

**PART VII
FLORIDA PROMPT PAYMENT ACT**

- 218 70 Short title
- 218 71 Purpose and policy
- 218 72 Definitions
- 218 73 Timely payment
- 218 735 Timely payment for purchases of construction services
- 218 74 Procedures for calculation of payment due dates
- 218 75 Mandatory interest
- 218 76 Improper invoice, resolution of disputes
- 218 77 Payment by federal funds
- 218 78 Report of interest
- 218 79 Repeal of conflicting laws
- 218 80 Public Bid Disclosure Act

218 70 Short title --This part may be cited as the "Florida Prompt Payment Act "

History --s 4, ch 89-297

218 71 Purpose and policy --

- (1) The purpose of this part is
 - (a) To provide for prompt payments by local governmental entities and their institutions and agencies
 - (b) To provide for interest payments on late payments made by local governmental entities and their institutions and agencies
 - (c) To provide for a dispute resolution process for payment of obligations
- (2) It is the policy of this state that payment for all purchases by local governmental entities be made in a timely manner

History --s 4, ch 89-297

218 72 Definitions --As used in this part

- (1) "Proper invoice" means an invoice which conforms with all statutory requirements and with all requirements specified by the local governmental entity to which the invoice is submitted if
 - (a) Such requirements have been adopted by formal action of the local governmental entity taken prior to the transaction to which the invoice applies
 - (b) The local governmental entity made such requirements available to vendors
- (2) "Local governmental entity" means a county or municipal government or any office, board, bureau, commission, department, branch, division, or institution thereof or any project supported by county or municipal funds
- (3) "County" means a political subdivision of the state established pursuant to s 1, Art VIII of the State Constitution
- (4) "Municipality" means a municipality created pursuant to general or special law and metropolitan and consolidated governments as provided in s 6(e) and (f), Art VIII of the State Constitution
- (5) "Purchase" means the purchase of goods or services, the purchase or lease of personal property, or the lease of real property by a local governmental entity
- (6) "Vendor" means any person who sells goods or services, sells or leases personal property, or leases real property to a local governmental entity
- (7) "Construction services" means all services performed in connection with the construction, alteration, repair, demolition, reconstruction, or any other improvements to real property that require a license under parts I and II of chapter 489

History --s 4, ch 89-297, s 1, ch 95-331

218 73 Timely payment --The time at which payment for a purchase by a local governmental entity, except for the purchase of construction services, is due must be calculated from

- (1) The date on which a proper invoice is received by the chief disbursement officer of the local governmental entity after approval by the governing body, if required, or
- (2) If a proper invoice is not received by the local governmental entity, the date
 - (a) On which delivery of personal property is accepted by the local governmental entity,
 - (b) On which services are completed,
 - (c) On which the rental period begins, or
 - (d) On which the local governmental entity and vendor agree in a contract that provides dates relative to payment periods,

whichever date is latest

History --s 4, ch 89-297, s 2, ch 95-331

218 735 Timely payment for purchases of construction services --

(1) The due date for payment for the purchase of construction services by a local governmental entity is determined as follows

(a) If the project architect or project engineer must approve the invoice prior to the invoice being submitted to the local governmental entity, payment is due 20 business days after the date on which the architect or engineer approves the invoice and the invoice is stamped as received as provided in s 218 74(1)

(b) If the project architect or project engineer need not approve the invoice which is submitted by the contractor, payment is due 20 business days after the date on which the invoice is stamped as received as provided in s 218 74(1)

(2) The local governmental entity may reject the invoice within 20 business days after the date on which the invoice is stamped as received as provided in s 218 74(1) The rejection must be written and must specify the deficiency in the invoice and the action necessary to make the invoice proper

(3) If an invoice is rejected under subsection (2) or this subsection and the contractor submits a corrected invoice, the corrected invoice must be paid or rejected on the later of

(a) Ten business days after the date the corrected invoice is stamped as received as provided in s 218 74(1), or

(b) If the governing body is required by ordinance, charter, or other law to approve or reject the corrected invoice, the first business day after the next regularly scheduled meeting of the governing body held after the corrected invoice is stamped as received as provided in s 218 74(1)

(4) If a dispute between the local governmental entity and the contractor cannot be resolved by the procedure in subsection (3), the dispute must be resolved in accordance with the dispute resolution procedure prescribed in the construction contract or in any applicable ordinance In the absence of a prescribed procedure, the dispute must be resolved by the procedure specified in s 218 76(2)

(5) The payment time periods provided in this section for construction services purchased by a local governmental entity shall not affect contractual provisions or contractual covenants of a local governmental entity in effect on September 30, 1995

(6) All payments due from a local governmental entity and not made within the time period specified by this section shall bear interest as specified in s 218 74(4)

History --s 3, ch 95-331

218 74 Procedures for calculation of payment due dates --

(1) Each local governmental entity shall establish procedures whereby each invoice received by the local governmental entity is marked as received on the date on which it is delivered to an agent or employee of the local governmental entity or of a facility or office of the local governmental entity

(2) The payment due date for a local governmental entity is 45 days after the date specified in s 218 73 The payment due date for the purchase of construction services is specified in s 218 735

(3) If the terms under which a purchase is made allow for partial deliveries and a proper invoice is submitted for a partial delivery, the time for payment for the partial delivery must be calculated from the time of the partial delivery and the submission of the invoice in the same manner as provided in s 218 73

(4) All payments due from a local governmental entity and not made within the time specified by this section bear interest from 30 days after the due date at the rate of 1 percent per month on the unpaid balance The vendor must invoice the local governmental entity for any interest accrued in order to receive the interest payment Any overdue period of less than 1 month is considered as 1 month in computing interest Unpaid interest is compounded monthly With respect to each past due payment, interest ceases to accrue after interest on that payment has accrued for 12 months For the purposes of this section, the term "1 month" means a period beginning on any day of one month and ending on the same day of the following month

History --s 4 ch 89-297, s 4, ch 95-331

218 75 Mandatory interest --No contract between a local governmental entity and a vendor shall prohibit the vendor from invoicing the local governmental entity for late payment interest charges allowable under this part

History --s 4, ch 89-297

218 76 Improper invoice, resolution of disputes --

(1) In any case in which an improper invoice is submitted by a vendor, the local governmental entity shall, within 10 days after the improper invoice is received by it, notify the vendor that the invoice is improper and indicate what corrective action on the part of the vendor is needed to make the invoice proper

(2) In the event a dispute occurs between a vendor and a local governmental entity concerning payment of an invoice, such disagreement shall be finally determined by the local governmental entity as provided in this section. Each local governmental entity shall establish a dispute resolution procedure to be followed by the local governmental entity in cases of such disputes. Such procedure shall provide that proceedings to resolve the dispute shall be commenced not later than 45 days after the date on which the proper invoice was received by the local governmental entity and shall be concluded by final decision of the local governmental entity not later than 60 days after the date on which the proper invoice was received by the local governmental entity. Such procedures shall not be subject to chapter 120, and such procedures shall not constitute an administrative proceeding which prohibits a court from deciding de novo any action arising out of the dispute. If the dispute is resolved in favor of the local governmental entity, then interest charges shall begin to accrue 15 days after the local governmental entity's final decision. If the dispute is resolved in favor of the vendor, then interest shall begin to accrue as of the original date the payment became due.

History --s 4, ch 89-297

218 77 Payment by federal funds --A local governmental entity which intends to pay for a purchase with federal funds shall not make such purchase without reasonable assurance that federal funds to cover the cost thereof will be received. Where payment or the time of payment is contingent on receipt of federal funds or federal approval, any contract and any solicitation to bid shall clearly state such contingency.

History --s 4, ch 89-297

218 78 Report of interest --If the total amount of interest paid during the preceding fiscal year exceeds \$250, each local governmental entity shall, during December of each year, report to the board of county commissioners or the municipal governing body the number of interest payments made by it during the preceding fiscal year and the total amount of such payments made under this part.

History --s 4, ch 89-297, s 5, ch 95-331

218 79 Repeal of conflicting laws --All laws and parts of laws in conflict with this part are repealed.

History --s 4, ch 89-297