

A consumer's guide to

Hiring a residential building contractor

We prepared this document for those planning to contract to have a new home built or an existing home remodeled. It describes the rules about licensing and performance of contractors, recommends steps to help ensure a satisfactory job and explains the recourse consumers have when results are less than satisfactory.

We license residential building contractors, roofers and manufactured home installers, plumbers and electrical contractors in Minnesota.

We have the authority to initiate administrative disciplinary action and impose civil penalties against disreputable licensees. Instructions for submitting a written complaint about a contractor are printed at the end of this publication.



Contact information

Minnesota Department of Labor and Industry
Construction Codes and Licensing
Residential Building Contractors
443 Lafayette Road N., St. Paul, MN 55155
651-284-5069 or 800-342-5354
dli.contractor@state.mn.us
www.dli.mn.gov/workers/homeowners

Contractor Recovery Fund: www.dli.mn.gov/workers/homeowners/contractor-recovery-fund

License Lookup (check a license): <https://secure.doli.state.mn.us/lookup/licensing.aspx>

Additional resources

The Office of the Minnesota Attorney General offers a brochure that provides help for consumers in dealing with builders and remodelers.

Download the brochure at www.ag.state.mn.us/Brochures/pubHomeBuilding.pdf or call the Office of the Minnesota Attorney General at 651-296-3353 for a copy.

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

We recommend hiring a contractor licensed by the state of Minnesota. A license ensures the company has met requirements that include having a principal of the company pass an exam and having liability and property damage insurance. A licensed contractor must also complete 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 exempts some contractors from the license requirement. They include contractors who earn less than \$15,000 each year, specialty contractors who provide only one skill and homeowners working on their own home. 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.

Contractor registration

We administer a Contractor Registration Program that helps us enforce state laws related to the classification of workers in the construction industry. Registration is separate from licensing as it provides no level of consumer protection and is primarily required for subcontractors, not general contractors. Registered contractors are issued a registration number that begins with the letters "IR." A contractor who gives you a "license number" that begins with the letters IR is **NOT a licensed contractor** and should be reported to us if they are offering to contract with homeowners to provide services for which a license is required.

Verify a contractor's license

Verify the status of a contractor's license at <https://secure.doli.state.mn.us/lookup/licensing.aspx> or by calling us at 651-284-5069 or 1-800-657-3944. We will check 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 your local chapter of the Builders Association of Minnesota.

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 completed 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.
- Ask the contractor for references and 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. Obtain a local phone number where the contractor can be reached during business hours.
- Check the litigation and criminal history of businesses and individuals on the state court system's website: <http://pa.courts.state.mn.us/default.aspx>.

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 vehicle;
- offers to complete your job at an unusually low price;
- requires full or substantial payment before beginning work;
- refuses to provide a written estimate or contract;
- refuses to provide a DLI license number or provides a registration (IR) 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 you have a list of contractors, ask them to submit bids. Obtain at least three, detailed bids for any construction or major remodeling project. The lowest bid may not be the best and we have no authority to regulate the prices that contractors charge.

The bids should be in writing and 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 a builder's risk insurance policy or amended homeowner's policy in effect from the time construction begins.

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 for nonpayment by a contractor or subcontractor.

State law also requires licensed contractors to include performance standards and information about the state's statutory warranty (Minnesota Statutes Chapter 327A) in their written contracts.

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 is responsible for ensuring code compliance for the project.

Starting and completion dates: Delays can and do occur, but a general statement 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. State law requires that the homeowner is given a copy of any change order when it is issued.

Schedule of payments: A down payment is customary, but it should not be more than a modest percentage of the total job. Additionally, 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 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 are 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 natural disasters.

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, though state law requires licensed contractors to include it in their contracts.

No 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 (as long as the contractor is licensed by the state).

Access the fund

First, the homeowner must pursue civil action against the contractor and obtain a final judgment against the contractor.

Next, a search for assets to pay the judgment is completed. If the contractor has none, the homeowner must apply to the Contractor Recovery Fund within one year of the entry of the judgment. For an application and procedures visit www.dli.mn.gov/workers/homeowners/contractor-recovery-fund.

The next steps depend on the amount of damages sought and how many claims there are against the contractor. The fund can only compensate a homeowner for the portion of their judgment that represents their actual direct, out-of-pocket loss. The fund cannot reimburse attorney or court fees, nor can it reimburse homeowners for repairs they perform themselves.

One important caution: There is a limit to the amount that can be paid out of the Contractor Recovery Fund against a licensed contractor. Claims are limited to \$300,000 per contractor and \$75,000 per claim. These limits are per builder, not per year. It is possible that a homeowner will not be able to recover the full judgment

amount if multiple claims have been filed. If the claims against a contractor exceeds \$300,000, all claims are prorated.

Completed claims must be submitted by June 1 each year to be considered for payment in December of that year. In the event that we deny all or part of a homeowner's claim, the dispute is resolved through the Minnesota Office of Administrative Hearings.

For help with questions about the Contractor Recovery Fund, call us at 651-284-5057.

Paying for the job – Understanding liens

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

State law allows a consumer to pay a 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 who give up their right to file a lien against the property.

Homeowner protection

Minnesota law provides 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 "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

For help with a dispute with a residential contractor, contact us at 651-284-5069 or dli.contractor@state.mn.us and we will offer suggestions about how to resolve the matter. If efforts are unsuccessful, we'll request a written complaint so we can begin a formal investigation.

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 dli.contractor@state.mn.us or by mail 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 obtain a clear and complete response.

Although we are unable to require a contractor to perform the specific remedy sought by a homeowner, we can initiate disciplinary action against the contractor's license if it is determined that he or she has violated Minnesota's contractor licensing laws and rules.