

April 26, 2018

Representative Jim Knoblach
Chair, Ways and Means Committee
453 State Office Building
St. Paul, MN 55155

Re: H.F. 4016, State Government Finance Omnibus Bill

Dear Representative Knoblach,

The Department of Labor and Industry (DLI) understands the important and critical issue of affordable housing in Minnesota. However, we believe the language in Article 3, Section 4 that would require additional legislative review of rulemaking for residential building code changes that result in cost increases of \$1,000 or more will not address this issue and should be removed.

We are concerned with the inclusion of this language in the House State Government Finance omnibus bill because it will impose several burdens upon DLI and other agencies, with little to no benefit to the public or the cause of affordable housing. DLI opposes this language for the following reasons:

- 1. Close to all significant cost changes to the residential building code in the past years were due to changes by the Legislature and Governor.** DLI has had a minimal impact on changes to the state residential building code that have resulted in increased home costs. Nearly all costly changes in the past eight years to the residential building code were passed on by both the Legislature in 2009 (radon mitigation, durability law and window fall protection) and Governor Pawlenty (energy code). This bill language would not keep this from happening in the future again.
- 2. The real barriers to more affordable housing are the costs of land, labor, material and municipal land-use regulations.** This was made clear in the bipartisan Housing Summit and also the Governor's Affordable Housing Task Force this year. Addressing these areas are critical to affordable housing, and something DLI has no control over when adopting the residential building code.
- 3. Establishing a \$1,000 threshold is subjective and the result could be contentious.** This language would require DLI to determine if a proposed rule would cost \$1,000 or more. It can be expected this determination will be challenged and the Department will need to hire 1.5 FTE's in order to verify costs of proposed rules to the extent required by this legislation. This will result in the department spending an additional \$187,200 per fiscal year in staffing resources, which DLI believes is an unnecessary cost to taxpayers.
- 4. It will be difficult to meet the statutory obligation to adopt new model codes within two years.** The department already spends months studying changes in the new code with industry

stakeholders. It takes many more months to prepare Rulemaking records and justifications for six model codes simultaneously. If DLI determines the proposed rule meets the \$1,000 threshold, the entire rulemaking effort will have to be oriented to coincide with the end of the legislative session. If it is not, there is risk of the rule automatically becoming void after 180 days. Then the process would have to begin over again, resulting in wasted staff time and unnecessary costs to the agency.

DLI shares the concern of ensuring housing is affordable to all Minnesotans. However, determining innovative and effective ways to address this issue is the approach that should be taken versus unnecessary, costly and ineffective methods that impact an already collaborative approach to implementing the residential building code.

DLI is also opposed to language in Article 2, Section 16 that prohibits the Attorney General from contracting for legal services on a contingent fee basis. This change impacts our ability to assert the state's subrogation rights against third parties in workers' compensation claims. In fiscal year 2017, DLI's special compensation fund (SCF) recovered \$182,600 in subrogation claims, recoveries that are critical to keeping the SCF's balance and helping reduce the burden on payers of SCF assessments.

Thank you for your time and consideration. If you have questions, please contact me, Assistant Commissioner Scott McLellan (scott.mclellan@state.mn.us) or Assistant Commissioner Heather McGannon (heather.mcgannon@state.mn.us)

Sincerely,

A handwritten signature in black ink, appearing to read 'KB' followed by a stylized, elongated flourish.

Ken Peterson
Commissioner
Minnesota Department of Labor and Industry

cc: Representative Lyndon Carlson Sr., DFL Lead, Ways and Means Committee
Representative Sarah Anderson, Chair, State Government Finance Committee