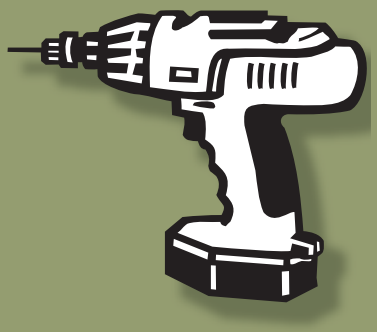
Planning to build or remodel a home?

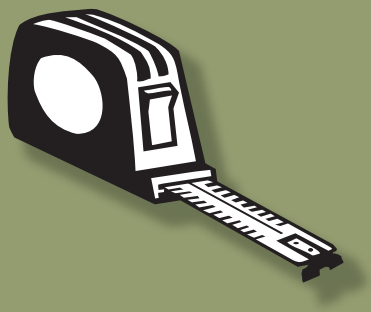
A consumer's guide to

Hiring a residential building contractor



The Minnesota Department of Labor and Industry has prepared this document for those planning to contract to have a new home built or an existing home remodeled.

It describes the state rules regarding the licensing and performance of contractors, recommends steps to take to help ensure a satisfactory job and explains what recourse the consumer has in cases where results are less than satisfactory.



MINNESOTA DEPARTMENT OF
LABOR & INDUSTRY

Construction Codes and Licensing Division
Residential Building Contractors Unit
443 Lafayette Road N., St. Paul, MN 55155

Phone: (651) 284-5069 or 1-800-342-5354
TTY: (651) 297-4198
Web: www.doli.state.mn.us/contractor

Minnesota Department of Labor and Industry

The Minnesota Department of Labor and Industry is the agency responsible for licensing residential building contractors. The DLI also licenses roofers and manufactured home installers as well as plumbers and electrical contractors.

In addition to licensing contractors, the DLI has the authority to initiate administrative disciplinary action and/or impose civil penalties against disreputable licensees. Contact information to help with questions about Minnesota consumer protection laws regarding each of these industries is available at www.doli.state.mn.us/ccldcontactus. Instructions for submitting a written complaint about a building contractor are printed on the back of this publication.

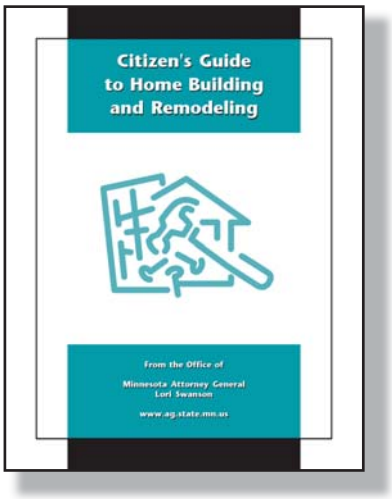
Contact information

- Minnesota Department of Labor and Industry
  Residential Building Contractor unit
  Web: www.doli.state.mn.us/contractor
  Phone: (651) 284-5069
  Fax: (651) 284-5749
  E-mail: DLI.Contractor@state.mn.us
- Contractor Recovery Fund
  Web: www.doli.state.mn.us/rbc_recoveryfund
- Residential Building Contractor License Lookup
  Web: https://secure.doli.state.mn.us/licensing/licensing.aspx

Additional resources

The Office of the Minnesota Attorney General has also created an informative brochure that provides help for consumers in dealing with builders and remodelers.

That brochure is available at https://www.ag.state.mn.us/Brochures/pubCitizensGuidetoHomeBuilding.pdf or by calling the Office of the Minnesota Attorney General at (651) 296-3353 or 1-800-657-3787.



The above brochure is produced by the Office of the Minnesota Attorney General.

Planning to build or remodel a home?

Few business transactions are more important than those negotiated with a residential building contractor. Having a comfortable and well-built home — as well as protecting a considerable financial investment — all rely on the successful completion of the job.

For these reasons, Minnesota establishes standards and safeguards to help its homeowners avoid hiring disreputable or unqualified contractors, and to offer protection against sloppy or subpar construction.

Choosing a contractor

The DLI strongly recommends hiring a contractor licensed by the state of Minnesota. That ensures the company has met certain requirements, including having a principal of the company pass an appropriate examination and having liability and property damage insurance. A licensed contractor must also take a number of continuing education classes each year.

Hiring a licensed contractor provides another very important benefit: access to the Contractor Recovery Fund. That fund reimburses consumers who suffer financial losses as a result of a licensed contractor's misconduct.

Minnesota law legally exempts certain contractors from the license requirement, among them contractors who gross less than $15,000 each year, specialty contractors who provide only one skill and homeowners doing work on their own homes. Although these contractors are operating legally without a license, if an unlicensed contractor is hired and a loss is suffered, access to the Contractor Recovery Fund will not be available. More information about the Contractor Recovery Fund is available on Page 7.

Verify the status of a contractor's license at https://secure.doli.state.mn.us/licensing/licensing.aspx, or by calling the DLI at (651) 284-5069 or 1-800-657-3944. The DLI can verify if the contractor has a license, and also if there are any actions or sanctions on record. For the names of local licensed builders, call the local chapter of the Builders Association of Minnesota.

Visit https://secure.doli.state.mn.us/licensing/licensing.aspx
to verify the license status of a residential building contractor

Before you select a contractor

Here are a few important questions to ask when interviewing contractors for a home or remodeling project as well as other tips for selecting a contractor.

- Consider the type of home or remodeling project, and inquire about the names of builders who specialize in or have experience with that type of construction.
- Ask friends or neighbors who have undertaken similar projects. Ask building supply companies or others in the industry about reputable contractors.
- If concerned about designing an energy efficient home or addition, call the Department of Commerce Energy Information Center at 1-800-657-3710.
- Contact the Better Business Bureau to see if it has received complaints against a particular contractor.
- Check the contractor's litigation history on the state court system's Web site at http://pa.courts.state.mn.us/default.aspx .
- Ask the contractor for references, and be sure to contact former customers to see if they were satisfied with the quality of the work or encountered problems.
- Ask the contractor how long he or she has been in business and where, and ask for a Minnesota business address other than a post office box. Also obtain a local phone number where the contractor can be reached during business hours.

Let these indicators be red flags

The following are indications that a contractor may not be reliable. It is probably best to avoid working with a contractor who:

- arrives in an unmarked van or truck;
- appears to be willing to do the job at an unusually low price;
- requires full or substantial payment before work begins;
- refuses to provide a written estimate or contract;
- refuses to provide a Minnesota Department of Labor and Industry license number;
- refuses to provide references;
- shows up unsolicited;
- uses high-pressure sales tactics;
- Asks the homeowner to obtain permits for the job;

Obtain multiple bids

Once a list of satisfactory contractors is compiled, ask them to submit bids. A homeowner should receive at least three, detailed bids on any home construction or major remodeling project. Remember that the lowest bid may not necessarily be the best, and the DLI has no authority to regulate the prices that contractors charge. That is why it is important to get several bids and compare them carefully.

The bids should be in writing and be detailed in the scope of the work, type of materials and total cost. If time is a factor, an approximate completion date should be included. If hiring a contractor to build a home, have in effect from the time construction begins a builder's risk or appropriately amended homeowner's insurance policy.

The contract — What to include

A contract with a builder or remodeler should be specific and detailed. It should include the kinds of materials to be used and, when possible, specify brand names, colors, grades, styles and model numbers. The contract should also include the names of any subcontractors and suppliers of material. This is especially important in case of any action against a homeowner by a contractor or subcontractor.

Specific items that should be in a contract:

Building permits: The contractor should obtain the necessary permits so the contractor is responsible for meeting all building codes; if the consumer obtains the permits, he or she will be responsible for ensuring code compliance for all work performed.

Starting and completion dates: Delays can and do occur, but a general statement in a contract allowing for reasonable delays is a good idea.

Change order clause: This is an agreement stating the contract cannot be modified without the written consent of both parties. Any changes to the scope of work or total contract price should be reduced to a written "change order" and signed and dated by the homeowner and the contractor.

Specific items that should be in a contract (continued):

Schedule of payments: A down payment is customary, but it should not be more than a modest percentage of the total job. Since many contractors are small businesses and need some influx of cash to buy material and pay wages, a payment schedule might be set up based on the amount of work done to date. Financially stable contractors who have lines of credit with suppliers do not usually require substantial down payments for materials.

Holdback clause: This allows withholding payment until sometime after the job is completed, allowing time for the homeowner to inspect the job.

Cleanup: This should be included in the contract, especially if a project is likely to create debris.

Warranties are required

Minnesota law requires builders and remodelers to warrant that a new home or home improvement project is free from different types of defects for varying lengths of time:

One year: Work must meet "building standards" that are defined as the materials and installation standards of the State Building Code that is in effect at the time the work is performed.

Two years: The plumbing, electrical, heating and cooling systems must be free from defects caused by faulty installation due to noncompliance with the materials and installation standards of the State Building Code that is in effect at the time the work is performed.

Ten years: Home must be free from "major construction defects" that is defined as damage to the load bearing portion of the home that vitally affects or is imminently likely to vitally affect use of the home for residential purposes. It does not include damage caused by flood, earthquake, or other natural disaster.

This statutory warranty is in addition to any other warranty that may be in place. It is in effect regardless of whether it is in writing.

Warranties are required (continued)

The Department of Labor and Industry nor any other government agency has authority to interpret or enforce this warranty law, however. If the contractor fails to meet the warranty, the homeowner has the right to pursue private, civil action to seek damages necessary to remedy the defect or to make up the difference between the value of the home without the defect and the value of the home with the defect. In the case of a home improvement project, damages are limited to the amount necessary to remedy the defect or breach.

The warranty is limited to the previously-listed items. It does not extend, for example, to loss or damage caused by defects in design, installation, or materials supplied by the owner, or to damage resulting from negligence or improper maintenance by anyone other than the contractor. Nor does the warranty cover damage from dampness and condensation due to insufficient ventilation after occupancy. A complete list of exclusions is found in Minnesota Statutes Chapter 327A.

The Contractor Recovery Fund

Despite taking care in selecting a contractor and writing a contract, a consumer could end up with an unsatisfactory job or the contractor may not be able to complete the work. If either of these occur, the first step is to take legal action and obtain a judgment against the contractor.

If unable to collect from the contractor, a consumer can seek compensation through the Contractor Recovery Fund (provided the contractor is licensed by the state), that is established and administered by the DLI.

Access the fund

First, civil action must be taken against the contractor and a judgment in the homeowner's favor obtained.

Next, a search for assets to pay the judgment must be undertaken; if the contractor has none, the homeowner must apply to the Recovery Fund within one year of the judgment. For an application form and procedures, call the DLI or visit www.doli.state.mn.us/rbc_recoveryfund.

Contractor Recovery Fund (continued)

The next steps will depend on the amount of damages sought and how many claims there are against the contractor.

If seeking less than $7,500, the damages may be received within three to six months. These accelerated payments, however, are limited to $50,000 per contractor.

If that amount has already been paid out, or if a the homeowner is seeking more than $7,500, he or she will have to seek a standard recovery which takes longer and requires a hearing in district court.

The DLI may support or oppose the request for payment, but the court will make the decision. One important caution: there is a limit to the amount that can be paid out of the Contractor Recovery Fund against any one licensed contractor. It is possible, therefore, that a homeowner will not be able to recover the full judgment amount if multiple claims have been filed.

Claims filed about problems occurring before Dec. 1, 2007, are limited to $75,000 per contractor and $50,000 per claim. Claims regarding work or problems occurring after Dec. 1, 2007, are limited to $150,000 per contractor and $75,000 per claim. These limits are per builder, not per year.

Questions regarding the Contractor Recovery Fund should be directed to the fund's administrator at (651) 285-5057.

Paying for the job — understanding liens

Any contractor, subcontractor, or material supplier for a building project may file a mechanic's lien on the property they worked on if they are not paid for their labor or materials contribution.

State law allows a consumer to pay any subcontractor directly and deduct that amount from the total contract price. Another option is to withhold that amount from the contractor for 120 days after the work is completed, unless the contractor has provided waivers signed by the contractors that give up their right to file a lien against the property.

Understanding liens (continued)

Homeowner protection

Minnesota law provides a number of procedures and conditions that protect homeowners from being the target of an unfair mechanic's lien, though only a court can determine whether a lien is valid.

Contractor requirement

In most cases, a contractor must provide written notice of intent to file a lien if the contractor is not paid. This notice is required whenever subcontractors or material suppliers are employed. It must either be included in the written contract or delivered separately within 10 days after the work is agreed upon. The notice must explain that subcontractors and suppliers may also have a lien on the property if they are not paid, and it must also state the Minnesota law that allows consumers to pay the subcontractors directly. This contractor's notice must be given properly for the contractor to have the right to file a lien against a property.

Pre-lien notice

Subcontractors and suppliers must also provide a specific "pre-lien notice" within 45 days of the time the subcontractor first furnishes labor or materials.

If a lien waiver is obtained from a subcontractor, or if the contractor is paid in full before receiving a pre-lien notice from the subcontractor, a homeowner cannot be forced to pay for materials or services a second time if the contractor fails to pay the subcontractor. If the homeowner pays the subcontractor directly, a lien waiver from the subcontractor should be obtained.

Know the subs and suppliers

For protection against a lien, have the contractor list in the contract the names of all subcontractors and suppliers of material.

In addition, keep track of any pre-lien notices received during the project. Any time payments are made to a general contractor after receiving a pre-lien notice, ask for at least a partial lien waiver from the subcontractor(s) from whom a pre-lien notice was received. This will verify that payments to the general contractor are being used to pay the labor and material costs of the job. Before making final payment, be certain to obtain full and final lien waivers signed by each of the subcontractors and material suppliers.

Problems or complaints

The DLI assists consumers with questions about laws concerning industries it regulates. For help with a dispute with a residential contractor, call the DLI at (651) 284-5069 or 1-800-657-3944. A DLI representative will offer suggestions on ways to resolve the matter. If efforts are unsuccessful, a written complaint, with all the relevant information, requesting that DLI initiate a formal investigation may be submitted.

How to file a written complaint

When filing a complaint:

- Explain the details of the dispute that lead up to the complaint.
- Include as much information as possible: dates, what was said, policy and claim numbers, etc.
- Provide copies of the contract and other relevant documents.
- Provide contact information including phone number, mailing address and an e-mail address if available.

Submit the complaint to:

Minnesota Department of Labor and Industry
CCLD - Enforcement Services Unit
443 Lafayette Road N.
St. Paul, MN 55155

A copy of the complaint letter will likely be sent to the contractor to elicit a clear and complete response.

Although the DLI does not have authority to compel a contractor to provide the specific remedy sought by a homeowner, it can initiate disciplinary action against the contractor's license if it is determined that he or she has engaged in violations of the contractor licensing laws and rules.