



MINNESOTA MECHANICAL CONTRACTORS ASSOCIATION

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Minnesota House of Representatives
Minnesota State Office Building
Saint Paul, Minnesota

March 11, 2021

RE: Hear & Pass HF 803: Duty of Defend

Dear Representative:

We write to you about a serious problem plaguing the Minnesota construction industry, and the solution is in the House File HF 803.

The problem: It has become common 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 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 HF 803.

Sincerely,

Gary Thaden
Government Affairs Director
Minnesota Mechanical Contractors Association