



CONSUMER NEWS

SAN DIEGO CITY ATTORNEY'S OFFICE

CONTRACTORS

May 2010

Anyone who offers to or engages in the business of constructing, altering, repairing, adding to, removing from or demolishing a building, is a contractor. California requires contractors to have a license and be bonded, for the protection of consumers. Handymen are not required to be licensed but they cannot charge more than \$500 for a job including labor and materials.

The Contractors State License Board (CSLB) issues licenses to contractors and takes complaints from members of the public about contractors. The telephone number to complain to the CSLB about a contractor is (800) 321-2752. The City Attorney's Office prosecutes cases referred to it by the CSLB.

CONTRACTING WITHOUT A LICENSE IS A CRIME:

If a person acts as a contractor and does not have a contractor's license, this is a misdemeanor.

If convicted, the person faces jail and fines.

Unlicensed contractors cannot collect any money for work they have performed. So, if a homeowner does not pay the contractor and the unlicensed contractor sues the homeowner, the homeowner does not have to pay the contractor.

If the unlicensed contractor is convicted in a criminal case, he/she must pay the homeowner restitution of all money the homeowner paid him/her. If the unlicensed contractor caused damage to the property, he/she must pay to return it to the way it was. Sometimes, the cost to remove what the contractor installed exceeds what the homeowner paid the contractor. An unlicensed contractor would have to pay for that damage.

- Find out if the person you intend to hire to do work on your home is licensed at the CSLB

website:

www.cslb.ca.gov

- Check to see how many employees the contractor has reported to the CSLB. If the contractor reports no employees but sends employees to your home, he/she may not have workers' compensation insurance for the employees, subjecting you to possible liability if the employees are hurt on the job.

BONDS:

Contractors are also required to have a **contractor's bond** of \$12,500. If a contractor harms a homeowner, the homeowner can make a claim against this bond. The CSLB website above has information about the insurance company that issued the bond for each licensed contractor.

Unfortunately, a bad contracting job can cause harm exceeding

\$12,500. In addition, this amount is the total available to all homeowners and employees who are harmed by the contractor.

A homeowner can require the contractor to also get a **performance bond** which guarantees that the specific project of this homeowner is insured. If the contractor fails to complete the work or does a poor job, the homeowner can claim damages from the insurance company that issued the bond.

Another pitfall for property owners occurs when a contractor fails to pay others who supplied goods or services to the project, even though the contractor collected the money from the homeowner. Suppliers can put a mechanics lien on a home if they are not paid. A homeowner can require the contractor obtain a **payment bond** to ensure no liens will be filed against the property.

The contractor can pass along the cost of performance and payment bonds to the homeowner.

HOME IMPROVEMENT CONTRACTS:

When a contractor enters into a contract with a property owner or tenant to do work on a residence or apartment complex where the total amount for labor and materials is over \$500, he/she must put the contract in writing and give a copy to the homeowner or tenant.

The contract must contain the following information:

- The name, address and license number of the contractor.
- A statement that the contractor shall provide the homeowner with a full release of liens when he/she receives payment in full for any part of the work.
- Notice that the homeowner can require the contractor to get a performance and payment bond.
- The contract price.
- A description of the project and materials to be used, including a plan and scale drawing.
- A section about the down payment and progress payments.
- The dates that work is to begin and estimated completion date.
- A notice about the general liability and workers' compensation insurance the contractor has.
- A notice about mechanics liens and how the homeowner can protect himself/herself from them.
- A notice that the homeowner has a 3 day right to cancel the contract.

Failure of a contractor to comply with any of these requirements is a misdemeanor.

The contract cannot be changed except in a writing signed by the homeowner.

DOWN PAYMENT:

It is illegal for contractors to accept a down payment exceeding \$1000 or 10% of the contract price, whichever is less.

DON'T BE A VICTIM:

Although California homeowners have the protection of the law, dealing with an unlicensed contractor can leave a consumer in a terrible situation. The City Attorney's Office vigorously pursues unlicensed contractors. Prosecutors obtain orders for restitution for victims and appropriate punishment. Unfortunately, if a person is convicted of the crime and has no money, it can take years to collect restitution.

If you plan to hire a contractor, research the contractor before you hire him/her.

- Ask to see his/her license.
- Insist on performance and payment bonds.
- Ask for references and go see other jobs the contractor has done.
- Check out the CSLB website.
- Check out the contractor on the Better Business Bureau website www.sandiego.bbb.org
- Run a Google search on the business.
- Pay suppliers and material men yourself.
- Don't pay for work until it is done to your satisfaction.
- Pay for each part of the project as it is

