



## NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION

SF3035 Omnibus Jobs and Labor Conference Committee  
Minnesota Legislature  
Saint Paul, Minnesota

May 2023

### **RE: Support & Pass SF3035, Article 13 (Building & Construction Contracts) - the "Duty to Defend" bill**

Dear Members of the Conference Committee:

We write to you about a serious problem plaguing the Minnesota construction industry, and the solution is in SF3035, Article 13 (Building & Construction Contracts) - the "Duty to Defend" bill

*The problem:* It has become standard practice in Minnesota for General Contractors to contractually require subcontractors to pay their legal fees, even when the Owner is negligent and the Subcontractor is not.

Lawyers have developed a loophole that effectively divorces fault from financial responsibility by exploiting ambiguous language in MN Statute Section 337.05. The practical result is that small and emerging Subcontractors must pay for the large General Contractors attorneys' fees, or the Subcontractors do not get the work.

Contracts like these go against all notions of common sense and personal accountability. Further, the current practice removes all incentive for a General Contractor to settle a lawsuit because someone else is paying the General Contractor's legal fees.

**Please bring common sense to the Minnesota construction industry - Support & Pass SF3035, Article 13 (Building & Construction Contracts) - the "Duty to Defend" bill**

Sincerely,

Gary Thaden  
Government Affairs Director  
Minnesota contractors of National Electrical Contractors Association  
10590 Wayzata Blvd., Suite 100  
Hopkins, MN 55305