



The Law Spot

How to handle initial payments and performance

When contractors receive money totaling more than ten percent of the contract price for work as an initial payment, they are required to apply for permits necessary to perform the work within 30 days after the payment was made. The requirement of obtaining the permit does not apply to any work that doesn't require a permit, just those that do.

Section 489.126, F.S., dictates what contractors must do with regard to moneys received by them. After an initial payment is made, the contractor must not only apply for the appropriate permits within the 30 day period, but he or she must begin the work within 90 days after the date that all necessary permits for work were issued.

An exception exists to the rules, of course, and contractors are relieved of the duty to apply for the permits or begin the work as prescribed under 489.126 if their paying client agreed, in writing, to a longer period to apply for the necessary permits or start the work or to longer periods for both.

When Contractors receive more money than the value of the work for any repair, restoration, addition, improvement, or construction of residential real property they may not fail or refuse to perform any work for any 90-day period with the intent to defraud the owner. Legitimate reasons exist to delay performance and those are generally covered within the contract. Each party to the contract has bargained for what to do when inevitable delays occur, but contractors may not harm their clients by failing to perform for reasons that may be considered fraud.

A violation of any provision of section 489.126 is a theft under section 812.014. For purposes of section 489.126, a "contractor" includes all definitions found in section 489.105(3) and any person performing or contracting or promising to perform work described in that section regardless of whether or not the person is licensed.

[Click to read the full statute.](#)