

INSTRUCTIONS TO CLAIMANTS

Instructions to claimants furnishing labor and materials to contractors for construction under contract with the Tennessee Department of Transportation.

1. Copies of selected sections of the Tennessee Code Annotated which we consider germane are attached for your information. The filing of claims must comply with these statutes. Other statutes may also be applicable.
2. Claims shall not be valid unless they are verified by oath and filed after the publication of the first notice.
3. Claims must be received not later than the date set forth in the advertisement for claims for labor and materials.
4. **Claims cannot be accepted** unless the project is properly identified and sworn to before a Notary Public.
5. The prime contractor should also be identified and his agent if the claim is against a person or firm other than the prime contractor.
6. Claims should be itemized and filed in quadruplicate (4).
7. Claim forms are enclosed for your convenience.
8. Claims should be addressed to the TDOT Director of Construction and the Contractor's Surety:

Director of Construction
Tennessee Department of Transportation
Suite 700, James K. Polk Building
Nashville, Tennessee 37243

NOTICE OF CLAIM TO THE
TENNESSEE DEPARTMENT OF TRANSPORTATION

Claimants Name and Address:

Telephone No. _____

Contract No. _____
Project No. _____
Proj. Ref. No. _____
County _____
Prime Contractor _____
Surety _____

_____, Being duly sworn, deposes and says that
(Person making claim)

_____ is justly indebted to _____
(Contractor, subcontractor, agent or other) (myself or
_____ in the amount of \$ _____ for
firm represented)

unpaid wages of laborers and/or other employees and/or materials used on the captioned project and described as follows: (set out details of claim in space below)

Claim for the above amount is therefore filed against the prime contractor pursuant to Section 54-5-122 et seq, Tennessee Code Annotated. Dated this _____ day of _____, _____.

BY _____ TITLE _____
(Signature) (If representing a Firm or Corp.)

Sworn to and subscribed before me

This _____ day of _____, _____

(Notary Public)

My commission expires _____.

(Seal)

GENERAL RELEASE

Contract No.: _____

Project No.: _____

Project Ref. No.: _____

County: _____

Know All Men By These Presents, that, _____,
(Claimant)
in consideration of payment received in the amount of \$ _____ does
hereby release the Department of Transportation from payment of the claim in the
amount \$ _____ previously filed with the Department of Transportation by
claimant on _____ in connection with the captioned contract and project.

In Witness Whereof, _____ has hereunto executed
(Claimant)
or caused this Release to be executed by its duly authorized official (s).

This _____ day of _____, _____.

Signed

Title

Sworn to and subscribed before me

This _____ day of _____, _____

(Notary Public)

My commission expires _____

(Seal)

SELECTED SECTIONS OF THE TENNESSEE CODE ANNOTATED
RELATING TO CLAIMS

54-5-122. Full settlement with contractor. —

The department may close a project after the following has occurred:

(1) The department shall provide thirty (30) days notice in some newspaper published in the county where the work is done, if there is a newspaper published there, and if not, in a newspaper in an adjoining county, that final settlement is about to be made and notifying all claimants to file notice of their claims with the department and the contractor's surety. The period for filing a notice of claim shall not be less than thirty (30) days after the last published notice. No notice of claim shall be valid unless it is verified by oath and filed after the publication of the first notice; and

(2) The contractor shall furnish evidence to satisfy the department that all the material used by the contractor, its subcontractors or its agents has been fully paid for and all laborers and other employees working for the contractor, its subcontractors or its agents have been fully paid.

[Acts 1917, ch. 74, § 6; Shan., § 1720a29b30 (p. 6551); Shan. Supp., § 1720a7b61; Code 1932, § 3221; impl. am. Acts 1959, ch. 9, § 3; impl. am. Acts 1972, ch. 829, § 7; T.C.A. (orig. ed.), § 54-522; Acts 1983, ch. 132, § 1; 1984, ch. 807, § 1; 2004, ch. 605, § 2.]

54-5-123. Sums withheld — Final settlement. —

(a) From the three-and-one-half percent (3 ½%) retained on any contract executed prior to August 2005, that is being closed and to the extent such funds are due the contractor, the department shall withhold from the contractor a sum sufficient to pay all claims, of which notice is appropriately filed with the department, for a period of sixty (60) days from the date of the last advertising, to allow claimants to sue and prove their claims against the contractor or its agent, in some court of competent jurisdiction. In the event a civil action is brought against the contractor by any claimant within sixty (60) days from the day of the last advertising, the department shall pay the amount of the claim into court from any funds of the contractor the department is holding, if any. But in all cases where civil actions are not brought within sixty (60) days, the department shall pay any sums being held by the department, if any, to the contractor. No civil action shall be valid unless it is filed after the filing of a notice of claim with the department in accordance with § 54-5-122.

(b) On the date set for full and final settlement with the contractor, the contractor may make proper refunding bond to the state of Tennessee for the amount of any sum or sums so held for the period of sixty (60) days, such bond to be approved by the department, whereupon it shall pay such contractor in full.

[Acts 1917, ch. 74, § 6; Shan., § 1720a29b31 (p. 6551); Shan. Supp., 1720a7b62; impl. am. Acts 1923, ch. 7, §§ 1, 2, 33; Acts 1929, ch. 80, § 1; mod. Code 1932, § 3222; impl. am. Acts 1959, ch. 9, § 3; impl. am. Acts 1972, ch. 829, § 7; T.C.A. (orig. ed.), § 54-523; Acts 1984, ch. 807, § 2; 2004, ch. 605, § 3.]

54-5-124. Civil actions against contractors by claimants. —

(a) All civil actions against contractors brought by any claimant shall make the commissioner a defendant thereto by issuance of process from the county where the civil action was filed to the county of the defendant, and they shall be brought in the county where the main office of the department is situated or in any county in which any part of the work was prosecuted. In the event that the department is not holding sums due a contractor described in § 54-5-123(a) or upon payment of the amount specified in subsection (b), upon request by the commissioner the commissioner shall be dismissed as a party.

(b) When a civil action has been properly brought, in the event the department is holding any amount due a contractor described in § 54-5-123(a), such amount or the amount of the claim, whichever is less, shall be paid into court.

[Acts 1929, ch. 80, § 1; mod. Code 1932, § 3222; impl. am. Acts 1959, ch. 9, § 3; impl. am. Acts 1972, ch. 829, § 7; T.C.A. (orig. ed.), § 54-524; Acts 1984, ch. 807, § 3; 2004, ch. 605, §§ 4, 5.]

54-5-125. Dismissal of suit as to commissioner — Oath of claimant — More than one claimant. —

(a) Such petition shall be signed by the commissioner, or by the attorney for the department for the commissioner; and upon the filing of such petition accompanied by such payment, the suit shall be dismissed as to the commissioner as a matter of right, such sum so paid into court, as to the plaintiff or claimant, standing in lieu and as a satisfaction of the contractor's bond and a fulfillment of the duties of the department to the claimant or plaintiff.

(b) No claimant shall file a claim with the department without verifying the same by oath.

(c) Where more than one (1) claimant files suit in the same court, the commissioner may embrace in one (1) petition the names of the claimants, the aggregate amounts of their claims, etc., accompanying same with photostats, and making payment by one (1) voucher to cover the whole.

[Acts 1929, ch. 80, § 1; mod. Code 1932, § 3222; impl. am. Acts 1959, ch. 9, § 3; impl. am. Acts 1972, ch. 829, § 7; T.C.A. (orig. ed.), § 54-525; Acts 1981, ch. 264, § 12.]