

PUBLIC CHAPTER NO. 804

HOUSE BILL NO. 3105

By Representatives Curtiss, Bone, Brown

Substituted for: Senate Bill No. 3658

By Senator Ketron

AN ACT to amend Tennessee Code Annotated, Section 66-11-144 and Title 66, Chapter 34, relative to contractor retainage funds.

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

SECTION 1. Tennessee Code Annotated, Section 66-11-144(g), is amended by deleting the subsection in its entirety and by substituting instead the following:

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

SECTION 2. The Tennessee Code Commission is directed to move Tennessee Code Annotated, Section 66-11-144 in its entirety to Title 66, Chapter 34, Part 1 to be renumbered as § 66-34-104.

SECTION 3. Tennessee Code Annotated, Section 66-34-103, is amended by adding the following as new subsections (d) and (e):

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

(e)

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

(2)

(A) A violation of this subsection is a Class A misdemeanor, subject to a fine only of \$3,000.00.

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

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

SECTION 4. This act shall take effect July 1, 2008, the public welfare requiring it and shall apply to all construction contracts to which this act applies entered into on or after the effective date of this act.

PASSED: April 10, 2008



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY, SPEAKER
SENATE OF THE SENATE

APPROVED this 24th day of April 2008



PHIL BREDESEN, GOVERNOR