

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 3446

(SENATE AUTHORS: DRAHEIM)

DATE
03/15/2018

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OFFICIAL STATUS
Introduction and first reading
Referred to Judiciary and Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to civil actions; modifying recovery actions against unlicensed contractors;
1.3 proposing coding for new law in Minnesota Statutes, chapter 326B.

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

1.5 Section 1. **326B.841 RECOVERY AGAINST UNLICENSED CONTRACTORS.**

1.6 Subdivision 1. Unlicensed contractors. Except as provided under subdivision 5, a
1.7 residential contractor may not bring or maintain any action, or recover in law or equity in
1.8 any action, in any court of this state for the collection of compensation for the performance
1.9 of any act or contract where a license is required under section 326B.805, subdivision 1,
1.10 without alleging that the contractor was duly licensed at all times during the performance
1.11 of that act or contract, regardless of the merits of the cause of action brought by the
1.12 contractor. For the purposes of this section, "residential contractor" or "contractor" means
1.13 any of the trades licensed under section 326B.805, subdivision 1.

1.14 Subd. 2. Recovery against unlicensed contractors. Except as provided under subdivision
1.15 5, a person who utilizes the services of an unlicensed contractor may bring an action in any
1.16 court of competent jurisdiction in this state or recover all compensation paid to the unlicensed
1.17 contractor for performance of any act or contract.

1.18 Subd. 3. Security liens. A security interest taken to secure any payment for the
1.19 performance of any act or contract for which a license is required by section 326B.805,
1.20 subdivision 1, is unenforceable if the person performing the act or contract was not a duly
1.21 licensed contractor at all times during the performance of the act or contract.

2.1 Subd. 4. **Controverted licensure.** If the contractor's license is controverted, then the
2.2 contractor must provide proof of licensure must be made by production of a certificate of
2.3 licensure issued by the commissioner that establishes that the contractor was duly licensed
2.4 in the proper classification of contractors at all times during the performance of any act or
2.5 contract covered by the action. Nothing in this subdivision shall require any person or entity
2.6 controverting licensure or proper licensure to produce a verified certificate. When licensure
2.7 is controverted, the burden of proof to establish licensure shall be on the licensee.

2.8 Subd. 5. **Substantial compliance.** The judicial doctrine of substantial compliance shall
2.9 not apply under this section where the person who engaged in the business or acted in the
2.10 capacity of a contractor has never been a duly licensed contractor in the state. However, for
2.11 the purposes of this section, a contractor may be deemed to have substantially complied
2.12 with the licensure requirements of section 326B.805, subdivision 1, if it is shown at the
2.13 evidentiary hearing that the person who engaged in the business or acted in the capacity of
2.14 a contractor (1) had been duly licensed as a contractor in this state prior to the performance
2.15 of the act or contract, (2) acted reasonably and in good faith to maintain proper licensure,
2.16 and (3) acted promptly and in good faith to remedy the failure to comply with the licensure
2.17 requirements upon learning of the failure.