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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **2393**

May 16, 2009

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The bill was read for the first time and referred to the Committee on Commerce and Labor

1.1 A bill for an act
1.2 relating to contracts; regulating building and construction contracts; prohibiting
1.3 certain conditions on payments to subcontractors; requiring notice of loan
1.4 defaults; amending Minnesota Statutes 2008, section 337.10, by adding
1.5 subdivisions.

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

1.7 Section 1. Minnesota Statutes 2008, section 337.10, is amended by adding a
1.8 subdivision to read:

1.9 Subd. 2a. **Conditions on payments to subcontractors.** Payment by the owner to a
1.10 contractor is not a condition precedent for payment to a subcontractor and payment by
1.11 a contractor to a subcontractor is not a condition precedent for payment to any other
1.12 subcontractor, and an agreement to the contrary is unenforceable.

1.13 Sec. 2. Minnesota Statutes 2008, section 337.10, is amended by adding a subdivision
1.14 to read:

1.15 Subd. 4a. **Notice of loan default.** A lender who finances all or part of a building
1.16 and construction contract must give written notice to all known prime contractors and
1.17 subcontractors of a default on the building and construction contract loan or financing
1.18 agreement between the lender and the project owner within ten days of the default. Upon
1.19 receipt of the notice of default, the prime contractors and subcontractors may suspend
1.20 work on the building and construction contract until the default is cured or the owner
1.21 provides the prime contractors and subcontractors adequate assurances of payment. If the
1.22 lender does not give the written notice required in this subdivision, the lender's security
1.23 interest in the project is subordinate to the value provided to the project by the prime
1.24 contractors and subcontractors after the date the notice should have been given.