

January 16, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1052

Page 1, line 2, after the fourth comma insert "section 65-04-26.2,"

Page 1, line 7, after the second comma insert "general contractor liability for subcontractors and independent contractors,"

Page 4, after line 10, insert:

**"SECTION 5. AMENDMENT.** Section 65-04-26.2 of the North Dakota Century Code is amended and reenacted as follows:

**65-04-26.2. General contractor liability for subcontractors and independent contractors.**

1. An individual employed by a subcontractor or by an independent contractor operating under an agreement with a general contractor is deemed to be an employee of the general contractor and any subcontractor that supplied work to the subcontractor or independent contractor. A general contractor and a subcontractor are liable for payment of premium and any applicable penalty for an employee of a subcontractor or independent contractor that does not secure required coverage or pay the premium owing. The general contractor and a subcontractor are liable for payment of this premium and penalty until the subcontractor or independent contractor pays this premium and penalty. The liability imposed on a general contractor and a subcontractor under this section for the payment of premium and penalties under this title which are not paid by a subcontractor or independent contractor is limited to work performed under that general contractor.
2. Notwithstanding subsection 1, a general contractor is not liable for payment of any subcontractor or independent contractor owed premium and penalty if the general contractor collects a certificate specifying the payment has been made by the subcontractor or independent contractor, or the general contractor collects a signed form stating the subcontractor or independent contractor is exempt from payment of the premium. A signed form collected under this subsection waives the general contractor's liability for the remainder of the calendar year.
3. Upon request of the organization, a person the organization determines may have information that may assist the organization in determining the amount of wages expended by the subcontractor or independent contractor shall provide this information to the organization.
- ~~3.4.~~ If the organization is unable to obtain complete and reliable payroll information for a subcontractor or independent contractor, the organization may calculate premium using the available payroll information of the subcontractor or independent contractor for work performed under the liable general contractor or a subcontractor as permitted in section 65-04-19. If a subcontractor's or independent contractor's liability for failure to secure coverage or pay the premium owing arises from a single project

with a general contractor, the liability of the general contractor and subcontractor is one hundred percent of the amount of premium and penalty owed by the subcontractor or independent contractor. If there is evidence showing the subcontractor or independent contractor was working on multiple projects during the period the subcontractor or independent contractor failed to secure coverage, the organization shall set the amount of the general contractor and subcontractor's liability which may not exceed seventy percent of the total premium and penalty owed by the subcontractor or independent contractor.

~~4.5.~~ The definition of the term "contractor" under section 43-07-01 applies to this section."

Page 4, line 17, overstrike the first "of"

Page 5, line 21, replace "6" with "7"

Renumber accordingly