



# Minnesota Nursery & Landscape Association

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March 12, 2021

Chair Ecklund, Minority Leads Dettmer and McDonald, Members of the Labor, Industry, Veterans and Military Affairs Finance and Policy Committee,

Thank you for this opportunity to submit testimony in support of HF803.

The Minnesota Nursery & Landscape Association (MNLA) strongly supports HF803 to end the practice of using indemnification contract clauses and project-specific insurance to compel subcontractors to pay the legal costs and attorney's fees for litigation arising from the work and negligence of another party.

These unfair and inequitable construction contract provisions allow upstream contractors to compel subcontractors to pay their legal fees, regardless of fault. This unfair business practice hurts small businesses by forcing these subcontracting businesses to choose between signing these potentially harmful contract provisions, or not taking the contract and not working – an impossible choice. However, this is a choice but one that many subcontracting companies face, including many MNLA members and HF803 helps address this problem.

HF803 eliminates the validity of these predatory contract clauses in Minnesota and ensures that those who are at fault pay for the costs incurred from their negligence, either directly or vicariously.

While HF803 makes invalid these defense costs indemnity agreements, it does not prohibit the ability for contractors to be covered for any vicarious liability arising from the negligence of another entity. This important and unchanged provision ensures that if a general contractor is sued for the negligence of a subcontractor, the general contractor may still require the negligent subcontractor to cover this *vicarious liability*, minimizing the risk of the general contractor shouldering all the liability.

We respectfully request your support of HF803 to create fairness in construction contracts and ensure that those who are fault pay for their own legal costs.

Respectfully,

Cassie M. Larsen  
Executive Director  
MNLA

Forrest B. Cyr  
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MNLA