible commencement of operations with respect to any other building, unit or improvement on any single lot, parcel or tract of land or any contiguous lots, parcels or tracts of land. In connection therewith, a lienor who has performed work or labor or furnished materials, services, equipment, or machinery shall, in claiming a lien, apportion the lienor's contract price between the separate buildings, units or improvements on the buildings or units as applicable and serve or record a separate claim of lien for the amount claimed against each separate building, unit or improvement; in such event, the time prescribed in §§ 66-11-112 and 66-11-115 for serving or recording notice of lien shall commence to run with respect to each building, unit or improvement immediately upon the completion or abandonment of the building, unit or improvement.

(2) Whenever a lienor has furnished work, labor, or materials, services, equipment, or machinery for improvements that are to be operated as a single improvement on a single lot, parcel or tract of land or contiguous lots, parcels or tracts of land, the lienor shall be required to serve or record only a single notice of lien covering the lienor's entire claim against the real property.

(c) Except as expressly provided in the Horizontal Property Act, compiled in chapter 27 of this title, and notwithstanding any other provision of this chapter, a lien arising under this chapter by reason of an improvement that is part of a common interest community does not attach to the common elements, but attaches to the units as follows:

(1) If the improvement was contracted for by the association of unit owners, however denominated, the lien attaches to all the units in the common interest community for which the association acts, unless the association notifies the lienor, when the contract is made, that the lien may attach only to the unit or units on or for the benefit of which the improvement was made; and

(2) If the improvement was contracted for by a unit owner, the lien attaches only to that owner's unit.

T. C. A. § 66-11-119 - Amendment of notice of lien

Effective: May 18, 2007

(a) Any notice of lien served or recorded as provided in this chapter may be amended at any time during the period allowed for serving or recording the notice; provided, that the notice and amendment are served or recorded in good faith and the amendment is not shown to be prejudicial to another interested person.

(b) Any amendment of the notice of lien shall be served or recorded in the same manner as is provided for the original notice.

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T. C. A. § 66-11-120 - Contract price limitation

Effective: May 18, 2007

The claims secured by lien for work, labor, materials, equipment, services, machinery, overhead and profit, shall not exceed the contract price and extras in the contract between the owner and the prime contractor.

T. C. A. § 66-11-121 - Insurance proceeds

Effective: May 18, 2007

(a) The proceeds of any insurance that by the terms of the policy are payable to the owner of real property improved, and are actually received by or are to be received by the owner because of the destruction or removal by fire or other casualty of an improvement on which lienors have performed labor, or for which they have furnished materials, services, equipment, or machinery shall, after the owner has been reimbursed from the proceeds for premiums paid for the insurance by the owner, if any, be subject to liens provided by this chapter to the same extent and in the same order of priority as the real property would have been had the improvement not been so destroyed or removed.

(b) The proceeds of any insurance that by the terms of the policy are payable to a prime contractor or remote contractor, and are received or to be received by the prime contractor or remote contractor, shall, after the prime contractor or remote contractor has been reimbursed from the proceeds for premiums paid for the insurance by the prime contractor or remote contractor, if any, be liable for the payment for labor or materials, services, equipment, or machinery furnished and for which the prime contractor or remote contractor is liable in the same manner and under the same conditions as payments to the prime contractor or remote contractor under the contract would have been had the improvements not been so destroyed or removed.

T. C. A. § 66-11-122 - Debt transfer

Effective: May 18, 2007

This lien shall not pass to any person to whom the debt is transferred without notice of the lien.

T. C. A. § 66-11-123 - Contractors; debt transfer

Effective: May 18, 2007

The lien of another shall not be lost where any prime contractor or remote contractor has transferred or assigned the debt or charge due that lienor.

T. C. A. § 66-11-124 - Acceptance; waiver; payment bonds

Effective: July 10, 2015

(a) The acceptance by the lienor of a note or notes for all or any part of the amount of the lienor's claim shall not constitute a waiver of the lienor's lien, unless expressly so agreed in writing, nor shall it in any way affect the period for serving or recording the notice of lien under this chapter.

(b)(1) Any contract provision that purports to waive any right of lien under this chapter is void and

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unenforceable as against the public policy of this state.

- | (2) (A) If a prime contractor or remote contractor solicits any person to sign a contract requiring the person to waive a right of lien in violation of this section, the person shall notify the state board for licensing contractors of that fact. Upon receiving the information, the executive director of the board shall notify the prime contractor or remote contractor within a reasonable time after receiving the information that the contract is against the public policy of this state and in violation of this section. If the prime contractor or remote contractor voluntarily deletes the waiver of lien provision from the contract and affirmatively states that the language will not be included in any future contracts to perform construction work in this state, no further action shall be taken by the board against the prime contractor or remote contractor unless a later complaint is filed against the same prime contractor or remote contractor.
- | (B) If the prime contractor or remote contractor does not delete the waiver of lien provision, then the executive director shall schedule a hearing for appropriate action by the board. If the board finds after a hearing that the contracts of the prime contractor or remote contractor are in violation of this section, the prime contractor or remote contractor's license shall be immediately revoked.
- | (C) Notice of the revocation shall be sent by the board to the prime contractor or remote contractor's licensing authority in all states in which the prime contractor or remote contractor is licensed as a contractor.
- | (D) In any action for damages based on the waiver of a right of lien filed by a person solicited by the prime contractor or remote contractor, the person shall have the right to recover from the prime contractor or remote contractor reasonable attorney's fees and costs in connection with the enforcement of the lien.

(c) Notwithstanding any other provision of this chapter, no liens by remote contractors are allowed under this chapter if, prior to any work or labor being provided or materials, services, equipment, or machinery furnished in furtherance of the improvement, the owner, or the owner's agent, provides a payment bond, equal in amount to one hundred percent (100%) of the prime contractor's contract price, in favor of the remote contractors who provide work or labor or furnish materials, services, equipment, or machinery in furtherance of the improvement pursuant to a contract. The payment bond shall be executed with sufficient surety by one (1) or more sureties authorized to do business in this state. The bond shall be recorded in the office of the register of deeds of every county where the real property to be improved, or any affected part, lies.

T. C. A. § 66-11-125 - Actions and proceedings

Effective: May 18, 2007

Nothing in this chapter shall be construed to prevent any lienor under any contract from maintaining an action on the contract as if the lienor had no lien for the security of the lienor's debt, and the bringing of the action shall not prejudice the lienor's rights under this chapter.

T. C. A. § 66-11-126 - Enforcement methods; exception

Effective: April 10, 2015

Liens under this chapter, except as provided in subdivision (5)(A), shall be enforced only by the filing of an ~~action~~complaint or petition seeking the issuance of an attachment in the manner as follows:

(1) For a prime contractor, the lien shall be enforced in a court of law or equity by complaint and writ of attachment or in a court of general sessions having jurisdiction by a warrant for the sum claimed and writ of attachment, filed under oath, setting forth the facts, describing the real property, with process to be served on the person or persons whose interests the prime contractor seeks to attach and sell;

(2) For a remote contractor, the lien shall be enforced in a court of law or equity by complaint and writ of attachment or in a court of general sessions having jurisdiction by a warrant for the sum claimed and writ of attachment, filed under oath, setting forth the facts and describing the real property with process to be served on the person or persons whose interests the remote contractor seeks to attach and sell. In the discretion of the plaintiff or complainant, the complaint or warrant may also be served on the prime contractor or remote contractor in any degree, with whom the plaintiff or complainant is in contractual privity. In either event, the person or persons whose interest the remote contractor seeks to attach and sell shall have the right to make the prime contractor or remote contractor a defendant by third-party complaint or cross-claim as is otherwise provided by law;

(3) An ~~action~~complaint or petition under this chapter is timely filed if a suit seeking the issuance of an attachment is filed within the applicable period of time, even if the attachment is not issued or served within the applicable period. The clerk of the court in which the suit is brought shall issue the attachment writ without obtaining fiat of a judge or chancellor;

(4) The clerk of the court to whom application for attachment is made shall, before issuing the attachment, require the plaintiff, or the plaintiff's agent or attorney to execute a bond with sufficient surety, payable to the defendant or defendants in the amount of one thousand dollars (\$1,000) or the amount of the lien claimed, whichever is less; provided, that a party may petition the court for an increase in the amount for good cause shown, and conditioned that the plaintiff will prosecute the attachment with effect or, in case of failure, pay the defendant or defendants all costs that may be adjudged against the defendant or defendants and all such damages as the defendant or defendants may sustain by the wrongful suing out of the attachment; and

(5)(A) Where a bond has been provided pursuant to § 66-11-124, § 66-11-136, or § 66-11-142, an attachment on the real property shall not be necessary after the bond has been recorded, and the claim shall be enforced by ~~an~~actioncomplaint or petition on the bond before the circuit or chancery court, or before a court of general sessions where the amount is within its jurisdiction, filed under oath, setting forth the facts and describing the real property with process to be served on the obligors on the bond. In the discretion of the plaintiff or complainant, the complaint or warrant may also be served on the owner or owner's agent, prime contractor or remote contractor in any degree with whom the plaintiff is in contractual privity. In either event, the obligors on the bond shall have the right to make the owner or owner's agent, prime contractor, or any remote contractor of any degree a defendant by third-party complaint or cross-claim as is otherwise provided by law. Any ~~action~~complaint or petition on the bond shall be filed in the county where any portion of the real property is located;

(B) Where a lien is enforced pursuant to this subdivision (5), or after suit is commenced on a bond provided pursuant to § 66-11-124, § 66-11-136, or § 66-11-142, the plaintiff shall, in case of failure to prosecute the suit with effect, pay the defendant or defendants all costs adjudged against the defendant or defendants and all the damages the defendant or defendants may sustain by the wrongful assertion of the lien; and

(C) Where ~~an action~~complaint or petition is brought pursuant to this subdivision (5), or after suit is commenced on a bond provided pursuant to § 66-11-124, § 66-11-136, or § 66-11-142, the defendants shall retain all defenses to the validity of the underlying lien.

T. C. A. § 66-11-127 - Personal representatives

Effective: July 10, 2015

The provision of title 30, chapter 2, part 5, prohibiting the bringing of suits against personal representatives after the grant of letters shall not apply to suits brought under this chapter.

T. C. A. § 66-11-128 - Persons who lack legal capacity; enforcement

Effective: July 1, 2011

(a) If the labor, improvements, materials, services, equipment, or machinery are furnished for work done on the lands of any infant, person adjudicated incompetent, or cestui que trust, and in excusable ignorance on the part of the prime contractors or remote contractors, of the person's lack of legal capacity, the prime contractors or remote contractors shall have the right, after serving ten (10) days' notice on any guardian, conservator or trustee of the person, within which period satisfaction may be made, to take and remove the parts of the property on which their labor was performed, or their materials, services, equipment, or machinery or other property was used, the removal to be only of enough to satisfy their true claim and to be without substantial injury to the property of the person as it stood prior to improvement.

(b) As an alternative to the remedy under subsection (a), the court, in the enforcement of a lien provided by this chapter, may order the improvement to be separately sold and the purchaser may remove the improvement within such reasonable time as the court may fix. The purchase price for the improvement shall be paid into court. The owner of the land upon which the improvement was made may demand that the land be restored to substantially its condition before the improvement was commenced, in which case the court shall order its restoration, and the reasonable charge for the restoration shall be first paid out of the purchase price and the balance shall be paid to lienors and other encumbrancers in accordance with their respective rights.

T. C. A. § 66-11-129 - Persons who lack legal capacity; removal

Effective: May 18, 2007

The right of removal provided in § 66-11-128 shall apply on like terms and in like manner as in other cases of superior titles or liens, when the work was done by the prime contractor or remote contractor in excusable ignorance of the rights of such persons.

T. C. A. § 66-11-130 - Lien enforcement; demand

Effective: May 18, 2007

Upon written demand of the owner, the owner's agent, or prime contractor, served on the lienor, requiring the lienor to commence ~~action~~a suit to enforce the lienor's lien, and describing the real property in the demand, the ~~action~~proceeding shall be commenced, or the claim filed in a creditors' or foreclosure proceeding, within sixty (60) days after service, or the lien shall be forfeited.

T. C. A. § 66-11-131 - Joinder; intervention

Effective: May 18, 2007

Where there are several persons entitled to the lien given by this chapter, all or any number of them may join in one (1) suit; or upon the filing by one (1) or more of the lienors of an action for the benefit of all lienors, any other lienor may come in by petition, under oath, without suing out a new attachment, by giving bond and security, with effect as if the attachment, if any, had been taken out by the petitioner.

T. C. A. § 66-11-132 - Actions and proceedings; consolidation

Effective: May 18, 2007

If separate actions to enforce liens provided by this chapter are brought in the same court, they shall be consolidated; and if in different courts, the actions may, upon application, be removed into the court, if a court of record, in which the first action was instituted, and there consolidated, unless the later action is one for the benefit of all lienors, in the nature of a lien-creditors' bill, in which event earlier actions not of that nature shall be consolidated into the lien-creditors' bill, on petition.

T. C. A. § 66-11-133 - Conflicting rights; adjustment

Effective: May 18, 2007

The court is authorized to adjudicate, in a consolidated ~~action~~proceeding, the conflicting rights of the parties claiming liens, among themselves; and to enforce the same according to priorities, if any.

T. C. A. § 66-11-134 - General sessions court; enforcement

Effective: May 18, 2007

(a) When the lien is enforced by ~~an action~~civil warrant before a court of general sessions, and when an attachment has been levied on the lot or land and judgment rendered, the papers shall be returned to the circuit court, there to be proceeded with as in the case of a court of general sessions execution levied on land.

(b)(1) No court of general sessions' attachment in any such case shall be a lien on the land, unless, within twenty (20) days after the levy of attachment, an abstract of the levy of attachment, showing the name of the plaintiff and defendant, the date and amount of the claim, and a description of the premises affected, is filed for registration in the lien book in the office of the register of the county in which the real property, or any affected portion of the real property, lies.

(2) The register shall index the abstract, as the indexer is required to index deeds, and, for the registration and indexing, the indexer shall receive the sum prescribed by § 8-21-1001.

T. C. A. § 66-11-135 - Satisfaction; release; recording

Effective: May 18, 2007

(a) If a lienor whose lien has been forfeited, expired, satisfied or adjudged against the lienor in ~~an action proceeding~~ on the lien, fails to cause the lien provided by this chapter to be released within thirty (30) days after service of written notice demanding release, the lienor shall be liable to the owner for all damages arising therefrom, and costs, including reasonable attorneys' fees, incurred by the owner.

(b) The release shall be recorded in the office where the notice of lien was recorded. The fee for recording shall be the fee required for the recording of a release or satisfaction of a mortgage as provided by law.

(c) For the purpose of this section, a lien shall be deemed released on the day on which the release of the lien is recorded in the proper office.

T. C. A. § 66-11-136 - Lien enforcement; contractors bond

Effective: May 18, 2007

The owner of the property on which the improvement is made has the right to demand a bond from the prime contractor to protect the owner in case of the enforcement of a lien under this chapter by one (1) or more remote contractors; and in the event the prime contractor is paid for the work done, or any part of it, that is subject to a lien by a remote contractor, then on payment by the owner to the remote contractor of the amount due, the owner shall have judgment for the amount by ~~action~~filing suit on the bond in any court having jurisdiction in such cases; but the prime contractor shall have the right to contest the legality and amount of the claim of the remote contractors before the prime contractor is held liable.

T. C. A. § 66-11-137 - Loan proceeds misapplication

Effective: May 18, 2007

(a) Any owner who procures a loan secured by a mortgage or other encumbrance on certain real property, representing that the proceeds of the loan are to be used for the purpose of improving real property, and who, with intent to defraud, uses the proceeds or any part of the proceeds for any other purpose than to pay for labor performed on, or materials, services, equipment, or machinery furnished for the real property, and overhead and profit related thereto while any amount for the labor, materials, services, equipment, machinery, overhead or profit remains unpaid, or while any amount of which the owner has received notice of nonpayment prescribed by this chapter remains unpaid, shall be liable to an injured party for any damages and actual expenses incurred, including attorneys' fees, if the damages and expenses incurred are the result of the misapplication of the loan proceeds.

(b) A violation of subsection (a) is a Class E felony.

T. C. A. § 66-11-138 - Contract payments misapplication

Effective: July 10, 2015

(a)(1) Any prime contractor or remote contractor who, with intent to defraud, uses the proceeds of any payment made to that contractor on account of improving certain real property for any purpose other than to pay for labor performed on, or materials, services, equipment, or machinery furnished by that contractor's order for the real property, and overhead and profit related thereto, while any amount for the labor, materials, services, equipment, machinery, overhead, or profit remains unpaid shall be liable to an injured party for any damages and actual expenses incurred, including attorneys' fees, if the damages and expenses incurred are the result of the misapplication of the payment.

(2) A violation of subdivision (a)(1) is a Class E felony.

(b) Notwithstanding subsection (a), there is no violation of this section when:

(1) Funds are disbursed pursuant to written agreement; or

(2) The use of funds received and deposited in a business account for use on multiple construction projects is based on the allocation of costs and profits in accordance with generally accepted accounting principles for construction projects.

T. C. A. § 66-11-139 - Amount exaggeration

Effective: May 18, 2007

If, in any action proceeding to enforce the lien provided by this chapter, the court finds that any lienor has willfully and grossly exaggerated the amount for which that person claims a lien, as stated in that person's notice of lien or pleading filed, in the discretion of the court, no recovery may be allowed thereon, and the lienor may be liable for any actual expenses incurred by the injured party, including attorneys' fees, as a result of the lienor's exaggeration.

T. C. A. § 66-11-140 - Intent to defraud; prima facie evidence

Effective: May 18, 2007

Use of the proceeds as enumerated in §§ 66-11-137 -- 66-11-139 for any purpose other than either payment pursuant to written agreement between the parties or in accordance with the allocation of costs and profits under generally accepted accounting principles for construction projects shall be prima facie evidence of intent to defraud. Use of a single business bank account for multiple projects shall not be evidence of intent to defraud.

T. C. A. § 66-11-141 - Well-drilling liens

Effective: May 18, 2007

(a) There is created a lien against the tract of land, on which any person, firm or corporation has drilled a well by contract with the owners of the land or their duly authorized agent, for all labor, materials and equipment used or furnished by the driller of the well, including any pump, apparatus or other fixtures attached to the well, installed by the driller.

- (b) The lien shall remain against the land for a period of two (2) years after the completion of the well or after the furnishing of any pump or apparatus attached to the well, unless sooner discharged by full payment.
- (c) The lien may be enforced by attachment of the land in a proceeding brought in any court of competent jurisdiction prior to the expiration of the lien, and the land may be sold in satisfaction of the unpaid indebtedness owing to the driller.
- (d) The rights of the lienor under this section shall be subject to the terms of § 66-11-112.

T. C. A. § 66-11-142 - Lien discharge; bond

Effective: April 10, 2015

(a) If a lien, other than a lien granted in a written contract, is fixed or is attempted to be fixed by a recorded instrument under this chapter, any person may record a bond to indemnify against the lien. The bond shall be recorded with the register of deeds of the county in which the lien was recorded. The bond shall be for the amount of the lien claimed and with sufficient corporate surety authorized and admitted to do business in the state and licensed by the state to execute bonds as surety, and the bond shall be conditioned upon the obligor or obligors on the bond satisfying any judgment that may be rendered in favor of the person asserting the lien. The bond shall state the book and page or other reference and the office where the lien is of record. The recording by the register of a bond to indemnify against a lien shall operate as a discharge of the lien. After recording the bond, the register shall return the original bond to the person providing the bond. The register shall index the recording of the bond to indemnify against the lien in the same manner as a release of lien. The person asserting the lien may make the obligors on the bond parties to any action-suit to enforce the claim, and any judgment recovered may be against all or any of the obligors on the bond.

(b)(1) When a prime contractor or remote contractor has provided a valid payment bond for the benefit of potential lien claimants, a copy of that bond may be recorded, in lieu of the recording of another bond, to discharge a lien asserted by the lien claimants. A copy of the bond may be recorded with the register of deeds in lieu of the bond provided in subsection (a) to discharge such a lien. Upon recording with the register of deeds, the prime contractor, remote contractor or owner shall notify the surety executing the bond, and the lien on the property shall be discharged. The person asserting the lien may make the obligors on the bond parties to any action-suit to enforce the claim, and any judgment recovered may be against all or any of the obligors on the bond.

(2) The bond recorded pursuant to this subsection (b) shall:

- (A) Be in a penal sum at least equal to the total of the original contract amount;
- (B) Be in favor of the owner;
- (C) Be executed by:
 - (i) The original prime or remote contractor as principal; and

- (ii) A sufficient corporate surety authorized and admitted to do business in this state and licensed by this state to execute bonds as surety; and
- (D) Provide for payment of the lien claimant, whether the lien claimant was employed or contracted with by the person who originally contracted with the owner of the premises or by a remote contractor.
- (c) The register of deeds may record any bond recorded under this section and return the original to the person providing the bond.

T. C. A. § 66-11-143 - Unregistered lien; protection; notice of completion

Effective: July 1, 2008

(a) In order to be protected from lien claims that have not previously been recorded, as provided in § 66-11-111 or § 66-11-112, the owner or purchaser of improved real property or their agent or attorney may, upon the completion of the improvement, record in the office of the register of deeds in the county where the real property or any affected part of the real property is located a notice of completion, or the owner or purchaser may require a person or organization with whom the owner or purchaser has contracted for the improvement to do so upon the completion of the improvement, and the owner or purchaser of improved real property or any other authorized party shall simultaneously serve a copy of any notice of completion recorded with the register of deeds on the prime contractor; provided, however, that no copy of the notice of completion is required to be served on any prime contractor when the owner, or an entity controlled by the owner, also acts as the general contractor, as defined in § 66-11-146(b)(1), in furtherance of the improvement to the property. If a prime contractor is entitled to be served with a copy of any notice of completion recorded with the register of deeds, then the lien rights of the prime contractor not so served a copy shall not be affected by the notice of completion.

(b) The notice of completion shall contain the following:

(1) The legal name of the owner or owners of the real property;

(2) The name of the prime contractor or prime contractors;

(3) The location and description of the real property;

(4) Date of the completion of the improvement;

(5) A statement that a transfer of ownership of all or a part of the real property or an interest in the real property and encumbrance on the real property, or a settlement of the claims of parties entitled to the benefits of this part, will take place not less than ten (10) days after the date of the recording of the notice of completion; provided, that the ten-day expiration for lien claimants shall only apply to contracts for improvement to or on real property, for one-family, two-family, three-family and four-family residential units. On all other contracts for improvement to or on real property, the expiration time for lien claimants shall be thirty (30) days after the date of the recording of the notice of completion in the register's office

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- (6) The name and address of the person, firm, or organization on which parties entitled to the benefits of this chapter may serve notice of claim;
- (7) Acknowledgment by the person filing the notice, or by that person's agent or attorney; and
- (8) The name and address of the preparer of the instrument in compliance with [§ 66-24-115](#).

(c) The register of deeds shall make a permanent record of all notices of completion filed in the office of the register and the records shall be available for public examination. The register of deeds shall be entitled to the fees, provided in [§ 8-21-1001](#), for the register's services in receiving and maintaining notices of completion required in this section.

(d) If a remote contractor has served a required notice of nonpayment pursuant to [§ 66-11-145](#), then any party recording a notice of completion shall simultaneously serve a copy of the notice of completion on the remote contractor. The remote contractor shall have thirty (30) days from the date of the recording of the notice of completion to serve a written notice in response to the notice of completion in accordance with subsection (e). The lien rights of a remote contractor that has not been served a copy, shall not be affected by the notice of completion.

(e)(1) Any prime contractor or remote contractor claiming a lien under this chapter on the property described in the notice of completion, who has not previously registered the person's contract as provided in [§ 66-11-111](#) or registered a sworn statement as provided in [§ 66-11-112](#) and served a copy of the registration to the owner, shall serve written notice, addressed to the person, firm or organization and at the address designated in the notice of completion for receiving notice of claim, stating the amount of the claim and certifying that the claim does not include any amount owed to the claimant on any other job or under any other contract.

(2)(A) For improvements to or on real property for one-family, two-family, three-family and four-family residential units, the written notice shall be served not more than ten (10) days from the date of the recording of the notice of completion in the register's office, and if notice is not served within that time, the lien rights of the claimant shall expire;

(B) For all other contracts for improvements to or on real property, the written notice shall be served not more than thirty (30) days from the date of the recording of the notice of completion in the register's office, and if notice is not served within that time, the lien rights of the claimant shall expire.

(f) Any notice of completion recorded as provided in this section before the completion of the improvement or the demolition is void and of no effect whatsoever.

(g) The notice of completion may be in substantially the following form:

This Instrument prepared by:

Name _____

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Address _____

NOTICE OF COMPLETION

Legal name of owner or owners of the real property

Names of all applicable prime contractors

The location and description of the real property:

Date of completion of the entire improvement:

A transfer of ownership of all or part of the real property or an interest therein and encumbrance thereon or a settlement of the claims of parties entitled to the benefits of Title 66, Chapter 11 of the Tennessee Code Annotated will take place not less than ten (10) days after the date of the recording of this Notice of Completion; provided, that the ten-day expiration for lien claimants shall only apply to contracts for improvements to or on real property for one-family, two-family, three-family, and four-family residential units. On all other contracts for improvement to or on real property, the expiration time for lien claimants shall be thirty (30) days after the date of the recording of this Notice of Completion. The name and address of the person, firm, or organization on which parties entitled to the benefits of Title 66, Chapter 11, may serve notice is as follows:

Name:

Street Address:

City:

State: Zip Code:

Dated this the _____ day of _____, 20____

Signature

(Check One)

_____, Owner

_____, Purchaser

_____, Prime Contractor

[Notary Acknowledgment]

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T. C. A. § 66-11-144 - Transferred to § 66-34-104 by 2008 Pub Acts, c. 804, § 2, eff. July 1, 2008
Effective: July 1, 2008

T. C. A. § 66-11-145 - Nonpayment; notice

Effective: May 18, 2007

(a) Every remote contractor with respect to an improvement, except one-family, two-family, three-family and four-family residential units, shall serve, within ninety (90) days of the last day of each month within which work or labor was provided or materials, services, equipment, or machinery furnished and for which the remote contractor intends to claim a lien under this chapter, a notice of nonpayment for the work, labor, materials, services, machinery, or equipment to the owner and prime contractor in contractual privity with the remote contractor if its account is, in fact, unpaid. The notice shall contain:

- (1) The name of the remote contractor and the address to which the owner and the prime contractor in contractual relation with the remote contractor may send communications to the remote contractor;
- (2) A general description of the work, labor, materials, services, equipment, or machinery provided;
- (3) The amount owed as of the date of the notice;
- (4) A statement of the last date the claimant performed work and/or provided labor or materials, services, equipment, or machinery in connection with the improvements; and
- (5) A description sufficient to identify the real property against which a lien may be claimed.

(b) A remote contractor who fails to provide the notice of nonpayment in compliance with this section shall have no right to claim a lien under this chapter, except this section shall not apply to a certain amount or percentage of the contract amount retained to guarantee performance of the remote contractor.

(c) A notice of nonpayment provided in accordance with this section shall not be considered notice required by § 66-11-115.

(d) The notice of nonpayment may be in substantially the following form:

NOTICE OF NONPAYMENT

TO:

[Contractor
contracting w Owner]

[Owner]

Pursuant to Tennessee Code Annotated, § 66-11-145, notice is hereby given that _____ [Lienor]

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has not been paid for certain labor, materials, services, equipment, or machinery it supplied in the _____ [description of work] of the _____ [description of project], located at _____ [description of property].

The amount presently due and owing is \$_____. The last date labor, materials, services, equipment, or machinery were provided in connection with the improvements was _____ [date]. You may send any communications regarding this matter to the following name and address:

Lienor

Dated: _____

T. C. A. § 66-11-146 - Residential real property

Effective: July 10, 2015

(a)(1) As used in this subsection (a), “residential real property” means a building consisting of one (1) dwelling unit in which the owner of the real property intends to reside or resides as the owner’s principal place of residence, including improvements to or on the parcel of property where the residential building is located, and also means a building consisting of two (2), three (3) or four (4) dwelling units where the owner of the real property intends to reside or resides in one (1) of the units as the owner’s principal place of residence, including improvements to or on the parcel of property where the residential building is located.

(2) Notwithstanding any other law to the contrary, except as provided in subsection (b), on contracts to improve residential real property, a lien or right of lien on the property shall exist only in favor of a prime contractor.

(b)(1) As used in this subsection (b):

(A) “Residential real property” means improvements to or on a parcel of property upon which a building is constructed or is to be constructed consisting of one (1) dwelling unit intended as the principal place of residence of a person or family; and

(B) “General contractor” means the person responsible for the supervision or performance of substantially all of the work, labor, and the furnishing of materials in furtherance of the improvement to the property.

(2) When the owner of residential real property and the general contractor are one and the same person, or a person controls entities owning the property and a general contracting business, a lien or right of lien upon the property shall exist only in favor of the lienors in contractual privity with the owner or general contractor.

T. C. A. § 66-11-147 - Oil, gas, or other mineral leaseholds

Effective: July 10, 2015

(a) Any person who performs labor or furnishes materials, supplies, fixtures, machinery or other things

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of value to a lessee holding or owning a leasehold, or any right conferred by a lease, relating to oil, gas or other minerals, in the development or improvement of the leasehold, by contract with or by the written consent of the owner or the agent or representative of the owner of the leasehold, shall have a lien on the leasehold or the entire interest of the lessee, including oil or gas wells, machinery and equipment, to secure the payment for the labor or things furnished. If the labor or things are furnished at the written request or by written consent of any prime contractor or remote contractor, or the agent of either, the lien shall be for the benefit of whomever furnishes any of the labor or things mentioned. The lien provided for in this section shall be effective against the leasehold, or the entire interest of the lessee, including all improvements belonging to the lessee.

- (b) The lien shall relate to and take effect from the time of the delivery of the materials, supplies, fixtures, or machinery, or from the date of furnishing of any labor.
- (c) If unpaid, the lien shall expire and be of no effect after ninety (90) days, unless the person furnishing the labor, materials, or supplies, files with the register's office in the county in which the leasehold is located, the sworn statement as provided in [§ 66-11-112](#). A copy of the notice shall also be served to the owner of the property and the holder of the leasehold.
- (d) A lien provided in this section shall have precedence over all other subsequent liens or conveyances after the time of attachment; provided, that the sworn statement is filed within the ninety-day period provided in this section.
- (e) [Section 66-11-120](#) shall apply to this lien.

T. C. A. § 66-11-148 - Construction and application; substantial compliance; non prejudicial errors or omissions

Effective: May 18, 2007

- (a) This chapter is to be construed and applied liberally to secure the beneficial results, intents, and purposes of the chapter.
- (b) Substantial compliance with this chapter is sufficient for the validity of liens arising under this chapter and to give jurisdiction to the court to enforce the liens.
- (c) Any document required or permitted to be served, recorded or filed by this chapter that substantially satisfies the applicable requirements of this chapter is effective even if it has nonprejudicial errors or omissions.

T. C. A. § 66-11-149 - Identity of persons or property; presumptions; service

Effective: July 1, 2008

- (a) For purposes of [§ 66-11-145](#), the name of any owner, the owner's agent, any prime contractor, any remote contractor, or any other person, their addresses, and the real property description stated in a building permit authorizing the improvement shall be presumed to be correct and, in the case of property description, sufficient to identify the real property.

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- (b) If one (1) or more agents are specified on the building permit, service on a listed agent shall be deemed to be service on all of the agent's principals, including those who have not separately listed an agent. If one (1) or more owners are specified on the building permit, service on the listed owner or owners shall be deemed to be service on all owners, including those not listed.
- (c) For the purposes of this chapter, except as provided in [§ 66-11-108](#), any notice or other document required or permitted to be served shall be served by one (1) or more of the following means:
 - (1) Registered or certified mail, return receipt requested;
 - (2) Hand delivery, evidenced by a sworn statement, properly notarized, confirming delivery; or
 - (3) Any other commercial delivery service that provides written confirmation of delivery.
- (d) For purposes of this chapter, there is a rebuttable presumption that service is complete:
 - (1) Upon receipt by the party being served by hand delivery;
 - (2) Within three (3) business days of mailing if served by registered or certified mail, return receipt requested; or
 - (3) One (1) business day after commercial, overnight delivery if served by that means.

T. C. A. § 66-11-150 - Residential construction; licensure requirement Effective: July 1, 2010

Notwithstanding any law in this chapter or any other law to the contrary, no lien, otherwise authorized pursuant to this chapter, shall be available on residential real property, as that term is defined by [§ 66-11-146\(b\)\(1\)\(A\)](#), to any person, firm or corporation that performs residential construction, including home improvement as defined by [§ 62-6-501\(4\)](#), if:

- (1) The person, firm or corporation is not licensed pursuant to title 62, chapter 6; and
- (2) The jurisdiction in which the work is performed requires such person, firm or corporation to be licensed in accordance with such chapter.

TRUTH IN CONSTRUCTION AND CONSUMER PROTECTION ACT OF 1975

T. C. A. § 66-11-201 - Short title

This part shall be known and may be cited as the "Truth in Construction and Consumer Protection Act of 1975."

T. C. A. § 66-11-202 - Definitions

As used in this part, unless the context or subject matter indicates another meaning, the words and phrases defined in § 66-11-101, as amended and as may from time to time be amended, have the same meaning as set out in that section and such § 66-11-101 as amended and as may from time to time be amended is incorporated in this part by reference.

T. C. A. § 66-11-203 - Owners; notice

Any contractor who is about to enter into a contract, either written or oral, for improving residential real property, as that term is defined by § 66-11-146, with the owner or owners thereof shall, prior to commencing the improvement of the real property or making of the contract, deliver, by registered mail or otherwise, to the owner or owners of the real property to be improved written notice in substantially the following form:

Delivered this _____ day of _____, 20____, by _____, Contractor.

The above-captioned contractor hereby gives notice to the owner of the property to be improved, that the contractor is about to begin improving the property according to the terms and conditions of the contract and that under the provisions of the state law (§§ 66-11-101 -- 66-11-141):

(1) There shall be a lien upon the real property and building for the improvements made in favor of the above-captioned contractor, ~~mechanic, laborer, founder or machinist~~, who does the work, or furnishes the materials for such improvements for a duration of one (1) year after the work is finished or materials furnished;

~~(2) Except as modified by § 66-11-146, every person contracted with or employed to work on the buildings or to furnish materials for the same with the above named contractor shall have a lien on the property for that person's work or material; provided, that such person notify the owner in writing within ninety (90) days after the completion of the improvement, which lien will continue for ninety (90) days after such notice;~~

~~(3) Except as modified by § 66-11-146, these liens can be enforced even though the contractor has been paid in full if the contractor has not paid the persons who furnished the labor or materials for the improvement.~~

____ Contractor

T. C. A. § 66-11-204 - Contracts; rejection

An owner of residential real property may reject a contract by notifying the contractor by written notice by registered mail within three (3) days after receipt of the notice required in § 66-11-203; otherwise the contract is affirmed.

T. C. A. § 66-11-205 - Lien payment; notice

Effective: July 10, 2015

Upon completion of the contract or improvement and upon receipt of the contract price, the prime contractor shall deliver by registered mail or otherwise to the owner or owners of the real property a sworn affidavit and receipt substantially in the following form:

STATE OF TENNESSEE COUNTY OF

On this ... day of, 20, before me personally appeared (if a corporation use “..... President (or other officer) of (Corporate Name) a corporation”), prime contractor, to me personally known, who being duly sworn by oath, did say that all of the persons, firms and corporations, including general-the prime contractors and all subcontractorsremote contractors and laborers, who have furnished services, labor or materials according to the plans or specifications, or extra items used in the construction or repair of buildings and improvements on the real estate hereinafter described, have been paid in full or will be paid in full no later than ten (10) days from the date a bill is rendered for such services, labor or materials and that such work has been fully completed and accepted by the owner, and further that such owner has paid the contract price in full, the receipt of which is hereby acknowledged. Affiant further says that no claims have been made to affiant by, nor is any suit pending on behalf of the prime contractor or any remote contractors, subcontractors, or laborers-or materialmen, and further that no chattel mortgages or conditional bills of sale have been given or are now outstanding as to any materials, appliances, fixtures or furnishings placed upon or installed in the aforementioned premises. Affiant as a party does for a valuable consideration hereby agree and guarantee to hold the owner of the real estate, the owner's successors, heirs and assigns, harmless against any lien, claim or suit by any general-remote contractor, subcontractor, mechanic or materialman-laborer and against chattel mortgages or conditional bills of sale in conjunction with the construction of such buildings or improvements on such real estate.

The real estate and improvements referred to herein are situated in the County of, State of Tennessee, and are described as follows: (give street address)

Prime Contractor

Sworn to and subscribed before me on the date
above first written.

Notary Public

My Commission Expires:

T. C. A. § 66-11-206 - Contractor noncompliance; penalties and remedies

Effective: July 10, 2015

- (a) In the event that any materialmen's liens or mechanics' liens are perfected, filed or enforced under part 1 of this chapter against any real estate for transactions covered under §§ 66-11-203 and 66-11-205 and the contractor has not complied with §§ 66-11-203 and 66-11-205 or if having technically complied with this part has willfully, knowingly and unlawfully falsified any statements or fraudulently obtained any permission, the contractor commits a Class B misdemeanor.
- (b) Nothing contained in this part shall abrogate the right of any person who is materially or personally damaged or injured by any contract covered by this part to seek such person's remedies against the responsible person in the courts.
- (c) Noncompliance with §§ 66-11-203 and 66-11-205 shall in no way affect the lien rights of a contractor, actually performing the work and having a contract directly with an owner, or the ~~contractor's~~owner's agent, to enforce a lien as provided in § 66-11-102.

T. C. A. § 66-11-207 - Other laws; effect

This part shall not operate to repeal or affect any of the laws of the state relating to mechanics' and materialmen's liens, specifically part 1 of this chapter, but shall be held and construed as ancillary and supplemental thereto.

T. C. A. § 66-11-208 - Contracts; exclusivity of state laws and courts

Effective: July 10, 2015

- (a) Except as provided in subsection (b), a provision in any contract, subcontract or purchase order for the improvement of real property in this state is void and against public policy if it makes the contract, subcontract or purchase order subject to the substantive laws of another state or mandates that the exclusive forum for any litigation, arbitration or other dispute resolution process is located in another state.
- (b) The prohibition of subsection (a) shall not apply to any contract, subcontract or purchase order for the improvement of real property which is located partially in this state and partially in another state or states. Venue in a dispute over such contract may be in any state in which part of the property is located.

PROMPT PAY ACT OF 1991

T. C. A. § 66-34-101 - Short title

This chapter shall be known and may be cited as the "Prompt Pay Act of 1991."

T. C. A. § 66-34-102 - Definitions

As used in this chapter, unless the context or subject matter indicates another meaning, the words and phrases defined in § 66-11-101 have the same meaning as set out in that section and are incorporated in this chapter by reference.

T. C. A. § 66-34-103 - Retainages; payment default

Effective: July 1, 2012

(a) All construction contracts on any project in this state, both public and private, may provide for the withholding of retainage; provided, however, that the retainage amount may not exceed five percent (5%) of the amount of the contract.

(b) The owner, whether public or private, shall release and pay all retainages for work completed pursuant to the terms of any contract to the prime contractor within ninety (90) days after completion of the work or within ninety (90) days after substantial completion of the project for work completed, whichever occurs first. As used in this subsection (b), work completed shall be construed to mean the completion of the scope of the work and all terms and conditions covered by the contract under which the retainage is being held. The prime contractor shall pay all retainages due any ~~subcontractor~~remote contractor within ten (10) days after receipt of the retainages from the owner. Any ~~subcontractor~~remote contractor receiving the retainage from the prime contractor shall pay to any ~~subsubcontractor~~lower-tier remote contractor ~~or material supplier~~ all retainages due the ~~subsubcontractor~~lower-tier remote contractor ~~or material supplier~~ within ten (10) days after receipt of the retainages.

(c) Any default in the making of the payments shall be subject to those remedies provided in this part.

(d) In the event that an owner or prime contractor withholds retainage that is for the use and benefit of the prime contractor or its ~~subcontractors~~remote contractors pursuant to § 66-34-104(a) and (b), neither the prime contractor nor any of its ~~subcontractors~~remote contractors shall be required to deposit additional retained funds into an escrow account in accordance with § 66-34-104(a) and (b).

(e)(1) It is an offense for a person, firm or corporation to fail to comply with subsection (a) or (b) or § 66-34-104(a).

(2)(A) A violation of this subsection (e) is a Class A misdemeanor, subject to a fine only of three thousand dollars (\$3,000).

(B) Each day a person, firm or corporation fails to comply with subsection (a) or (b) or § 66-34-104(a) is a separate violation of this subsection (e).

(C) Until the violation of this subsection (e) is remediated by compliance, the punishment for each violation shall be consecutive to all other such violations.

(3) In addition to the fine imposed pursuant to subdivisions (e)(2)(A) and (B), the court shall order restitution be made to the owner of the retained funds. In determining the appropriate amount of restitution, the formula stated in § 40-35-304 shall be used.

T. C. A. § 66-34-104 - Escrow; portion of contract price

Effective: July 10, 2015

(a) Whenever, in any contract for the improvement of real property, a certain amount or percentage of the contract price is retained, that retained amount shall be deposited in a separate, interest-bearing, escrow account with a third party which must be established upon the withholding of any retainage.

(b) As of the time of the withholding of the retained funds, the funds shall become the sole and separate property of the prime contractor or remote contractor to whom they are owed, subject to the rights of the person withholding the retainage in the event the prime contractor or remote contractor otherwise entitled to the funds defaults on or does not complete its contract.

(c) In the event that the party withholding the retained funds fails to deposit the funds into an escrow account as provided herein, such party shall be responsible for paying the owner of the retained funds an additional three hundred dollar (\$300) penalty per day for each and every day that such retained funds are not deposited into such escrow account. It is the intent of this section that penalties shall accrue from the date retained funds were first withheld and shall continue to accrue until placed into a separate, interest-bearing escrow account or otherwise paid.

(d) The party with the responsibility for depositing the retained amount in a separate, interest-bearing, escrow account with a third party shall have the affirmative duty to provide written notice that it has complied with the requirements of this section to any prime contractor upon withholding the amount of retained funds from each and every application for payment, including:

(1) Identification of the name of the financial institution with whom the escrow account has been established;

(2) Account number; and

(3) Amount of retained funds that are deposited in the escrow account with the third party.

(e) Upon satisfactory completion of the contract, to be evidenced by a written release by the owner~~or~~, prime contractor, or remote contractor owing the retainage, all funds accumulated in the escrow account together with all interest on the account shall be paid immediately to the prime contractor or remote contractor to whom the funds and interest are owed.

(f) In the event the owner~~or~~, prime contractor, or remote contractor, as applicable, fails or refuses to execute the release provided for in subsection (e), then the prime contractor or remote contractor, as applicable, may seek any remedy~~equitable relief, including injunctive relief, in a court of proper~~

~~jurisdiction and as provided in Tenn. Code Ann. §66-34-602(a)(3), against the owner, prime contractor, remote contractor, or other person holding the fund retainage as escrow agent shall bear no liability for the nonpayment of the fund to the prime contractor or remote contractor; provided, however, that a~~All other claims, demands, disputes, controversies, and differences that may arise between the owner, prime contractor or prime contractors, and remote contractors or ~~remote contractors~~any bank, savings, bank, savings and loan association, industrial loan and thrifty company, other regulated financial institution, surety or insurance company regarding the funds may be, upon written agreement of all parties concerned, settled by arbitration conducted pursuant to the Tennessee Uniform Arbitration Act, compiled in title 4, chapter 5, part 3, or the Federal Arbitration Act (9 U.S.C. § 1, et seq.), as may be applicable.

(g) In contracts to which the state or any department, board or agency of the state, including the University of Tennessee, is a party, interest shall be paid on the retained amounts at the same rate interest is paid on the funds of local governments participating in the local government investment pool established pursuant to § 9-4-704, for the contract period.

(h) This section shall be applicable to the state, any department, board or agency of the state, including the University of Tennessee, and all counties and municipalities and all departments, boards or agencies of the counties and municipalities, including all school and education boards, and any other subdivision of the state.

(i) This section shall be applicable to all prime contracts and all subcontracts thereunder for the improvement of real property when the contract amount of such prime contract is five hundred thousand dollars (\$500,000) or greater, notwithstanding the amount of such subcontracts.

(j) Compliance with this section shall be mandatory, and may not be waived by contract.

(k) Failure to deposit the retained funds into an escrow account as provided herein, within seven (7) days' receipt of written notice regarding such failure, is a Class A misdemeanor.

T. C. A. § 66-34-201 – Prime Contractor entitlement
Effective: July 10, 2015

Performance by a prime contractor in accordance with a written contract with an owner for improvement of real property shall entitle such prime contractor to payment from the owner.

T. C. A. § 66-34-202 - Payment application; review
Effective: July 10, 2015

(a) If a prime contractor has performed in accordance with the prime contractor's written contract with the owner, then the owner shall pay to the prime contractor the full amount earned by the prime contractor, less only those amounts withheld in accordance with § 66-34-203. The payment shall be made in accordance with the schedule for payments established within the contract and within thirty (30) days after application for payment is timely submitted by the prime contractor to the owner, in accordance with the schedule.

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(b) Failure of an architect, engineer or other agent employed by the owner to review and approve an application for payment for work which has been performed in accordance with the contract shall not excuse the owner from making payment in accordance with this chapter. This section shall not require payment if an architect has certified that a contractor has not completed performance for the unperformed portion.

T. C. A. § 66-34-203 - Payment withholding or retainage

Effective: July 10, 2015

Nothing in this chapter shall prevent the owner from reasonably withholding payment or a portion of a payment to the prime contractor; provided, that such withholding is in accordance with the written contract between the owner and the prime contractor. The owner may also withhold a reasonable amount of retainage as specified in the written contract between the owner and the prime contractor; provided, however, that the retainage amount may not exceed five percent (5%) of the amount of the contract.

T. C. A. § 66-34-204 - Retainage payment

Effective: July 10, 2015

When an owner:

(1) Has received a use and/or occupancy permit for an improvement from a governmental agency lawfully issuing such permit;

(2) Has received a certificate of substantial completion from an architect or engineer charged with supervision of the construction of an improvement; or

(3) Begins to use or could have begun to use an improvement;

the owner shall, after any such event and pursuant to the terms of the written contract, pay to the prime contractor all retainage the owner may have withheld pursuant to the written contract, except any sum which the owner may reasonably withhold in accordance with the written contract between the owner and the prime contractor; provided, however, that the retainage must be paid within ninety (90) days after the date of the occurrence of an event included in subdivision (1), (2) or (3).

T. C. A. § 66-34-205 - Sums held in trust

Effective: July 10, 2015

(a) Any sums allocated by the owner or provided or committed to the owner by a third party which are intended to be used as payment for improvements made to real property by virtue of a written contract between the owner and the prime contractor shall be held by the owner or third party in trust for the benefit and use of the prime contractor and its remote contractors and shall be subject to all legal and equitable remedies.

(b) The presence of an otherwise valid agreement to arbitrate shall not prevent a prime contractor or remote contractor from seeking equitable relief, including injunctive relief, as permitted by T.C.A.

§66-34-602 against any owner, prime contractor, remote contractor, or third-party that holds or controls the sums described in subsection (a).

(c) The bankruptcy or insolvency of an owner shall not serve as a valid defense for the failure of an owner or other third party that controls or holds retainage to release retainage otherwise due under T.C.A. §66-34-204.

(b) This section shall not apply to the state, including its departments, boards or commissions, or to any institution of higher education.

T. C. A. § 66-34-301 - Persons entitled

Effective: July 10, 2015

Performance by a ~~subcontractor, materialman or furnisher~~remote contractor in accordance with ~~such person's~~the written contract with a ~~contractor~~prime contractor for improvement of real property shall entitle such ~~person~~remote contractor to payment from the prime contractor.

T. C. A. § 66-34-302 - Interest

Effective: July 10, 2015

(a) If a ~~subcontractor, materialman, or furnisher~~remote contractor has performed in accordance with the ~~subcontractor, materialman, or furnisher~~remote contractor's written contract with the prime contractor, then the prime contractor shall pay to the ~~subcontractor, materialman or furnisher~~remote contractor the full amount earned by the ~~subcontractor, materialman or furnisher~~remote contractor, subject only to any condition precedent for payment clause in the contract, and less only those amounts withheld in accordance with § 66-34-303. The payment shall be made in accordance with the schedule for payments established within the contract and within thirty (30) days after application for payment is timely submitted by the ~~subcontractor, materialman, or furnisher~~remote contractor to the prime contractor, in accordance with the schedule.

(b) The ~~subcontractor, materialman, or furnisher~~remote contractor shall also be paid its pro rata share of any interest provided for in § 66-34-601 that has been received by the prime contractor.

T. C. A. § 66-34-303 - ~~Prime~~ Contractors; withholding payment or retainage

Effective: July 10, 2015

Nothing in this chapter shall prevent the prime contractor from reasonably withholding payment or a portion of payment to the ~~subcontractor, materialman or furnisher~~remote contractor; provided, that such withheld payment is in accordance with the written contract between the prime contractor and the ~~subcontractor, materialman or furnisher~~remote contractor. The prime contractor may also withhold a reasonable amount of retainage as specified in the written contract between the prime contractor, ~~subcontractor, materialman or furnisher~~and remote contractor; provided, however, that the retainage amount may not exceed five percent (5%) of the amount of the contract.

T. C. A. § 66-34-304 - Holding in trust

Any sums received by the prime contractor as payment for work, services, equipment and materials supplied by the ~~subcontractor, materialman or furnisher~~remote contractor for improvements to real property shall be held by the prime contractor in trust for the benefit and use of such ~~subcontractor, materialman or furnisher~~remote contractor and shall be subject to all legal and equitable remedies.

T. C. A. § 66-34-401 - ~~Subcontractors or materialman~~Remote contractors

A ~~subcontractor, materialman or furnisher~~remote contractor contracting in writing with another ~~subcontractor, materialman or furnisher~~remote contractor for the improvement of real property shall make payment to such other ~~subcontractor, materialman or furnisher~~remote contractor in accordance with part 3 of this chapter.

T. C. A. § 66-34-501 - Payment to architect or engineer – governing provisions

An architect and/or engineer furnishing design or contract administration services to an owner, prime contractor or remote contractor, ~~subcontractor, materialman or furnisher~~ for the improvement of real property shall be entitled to payment in accordance with part 2 of this chapter, if the architect and/or engineer contracts in writing with the owner; or in accordance with part 3 of this chapter, if the architect and/or engineer contracts in writing with a prime contractor or remote contractor, ~~subcontractor, materialman or furnisher~~.

T. C. A. § 66-34-601 - Interest

Any payment not made in accordance with this chapter shall accrue interest, from the date due until the date paid, at the rate of interest for delinquent payments provided in written contract or, if no interest rate is specified in a written contract, one and one-half percent (1 ½ %) per month~~at the rate specified in~~.

T. C. A. § 66-34-602 - Nonpayment

Effective: July 10, 2015

(a)(1) A prime contractor who has not received payment from an owner, or a ~~subcontractor, materialman or furnisher~~remote contractor who has not received payment from a prime contractor or other ~~subcontractor, materialman or furnisher~~remote contractor, in accordance with this chapter, or any prime contractor or remote contractor that intends to seek to recover funds as permitted by 66-34-205 and this section, shall notify the party failing to make payment and, as applicable, the party holding any funds held in trust pursuant to T.C.A. §66-34-205(a), of the provisions of this chapter and of the notifying party's intent to seek relief against that party provided for within this chapter.

(2) The notification shall be made by registered or certified mail, return receipt requested or by other commercial deliver service that provides written confirmation of delivery.

(3) If the notified party does not, within ten (10) calendar days after receipt of such notice, make payment or provide to the notifying party a response giving adequate legal reasons for failure of the

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notified party to make payment, the notifying party may, in addition to all other remedies available at law or in equity, sue for equitable relief, including injunctive relief, for continuing violations of this chapter, in the chancery court of the county in which the real property is located.

(4) The failure to make the only payment due under the contract may be considered to be a continuing violation under this chapter.

(5) The notification required by this party may be sent separately or as part of any notice of nonpayment or other notice required under the contract and may be in substantially the following form:

"This letter shall serve as notice pursuant to the Tennessee Prompt Pay Act, Tenn. Code Ann. §§66-34-101, *et seq.*, of [Prime Contractor or Remote Contractor]'s intent to seek relief under the Prompt Pact Act. [Prime contractor or remote contractor] furnished [description of labor, materials, or services furnished] in furtherance of improvements to real property located at [property description] pursuant to its written contract with [Lender, owner, prime contractor, or remote contractor]. [Prime contractor or remote contractor] first furnished labor, materials, or services on [insert first date] and ["is still continuing to perform" or "last furnished labor, materials, or services on (insert date)]. If [Lender, Owner, Prime Contractor, and/or Remote Contractor] fail(s) to make payment, arrange for payment, or provide a response setting forth adequate legal reasons for the failure to make payment to [Prime Contractor or Remote Contractor] within ten (10) days of your receipt of this letter, [Prime Contractor or Remote Contractor] may, in addition to all other remedies at law or in equity, file a lawsuit for equitable relief, including injunctive relief, for continuing violations of this chapter.

(b) (1) If an owner does not make payment to a prime contractor or furnish a response setting forth adequate legal reasons for the owner's failure to make payment within 10 days of receipt of the notice required by subsection (a), the prime contractor may stop work until payment is received or until the owner provides a response setting forth adequate legal reasons for the owner's failure to make payment, provided the prime contractor is not otherwise in default of the written contract. If, in accordance with subsection (a), the owner makes payment or provides a response setting forth adequate legal reasons for the failure to pay the prime contractor, the prime contractor shall not stop work pursuant to this section.

(2) If a prime contractor does not make payment to a remote contractor or furnish a response setting forth adequate legal reasons for the prime contractor's failure to make payment within 10 days of receipt of the notice required by subsection (a), the remote contractor may stop work until payment is received or until the prime contractor provides a response setting forth adequate legal reasons for the prime contractor's failure to make payment, provided the remote contractor is not otherwise in default of the written contract. If, in accordance with subsection (a), the prime contractor makes payment or provides a response setting forth adequate legal reasons for the failure to pay the remote contractor, the remote contractor shall not stop work pursuant to this section.

(c) Any work stoppage by a prime contractor or a remote contractor in accordance with this section shall entitle such prime or remote contractor to an extension of the contract schedule, if any, equal to the

length of the work stoppage.

(d) Reasonable attorney's fees may be awarded against the nonprevailing party; provided, that such nonprevailing party has acted in bad faith.

(e) A bond in ~~double~~ the amount claimed or ordered to be paid shall be filed with good sureties to be approved by the clerk prior to the issuance of any injunctive relief.

T. C. A. § 66-34-603 – Demand for Reasonable Assurances

In addition to any rights provided for under any contract:

- (a) Prior to visible commencement of operations, and upon written request by a prime contractor, the owner shall furnish a prime contractor reasonable evidence the owner has procured a loan, which may be secured by a mortgage or other encumbrance, or has otherwise made financial arrangements sufficient to make all payments in accordance with the contract.
- (b) After visible commencement of operations, a prime contractor or a remote contractor may, upon the owner's failure to make payments as required by the written contract, provide notice as in accordance with T.C.A. §66-34-602(a). Included within such notice, a prime contractor or remote contractor may request the owner provide reasonable evidence that the owner has made financial arrangements sufficient to fulfill its obligation to make all payments in accordance with the written contract.
- (c) An owner shall provide a response to a demand for reasonable assurances within 10 days of receipt of the request that: 1) provides reasonable evidence that it has made financial arrangements sufficient to fulfill its obligation to make all payments in accordance with the written contract, including the information set forth in T.C.A. §66-34-104(d); or 2) provides adequate legal reasons for its failure to make payment of the sums owing to the requesting party.
- (d) If an owner responds to a demand for adequate assurance with reasonable evidence that it has made financial arrangements sufficient to fulfill its obligation to make all payments in accordance with the written contract, it shall not materially vary its financial arrangements from those disclosed under this section without prior notice to the prime contractor or remote contractor, as applicable.
- (e) A demand for reasonable assurances may be sent separately or as part of any notice of nonpayment, notice pursuant to T.C.A. §66-34-602(a), or other notice required or permitted under the contract and may be in substantially the following form:

[Prime contractor or remote contractor] furnished labor, materials, or services in furtherance of improvements to real property located at [property description] pursuant to its written contract with [owner, prime contractor, or remote contractor]. As of the date of this letter, [owner, prime contractor, or remote contractor] owes [prime contractor or remote contractor] the sum of [amount past due], which is past due or for which [prime contractor or remote contractor] asserts it has not been paid from [owner]. Such amounts were due on or before [insert due date]

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pursuant to the written contract between the parties. Pursuant to the T.C.A. §66-34-603, [prime contractor or remote contractor] demands [owner] furnish reasonable evidence that [owner,] has made financial arrangements sufficient to fulfill its obligation to make all payments in accordance with the written contract or setting forth adequate legal reasons for your failure to make payment, within ten (10) days of your receipt of this letter.

(f) The provisions of this section may not be waived by contract.

T. C. A. § 66-34-701 - Waiver

Except as specifically noted, compliance with §§ 66-34-205, 66-34-304, and 66-34-602 may not be waived by contract and these sections are applicable to all private contracts and all construction contracts with this state, any department, board or agency thereof, including the University of Tennessee, all counties and municipalities and all departments, boards or agencies thereof, including all school and education boards, and any other subdivision of the state.

T. C. A. § 66-34-702 - Contracts; construction or home improvement

Effective: July 10, 2015

This chapter shall not apply to contracts for the construction of, or home improvement to, any land or building, or that portion thereof which is used or designed to be used as a residence or dwelling place for one (1), two (2), three (3) or four (4) single family units.

T. C. A. § 66-34-703 - Applicability

~~This chapter, the Prompt Pay Act of 1991, as enacted by Acts 1991, chapter 45, does not apply to any bank, savings bank, savings and loan association, industrial loan and thrift company, other regulated financial institution or insurance company.~~

CONSTRUCTION DEFECT STATUTES

T. C. A. § 66-36-101 - Definitions

As used in this chapter, unless the context otherwise requires:

- (1) "Action" means any civil action or arbitration proceeding for damages or indemnity asserting a claim for damage to or loss of commercial property caused by an alleged construction defect, but does not include any civil action or arbitration proceeding asserting a claim for alleged personal injuries arising out of an alleged construction defect;
- (2) "Claimant" means an owner, including a subsequent purchaser, tenant, or association, who asserts a claim against a prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional concerning a construction defect;
- (3) "Commercial property" means all property which is not residential property. Residential property is property upon which a dwelling or improvement is constructed or to be constructed consisting of one dwelling unit intended as a residence of a person or family;
- (4) "Construction defect" means a deficiency in, or a deficiency arising out of, the design, specifications, surveying, planning, supervision, observation of construction, or construction or remodeling of an improvement structure resulting from:
 - (A) Defective material, products, or components used in the construction or remodeling;
 - (B) A violation of the applicable codes in effect at the time of construction or remodeling;
 - (C) A failure of the design of an improvement structure to meet the applicable professional standards of care at the time of governmental approval, construction or remodeling; or
 - (D) A failure to construct or remodel an improvement structure in accordance with accepted trade standards for good and workmanlike construction at the time of construction or remodeling;
- (5) "Prime Contractor" ~~means any person, firm, partnership, corporation, association, or other organization that is legally engaged in the business of designing, developing, constructing, manufacturing, selling, or remodeling structures or appurtenances to structures~~shall have the meaning set forth in T.C.A. §66-11-101;
- (6) "Design professional" means a person licensed in this state as an architect, interior designer, landscape architect, engineer, or surveyor regardless of whether such person is a prime or remote contractor;
- (7) "Improvement" shall have the meaning set forth in T.C.A. §66-11-101;
- (8⁷) "Notice of claim" means a written notice sent by a claimant to the last known address of a ~~construction professional~~prime contractor, remote contractor, or design professional against whom the

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claimant asserts a construction defect that describes the claim in reasonable detail sufficient to determine the general nature of the defect, including a general description of the type and location of the construction that the claimant alleges to be defective and any damages claimed to have been caused by the defect;

(89) “Remote contractor” shall have the meaning set forth in T.C.A. §66-11-101; and

(10) “Service” means personal service or delivery by certified mail to the last known address of the addressee, or as otherwise allowed by the Contract;

(9) ~~“Structure” means any building or improvement and its components, systems, fixtures and appurtenances at the time of completion of construction;~~

(10) ~~“Subcontractor” means a contractor who performs work on behalf of another contractor in the construction or remodeling of a structure; and~~

(11) ~~“Supplier” means a person who provides materials, equipment, or other supplies for the construction or remodeling of a structure.~~

T. C. A. § 66-36-102 - Abatement of actions

If a claimant files an action without first complying with the requirements of this chapter, on motion by a party to the action, the tribunal having jurisdiction shall abate the action, without prejudice, and the action may not proceed until the claimant has complied with such requirements.

T. C. A. § 66-36-103 - Notice of claim; inspection and testing; response; limitation of actions

Effective: July 10, 2015

(a) In actions brought against a prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional related to an alleged construction defect, the claimant shall, before filing an action, serve written notice of claim on the prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional, as applicable. The claimant shall endeavor to serve the notice of claim within fifteen (15) days after discovery of an alleged defect, or as required by the Contract. ~~but~~ The failure to serve notice of claim within fifteen (15) days does not bar the filing of an action, subject to § 66-36-102 or unless otherwise barred by the Contract.

(b) Within ten (10) business days after service of the notice of claim, the prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional may inspect the structure improvement to assess each alleged construction defect. The claimant shall provide the prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional and its lower-tier remote contractors or agents reasonable access to the improvement structure during normal working hours to inspect the structure improvement, to determine the nature and cause of each alleged construction defect and the nature and extent of any corrections, repairs or replacements necessary to remedy each defect. The inspection may include destructive testing. Prior to performing any destructive testing, the person who desires to perform the testing shall notify the claimant in writing of the type of testing to be performed, the anticipated damage to the improvement structure that will be caused by the testing, and the

anticipated corrections or repairs that will be necessary to correct or repair any damage caused by the testing. The person performing the testing is responsible for correcting and repairing any damage to the improvement structure caused by the testing.

(c) Within ten (10) days after service of the notice of claim, the prime contractor, ~~subcontractor, supplier~~remote contractor, and design professional must forward a copy of the notice of claim to each prime contractor, ~~remote contractor~~subcontractor, supplier, or design professional who it reasonably believes is responsible for each defect specified in the notice of claim and shall note the specific defect for which it believes the particular prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional is responsible. Each such prime contractor, ~~subcontractor, supplier~~remote contractor, and design professional may inspect the improvement structure as provided in subsection (b) within ten (10) business days after receiving a copy of the notice.

(d) Within ten (10) business days after receiving a copy of the notice of claim, the prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional must serve a written response to the prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional who served a copy of the notice of claim. The written response shall include a report of the scope of any inspection of the improvement structure, the findings and results of the inspection, a statement of whether the prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional is willing to make corrections or repairs to the improvement structure or whether it disputes the claim, a description of any corrections or repairs it is willing to make to remedy the alleged construction defect, and a timetable for the completion of such corrections or repairs.

(e) Within thirty (30) days after receiving the notice of claim, each prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional must serve a written response to the claimant. The written response must provide:

(1) A written offer to remedy the alleged construction defect at no cost to the claimant, including a report of the scope of the inspection, the findings and results of the inspection, a detailed description of the corrections or repairs necessary to remedy the defect, and a timetable for the completion of such repairs

(2) A written offer to compromise and settle the claim by monetary payment to be paid within thirty (30) days after the claimant's acceptance of the offer; or

(3) A written statement that the prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional disputes the claim and will not remedy the defect or compromise and settle the claim.

(f) If the prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional offers to remedy the alleged construction defect or compromise and settle the claim by monetary payment, the written response must contain a statement that the claimant shall be deemed to have accepted the offer if, within fifteen (15) days after service to the written response, the claimant does not serve a written rejection of the offer on the prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional.

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(g) If the prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional does not respond to the claimant's notice of claim within the time provided in subsection (e), the claimant may, without further notice, proceed with an action against the prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional for the claim described in the notice of claim.

(h) A claimant who rejects a settlement offer made by the prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional must serve written notice of such rejection on the prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional within fifteen (15) days after service of the settlement offer. The claimant's rejection must contain the settlement offer with the word "rejected" printed on it.

(i) If the claimant accepts the offer of a prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional and the prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional does not make the payment, correction or repair the defect within the agreed time and in the agreed manner, the claimant may, without further notice, proceed with an action against the prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional. If a claimant accepts a prime contractor's, ~~subcontractor, supplier~~remote contractor's, or design professional's offer and the prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional makes payment, correction or repairs the defect within the agreed time and in the agreed manner, the claimant is barred from proceeding with an action against the prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional for the claim described in the notice of claim.

(j) If the claimant accepts the offer of a prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional to correct or repair an alleged construction defect, the claimant shall provide the prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional and ~~its~~their remote contractors or other agents reasonable access to the claimant's improvement structure during normal working hours to perform the correction or repair by the agreed-upon timetable as stated in the offer.

(k) The failure of a claimant or a prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional to follow the procedures in this section is admissible in an action. However, this section does not prohibit or limit the claimant from making any necessary emergency corrections or repairs to the improvement structure. In addition, the offer of a prime contractor, ~~subcontractor, supplier~~remote contractor, or design professional to remedy an alleged construction defect or to compromise and settle the claim by monetary payment does not constitute an admission of liability with respect to the defect.

(l) A claimant's written notice of claim under subsection (a) tolls the applicable statute of limitations until the later of:

- (1) One hundred eighty (180) days after the prime contractor, ~~subcontractor, supplier~~remote contractor or design professional receives the notice; or
- (2) Ninety (90) days after the end of the correction or repair period stated in the offer, if the claimant has accepted the offer. By stipulation of the parties, the period may be extended and the statute of limitations is tolled during the extension.

(m) The procedures in this section apply to each alleged construction defect. However, a claimant may

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include multiple defects in one (1) notice of claim.

(n) This chapter does not:

(1) Bar, limit, or replace any rights, obligations, or duties under a contract that provides for notice and opportunity to cure any construction defects. Such contractual provisions shall control, take precedence, and be in lieu of any obligation or right provided by this chapter.

(2) Bar or limit any rights, including the right of specific performance to the extent such right would be available in the absence of this chapter, any causes of action, or any theories on which liability may be based, except as specifically provided in this chapter;

(23) Bar or limit any defense, or create any new defense, except as specifically provided in this chapter;

(34) Create any new rights, causes of action, or theories on which liability may be based; or

(45) Extend any existing statute of limitations except as specifically provided in subsection (l).

STATUTE OF REPOSE

T.C.A. §28-1-101 - “Action” defined.

“Action” in this title includes the filing of a lawsuit or other civil action, motions, garnishments, petitions, and other legal proceedings in judicial tribunals for the redress of civil injuries, or a demand for arbitration.

ENGINEER/ARCHITECT LICENSING

T.C.A. §62-2-111 (or 66-11-151) – Limitations of Liability

It is not against the public policy or public interest of this State for a provision in any agreement relating to the furnishing of architectural or engineering services pursuant to this title to limit the liability of the person furnishing architectural or engineering services to a reasonable monetary amount.