

HOUSE BILL 328

By Curtiss

AN ACT to amend Tennessee Code Annotated, Title 62
and Title 66, relative to the construction industry.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 62-6-103(a)(1), is amended by deleting the subdivision in its entirety and substituting instead the following:

(a)

(1) Any person, firm or corporation engaged in contracting in this state shall be required to submit evidence of qualification to engage in contracting, and shall be licensed as provided in this part. It is unlawful for any person, firm, or corporation to engage in or offer to engage in contracting for any project in the state, unless such person, firm, or corporation has been duly licensed with the monetary limitation of such license being sufficient to allow any such person, firm, or corporation to engage or offer to engage in contracting under this chapter. The board for licensing contractors shall have no authority to grant or allow any exceptions to the monetary limitations of such license provided in subdivision (a)(1). Any person, firm, or corporation engaged in contracting, including a person, firm, or corporation that engages in the construction of residences or dwellings constructed on private property for the purpose of resale, lease, rent, or any other similar purpose, shall be required to submit evidence of qualification to engage in contracting and shall be licensed. It is unlawful for any person, firm, or corporation to engage in, or offer to engage in, contracting as described in subdivision (a)(1) unless the person, firm, or corporation has been duly licensed under this part.

SECTION 2. Tennessee Code Annotated, Section 62-6-103, is amended by adding the following new subsection thereto:

(c) Notwithstanding any law to the contrary, no lien otherwise authorized pursuant to title 66, chapter 11 shall be available to any person, firm, or corporation engaged in construction in violation of this chapter.

SECTION 3. Tennessee Code Annotated, Section 66-11-102(a), is amended by deleting the subsection in its entirety and substituting instead the following:

(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.

SECTION 4. Tennessee Code Annotated, Section 66-11-101(16), is amended by deleting the language "underground".

SECTION 5. Tennessee Code Annotated, Section 66-11-104(a), is hereby amended by deleting the word "underground".

SECTION 6. Tennessee Code Annotated, Title 66, Chapter 11, Part 2, is amended by adding the following new section thereto:

§ 66-11-209.

Any provision in a contract, subcontract, purchase order, or agreement which makes payment for the improvement of real property in this state subject to a contingency that such payment obligation shall arise only if payment is made by the owner or third party, commonly known as a "pay if paid" clause, is void and unenforceable as against public policy in this state.

SECTION 7. This act shall take effect July 1, 2013, the public welfare requiring it, and shall apply to liens filed for construction performed on or after July 1, 2013.