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ATTORNEYS AT LAW

Associations often hire contractors to alter, improve, repair or maintain community buildings or property. Before entering any such contract, an association should consult a qualified attorney to determine if the Arizona Prompt Pay Act applies.

Under this Act, any association entering into an oral or written contract with a contractor may be required to make progress payments to the contractor. Progress payments are payments made as work progresses but before all the work is finished. Thus, if the Act applies, the association may be in violation of the law if it waits until the project is finished before paying the contractor. Moreover, if progress payments are required, a contractor may have the right to stop work or terminate the contract for failure by the association to make a timely progress payment.

The Act applies to contracts for projects that require 60 days or more to complete, and may apply to contracts of less than 60 days if the parties so agree. Thus, if a contract is for 60 days or more, progress payments are mandatory. If a contract is for less than 60 days, progress payments are not required unless the parties both agree to such payments.

If progress payments are required, the Act provides a procedure that the contractor and the association must follow. This procedure is very detailed and failure to follow the procedure could affect the rights of the association.

Again, associations should seek the advice of a qualified attorney – ideally before entering into any agreement with a contractor – to determine if the Act applies and, if so, how to comply with the payment procedure set forth in the Act.

The information contained in this Homeowners Association Tip of the Week© is for informational purposes only and is not specific legal advice or a substitute for specific legal counsel. Readers should not act upon this information without seeking professional counsel.

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