CHAPTER 133--S.F.No. 1898

An act relating to contracts; regulating building and construction contracts; providing for certain progress payments and retainages;amending Minnesota Statutes 2014, section 337.10, subdivisions 3, 4.

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

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

Subd. 3. **Prompt payment to subcontractors.** A building and construction contract shall be deemed to require the prime contractor and all subcontractors to promptly pay any subcontractor or material supplier contract within ten days of receipt by the party responsible for payment of payment for undisputed services provided by the party requesting payment, including payments under subdivision 4. The contract shall be deemed to require the party responsible for payment to pay interest of 1-1/2 percent per month to the party requesting payment on any undisputed amount not paid on time. 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 party responsible for payment shall pay the actual penalty due to the party requesting payment. A party requesting payment who prevails in a civil action to collect interest penalties from a party responsible for payment must be awarded its costs and disbursements, including attorney fees incurred in bringing the action. If an undisputed payment is not received within ten days, the prime contractor or subcontractor of any tier that has not received the undisputed payment may suspend work under the building and construction contract until the undisputed payment is received.

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

Sec. 2. Minnesota Statutes 2014, 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~~ may 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. Nothing in this subdivision is intended to require that retainage be withheld in any building or construction contract.

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

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

Presented to the governor May 18, 2016

Signed by the governor May 19, 2016, 11:04 a.m.

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