

PUBLICATION

Interest and Attorney's Fees Added to Alabama's Public Works Act

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July 19, 2012

In May 2012, Alabama revised sections of its construction Public Works Act to incorporate prompt payment provisions including interest and attorney's fees.

Interest on Past Due Payments

As long as the terms of the contract regarding payment have been fulfilled by the contractor, payment shall be made by the awarding authority no later than 45 days following acceptance of the payment application. Ala. Code § 39-2-12(i)(2). If payment is not made within this time period, then the contractor is entitled to interest on the amount due. Id.

Attorney's Fees to the Prevailing Party on Payments Owed

Another recent change to Section 39-2-12 enables either the contractor or the awarding authority to file suit to recover amounts due, interest thereon, and attorneys' fees as well. Specifically, Ala. Code § 39-2-12(i)(3) provides:

Except as may be prohibited by Article I, Section 14 of the Constitution of Alabama of 1901, a contractor or awarding authority may file a civil action against the party contractually obligated for the payment or repayment claimed to recover the amount due plus the interest accrued in accordance with this chapter. In addition to the payment of any amounts due plus interest, if applicable, the court shall award the prevailing party reasonable attorneys' fees, court costs, and reasonable expenses. This provision shall not apply to contracts administered by the Alabama Building Commission, regardless of the source of the funds to be utilized to fulfill the awarding authority's obligation under the contract.

These are good changes for contractors in Alabama.