338.02 NEW EMPLOYERS; CONTRACT OBLIGATION.

Subdivision 1. **Definition.** As used in this section, "new employer" means any purchaser, assignee, or transferee of a business the employees of which are subject to a collective bargaining agreement, if the purchaser, assignee, or transferee conducts or will conduct substantially the same business operation, or offer the same service, and use the same physical facilities, as the contracting employer.

Subd. 2. **New employer obligation.** Where a collective bargaining agreement between an employer and a labor organization contains a clause regulating the rights and obligations of a new employer, that clause shall be binding upon and enforceable against any new employer until the expiration date of the agreement. That clause shall not be binding upon or enforceable against any new employer for more than three years from the effective date of the collective bargaining agreement between the contracting employer and the labor organization.

Subd. 3. **Disclosure.** An employer who is a party to a collective bargaining agreement containing a clause regulating the rights and obligations of a new employer has the affirmative duty to disclose the existence of the agreement and clause to a new employer. The disclosure requirement is satisfied by including in any contract of sale, agreement to purchase, or any similar instrument of conveyance, a statement that the new employer is bound by that clause as provided for in the collective bargaining agreement. Failure of an employer to disclose the existence of a collective bargaining agreement containing that clause does not affect the enforceability of the collective bargaining agreement against a new employer.

Subd. 4. **Exception.** This section does not apply to a receiver or trustee in bankruptcy of any contracting employer who has gone into receivership or bankruptcy, or to any employer who acquires a business from a receiver or trustee in bankruptcy.

History: *1990 c 539 s 3*

NOTE: This section was found unconstitutional with regard to employers who are subject to the National Labor Relations Act in *United Steelworkers of America v. St. Gabriel's Hospital*, 871 F.Supp. 335 (D.Minn. 1994).