

SECOND REGULAR SESSION

SENATE BILL NO. 991

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALSH.

Read 1st time February 11, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5189S.01I

AN ACT

To amend chapter 436, RSMo, by adding thereto one new section relating to construction contracts.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 436, RSMo, is amended by adding thereto one new section, to be known as section 436.600, to read as follows:

436.600. 1. As used in this section, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Construction contract", a written or oral agreement relating to:

(a) The construction, reconstruction, renovation, alteration, repair, maintenance, moving, design, or demolition of any building, structure, private road, appurtenance, appliance, or improvement; or

(b) The excavation of, or other development or improvement to, land used or intended to be used for non-governmental purposes;

(2) "Contractor", any person, firm, partnership, corporation, limited liability company, joint venture, association, entity, or other organization, or a combination of any of the foregoing, that has a contract with an owner to perform, provide, furnish, supply, or render work under a construction contract;

(3) "Owner", any person, firm, partnership, corporation, limited liability company, joint venture, association, entity, or other organization, or a combination of any of the foregoing, that causes a building, structure, private road, appurtenance, appliance, or improvement to be constructed, reconstructed, renovated, altered, repaired, maintained, moved, designed, or demolished or that causes land to be excavated or otherwise developed or improved, whether the

22 interest or estate of the person is in fee, as vendee under a contract to
23 purchase, as lessee, or another interest or estate less than fee;

24 (4) "Subcontractor", any person, firm, partnership, corporation,
25 limited liability company, joint venture, association, entity, or other
26 organization, or a combination of any of the foregoing at any tier, that
27 has a contract with a contractor or another subcontractor at any tier
28 to perform, provide, furnish, supply, or render a portion of the work
29 under a construction contract;

30 (5) "Work", the labor, materials, supplies, tools, equipment, and
31 services, including design services, to be performed, provided,
32 furnished, supplied, or rendered by a contractor or subcontractor
33 pursuant to a construction contract.

34 2. No party to a construction contract shall withhold from a
35 lower-tiered party undisputed amounts due to the lower-tiered party
36 pursuant to the terms of the construction contract or this section.

37 3. A contractor or subcontractor who is not paid as required by
38 this section or by the terms of its construction contract may, after
39 providing seven calendar days' written notice to the party failing to
40 make the required payment, suspend performance of its work under its
41 construction contract without penalty for breach of contract or
42 otherwise and without prejudice to any other available remedy it may
43 have, until payment, including interest, required pursuant to this
44 section or its construction contract is made. The contract time for
45 performance for each contract affected by the suspension shall be
46 extended equitably and the contract sum for each affected contract
47 shall be increased by the suspending party's reasonable costs of
48 demobilization, delay, and remobilization. Unless a shorter time is
49 prescribed in its construction contract, the contractor or subcontractor
50 who is not paid in full as required by this section within sixty days
51 after giving notice to suspend shall have the right to terminate its
52 construction contract after providing three business days' written
53 notice to the party failing to make the required payment without
54 penalty for breach of contract or otherwise and without prejudice to
55 any other available remedy it may have.

56 4. The rights and duties prescribed by this section shall not be
57 waivable or diminished under the terms of a contract or
58 agreement. The terms of any contract or agreement waiving or

59 **diminishing the rights and duties prescribed by this section shall be**
60 **null and void and unenforceable.**

61 **5. The provisions of this section shall not apply to the repair or**
62 **remodeling of or addition to owner-occupied residential property of**
63 **four units or less which the owner occupies at the time of contracting,**
64 **or intends to occupy and does occupy as a residence within a**
65 **reasonable time after the completion of the repair, remodeling, or**
66 **addition which is the subject of the construction contract.**

67 **6. The provisions of this section shall apply only to contracts or**
68 **agreements entered into on or after August 28, 2020.**

Unofficial ✓

Bill

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