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New Florida Law Adds Licensing Risk to Contractor/ Subcontractor Payment Disputes

Effective July 1, 2026, Florida's newly enacted Section 489.1295 of the Florida Statutes, titled "Prohibition Against Nonpayment," requires licensed contractors to timely compensate subcontractors and suppliers for labor, services, or materials. Enacted as part of Senate Bill 290 (Ch. 2026-3, Laws of Fla.), the statute adds a new basis for instituting disciplinary proceedings against a contractor's license if a payment is knowingly or willfully withheld.

While this is not a sweeping overhaul of Florida construction payment laws by any means, contractors should be aware that nonpayment disputes with subcontractors and suppliers may carry potential licensing consequences.

What the New Law Requires

Specifically, Section 489.1295 provides that a licensed contractor must compensate a subcontractor or supplier, unless there is a bona fide dispute regarding the amount due, either:

1. Within 45 days after receiving payment for the subcontractor's or supplier's work or materials; or

2. In accordance with the terms of the contract for such labor, services, or materials.

A licensed contractor who knowingly or willfully violates this section is subject to disciplinary proceedings under Section 489.129, Fla. Stat. Available sanctions include fines up to $10,000 per violation, required restitution, probation, suspension, or revocation of the contractor's license.

Why It May Be Less Alarming Than It Sounds

The statute includes two important carve-outs that significantly limit its reach:

- **Bona Fide Dispute Exception.** The contractor's obligation to pay does not apply where a "bona fide dispute" exists regarding the amount due. Although the statute does not define "bona fide dispute," contractors should treat the phrase as referring to a genuine, good-faith dispute over whether the amount is actually owed. In practical terms, that means the withholding should be tied to a real issue, such as defective or incomplete work, disputed change orders, back charges, missing closeout or lien documentation, or another contract-based reason for withholding payment. To establish this defense, contractors should carefully document the dispute when it arises, including the specific amount being withheld, explain the basis for the withholding, and continue paying any undisputed amounts on time.

- **Contract Terms Control.** The statute also provides that payment must be made either within "45 days after receiving payment" or "in accordance with the terms of the contract." The language of the statute now means that contract language will be extremely important, especially as it relates to any "pay-when-paid" and "pay-if-paid" provisions. A pay-when-paid clause typically means that a subcontractor will be paid within a "reasonable time" from completion of its work on the project, while a true pay-if-paid clause contemplates owner payment as a strict condition that must occur before the contractor is obligated to pay the subcontractor or supplier. Under Florida law, risk-shifting payment language generally must be clear, unambiguous, and consistent with the contract documents. The new statute does not appear to eliminate properly drafted payment conditions, but it gives contractors a new reason to make sure payment timing, withholding rights, dispute procedures, and cure requirements are stated clearly. If the subcontract is silent or unclear, contractors may face greater risk that the statute's 45-day timing rule will control.

Best Practices for Contractors

Although this statute includes some carve-outs for contractors, contractors should use this opportunity to review their current practices and contract documents to ensure they are protected.

1. **Review subcontract payment clauses** to confirm that pay-if-paid or pay-when-paid language is clear, unambiguous, and consistent with prime contract terms. We also recommend reviewing withholding language to ensure these provisions provide adequate assurances in the event of non-performance.
2. **Document bona fide disputes in writing** at the time they arise, identifying the amount withheld, the reason, and the contractual basis. Vague or after-the-fact justifications will look less like good-faith disputes. We recommend including the exact "bona fide dispute" language from the statute in any letters or other correspondence with subcontractors and suppliers.
3. **Track owner payments against subcontractor obligations** so your accounting records can demonstrate when funds were received and when downstream payments were made.
4. **Train project managers** that withholding subcontractor or supplier payments after receiving owner funds now carries potential licensing exposure, not just contract risk.