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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4569

03/04/2024 Authored by Howard, Coulter, Kozlowski, Xiong, Nelson, M., and others
The bill was read for the first time and referred to the Committee on Labor and Industry Finance and Policy

1.1 A bill for an act
1.2 relating to wage theft; preventing wage theft and requiring use of responsible
1.3 contractors when the Minnesota Housing Finance Agency provides financial
1.4 assistance for development of multiunit residential housing; amending Minnesota
1.5 Statutes 2023 Supplement, section 116J.871, subdivision 1; proposing coding for
1.6 new law in Minnesota Statutes, chapter 462A.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2023 Supplement, section 116J.871, subdivision 1, is
1.9 amended to read:

1.10 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have
1.11 the meanings given them.

1.12 (b) "Economic development" means financial assistance provided to a person directly
1.13 or to a local unit of government or nonprofit organization on behalf of a person who is
1.14 engaged in the manufacture or sale of goods and services. Economic development does not
1.15 include (1) financial assistance for rehabilitation of existing housing; (2) financial assistance
1.16 for new housing construction in which total financial assistance at a single project site is
1.17 less than \$100,000; or (3) financial assistance for the new construction of fully detached
1.18 single-family affordable homeownership units for which the financial assistance covers no
1.19 more than ten fully detached single-family affordable homeownership units. For purposes
1.20 of this paragraph, "affordable homeownership" means housing targeted at households with
1.21 incomes, at initial occupancy, at or below 115 percent of the state or area median income,
1.22 whichever is greater, as determined by the United States Department of Housing and Urban
1.23 Development.

2.1 (c) "Financial assistance" means (1) a grant awarded by a state agency for economic  
 2.2 development related purposes if a single business receives \$200,000 or more of the grant  
 2.3 proceeds; (2) a loan or the guaranty or purchase of a loan made by a state agency for  
 2.4 economic development related purposes if a single business receives \$500,000 or more of  
 2.5 the loan proceeds; ~~or~~ (3) a reduction, credit, or abatement of a tax assessed under chapter  
 2.6 297A where the tax reduction, credit, or abatement applies to a geographic area smaller  
 2.7 than the entire state and was granted for economic development related purposes; or (4)  
 2.8 allocations of low-income housing credits by all suballocators as defined under section  
 2.9 462A.222, for which tax credits are used for multifamily housing projects consisting of  
 2.10 more than ten units. Financial assistance does not include payments by the state of aids and  
 2.11 credits under chapter 273 or 477A to a political subdivision.

2.12 (d) "Project site" means the location where improvements are made that are financed in  
 2.13 whole or in part by the financial assistance; or the location of employees that receive financial  
 2.14 assistance in the form of employment and training services as defined in section 116L.19,  
 2.15 subdivision 4, or customized training from a technical college.

2.16 (e) "State agency" means any agency defined under section 16B.01, subdivision 2,  
 2.17 Enterprise Minnesota, Inc., and the Iron Range Resources and Rehabilitation Board.

2.18 **EFFECTIVE DATE.** This section is effective for financial assistance provided after  
 2.19 August 1, 2024, except Minnesota Statutes, section 462A.051, subdivision 2, does not apply  
 2.20 for requests for proposals that were initiated prior to August 1, 2024.

2.21 **Sec. 2. [462A.051] WAGE THEFT PREVENTION AND USE OF RESPONSIBLE**  
 2.22 **CONTRACTORS.**

2.23 **Subdivision 1. Application.** This section applies to all forms of financial assistance  
 2.24 provided by the Minnesota Housing Finance Agency, including the allocation of federal  
 2.25 low-income housing credits, for the development, construction, rehabilitation, renovation,  
 2.26 or retrofitting of multiunit residential housing, including loans, grants, tax credits, loan  
 2.27 guarantees, loan insurance, and other financial assistance.

2.28 **Subd. 2. Disclosures.** An applicant for financial assistance under this chapter shall  
 2.29 disclose in the application any conviction, court judgment, agency determination, legal  
 2.30 settlement, ongoing criminal or civil investigation, or lawsuit involving alleged violations  
 2.31 of sections 177.24, 177.25, 177.32, 177.41 to 177.44, 181.03, 181.101, 181.13, 181.14,  
 2.32 181.722, 181.723, 181A.01 to 181A.12, or 609.52, subdivision 2, paragraph (a), clause (19),  
 2.33 or United States Code, title 29, sections 201 to 219, or title 40, sections 3141 to 3148, arising  
 2.34 or occurring within the preceding five years on a construction project owned or managed

3.1 by the developer or owner of the proposed project, the intended general contractor for the  
3.2 proposed project, or any of their respective parent companies, subsidiaries, or other affiliated  
3.3 companies. An applicant for financial assistance shall make the disclosures required by this  
3.4 subdivision available within 14 calendar days to any member of the public who submits a  
3.5 request by mail or electronic correspondence. The applicant shall designate a public  
3.6 information officer who will serve as a point of contact for public inquiries.

3.7 Subd. 3. **Responsible contractors required.** As a condition of receiving financial  
3.8 assistance, the applicant shall verify that every contractor or subcontractor of any tier  
3.9 performing work on the proposed project meets the minimum criteria to be a responsible  
3.10 contractor under section 16C.285, subdivision 3. This verification must meet the criteria  
3.11 defined in section 16C.285, subdivision 4.

3.12 Subd. 4. **Certified contractor lists.** As a condition of receiving financial assistance, the  
3.13 applicant shall submit to the agency with its responsible contractor verification, a list of  
3.14 every contractor and subcontractor of any tier that performs work or is expected to perform  
3.15 work on the proposed project, as described in section 16C.285, subdivision 5, including the  
3.16 following information for each contractor and subcontractor: business name, scope of work,  
3.17 Department of Labor and Industry registration number, business name of the entity  
3.18 contracting its services, business telephone number and email address, and actual or  
3.19 anticipated number of workers on the project. The applicant shall establish the initial  
3.20 contractor list 30 days before the start of construction and shall update the list each month  
3.21 thereafter until construction is complete. The applicant shall post the contractor list in a  
3.22 conspicuous location at the project site.

3.23 Subd. 5. **Wage theft remedy.** If any contractor or subcontractor of any tier is found to  
3.24 have failed to pay statutorily required wages under section 609.52, subdivision 1, clause  
3.25 (13), on a project receiving financial assistance from or through the agency, the recipient  
3.26 is responsible for correcting the violation.

3.27 Subd. 6. **Wage theft prevention plans; disqualification.** (a) If any contractor or  
3.28 subcontractor of any tier fails to pay statutorily required wages on a project receiving  
3.29 financial assistance from or through the agency as determined by an enforcement entity,  
3.30 the recipient must have a wage theft prevention plan to be eligible for further financial  
3.31 assistance from the agency. The project developer's wage theft prevention plan must describe  
3.32 detailed measures that the project developer and its general contractor have taken and are  
3.33 committed to take to prevent wage theft on the project, including provisions in any  
3.34 construction contracts and subcontracts on the project. The recipient must submit the plan  
3.35 with any subsequent application for financial assistance from the agency. The agency must

4.1 consider the adequacy of a wage theft prevention plan in evaluating an application for  
4.2 financial assistance and may require the applicant to amend the plan or adopt policies or  
4.3 protocols to prevent wage theft, in consultation with the Department of Labor and Industry.  
4.4 The wage theft prevention plan must be made available to members of the public upon  
4.5 request and must be posted on the agency's website.

4.6 (b) A developer is disqualified from receiving financial assistance from or through the  
4.7 agency for three years if any of the developer's contractors or subcontractors of any tier fail  
4.8 to pay statutorily required wages on a second project receiving financial assistance from or  
4.9 through the agency for a total underpayment of \$25,000 or more within the three-year period  
4.10 as determined by an enforcement entity.

4.11 Subd. 7. **Enforcement.** The agency may deny an application for financial assistance  
4.12 that does not comply with this section or if the applicant refuses to enter into the agreements  
4.13 required by this section. The agency may withhold financial assistance that has been  
4.14 previously approved if the agency determines that the applicant has engaged in unacceptable  
4.15 practices by failing to comply with this section until the violation is cured. The state, on  
4.16 behalf of the agency, may pursue any available legal remedies in district court to enforce  
4.17 the applicant's agreements pursuant to this section, including but not limited to injunctive  
4.18 relief and compensatory damages, and shall be entitled to recover attorney fees and litigation  
4.19 costs upon prevailing in such litigation.