

Section 1. Minnesota Statutes 1994, section 609.735, is amended to read:

609.735 CONCEALING IDENTITY.

A person whose identity is concealed by the person in a public place by means of a robe, mask, or other disguise, unless based on religious beliefs, or incidental to amusement or entertainment, protection from weather, or medical treatment, is guilty of a misdemeanor.

Presented to the governor April 4, 1995

Signed by the governor April 5, 1995, 10:05 a.m.

CHAPTER 31—H.F.No. 367

An act relating to debt; providing for prompt payment of subcontractors of municipal contractors; modifying certain provisions relating to liens and performance bonds; amending Minnesota Statutes 1994, sections 471.425, by adding a subdivision; 514.13; 574.28; 574.30; and 574.31, subdivisions 1 and 2.

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

Section 1. Minnesota Statutes 1994, section 471.425, is amended by adding a subdivision to read:

Subd. 4a. PROMPT PAYMENT TO SUBCONTRACTORS. Each contract of a municipality must require the prime contractor to pay any subcontractor within ten days of the prime contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The contract must require the prime contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the prime contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a prime contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

Sec. 2. Minnesota Statutes 1994, section 514.13, is amended to read:

514.13 ~~BILL OF PARTICULARS~~ STATUTORY LIENHOLDER RIGHTS; NONEXCLUSIVE.

Each lienholder shall attach to and file with a complaint or answer a bill of the items of the lienholder's claim, verified by the oath of some person having knowledge thereof, and shall file such further and more particular account, as the court may at any time direct. ~~Upon failure to file such original or further~~

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~~bill, the lienholder's pleading shall be stricken out and that claim disallowed. The rights granted by this chapter are nonexclusive.~~ No failure to comply with any of the provisions of this chapter shall affect the right of any person to recover, in an ordinary civil action, from the party with whom a contract was made.

Sec. 3. Minnesota Statutes 1994, section 574.28, is amended to read:

574.28 APPROVAL AND FILING OF BOND.

Before beginning work on the contract for the public work, the contractor on whose behalf the payment and performance bonds were issued must file both bonds with the treasurer, board, or officer having financial management of the obligee public body named in the bonds. The payment and performance bonds must list the address of the contractor on whose behalf the bonds were issued and of the surety providing the bonds. The payment and performance bonds, if acceptable in form and content, must be approved by the board or officer having financial management of the obligee public body, or by the obligee's public body's treasurer. The public body must make the payment and performance bonds available for inspection and copying upon request. An assignment, modification, or change of the contract, or change in the work covered by the contract, or an extension of time to complete the contract, does not release the sureties on the bonds.

Sec. 4. Minnesota Statutes 1994, section 574.30, is amended to read:

574.30 INSOLVENT OR INSUFFICIENT SURETIES.

When, in the obligee's public body's judgment, a surety on a bond required by the act is insolvent, or for any cause is no longer a proper or sufficient surety, the obligee public body may require the contractor to furnish a new or additional bond within ten days; and thereupon, if so ordered by the obligee public body, all work on the contract must cease until the new or additional bonds are furnished. If the bonds are not furnished within the ten days, the obligee public body may, at its option, terminate the contract and complete the same as the agent, and at the expense of the contractor and its sureties.

Sec. 5. Minnesota Statutes 1994, section 574.31, subdivision 1, is amended to read:

Subdivision 1. **CLAIMS ON PERFORMANCE BONDS.** In the event of a claim by the public body on a performance bond, no action shall be maintained later than permitted under the statute of limitations applicable to the claim. ~~As a condition precedent to bringing an action upon a performance bond, the public body must first serve written notice of claim under the contractor's bond personally or by certified mail upon the surety who issued the bond and upon the contractor on whose behalf the bond was issued specifying the nature and amount of the claim and the date of breach or default, and the performance requested of the surety.~~ Nothing in this subdivision may be construed to otherwise affect the common law or equitable rights of performance bond sureties, principals, or public bodies that are obligees.

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Sec. 6. Minnesota Statutes 1994, section 574.31, subdivision 2, is amended to read:

Subd. 2. CLAIMS ON PAYMENT BONDS. (a) In the event of a claim on a payment bond by a person furnishing labor and materials, no action shall be maintained on the payment bond unless, within 120 days after completion, delivery, or provision by the person of its last item of labor and materials, for the public work, the person serves written notice of claim under the payment bond personally or by certified mail upon the surety that issued the bond and the contractor on whose behalf the bond was issued at their addresses as stated in the bond specifying the nature and amount of the claim and the date the claimant furnished its last item of labor and materials for the public work. For the purpose of this section, notice is sufficient if served personally or via certified mail to the addresses of the contractor and surety listed on the bond. The form of notice is sufficient if it is substantially as follows:

NOTICE OF CLAIM ON PAYMENT BOND FOR PUBLIC WORK

TO:
(Surety that issued payment bond)

and
(The contractor on whose behalf the bond was issued)

NOTICE IS HEREBY GIVEN that the undersigned claimant has a claim against the above named surety for labor and materials furnished by the undersigned for the public work described as follows:

(Description of the public work)

The labor and materials were furnished under a contract or agreement with

(Name and address of contractor or supplier requesting labor and materials from the claimant)

The nature of the labor and materials furnished is as follows:

The amount of the claim is:

The date the claimant last furnished labor and materials to this public work is the ... day of, 19...

Claimant seeks payment of the claim according to the law.

.....
Claimant

.....
Address

.....

STATE OF

ss.

COUNTY OF

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..... being duly sworn on oath says that ... is of the claimant named above and has knowledge of the claim and that the claim is correct, and no part of the claim has been paid.

Signed and sworn to before me

on, 19..,

by

(Notary Seal)

.....
Notary Public

(b) If the contractor providing the payment bond fails to comply with the filing requirements of section 574.28 by failing to state its address or the address of the surety providing the bond, then a claimant under the bond need not provide the surety or the contractor written notice of its claim under paragraph (a).

(c) An action to enforce a claim against the surety under the bond must be commenced within one year from the date of completion, delivery, or provision by the claimant of its last item of labor and materials for the public work stated in its notice of claim. If no notice of claim was required because the contractor providing the bond failed to comply with the requirements of section 574.28, then any action under the bond must be commenced within one year from the actual date of completion, delivery, or provision by the claimant of its last item of labor and materials for the public work. Any other person having a cause of action on a payment bond may be admitted, on motion, as a party to the action, and the court shall determine the rights of all parties. If the amount realized on the bond is insufficient to discharge all the claims in full, the amount must be prorated among the parties.

(d) The claimant can extend the time within which to bring an action to enforce a claim under the bond to beyond that specified in paragraph (c) either by: (1) written stipulation between the claimant and surety stating the extended deadline and executed by both parties before the expiration of one year from the actual date of completion, delivery, or provision by the claimant of its last item of labor and materials for the public work; or (2) written notice extending by one year the deadline specified in paragraph (c) sent by the claimant to the surety via certified mail 90 days before the expiration of the deadline specified in paragraph (c), which notice is not objected to in a return written notice sent by the surety to the claimant via certified mail with 30 days after the surety's receipt of claimant's notice. If a claimant's payment is not yet contractually due within one year from the actual date of completion, delivery, or provision by the claimant of its last item of labor and materials, the court shall continue and not dismiss the action until the payment is due.

Sec. 7. EFFECTIVE DATE.

Sections 1 to 5 are effective August 1, 1995. Section 1 applies to contracts for which notice of invitations for bids or requests for proposals are issued after July 31, 1995. Section 6 takes effect retroactively, beginning August 1, 1994.

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Presented to the governor April 4, 1995

Signed by the governor April 5, 1995, 10:00 a.m.

CHAPTER 32—H.F.No. 321

An act relating to game and fish; continuing the authorization for residents under the age of 16 to take deer of either sex; amending Minnesota Statutes 1994, section 97B.301, subdivision 6.

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

Section 1. Minnesota Statutes 1994, section 97B.301, subdivision 6, is amended to read:

Subd. 6. **RESIDENTS UNDER AGE 16 MAY TAKE DEER OF EITHER SEX.** ~~(a)~~ A resident under the age of 16 may take a deer of either sex. This subdivision does not authorize the taking of an antlerless deer by another member of a party under subdivision 3.

~~(b) This subdivision is repealed effective December 31, 1995.~~

Presented to the governor April 4, 1995

Signed by the governor April 5, 1995, 10:02 a.m.

CHAPTER 33—S.F.No. 739

An act relating to agriculture; changing certain procedures for compensating crop owners for damage by elk; amending Minnesota Statute 1994, section 3.7371, subdivision 3.

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

Section 1. Minnesota Statutes 1994, section 3.7371, subdivision 3, is amended to read:

Subd. 3. **COMPENSATION.** The crop owner is entitled to the target price or the market price, whichever is greater, of the damaged or destroyed crop plus adjustments for yield loss determined according to agricultural stabilization and conservation service programs for individual farms, adjusted annually, as determined by the commissioner, upon recommendation of the county extension agent for the owner's county ~~or a federal crop adjuster~~. The commissioner, upon recommendation of the agent ~~or adjuster~~, shall determine whether the crop damage or destruction is caused by elk and, if so, the amount of the crop that is

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