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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 2912

02/20/2018 Authored by Rarick, Nelson, Pugh, Sundin, Masin and others
The bill was read for the first time and referred to the Committee on Government Operations and Elections Policy

1.1 A bill for an act
1.2 relating to state government; requiring payments within a certain time period and
1.3 release of a retainage within a certain time period; amending Minnesota Statutes
1.4 2016, section 15.72.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2016, section 15.72, is amended to read:

1.7 **15.72 PROGRESS PAYMENTS ON PUBLIC CONTRACTS; RETAINAGE.**

1.8 Subdivision 1. **Monthly payments.** Unless the terms of the contract provide otherwise,
1.9 a public contracting agency shall make progress payments on a public contract for a public
1.10 improvement monthly as the work progresses. Payments shall be based upon estimates of
1.11 work completed as approved by the public contracting agency. A progress payment shall
1.12 not be considered acceptance or approval of any work or waiver of any defects therein.

1.13 Subd. 1a. **Prompt payment to subcontractors.** For purposes of subdivisions 1, 2, and
1.14 3, each contract of a public contracting agency must require the prime contractor to pay any
1.15 subcontractor within ten days of the prime contractor's receipt of payment from the public
1.16 contracting agency for undisputed services provided by the subcontractor. The contract
1.17 must require the prime contractor to pay interest of 1-1/2 percent per month or any part of
1.18 a month to the subcontractor on any undisputed amount not paid on time to the subcontractor.
1.19 The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is
1.20 \$10. For an unpaid balance of less than \$100, the prime contractor shall pay the actual
1.21 penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect
1.22 interest penalties from a prime contractor must be awarded its costs and disbursements,
1.23 including attorney fees, incurred in bringing the action.

2.1 Subd. 2. **Retainage.** A public contracting agency may reserve as retainage from any
2.2 progress payment on a public contract for a public improvement an amount not to exceed
2.3 five percent of the payment. A public agency may reduce the amount of the retainage and
2.4 may eliminate retainage on any monthly contract payment if, in the agency's opinion, the
2.5 work is progressing satisfactorily.

2.6 Subd. 3. **Release of retainage.** Upon the issuance of a certificate of occupancy or
2.7 substantial completion of a prime contractor's or subcontractor's scope of work, whichever
2.8 comes first, a public contracting agency must release the retainage withheld from the prime
2.9 contractor or subcontractor to the prime contractor within 30 days.