

## CHAPTER 337

## BUILDING AND CONSTRUCTION CONTRACTS

337.10 Building and construction contracts;  
prohibited provisions.

**337.10 BUILDING AND CONSTRUCTION CONTRACTS; PROHIBITED PROVISIONS.**

**Subdivision 1. Application of laws of another state.** Provisions contained in, or executed in connection with, a building and construction contract to be performed in Minnesota making the contract subject to the laws of another state or requiring that any litigation, arbitration, or other dispute resolution process on the contract occur in another state are void and unenforceable.

**Subd. 2. Waiver of lien or claim.** Provisions contained in, or executed in connection with, a building and construction contract requiring a contractor, subcontractor, or material supplier to waive the right to a mechanics lien or to a claim against a payment bond before the person has been paid for the labor or materials or both that the person furnished are void and unenforceable. This provision shall not affect the validity of the lien waiver as to any third party who detrimentally relies upon the lien waiver.

**Subd. 3. Prompt payment to subcontractors.** A building and construction contract must require the prime contractor and all subcontractors to promptly pay any subcontractor or material supplier contract within ten days of the prime contractor's receipt of payment from the owner or owner's agent for undisputed services provided by the subcontractor. The contract must require the prime contractor to pay interest of 1-1/2 percent per month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the prime contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a prime contractor must be awarded its costs and disbursements, including attorney fees incurred in bringing the action. This subdivision does not apply to construction of or improvements to residential real estate as defined in section 326.83, subdivision 17, or to construction of or improvements to attached single-family dwellings, if those dwellings are used for residential purposes and have fewer than 13 units per structure.

**Subd. 4. Progress payments and retainages.** (a) Unless the building and construction contract provides otherwise, the owner or other persons making payments under the contract must make progress payments monthly as the work progresses. Payments shall be based upon estimates of work completed as approved by the owner or the owner's agent. A progress payment shall not be considered acceptance or approval of any work or waiver of any defects therein.

(b) Unless the building and construction contract provides otherwise, an owner or owner's agent may reserve as retainage from any progress payment on a building and construction contract an amount not to exceed five percent of the payment. An owner or owner's agent may reduce the amount of retainage and may eliminate retainage on any monthly contract payment if, in the owner's opinion, the work is progressing satisfactorily.

(c) This subdivision does not apply to construction of or improvements to residential real estate, as defined in section 326.83, subdivision 17, or to construction of or improvements to attached single-family dwellings, if those dwellings are used for residential purposes and have fewer than 13 units per structure.

**Subd. 5. Definition.** For the purpose of this section, "building and construction contract" has the meaning given the term in section 337.01.

**History:** 1997 c 127 s 1