



NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION

Senate Finance Committee  
Minnesota Senate  
Saint Paul, Minnesota

April 2023

***RE: Support SF2782, Article 8, Building and Construction Contracts (SF754)***

Dear Senators:

We write to you about a serious problem plaguing the Minnesota construction industry, and the solution is in SF 2782, Article 8, Building and Construction Contracts (SF754), commonly called Duty to Defend.

*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 - pass SF2782, Article 8, Building and Construction Contracts (SF754).**

Sincerely,

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