

Senate Bill No. 588

(By Senators Yost, Kessler (Mr. President), Edgell, Unger and
Fitzsimmons)

[Introduced March 21, 2013; referred to the Committee on Labor;
and then to the Committee on the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §21-11-21; and to
amend said code by adding thereto a new section, designated
§31-17-21, all relating to requiring residential construction
projects to be bonded; setting forth contractor
responsibilities; providing for a period of bond liability and
forfeiture of bond to satisfy a lien; requiring contractor to
provide copy of bond and certain documents and reports to
certain persons; and requiring a lender making a loan for
residential construction services to issue joint payment and
notice of payment to the contractor, property owners and any
subcontractor or supplier identified in a request for payment.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended
2 by adding thereto a new section, designated §21-11-21; and that
3 said code be amended by adding thereto a new section, designated
4 §31-17-21, all to read as follows:

5 **CHAPTER 21. LABOR.**

6 **ARTICLE 11. WEST VIRGINIA CONTRACTOR LICENSING ACT.**

7 **§21-11-21. Residential construction; contractor's**
8 **responsibilities.**

9 (a) Contractors who erect, build, construct, alter, remove or
10 repair any residential building or other residential structure, or
11 other improvement appurtenant to that building or other structure,
12 shall obtain for length of the project a surety bond payable to the
13 property owner for the total value of the project and conditioned
14 upon faithful performance of all requirements of the construction
15 contract and payment in full of all subcontractors and suppliers.
16 The period of liability of the bond shall end ten days after the
17 period for perfecting any lien provided in article two, chapter
18 thirty-eight of this code. If a lien is perfected within the
19 applicable statutory period, the bond shall remain in effect until
20 the lien is discharged or released pursuant to article two, chapter
21 thirty-eight of this code: *Provided*, That the bond may be forfeited
22 to satisfy the lien.

1 (b) The contractor shall, before beginning a project, provide
2 a copy of the surety bond, applicable insurance certificates and
3 license required by section six of this article to the property
4 owner, potential subcontractors, potential suppliers, any lender
5 who has made a loan on the project and the commissioner. After work
6 has begun on the project the contractor shall provide monthly
7 reports to the property owner, subcontractors, suppliers, lenders
8 and the commissioner on who, and in what amounts, was paid during
9 that month on the project. The reports shall include the address
10 and telephone number of the subcontractors and suppliers.

11 **CHAPTER 31. CORPORATIONS.**

12 **ARTICLE 17. WEST VIRGINIA RESIDENTIAL MORTGAGE LENDER, BROKER AND**
13 **SERVICER ACT.**

14 **§31-17-21. Residential construction loans; lender responsibility.**

15 A lender who makes a loan to erect, build, construct, alter,
16 remove or repair any residential building or other residential
17 structure, or other improvement appurtenant to that building or
18 other structure, shall issue any payment from the construction loan
19 proceeds jointly to the residential property owner, the contractor
20 and any subcontractor or supplier of materials identified in a
21 request for payment. When payment is issued, the lender shall also
22 send written notice of payment to the contractor, property owner

1 and subcontractor or supplier identified in the request for
2 payment.

NOTE: The purpose of this bill is to require residential construction projects to be bonded. The bill sets forth a contractor's responsibilities and conditions for bond release. The bill also requires a lender making a loan for residential construction services to issue joint payment and notice of payment to the contractor, property owner, any subcontractor who provides services, and any supplier of materials used in the construction.

These sections are new; therefore, strike-throughs and underscoring have been omitted.