

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 1898

(SENATE AUTHORS: SPARKS, Dahle and Pederson)

DATE	D-PG	OFFICIAL STATUS
03/19/2015	1049	Introduction and first reading Referred to Jobs, Agriculture and Rural Development
03/31/2016	5429	Chief author stricken, shown as co-author Dahle Chief author added Sparks
04/06/2016	5658a	Comm report: To pass as amended and re-refer to Judiciary
04/11/2016	5748	Comm report: To pass
	5799	Second reading
05/09/2016	6862	Special Order
	6862	Third reading Passed
05/18/2016	7163	Returned from House Presentment date 05/18/16
05/20/2016	7264	Governor's action Approval 05/19/16
	7264	Secretary of State Chapter 133 05/19/16 Effective date 08/01/16

1.1 A bill for an act
1.2 relating to contracts; regulating building and construction contracts; providing
1.3 for certain progress payments and retainages; amending Minnesota Statutes
1.4 2014, section 337.10, subdivisions 3, 4.

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

1.6 Section 1. Minnesota Statutes 2014, section 337.10, subdivision 3, is amended to read:

1.7 Subd. 3. **Prompt payment to subcontractors.** A building and construction contract
1.8 shall be deemed to require the prime contractor and all subcontractors to promptly pay
1.9 any subcontractor or material supplier contract within ten days of receipt by the party
1.10 responsible for payment of payment for undisputed services provided by the party
1.11 requesting payment, including payments under subdivision 4. The contract shall be
1.12 deemed to require the party responsible for payment to pay interest of 1-1/2 percent per
1.13 month to the party requesting payment on any undisputed amount not paid on time. The
1.14 minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10.
1.15 For an unpaid balance of less than \$100, the party responsible for payment shall pay the
1.16 actual penalty due to the party requesting payment. A party requesting payment who
1.17 prevails in a civil action to collect interest penalties from a party responsible for payment
1.18 must be awarded its costs and disbursements, including attorney fees incurred in bringing
1.19 the action. If an undisputed payment is not received within ten days, the prime contractor
1.20 or subcontractor of any tier that has not received the undisputed payment may suspend
1.21 work under the building and construction contract until the undisputed payment is received.

1.22 **EFFECTIVE DATE.** This section is effective August 1, 2016, and applies to
1.23 building and construction contracts executed on or after that date.

2.1 Sec. 2. Minnesota Statutes 2014, section 337.10, subdivision 4, is amended to read:

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

2.8 ~~(b) Unless the building and construction contract provides otherwise, an owner~~
2.9 ~~or owner's agent may reserve as Retainage from any progress payment on a building~~
2.10 ~~and construction contract an amount may not to exceed five percent of the payment. An~~
2.11 ~~owner or owner's agent may reduce the amount of retainage and may eliminate retainage~~
2.12 ~~on any monthly contract payment if, in the owner's opinion, the work is progressing~~
2.13 ~~satisfactorily. Nothing in this subdivision is intended to require that retainage be withheld~~
2.14 ~~in any building or construction contract.~~

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

2.17 **EFFECTIVE DATE.** This section is effective August 1, 2016, and applies to
2.18 building and construction contracts executed on or after that date.