

Amendment No. _____

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

Signature of Sponsor

AMEND Senate Bill No. 2855

House Bill No. 2871*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 68-120-101, is amended by adding the following new subsection:

(j)

(1) If the use of a building product, building material, or construction practice is approved by the state fire marshal under subsection (a) or a national model code, then such building product, building material, or construction product may be used in statewide building construction.

(2) Subdivision (j)(1) does not apply to:

(A) Federal or state housing program requirements;

(B) A building that is:

(i) Located in a historic district or zone designated in accordance with title 13, chapter 7, part 4;

(ii) Located in an area included in the national register of historic places; or

(iii) Individually designated as a local, state, or national historic landmark;

(C) Regulations directly related to local safety standards under § 6-54-502, § 5-1-116, or this section;



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(D) Regulation of manufactured housing in accordance with federal law;

(E) Regulations adopted as a condition of participation in the national flood insurance program under 42 U.S.C. § 4001, et seq;

(F) A homeowners' association, or similar entity, that restricts a building product, building material, or construction practice in a dedicatory instrument, as that term is defined in § 66-27-601;

(G) A building or property owned or operated by a county, municipality, or metropolitan form of government; or

(H) Prohibitions or limitations placed on the installation of a fire sprinkler system or a carbon monoxide alarm.

(3) As used in this subsection (j):

(A) "Construction practice" means the construction, installation, or use of certain appliances, mechanical systems, energy source or type, or utilities in commercial or residential buildings; and

(B) "National model code":

(i) Means a publication published within the last four (4) publication cycles, developed, promulgated, and periodically updated by a nationally recognized organization that is intended for consideration by governmental entities; and

(ii) Includes a publication from the International Code Council, the National Fire Protection Association, and Underwriter Laboratories.

(4) If any standard established under a national model code conflicts with a statewide building construction standard promulgated by the state fire marshal under subsection (a) or as identified in subdivision (j)(1), then the statewide building construction standard governs for purposes of building construction.

SECTION 2. This act shall take effect January 1, 2021, the public welfare requiring it.

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Signature of Sponsor

AMEND Senate Bill No. 2098*

House Bill No. 2485

by deleting all language after the enacting clause and substituting the following:

SECTION 1. Tennessee Code Annotated, Title 66, Chapter 27, is amended by adding the following new part:

66-27-701.

As used in this part:

(1) "Dedictory instrument":

(A) Means each document governing the establishment, maintenance, or operation of residential real property that constitutes all or part of a subdivision, planned unit development, condominium, horizontal property regime, or any similar planned development; and

(B) Includes a declaration or similar instrument subjecting the residential real property to:

(i) Restrictive covenants, bylaws, or similar instruments governing the administration or operation of a homeowners' association;

(ii) Properly adopted rules and regulations of a homeowners' association; or

(iii) All lawful amendments to the covenants, bylaws, instruments, rules, or regulations of a homeowners' association;

(2) "Homeowners' association" means an incorporated or unincorporated association owned by or whose members consist primarily of the owners of the property covered by the dedicatory instrument and through which the owners, or



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the board of directors or similar governing body, manage or regulate the residential subdivision, planned unit development, condominium, horizontal property regime, or any similar planned development; and

(3) "Restrictive covenant" means any covenant, condition, or restriction contained in a dedicatory instrument, whether mandatory, prohibitive, permissive, or administrative, that encumbers residential real property.

66-27-702.

Each homeowner's association in this state shall:

(1) Make available not less than annually to each property owner that is a member of the homeowners' association, by printed or electronic means, a publication containing the following:

(A) Financial statements of the homeowners' association that show the assets and liabilities of the homeowners' association, in accordance with generally accepted accounting principles, including, but not limited to, receipts and disbursements; and

(B) A list naming all property owners who are members of the homeowners' association; and

(2) Provide at no cost to any prospective buyer who has signed a contract for the purchase of a property subject to the control of the homeowners' association a copy of the homeowners' association's dedicatory instruments within five (5) days of the homeowners' association's receipt of a written request from the buyer or the buyer's agent.

66-27-703.

(a) Notwithstanding any law, each homeowners' association in this state shall enact bylaws in compliance with subsection (b) or, if the homeowners' association has existing bylaws, amend the existing bylaws to comply with subsection (b).

(b) The bylaws of a homeowners' association must:

(1) Require approval by, at least, a majority or more of all property owners who are members of the homeowners' association at the time the vote to approve the bylaws is taken;

(2) Describe the purpose of the homeowners' association;

(3) Establish positions and duties of board members, board member elections, terms of office, the number of board members necessary to constitute a quorum, the frequency of meetings, the keeping of minutes, member voting rights, and the process for filling a board vacancy;

(4) Define the roles of each board member;

(5) Establish a process or method to remove board members from office;
and

(6) Require that the homeowners' association distribute or post in a manner accessible by all members of the homeowners' association all minutes of all board meetings of the homeowners' association.

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act are severable.

SECTION 3. This act shall take effect July 1, 2020, the public welfare requiring it, and applies to actions taken and dedicatory instruments entered into, amended, or renewed on or after that date.

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Signature of Sponsor

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AMEND Senate Bill No. 2305*

House Bill No. 2633

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 62-19-111(c)(3), is amended by deleting the subdivision and substituting instead the following:

(A) Has obtained a high school diploma, general equivalency diploma (GED), or HiSET(r) diploma; or

(B) Has previously held a gallery license in this state for at least four (4) years.

SECTION 2. Tennessee Code Annotated, Section 62-19-101, is amended by inserting the following as a new subdivision:

"Gallery license" means a license issued prior to July 1, 2019, that authorized a person to own and operate an auction house, auction barn, or auction gallery for the purpose of selling consigned or purchased goods at a fixed location;

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it, and applies to applications submitted on or after the effective date of this act.



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Signature of Sponsor

AMEND Senate Bill No. 2029*

House Bill No. 2672

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 62-6-103, is amended by adding the following as a new subsection (b) and redesignating the existing subsection (b) and subsequent subsections accordingly:

(1) A person who owns property and intends to construct a residential building on that property is exempt from the licensing requirements of subsection (a) for the sole purpose of that construction if the person:

(A) Personally appears at the local permitting agency, if applicable, and receives from the agency a Disclosure Statement and Notice of Non-licensed Owner's Intent to Build form, which must be developed and provided to the agency for free by the board and appear in the following form:

Disclosure Statement and Notice of Non-licensed Owner's Intent to Build

TN state law requires residential construction to be done by licensed contractors. You have applied for a permit under an exemption to that law. The exemption allows you, as the owner of your property, to act as your own builder even though you do not have a license. You must supervise the construction yourself. You may only build a residential building. The building must be for your own use and occupancy. It may not be built for sale or rent. If you sell or rent a building you have built yourself within two years after



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the construction is complete, the law will presume that you built it for sale or rent, which is a violation of this exemption.

You may not hire an unlicensed person as your residential builder or specialty contractor. It is your responsibility to make sure that people employed by you have licenses required by state law and by county or municipal licensing ordinances. You must maintain general liability insurance and workers' compensation insurance in the amounts otherwise required of licensed contractors. Your construction must comply with all applicable laws, ordinances, building codes, and zoning regulations.

If you comply with all of the above, then the recorded disclosure statement and notice may be removed from the Grantor's Index in the Register's Office, by the then current property owner, four (4) years following the date of the issuance of the certificate of occupancy for the property.

Affidavit:

I hereby attest, understand, and will comply with the above provisions and have personally appeared before the permitting office and signed the Disclosure Statement and Notice of Non-licensed Owner's Intent to Build for the property located at:

Tax Parcel ID: _____

Deed Book: _____ Page: _____ Date: _____

Name of Owner or Owners: _____

Signature: _____

Address: _____

City: _____ State: _____ Zip: _____

SWORN to before me this ___ Day of ___ year of ___.

Notary Public: _____ My Commission Expires _____

**THIS FORM MUST BE COMPLETED AND SIGNED BY ALL
PROPERTY OWNERS AND FILED AS A MATTER OF PUBLIC
RECORD WITH THE REGISTER OF DEEDS, INDEXED UNDER THE
OWNER'S NAME IN THE GRANTOR'S INDEX PRIOR TO A PERMIT
BEING ISSUED;**

(B) Signs the form and files the form, at the property owner's expense, with the register of deeds, indexed under the person's name in the grantor's index;

(C) Provides the local permitting agency a copy of the signed form with a stamp or other designation of the register of deeds attached evidencing the form has been filed with the register of deeds;

(D) Personally appears at the local permitting agency and signs applicable building permits;

(E) Provides the local permitting agency an affidavit affirming that the person maintains general liability insurance and workers' compensation insurance and specifying the amount of each insurance policy as well as any other information the agency may require; and

(F) Complies with the requirements described in the form.

(2) The local permitting agency that receives a signed form shall forward the form to the board as well as any other information the board may require.

(3) A local permitting agency shall not accept a form for the construction of multiple residential buildings. Each residential building for which an exemption is sought under this subsection (b) requires a new form. A local permitting agency shall not accept multiple forms for the construction of the same residential building.

(4)

(A) If the person fails to comply with the requirements described in the form, then the board may penalize the person for contracting in this state without

a license in violation of this chapter and seek all applicable penalties provided in this chapter.

(B) In addition to any other remedy provided in law, a buyer of the property who suffers damages from a person violating this section has a cause of action against the person violating this section. A court may award to the buyer reasonable attorney's fees and costs if the buyer prevails in the action.

(5) The exemption in this subsection (b) only applies to new construction for which a building permit is obtained on or after the effective date of this act.

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

(f)

(1) The owner of a property for which a Disclosure Statement and Notice of Non-licensed Owner's Intent to Build form was filed in the grantor's index in the office of the county register of deeds pursuant to subsection (b) may remove the form not less than four (4) years after the date a certificate of occupancy was issued for the residential building that is the subject of the Disclosure Statement and Notice of Non-licensed Owner's Intent to Build form.

(2) To remove a Disclosure Statement and Notice of Non-licensed Owner's Intent to Build form, the property owner must complete the removal form described in subdivision (f)(4) and submit the form to the board for review. The board shall review the submitted form and, if the board determines that the property owner has reasonably demonstrated that the owner-builder complied with the laws of this state in the construction of the building, then the board shall return the form to the current property owner for recording in the office of the county register of deeds. If the board determines that the property owner has not reasonably demonstrated that the owner-builder complied with the laws of this state in the construction of the building, then the board shall provide the property owner with a written explanation of its determination. Any

costs associated with recording the removal form are at the current property owner's expense.

(3) If a register receives a form for the removal of a filed Disclosure Statement and Notice of Non-licensed Owner's Intent to Build form described in this subsection (f) for recording from the owner of the property that is the subject of the Disclosure Statement and Notice of Non-licensed Owner's Intent to Build form, then the register shall record the removal form and remove the filed Disclosure Statement and Notice of Non-licensed Owner's Intent to Build form from the grantor's index if the register determines that the form is complete, has been approved by the board, and is provided to the register in a format suitable for recording.

(4) The department of commerce and insurance shall, in consultation with the board, develop a form suitable for recording by a property owner for the purpose of removing a Disclosure Statement and Notice of Non-licensed Owner's Intent to Build form pursuant to this subsection (f). The department of commerce and insurance shall make the form available to the public for free by publishing a copy of the form on its publicly accessible website.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

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Signature of Sponsor

AMEND Senate Bill No. 1933

House Bill No. 1661*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-16-304, is amended by deleting the section and substituting the following:

(a) As used in this section, "service animal" and "support animal" have the same meanings as defined in § 66-7-111(a).

(b) A person commits the offense of misrepresentation of a service animal or support animal in residential rental property who knowingly:

(1) Represents fraudulently, as a part of a request to maintain a service animal or support animal in residential rental property under § 66-7-111 or § 66-28-406, that the person has a disability or disability-related need for the use of a service animal or support animal; or

(2) Provides documentation to a landlord under § 66-7-111(c) or § 66-28-406(c) that falsely states an animal is a service animal or support animal.

(c) Misrepresentation of a service animal or support animal in residential rental property is a Class B misdemeanor.

SECTION 2. Tennessee Code Annotated, Section 66-7-111(a), is amended by deleting subdivisions (5) and (6) and substituting the following:

(5) "Service animal" means a dog that has been individually trained to work or perform tasks for an individual with a disability; and

(6) "Support animal" means any animal that assists, supports, or provides services to a person with a disability.



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SECTION 3. Tennessee Code Annotated, Section 62-7-112, is amended by deleting the section and substituting the following:

(a) As used in this section:

(1) "Disability" means:

(A) A physical or mental impairment that substantially limits one

(1) or more major life activities;

(B) A record of an impairment described in subdivision (a)(1)(A);

or

(C) Being regarded as having an impairment described in

subdivision (a)(1)(A);

(2) "Place of public accommodation, amusement, or recreation" includes, but is not limited to, an inn, hotel, restaurant, eating house, barber shop, billiard parlor, store, public transportation, theater, motion picture house, public educational institution, or elevator;

(3) "Service animal":

(A) For the purpose of accessing public transportation facilities or services, means a dog or other animal individually trained to work or perform tasks for an individual with a disability; and

(B) For all other purposes, means a dog that has been individually trained to work or perform tasks for an individual with a disability; and

(4) "Service animal in training" means:

(A)

(i) A dog being raised for an accredited school for training service animals as long as the dog being raised for that purpose is:

(a) Being held on a leash and is under the control of its raiser or trainer, who has available for inspection

credentials from the accredited school for which the dog is being raised; and

(b) Wearing a collar, leash, or other appropriate apparel or device that identifies the dog with the accredited school for which the dog is being raised; and

(ii) The socialization process that occurs with the dog's trainer or raiser prior to the dog's advanced training as long as the socialization process is under the authorization of an accredited school; and

(B) For the purpose of accessing public transportation facilities or services, an animal in training to work or perform tasks for an individual with a disability.

(b) A proprietor, employee, or other person in charge of a place of public accommodation, amusement, or recreation shall not refuse to permit a person with a disability to enter the place or to make use of the accommodations provided, when accommodations are available, because the person with a disability is being accompanied by a service animal as long as the service animal is under the control of its handler.

(c) A proprietor, employee, or other person in charge of a place of public accommodation, amusement, or recreation shall not refuse to permit a service animal trainer to enter the place or to make use of the accommodations provided in the place, when accommodations are available, because the service animal trainer is being accompanied by a service animal in training as long as:

(1) The service animal in training, when led or accompanied by a service animal trainer, is wearing a harness or is held on a leash by the service animal trainer; and

(2) The service animal trainer has presented for inspection credentials issued by an accredited school for training service animals.

(d) A place of public accommodation, amusement, or recreation may ask a person to remove a service animal or service animal in training from the premises if:

(1) The service animal or service animal in training is out of control and its handler does not take effective action to control it; or

(2) The service animal or service animal in training is not housebroken.

(e) A service animal is not required to wear an item identifying the animal as a service animal. A place of public accommodation, amusement, or recreation shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

(f)

(1) A place of public accommodation, amusement, or recreation shall not make inquiries about the person's disability or require the animal to demonstrate the work or task it performs.

(2) A place of public accommodation, amusement, or recreation shall not make inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability. For purposes of this subdivision (f)(2), "readily apparent" includes, but is not limited to, an animal guiding an individual who is blind or has low vision, an animal pulling a person's wheelchair, or an animal providing assistance with stability or balance to an individual with an observable mobility disability.

(3) If it is not readily apparent that an animal is a service animal, then a place of public accommodation, amusement, or recreation may make the following inquiries:

(A) An inquiry as to whether the animal is required because of a disability; and

(B) An inquiry as to what work or task the animal performs.

(g) A place of public accommodation, amusement, or recreation may post signage indicating as follows: "No pets allowed. Only service animals and service animals in training as defined in T.C.A. § 62-7-112(a)(3)-(4) are permitted."

(h) A violation of this section by a place of public accommodation, amusement, or recreation is a Class C misdemeanor.

SECTION 4. Tennessee Code Annotated, Section 66-28-406(a), is amended by deleting subdivisions (5) and (6) and substituting the following:

(5) "Service animal" has the same meaning as defined in § 66-7-111(a); and

(6) "Support animal" has the same meaning as defined in § 66-7-111(a).

SECTION 5. This act shall take effect July 1, 2020, the public welfare requiring it, and applies to prohibited conduct occurring on or after that date.

Amendment No. _____

Signature of Sponsor

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AMEND Senate Bill No. 2543

House Bill No. 2352*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 68-104-208(a), is amended by deleting the subsection and substituting the following:

(a) The fire marshal shall establish a program of certification for outdoor fireworks display operators, proximate pyrotechnic display operators, and flame effect display operators. To receive certification, an applicant must apply for certification to the fire marshal on a form to be prescribed by the fire marshal, must be at least twenty-one (21) years of age, and must not have been convicted of or pleaded guilty or nolo contendere to any state or federal felony. In addition, an applicant must meet the following requirements for the areas in which the applicant desires certification:

(1) To be certified as an outdoor fireworks display operator, the applicant must:

(A) Pass a written examination that tests outdoor display operator knowledge, approved by and conducted under the auspices of the fire marshal;

(B) Show that the applicant has worked under competent supervision on at least three (3) outdoor fireworks displays in the three (3) years immediately preceding the application; and

(C) Pay a certification fee not to exceed one hundred fifty dollars (\$150) to be set by rule by the fire marshal;

(2) To be certified as a proximate pyrotechnic display operator, the applicant must:



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(A) Pass a written examination that tests pyrotechnic special effects operator knowledge, approved by and conducted under the auspices of the fire marshal;

(B) Show that the applicant has worked under competent supervision on at least five (5) proximate pyrotechnic displays in the three (3) years immediately preceding the application; and

(C) Pay a certification fee not to exceed one hundred fifty dollars (\$150) to be set by rule by the fire marshal; and

(3) To be certified as a flame effect display operator, the applicant must:

(A) Pass a written examination that tests flame effect operator knowledge, approved by and conducted under the auspices of the fire marshal;

(B) Show that the applicant has worked under competent supervision on at least five (5) flame effect displays in the three (3) years immediately preceding the application; and

(C) Pay a certification fee not to exceed one hundred fifty dollars (\$150) to be set by rule by the fire marshal.

SECTION 2. Tennessee Code Annotated, Section 68-104-208(d)(1), is amended by deleting the language "two (2) years" and substituting instead the language "three (3) years".

SECTION 3. Tennessee Code Annotated, Section 68-104-208(d)(2), is amended by deleting the language "three (3)".

SECTION 4. For the purpose of promulgating rules, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2021, the public welfare requiring it.

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Signature of Sponsor

AMEND Senate Bill No. 2207

House Bill No. 1593*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-4-1901(a), is amended by adding the following at the end of the subsection:

The surcharge or tax does not apply to entities, or shared vehicle owners, engaged in peer-to-peer car sharing.

SECTION 2. Tennessee Code Annotated, Section 67-4-1901(c), is amended by deleting the subsection and substituting the following:

(c) As used in this part:

(1) "Commissioner" means the commissioner of revenue;

(2) "Peer-to-peer car sharing" means the authorized use of a vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program;

(3) "Peer-to-peer car sharing program" means a business platform that connects motor vehicle owners with drivers to enable the sharing of motor vehicles for financial consideration; and

(4) "Shared vehicle owner" has the same meaning as defined in § 55-12-301.

SECTION 3. Tennessee Code Annotated, Title 42, Chapter 3, Part 1, is amended by adding the following as a new section:

(a) As used in this section, "peer-to-peer car sharing program" means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration.



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(b) If a peer-to-peer car sharing program conducts business at an airport or otherwise uses airport facilities, then the program shall enter into a written agreement with an airport, or the entity responsible for regulating commerce at the airport, within this state.

SECTION 4. Tennessee Code Annotated, Section 67-6-102, as amended by Chapter ___ of the Public Acts of 2020 (Senate Bill 2182 / House Bill 2249), is amended by adding the following as a new subdivision under the subdivision defining the term "marketplace facilitator":

(C) "Marketplace facilitator" includes a peer-to-peer car sharing program as defined in § 67-4-1901;

SECTION 5. Tennessee Code Annotated, Section 67-6-204, is amended by adding the following as a new subsection:

(d) This section applies to the rental of a motor vehicle by an entity engaged in peer-to-peer car sharing, as defined in § 67-4-1901.

SECTION 6. Tennessee Code Annotated, Title 55, Chapter 12, is amended by adding the following as a new part:

55-12-301. Part definitions.

As used in this part:

(1) "Car sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location of the car sharing start time, if applicable, as documented by the governing car sharing program agreement;

(2) "Car sharing period" means the period of time:

(A) That commences with the car sharing delivery period and ends at the car sharing termination time; or

(B) If there is no car sharing delivery period, that commences with the car sharing start time and ends at the car sharing termination time;

(3) "Car sharing program agreement":

(A) Means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer car sharing program; and

(B) Does not mean rental car agreement with a rental car company;

(4) "Car sharing start time" means the time when the shared vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of a shared vehicle is scheduled to begin as documented in the records of a peer-to-peer car sharing program;

(5) "Car sharing termination time" means the earliest of the following events:

(A) The expiration of the agreed upon period of time established for the use of a shared vehicle according to the terms of the car sharing program agreement if the shared vehicle is delivered to the location agreed upon in the car sharing program agreement;

(B) When the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer car sharing program; or

(C) When the shared vehicle owner or the shared vehicle owner's authorized designee, takes possession and control of the shared vehicle;

(6) "Peer-to-peer car sharing":

(A) Means the authorized use of a vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program; and

(B) Does not include the services offered by a rental car company;

(7) "Peer-to-peer car sharing program":

(A) Means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration; and

(B) Does not include:

(i) The services offered by a rental car company; or

(ii) A service provider who is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle;

(8) "Rental car company" means a business engaged in the rental of motor vehicles that is subject to title 67, chapter 4, part 19, and not a peer-to-peer car sharing program;

(9) "Shared vehicle":

(A) Means a vehicle that is available for sharing through a peer-to-peer car sharing program; and

(B) Does not mean a rental vehicle provided by a rental car company;

(10) "Shared vehicle driver" means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a car sharing program agreement; and

(11) "Shared vehicle owner" means the registered owner, or a person or entity designated by the registered owner, of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program.

55-12-302. Insurance coverage during car sharing period.

(a) A peer-to-peer car sharing program shall assume liability, except as provided in subsection (b), of a shared vehicle owner for bodily injury or property damage to third parties or uninsured and underinsured motorist losses during the car sharing period in an amount, as stated in the peer-to-peer car sharing program agreement, that must not be less than the amount set forth in subsection (d).

(b) Notwithstanding the car sharing termination time, the assumption of liability under subsection (a) does not apply to any shared vehicle owner when:

(1) A shared vehicle owner makes an intentional or fraudulent material misrepresentation or omission to the peer-to-peer car sharing program before the car sharing period in which the loss occurred; or

(2) A shared vehicle owner has acted in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the car sharing program agreement.

(c) Notwithstanding the car sharing termination time, the assumption of liability under subsection (a) applies to bodily injury, property damage, uninsured and underinsured motorist, or losses by damaged third parties to the extent required for proof of financial responsibility, as defined in § 55-12-102.

(d) A peer-to-peer car sharing program shall ensure that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that:

(1) Provides insurance coverage in amounts no less than the minimum amounts for proof of financial responsibility, as defined in § 55-12-102; and

(2)

(A) Recognizes that the shared vehicle insured under the policy is made available and used through a peer-to-peer car sharing program; or

(B) Does not exclude the use of a shared vehicle by a shared vehicle driver.

(e) The insurance requirement described under subsection (d) may be satisfied by motor vehicle liability insurance maintained by:

(1) A shared vehicle owner;

(2) A shared vehicle driver;

(3) A peer-to-peer car sharing program; or

(4) Any combination of those described in subdivisions (e)(1)-(3).

(f) Except as otherwise provided for in this section:

(1) The insurance described in subsection (e) that is used to satisfy the insurance requirement of subsection (d) is primary during each car sharing period;

(2) If coverage is applicable through more than one (1) motor vehicle liability insurance policy as set forth in subdivision (e)(4), then the order of priority of coverage is as follows, unless one (1) policy contains a provision affirmatively stating that the policy's coverage is primary and thereby is primary during the car sharing period:

(A) A policy maintained by the shared vehicle driver is first in priority;

(B) A policy maintained by the peer-to-peer car sharing program is next in priority; and

(C) A policy maintained by the shared vehicle owner is last in priority; and

(3) If coverage is applicable through more than one (1) motor vehicle liability insurance policy as set forth in subdivision (e)(4) and more than one (1) of those policies contain a provision affirmatively stating that the policy's coverage is primary, then the order of priority of coverage is as described in subdivisions (f)(2)(A)-(C).

(g)

(1) The peer-to-peer car sharing program shall assume primary liability for a claim when:

(A) The peer-to-peer car sharing program is in whole or in part providing the insurance required under subsections (d) and (e);

(B) A dispute exists as to who was in control of the shared motor vehicle at the time of the loss; and

(C) The peer-to-peer car sharing program does not have available, did not retain, or fails to provide the information required by § 55-12-305.

(2) The peer-to-peer car sharing program may seek indemnity from a shared vehicle owner if the shared vehicle owner is determined to have been the operator of the shared vehicle at the time of the loss.

(h) If insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with subsection (e) has lapsed or does not provide the coverage required by subsection (d), then:

(1) Insurance maintained by a peer-to-peer car sharing program must provide the coverage required by subsection (d) beginning with the first dollar of a claim; and

(2) The peer-to-peer car sharing program has the duty to defend the claim, except under circumstances as set forth in subsection (b).

(i) Coverage under a motor vehicle liability insurance policy maintained by the peer-to-peer car sharing program is not dependent on another insurer first denying a claim nor is another motor vehicle liability insurance policy required to first deny a claim.

(j) This section does not:

(1) Limit the liability of the peer-to-peer car sharing program for any act or omission of the peer-to-peer car sharing program itself that results in injury to any person as a result of the use of a shared vehicle through a peer-to-peer car sharing program;

(2) Limit the ability of the peer-to-peer car sharing program to, by contract, seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement; or

(3) Limit the obligations of a shared vehicle owner to comply with the requirements of part 1 of this chapter.

55-12-303. Notification of implications of lien.

At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program, and prior to the time when the shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall notify the shared vehicle owner that, if the shared vehicle has a lien against it, then the use of the shared vehicle through a peer-to-peer car sharing program, including use without physical damage coverage, may violate the terms of the contract with the lienholder.

55-12-304. Applicability to exclusions in motor vehicle liability insurance policies.

This part does not invalidate or limit an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use, that excludes coverage for motor vehicles made available for rent, sharing, or hire or for any business use.

55-12-305. Recordkeeping; use of vehicle in car sharing.

(a) A peer-to-peer car sharing program shall collect, verify, and maintain the records necessary to comply with this section for a time period not less than the applicable bodily injury or property damage statute of limitations.

(b) Upon request by a shared vehicle owner, the insurer of the shared vehicle owner, a shared vehicle driver, or the insurer of a shared vehicle driver, for the purpose of assisting a claim coverage investigation, settlement, negotiation, or litigation, a peer-to-peer car sharing program shall provide the following information:

(1) The precise start and termination times for the car sharing period during which an event occurred giving rise to a claim;

(2) The information set forth in § 55-12-308(b) for the car sharing period during which an event occurred giving rise to a claim; and

(3) For the period twelve (12) hours preceding and twelve (12) hours following an event giving rise to a claim, the precise start and termination times for all car sharing periods other than the period disclosed under subdivision (b)(1), and the information set forth in § 55-12-308(b) with respect to the car sharing periods.

55-12-306. Exemption; vicarious liability.

A peer-to-peer car sharing program and a shared vehicle owner are exempt from vicarious liability consistent with 49 U.S.C. § 30106 and under any state or local law that imposes liability solely based on vehicle ownership.

55-12-307. Indemnification.

Each car sharing program agreement made in this state must disclose to the shared vehicle owner and the shared vehicle driver:

(1) Any right of the peer-to-peer car sharing program to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement;

(2) That a motor vehicle liability insurance policy issued to the shared vehicle owner for the shared vehicle or to the shared vehicle driver does not provide a defense or indemnification for any claim asserted by the peer-to-peer car sharing program;

(3) That the peer-to-peer car sharing program's insurance coverage on the shared vehicle owner and the shared vehicle driver is in effect only during each car sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the car sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage;

(4) The daily rate, fees, and if applicable, any insurance or protection package costs that are charged to the shared vehicle owner or the shared vehicle driver;

(5) That the shared vehicle owner's motor vehicle liability insurance may not provide coverage for a shared vehicle;

(6) An emergency telephone number to personnel capable of fielding roadside assistance and other customer service inquiries; and

(7) Whether there are conditions under which a shared vehicle driver must maintain a personal automobile insurance policy with certain applicable coverage limits on a primary basis in order to book a shared motor vehicle.

55-12-308. Driver license verification and data retention.

(a) A peer-to-peer car sharing program shall not enter into a peer-to-peer car sharing program agreement with a driver unless the driver who will operate the shared vehicle:

(1) Holds a driver license issued under the laws of this state that authorizes the driver to operate vehicles of the class of the shared vehicle;

(2) Is a nonresident who:

(A) Has a driver license issued by the state or country of the driver's residence that authorizes the driver in that state or country to drive vehicles of the class of the shared vehicle; and

(B) Is at least the same age as that required of a resident to drive;

or

(3) Otherwise is specifically authorized by the laws of this state to drive vehicles of the class of the shared vehicle.

(b) A peer-to-peer car sharing program shall keep a record of:

(1) The name and address of the shared vehicle driver;

(2) The number of the driver license of the shared vehicle driver and each other person, if any, who will operate the shared vehicle; and

(3) The place of issuance of the driver license.

55-12-309. Responsibility for equipment.

A peer-to-peer car sharing program has sole responsibility for any equipment, such as a GPS system or other special equipment that is put in or on the vehicle to monitor or facilitate the car sharing transaction, and shall agree to indemnify and hold harmless the vehicle owner for any damage to or theft of the equipment during the sharing period not caused by the vehicle owner. The peer-to-peer car sharing program has the right to seek indemnity from the shared vehicle driver for any loss or damage to the equipment that occurs during the sharing period.

55-12-310. Automobile safety recalls.

(a) At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program and prior to the time when the shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall:

(1) Verify that the shared vehicle does not have any safety recalls on the vehicle for which the repairs have not been made; and

(2) Notify the shared vehicle owner of the requirements under subsection (b) of this section.

(b)

(1) If the shared vehicle owner has received an actual notice of a safety recall on the vehicle, then a shared vehicle owner may not make a vehicle available as a shared vehicle on a peer-to-peer car sharing program until the safety recall repair has been made.

(2) If a shared vehicle owner receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is made available on the peer-to-peer car sharing program, then the shared vehicle owner shall remove the shared vehicle as available on the peer-to-peer car sharing program, as soon as practicably possible after receiving the notice of the safety recall and until the safety recall repair has been made.

(3) If a shared vehicle owner receives an actual notice of a safety recall while the shared vehicle is being used in the possession of a shared vehicle driver, then, as soon as practicably possible after receiving the notice of the safety recall, the shared vehicle owner shall notify the peer-to-peer car sharing program about the safety recall so that the shared vehicle owner may address the safety recall repair.

55-12-311. Conflicts.

This part does not supersede chapter 17, part 1 of this title. Chapter 17, part 1 of this title controls if there is any conflict with this part and chapter 17, part 1 of this title.

SECTION 7. Tennessee Code Annotated, Title 56, Chapter 7, Part 11, is amended by adding the following as a new section:

56-7-1120.

(a) As used in this section:

(1) "Car sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location of the car sharing start time, if applicable, as documented by the governing car sharing program agreement;

(2) "Car sharing period" means the period of time:

(A) That commences with the car sharing delivery period and ends at the car sharing termination time; or

(B) If there is no car sharing delivery period, that commences with the car sharing start time and ends at the car sharing termination time;

(3) "Car sharing program agreement":

(A) Means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer car sharing program; and

(B) Does not mean a rental car agreement with a rental car company;

(4) "Car sharing start time" means the time when the shared vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of a shared vehicle is scheduled to begin as documented in the records of a peer-to-peer car sharing program;

(5) "Car sharing termination time" means the earliest of the following events:

(A) The expiration of the agreed upon period of time established for the use of a shared vehicle according to the terms of the car sharing program agreement if the shared vehicle is delivered to the location agreed upon in the car sharing program agreement;

(B) When the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer car sharing program; or

(C) When the shared vehicle owner, or the shared vehicle owner's authorized designee, takes possession and control of the shared vehicle;

(6) "Peer-to-peer car sharing":

(A) Means the authorized use of a vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program; and

(B) Does not include the services offered by a rental car company;

(7) "Peer-to-peer car sharing program":

(A) Means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration; and

(B) Does not include:

(i) The services offered by a rental car company; or

(ii) A service provider who is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle;

(8) "Rental car company" means a business engaged in the rental of motor vehicles that is subject to title 67, chapter 4, part 19, and not a peer-to-peer car sharing program;

(9) "Shared vehicle":

(A) Means a vehicle that is available for sharing through a peer-to-peer car sharing program; and

(B) Does not mean a rental vehicle provided by a rental car company;

(10) "Shared vehicle driver" means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a car sharing program agreement; and

(11) "Shared vehicle owner" means the registered owner, or a person or entity designated by the registered owner, of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program.

(b) An authorized insurer that writes motor vehicle liability insurance in the state may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's motor vehicle liability insurance policy, including, but not limited to:

- (1) Liability coverage for bodily injury and property damage;
- (2) Uninsured and underinsured motorist coverage;
- (3) Medical payments coverage;
- (4) Comprehensive physical damage coverage; and
- (5) Collision physical damage coverage.

(c) The exclusions in subsection (b) apply notwithstanding any requirement in this title or title 55, chapter 12. This section does not require that a personal automobile insurance policy provide coverage during a car sharing period.

(d) Automobile insurers that exclude coverage as described in subsection (b) have no duty to defend or indemnify any claim expressly excluded. This section and title 55, chapter 12, do not invalidate or limit an exclusion contained in the policy, including any policy in use or approved for use in this state prior to January 1, 2021, that excludes coverage for vehicles that are rented or that are engaged in a commercial use.

(e) A motor vehicle insurer that defends or indemnifies a claim against a shared vehicle that is excluded or not covered under the terms of its policy may seek contribution from any other motor vehicle insurer providing coverage required by § 55-12-302(d), except to the extent the shared vehicle is excluded or not covered under the terms of the other policy.

(f) In a claims investigation involving a shared vehicle, the insurer of the peer-to-peer car sharing program, the insurer of the shared vehicle owner, and the insurer of the shared vehicle driver shall cooperate with each other to facilitate the exchange of relevant information, including, without limitation, records that the peer-to-peer car sharing program is required to collect under title 55, chapter 12, part 3. The insurer of the peer-to-peer car sharing program, the insurer of the shared vehicle owner, and the insurer of a shared vehicle driver shall disclose to each other a clear description of the coverage, exclusions, and limits provided in their respective policies.

(g)

(1) Notwithstanding any other law, statute, or rule to the contrary, a peer-to-peer car sharing program has an insurable interest in a shared vehicle during the car sharing period.

(2) This section does not create liability on a peer-to-peer car sharing program to maintain insurance coverage beyond the extent mandated by § 55-12-302.

(3) A peer-to-peer car sharing program may own and maintain as the named insured one (1) or more policies of motor vehicle liability insurance that provides coverage for:

(A) Liabilities assumed by the peer-to-peer car sharing program under a peer-to-peer car sharing program agreement;

(B) Any liability of the shared vehicle owner; or

(C) Damage or loss to the shared motor vehicle or any liability of the shared vehicle driver.

(h) This section does not preclude an insurer from providing coverage for a peer-to-peer car sharing program or a shared vehicle owner, if it chooses to do so by contract or endorsement.

(i) This section does not supersede title 55, chapter 17, part 1. Title 55, chapter 17, part 1, controls if there is any conflict with this section and title 55, chapter 17, part 1.

SECTION 8. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 9. Sections 3, 4, and 5 of this act take effect at 12:01 a.m. on October 1, 2020, the public welfare requiring it. Section 5 of this act is repealed at 12:02 a.m. on October 1, 2020, if Senate Bill 2182 / House Bill 2249 becomes a law. Sections 6 and 7 of this act take effect on January 1, 2021, the public welfare requiring it. All remaining sections of this act take effect upon becoming a law, the public welfare requiring it.

Amendment No. _____

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

Signature of Sponsor

AMEND Senate Bill No. 2681

House Bill No. 2706*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 66-11-124(b), is amended by deleting subdivision (2) and substituting the following:

(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, then 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, then no further action shall be taken by the board against the prime contractor or remote contractor unless a later complaint is filed against the prime contractor or remote contractor for a violation of this section.

(B) If the prime contractor or remote contractor does not delete the waiver of lien provision from the contract, 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



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violation of this section, then the board shall immediately revoke the prime contractor's or remote contractor's license.

(C) The board shall send notice of the revocation to the prime contractor's 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 has 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.

SECTION 2. Tennessee Code Annotated, Section 66-11-126, is amended by deleting the language "an action" wherever it appears and substituting instead "a complaint, petition, or civil warrant"; and by deleting the language "any action" wherever it appears and substituting instead the language "any complaint, petition, or civil warrant".

SECTION 3. Tennessee Code Annotated, Section 66-11-130, is amended by deleting the section and substituting the following:

Upon written demand of the owner, the owner's agent, or prime contractor, served on the lienor, requiring the lienor to file a complaint, petition, or civil warrant to enforce the lienor's lien, and describing the real property in the demand, the proceeding must be commenced, or the claim filed in a creditors' or foreclosure proceeding, within sixty (60) days after service, or the lien is forfeited.

SECTION 4. Tennessee Code Annotated, Section 66-11-131, is amended by deleting the language "an action" and substituting instead the language "a complaint, petition, or civil warrant".

SECTION 5. Tennessee Code Annotated, Section 66-11-132, is amended by deleting the section and substituting the following:

If separate complaints, petitions, or civil warrants to enforce liens provided by this chapter are brought in the same court, then they must be consolidated; and if in different courts, the proceedings may, upon application, be removed into the court, if a court of record, in which the first complaint, petition, or civil warrant was filed, and there consolidated, unless the later proceeding is one for the benefit of all lienors, in the nature of a lien-creditors' bill, in which event earlier proceedings not of that nature must be consolidated into the lien-creditors' bill, on petition.

SECTION 6. Tennessee Code Annotated, Section 66-11-133, is amended by deleting the language "consolidated action" and substituting instead the language "consolidated proceeding".

SECTION 7. Tennessee Code Annotated, Section 66-11-134, is amended by deleting the language "enforced by an action" and substituting instead the language "enforced by a civil warrant".

SECTION 8. Tennessee Code Annotated, Section 66-11-135, is amended by deleting the language "an action" and substituting instead the language "a proceeding".

SECTION 9. Tennessee Code Annotated, Section 66-11-136, is amended by deleting the language "by action on the bond" and substituting instead the language "by filing a complaint, petition, or civil warrant against the bond".

SECTION 10. Tennessee Code Annotated, Section 66-11-139, is amended by deleting the language "in any action to enforce" and substituting instead the language "in any proceeding to enforce".

SECTION 11. Tennessee Code Annotated, Section 66-11-142, is amended by deleting the language "parties to any action" and substituting instead the language "parties to any proceeding in which the person files a complaint, petition, or civil warrant"; by deleting the language "the contractor or owner shall notify" and substituting instead the language "the prime contractor, remote contractor, or owner shall notify"; and deleting the language "The original

contractor as principal" and substituting instead the language "The original prime contractor or remote contractor as principal".

SECTION 12. Tennessee Code Annotated, Section 66-11-203, is amended by deleting the section and substituting the following:

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 residential real property or making of the contract, deliver, by registered mail or otherwise, to the owner or owners of the residential 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) there shall be a lien upon the real property and building for the improvements made in favor of the above-mentioned contractor 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.

Contractor

SECTION 13. Tennessee Code Annotated, Section 66-11-204, is amended by deleting the language "An owner may reject" and substituting instead the language "An owner of residential real property may reject".

SECTION 14. Tennessee Code Annotated, Section 66-11-205, is amended by deleting the section and substituting the following:

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 the prime contractor and all remote 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 or laborers, 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 remote contractor or 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:

SECTION 15. Tennessee Code Annotated, Section 66-11-206, is amended by deleting from subsection (c) the language "or the contractor's agent" and substituting instead the language "or the owner's agent".

SECTION 16. Tennessee Code Annotated, Section 66-34-103, is amended by deleting subsections (b)-(e) and substituting the following:

(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" means 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 remote contractor within ten (10) days after receipt of the retainages from the owner. Any remote contractor receiving the retainage from the prime contractor shall pay to any lower-tier remote contractor all retainages due the lower-tier remote contractor within ten (10) days after receipt of the retainages.

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

(d) If an owner or prime contractor withholds retainage that is for the use and benefit of the prime contractor or its remote contractors pursuant to § 66-34-104(a) and

(b), then neither the prime contractor nor any of its remote contractors are 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 is consecutive to all other 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 must be used.

(4) This subsection (e) does not apply to the 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.

SECTION 17. Tennessee Code Annotated, Section 66-34-104, is amended by deleting the section and substituting the following:

(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 must 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 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) If the party withholding the retained funds fails to deposit the funds into an escrow account as provided in this section, then the party shall pay the owner of the retained funds an additional three hundred dollars (\$300) per day as damages, not as a penalty, for each and every day that the retained funds are not deposited into an escrow account. Damages accrue from the date retained funds were first withheld and 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 has the affirmative duty to provide written notice that the party has complied with 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 which 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, prime contractor, or remote contractor owing the retainage, all funds accumulated in the escrow account together with all interest on the account must

be paid immediately to the prime contractor or remote contractor to whom the funds and interest are owed.

(f) If the owner, 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 equitable relief, including injunctive relief, as provided in § 66-34-602, against the owner, prime contractor, remote contractor, or other person holding the retainage as escrow agent. All other claims, demands, disputes, controversies, and differences that may arise between the owner, prime contractor or prime contractors, and remote contractors 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) Subsections (c), (d), and (j) do not apply to the state and any department, board, or agency thereof, including the University of Tennessee; counties and municipalities, and all departments, boards, or agencies thereof, including all school and education boards; and any other subdivision of the state.

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

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

(j) Failure to deposit the retained funds into an escrow account as provided in this section, within seven (7) days of receipt of written notice regarding the failure, is a Class A misdemeanor.

SECTION 18. Tennessee Code Annotated, Section 66-34-201, is amended by deleting the section and substituting the following:

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

SECTION 19. Tennessee Code Annotated, Section 66-34-202, is amended by deleting the section and substituting the following:

(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 must 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.

(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 does not excuse the owner from making payment in accordance with this chapter. This section does not require payment for work not performed if an architect, engineer, or other agent has certified that a contractor has not completed performance for a portion of work covered by the application for payment.

SECTION 20. Tennessee Code Annotated, Section 66-34-203, is amended by deleting the section and substituting the following:

This chapter does not prevent the owner from reasonably withholding payment or a portion of a payment to the prime contractor, as long as the 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, as long as the retainage amount does not exceed five percent (5%) of the amount of the contract.

SECTION 21. Tennessee Code Annotated, Section 66-34-204, is amended by deleting the language "from an architect charged with" and substituting instead the language "from an architect or engineer charged with"; and by deleting the language "the contractor" wherever it appears and substituting instead the language "the prime contractor".

SECTION 22. Tennessee Code Annotated, Section 66-34-205, is amended by deleting the section and substituting the following:

(a) Any sums allocated by the owner or provided or committed to the owner by a third party that 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 must be held by the owner or third party in trust for the benefit and use of the prime contractor and its remote contractors, and are subject to all legal and equitable remedies.

(b) The presence of an otherwise valid agreement to arbitrate does not prevent a prime contractor or remote contractor from seeking equitable relief, including injunctive relief, as permitted by § 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 any party is not a valid defense for the failure of an owner or other third party that controls or holds those sums described in subsection (a), as well as all retainage, to release those sums when they are otherwise due.

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

SECTION 23. Tennessee Code Annotated, Section 66-34-301, is amended by deleting the section and substituting the following:

Performance by a remote contractor in accordance with a written contract with a prime contractor for improvement of real property entitles the remote contractor to payment from the prime contractor.

SECTION 24. Tennessee Code Annotated, Section 66-34-302, is amended by deleting the section and substituting the following:

(a) If a remote contractor has performed in accordance with the remote contractor's written contract with the prime contractor, then the prime contractor shall pay to the remote contractor the full amount earned by the 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 must 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 remote contractor to the prime contractor, in accordance with the schedule.

(b) The prime contractor shall also pay the remote contractor its pro rata share of any interest provided for in § 66-34-601 that has been received by the prime contractor.

SECTION 25. Tennessee Code Annotated, Section 66-34-303, is amended by deleting the section and substituting the following:

This chapter does not prevent the prime contractor from reasonably withholding payment or a portion of payment to the remote contractor, as long as the withheld payment is in accordance with the written contract between the prime contractor and the remote contractor. The prime contractor may also withhold a reasonable amount of retainage as specified in the written contract between the prime contractor and remote contractor; except, that the retainage amount must not exceed five percent (5%) of the amount of the contract.

SECTION 26. Tennessee Code Annotated, Section 66-34-304, is amended by deleting the section and substituting the following:

Any sums received by the prime contractor as payment for work, services, equipment, and materials supplied by the remote contractor for improvements to real

property must be held by the prime contractor in trust for the benefit and use of the remote contractor, and are subject to all legal and equitable remedies.

SECTION 27. Tennessee Code Annotated, Section 66-34-401, is amended by deleting the section and substituting the following:

A remote contractor contracting in writing with another remote contractor for the improvement of real property shall make payment to the other remote contractor in accordance with part 3 of this chapter.

SECTION 28. Tennessee Code Annotated, Section 66-34-501, is amended by deleting the section and substituting the following:

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

SECTION 29. Tennessee Code Annotated, Section 66-34-601, is amended by deleting the section and substituting the following:

Any payment not made in accordance with this chapter accrues 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, then one and one-half percent (1.5%) per month.

SECTION 30. Tennessee Code Annotated, Section 66-34-602, is amended by deleting the section and substituting the following:

(a)

(1) A prime contractor who has not received payment from an owner, or a remote contractor who has not received payment from a prime contractor or other 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 of the notifying party's intent to seek relief against that party as provided in this chapter.

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

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

(5) The notification required by this part 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 Pay 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 [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, then [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 ten (10) days of receipt of the notice required by subsection (a), then 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, as long as 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, then 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 ten (10) days of receipt of the notice required by subsection (a), then 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, as long as 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, then 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 entitles the prime contractor 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 if the nonprevailing party acted in bad faith.

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

SECTION 31. Tennessee Code Annotated, Title 66, Chapter 34, Part 6, is amended by adding the following section:

(a) In addition to any rights provided for under any contract:

(1) 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;

(2) 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 in accordance with § 66-34-602(a). Included within the notice, a prime contractor or remote contractor may request that 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;

(3) An owner shall provide a response to a demand for reasonable assurances within ten (10) days of receipt of the request that:

(A) Provides reasonable evidence that the owner has made financial arrangements sufficient to fulfill the owner's obligation to make all payments in accordance with the written contract, including the information set forth in § 66-34-104(d); or

(B) Provides adequate legal reasons for the owner's failure to make payment of the sums owing to the requesting party;

(4) If an owner responds to a demand for adequate assurance with reasonable evidence that the owner has made financial arrangements sufficient to fulfill the owner's obligation to make all payments in accordance with the written contract, then the owner shall not materially vary the owner's financial arrangements from those disclosed under this section without prior notice to the prime contractor or remote contractor; and

(5) A demand for reasonable assurances may be sent separately or as part of any notice of nonpayment, notice pursuant to § 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] pursuant to the written contract between the parties. Pursuant to 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.

(b) This section may not be waived by contract.

(c) This section does not apply to the state and any department, board, or agency thereof, including the University of Tennessee; counties and municipalities and all departments, boards, or agencies thereof, including all school and education boards; and any other subdivision of this state.

SECTION 32. Tennessee Code Annotated, Section 66-34-701, is amended by deleting the section and substituting the following:

As a matter of public policy, except as specifically noted, compliance with §§ 66-11-104, 66-34-205, 66-34-304, 66-34-602, and 66-34-603 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.

SECTION 33. Tennessee Code Annotated, Section 66-34-703, is amended by deleting the section and substituting the following:

(a) Except as provided in subsection (b), this chapter does not apply to any bank, savings bank, savings and loan association, industrial loan and thrift company, other regulated financial institution, or insurance company.

(b) Notwithstanding subsection (a), if a bank, savings bank, savings and loan association, industrial loan and thrift company, other regulated financial institution, or insurance company acts in the capacity of an original owner in the event of building its own structure or assumes a project due to its debtor's default and proceeds with completion of the project, then the exemption provided in subsection (a) does not apply.

(c) Notwithstanding subsection (a) or any other provision of this chapter to the contrary:

(1) A bank, savings and loan association, industrial loan and thrift company, other regulated financial institution, or insurance company shall pay any sums held in trust pursuant to § 66-34-205 in accordance with an order of any court issued pursuant to § 66-34-602; and

(2) A bank, savings and loan association, industrial loan and thrift company, other regulated financial institution, or insurance company is not liable for damages pursuant to § 66-34-104(c) based on the failure of an owner to place retainage in a separate interest-bearing, escrow account as required by § 66-34-104(a).

SECTION 34. Tennessee Code Annotated, Title 66, Chapter 34, Part 7, is amended by adding the following section:

Without limiting any existing law or regulation, it is not against the public policy or public interest of this state for a provision in any agreement relating to the design, planning, supervision, observation of construction, repair, or construction of an improvement to real property to limit the liability of the person furnishing the labor, materials, or services to a reasonable monetary amount.

SECTION 35. Tennessee Code Annotated, Section 66-36-101, is amended by deleting the section and substituting the following:

As used in this chapter:

(1) "Action" means any civil action or binding dispute resolution 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, remote contractor, or design professional concerning a construction defect;

(3) "Commercial property" means all property that is not residential property;

(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 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 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 in accordance with accepted trade standards for good and workmanlike construction at the time of construction or remodeling;

(5) "Design professional" means a person licensed in this state as an architect, interior designer, landscape architect, engineer, or surveyor, regardless of whether the person is a prime contractor or remote contractor;

(6) "Improvement" has the same meaning as defined in § 66-11-101;

(7) "Notice of claim" means a written notice sent by a claimant to the last known address of a prime contractor, remote contractor, or design professional against whom the 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;

(8) "Prime contractor" has the same meaning as defined in § 66-11-101;

(9) "Remote contractor" has the same meaning as defined in § 66-11-101;

(10) "Residential property" means property upon which a dwelling or improvement is constructed or to be constructed consisting of one (1) dwelling unit intended as a residence of a person or family; and

(11) "Service" means personal service or delivery by certified mail to the last known address of the addressee, or as otherwise allowed by contract.

SECTION 36. Tennessee Code Annotated, Section 66-36-103, is amended by deleting the section and substituting the following:

(a) In actions brought against a prime contractor, 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, 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 contract. Unless otherwise prohibited by contract, the failure to serve notice of claim within fifteen (15) days does not bar the filing of an action, subject to § 66-36-102.

(b) Within ten (10) business days after service of the notice of claim, the prime contractor, remote contractor, or design professional may inspect the structure to assess each alleged construction defect. The claimant shall provide the prime contractor, remote contractor, or design professional and its lower-tier remote contractors or agents reasonable access to the improvement during normal working hours to inspect the 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 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 shall correct and repair any damage to the improvement caused by the testing.

(c) Within ten (10) days after service of the notice of claim, the prime contractor, remote contractor, or design professional must forward a copy of the notice of claim to each prime contractor, remote contractor, 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, remote contractor, or design professional is responsible. Each such prime contractor, remote contractor, or design professional may inspect the improvement 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, remote contractor, or design professional must serve a written response to the prime contractor, remote contractor, or design professional who served a copy of the notice of claim. The written response must include a report of the scope of any inspection of the improvement; the findings and results of the inspection; a statement of whether the prime contractor, remote contractor, or design professional is willing to make corrections or repairs to the improvement 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, 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 the 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, 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, remote contractor, or design professional offers to remedy the alleged construction defect or compromise and settle the claim by monetary payment, then the written response must contain a statement that the claimant is 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, remote contractor, or design professional.

(g) If the prime contractor, remote contractor, or design professional does not respond to the claimant's notice of claim within the time provided in subsection (e), then the claimant may, without further notice, proceed with an action against the prime contractor, 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, remote contractor, or design professional must serve written notice of the rejection on the prime contractor, 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, remote contractor, or design professional and the prime contractor, remote contractor, or design professional does not make the payment, correction, or repair the defect within the agreed time and in the agreed manner, then the claimant may, without further notice, proceed with an action against the prime contractor, remote contractor, or design professional. If a claimant accepts a prime contractor, remote contractor, or design professional's offer and the prime contractor, remote contractor, or design professional makes payment, correction, or repairs the defect within the agreed time and in the agreed manner, then the claimant is barred from proceeding with an action against the prime contractor, 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, remote contractor, or design professional to correct or repair an alleged construction defect, then the claimant shall provide the prime contractor, remote contractor, or design professional and their remote contractors or other agents reasonable access to the claimant's improvement 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, 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. In addition, the offer of a prime contractor, 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, 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 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. Those contractual provisions control, take precedence, and are 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 that 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;

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

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

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

SECTION 37. Tennessee Code Annotated, Section 28-1-101, is amended by deleting the section.

SECTION 38. Tennessee Code Annotated, Section 28-3-202, is amended by deleting the section and substituting the following:

All actions, arbitrations, or other binding dispute resolution proceedings to recover damages for any deficiency in the design, planning, supervision, observation of

construction, or construction of an improvement to real property, for injury to property, real or personal, arising out of any such deficiency, or for injury to the person or for wrongful death arising out of any such deficiency, must be brought against any person performing or furnishing the design, planning, supervision, observation of construction, or construction of the improvement within four (4) years after substantial completion of the an improvement.

SECTION 39. Tennessee Code Annotated, Section 28-3-203, is amended by deleting the section and substituting the following:

(a) Notwithstanding § 28-3-202, in the case of an injury to property or person or injury causing wrongful death, which injury occurred during the fourth year after substantial completion, an action, arbitration, or other binding dispute resolution proceeding to recover damages for the injury or wrongful death must be brought within one (1) year after the date on which the injury occurred, without respect to the date of death of the injured person.

(b) The action, arbitration, or other binding dispute resolution proceeding must, in all events, be brought within five (5) years after the substantial completion of the improvement.

SECTION 40. Tennessee Code Annotated, Section 28-3-204, is amended by deleting the section and substituting the following:

(a) This part does not extend the period or periods provided by the laws of this state or by agreement between the parties for the bringing of any action, arbitration, or other binding dispute resolution proceeding.

(b) This part does not create any cause of action not previously existing or recognized.

SECTION 41. Tennessee Code Annotated, Section 28-3-205, is amended by deleting the section and substituting the following:

(a) The limitation provided by this part must not be asserted as a defense by any person in actual possession or the control, as owner, tenant, or otherwise, of an improvement at the time any deficiency in the improvement constitutes the proximate cause of the injury or death for which it is proposed to bring an action, arbitration, or other binding dispute resolution proceeding.

(b) The limitation provided by this part is not available as a defense to any person who has been guilty of fraud in performing or furnishing the design, planning, supervision, observation of construction, construction of, or land surveying, in connection with an improvement, or to any person who wrongfully conceals any such cause of action.

SECTION 42. This act shall take effect July 1, 2020, the public welfare requiring it, and applies to actions occurring and contracts entered into, amended, or renewed on or after that date.