

SENATE

STATE OF MINNESOTA

EIGHTY-EIGHTH LEGISLATURE

S.F. No. 841

(SENATE AUTHORS: DAHLE, Eken, Schmit, Pederson, J. and Hawj)

DATE	D-PG	OFFICIAL STATUS
02/28/2013	443	Introduction and first reading Referred to Judiciary
03/13/2013	977	Withdrawn and re-referred to Jobs, Agriculture and Rural Development

A bill for an act
relating to commerce; regulating building and construction contracts; requiring
retainage to be held in escrow or trust accounts until released; amending
Minnesota Statutes 2012, section 337.10, subdivision 4.

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

Section 1. Minnesota Statutes 2012, section 337.10, subdivision 4, is amended to read:

Subd. 4. **Progress payments and retainages.** (a) Unless the building and
construction contract provides otherwise, the owner or other persons making payments
under the contract must make progress payments monthly as the work progresses.
Payments shall be based upon estimates of work completed as approved by the owner or
the owner's agent. A progress payment shall not be considered acceptance or approval of
any work or waiver of any defects therein.

(b) Unless the building and construction contract provides otherwise, an owner or
owner's agent may reserve as retainage from any progress payment on a building and
construction contract an amount not to exceed five percent of the payment. An owner or
owner's agent may reduce the amount of retainage and may eliminate retainage on any
monthly contract payment if, in the owner's opinion, the work is progressing satisfactorily.
Retainage reserved pursuant to this subdivision must be held in an interest-bearing escrow
or trust account with a bank or trust company having its principal place of business in the
state. Within 30 days after substantial completion of all work required by the contract, the
reserved retainage and interest must be released by the owner or the owner's agent and
paid to the persons from whom the retainage was reserved.

(c) This subdivision does not apply to contracts for professional services as defined
in sections 326.02 to 326.15.

- 2.1 (d) For purposes of this subdivision, "substantial completion" means the date when
2.2 the work is sufficiently completed so that the owner or the owner's representative can
2.3 occupy or use the work for the intended purpose.