



MINNESOTA MECHANICAL CONTRACTORS ASSOCIATION

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Minnesota Senate
Minnesota House of Representatives
Saint Paul, Minnesota

February 2023

RE: Hear & Pass SF 754 & HF 865: Duty of Defend

Dear Senator/Representative:

We write to you about a serious problem plaguing the Minnesota construction industry, and the solution is Senate File 754 / House File 865.

The problem: It has become standard practice in Minnesota for a General Contractor to contractually require subcontractors to pay the General Contractor's legal fees, even when the General Contractor 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 - hear and pass S.F. 754 / H. F. 865

Sincerely,

Matthew Maquis
Assistant Vice President
Minnesota Mechanical Contractors Association