



Regulated Industries Complaints Office

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cca.hawaii.gov/rico

CONSUMERS AND CONSTRUCTION CONTRACTS

Thinking about remodeling your house or wondering who you should hire to paint? The Department of Commerce and Consumer Affairs (DCCA) and its Regulated Industries Complaints Office (RICO), offers the following information for you to consider *before* you sign on the dotted line.

Insist on a written contract. A good construction contract will clearly set out the work to be done, the price to be paid, and the time frame during which everything is supposed to be completed.

Hawaii law requires licensed contractors who enter into agreements with homeowners for new home construction, home improvement and renovation work include the following in their contracts:

- ✓ The contractor's name, address and license number and classification(s).
- ✓ The exact dollar amounts due from the homeowner under the contract.
- ✓ The date work will begin and the approximate number of days for completion.
- ✓ The work to be performed and the materials to be used.
- ✓ The approximate percentage of work to be subcontracted and the names and license numbers of those subcontractors.
- ✓ A clear statement of the risk of loss of any payments made to a sales representative.
- ✓ The terms of any warranty offered.
- ✓ A notice of the contractor's right to resolve alleged construction defects.

Consider requesting the contract also include the following provisions:

- ✓ The name and address of any salesperson who solicited or negotiated the contract.
- ✓ A payment schedule that parallels the amount of work completed, and provides that 5 to 10 percent be withheld until all work is completed (avoid paying all of the money up front).
- ✓ A description of what constitutes substantial completion of work.
- ✓ Who is responsible for obtaining the building permits required for the project (contractors are not required to obtain or pay for the building permit unless the contract so states).
- ✓ A provision that requires the contractor to list the property owners as additional insureds on their liability insurance policy.
- ✓ A provision requiring the contractor to obtain lien releases from all subcontractors and material suppliers.
- ✓ A penalty provisions for any delays in construction.
- ✓ A cancellation/termination provision which specifies how you or the contractor may cancel the project with or without penalty and/or terminate the contract.
- ✓ It may also be desirable for the contract to provide for arbitration or other reasonable, fair and economical methods of settling disputes between the contractor and the homeowner.
- ✓ Include an addendum which makes the plans and specifications for the project a part of the contract.

When it comes to construction, details, details, details! Take something as simple as a kitchen sink. Do you want a single or double bowl? 18 inches deep or 22? (Remember, if you choose 22 inches, you'll have less room for storage underneath.) And, then there's the faucet, the disposal, the sink strainer and the soap dispenser. Think about what you want, then think about it some more. Make sure the contract includes an addendum that makes the plans and specifications for the project a part of the contract.

No matter the size of the job, take at least a day or two to look over the contract. Depending on the size of the project, you may want to have an attorney review it. It's important that both you and your contractor agree to everything in the contract before it's signed.

And remember:

- ✓ Don't assume the contractor will provide you with anything not specified in the contract.
- ✓ Make sure the contract includes information about who will obtain the building permits and whether the project will be an "owner-builder" project.
- ✓ Get any promises, guarantees or warranties in writing.

There are lots of good reasons why a consumer should consider hiring a licensed contractor, including:

- ✓ **Training and experience.** In order to qualify for a contractor's license, applicants must demonstrate they have the necessary training and experience to get a contractor's license. The Contractors License Board also requires applicants demonstrate "a good reputation for honesty, truthfulness, financial integrity and fair dealing," submit tax clearances, proof of insurance, and other required qualifications.
- ✓ **Insurance.** Insurance is important because a lot can happen on a construction project - accidents, falling objects - not to mention fire, vandalism, malicious mischief, and theft of building items. Licensed contractors are required to carry liability insurance and are responsible if a worker is injured on a jobsite. This protects you as a homeowner from putting your property at risk if anything is damaged on your project or if anyone is injured.
- ✓ **Obtain required permits.** Licensed contractors are able to apply for and obtain building permits. If an unlicensed contractor is asking you to apply for an owner-builder permit, it may be because they can't get a building permit for you. For information about building, electrical, and plumbing permits, contact the planning and permitting department for your county.
- ✓ **Contractors Recovery Fund.** The Contractors Recovery Fund helps to compensate homeowners if something goes wrong with their project. The Contractor's Recovery Fund is only available to consumers who have hired a licensed general contractor. *(For information about the Contractor's Recovery Fund, or if you have questions about what kind of a contractor you may want to hire, call the Contractor's License Board at [808] 586-2700.)*

Each year, RICO receives hundreds of tips and complaints about unlicensed contractors. The complaints range from construction that has been poorly done, to money being taken and no work being done at all. Unlicensed contractors may go door-to-door claiming they "just finished a job down the street," or "have materials left over from another job." Unlicensed contractors may even use a fake license number or a license number that belongs to someone else. So, remember to check license information with our office. You may also want to ask to see a picture I.D. so you know exactly who you're dealing with. And, most importantly, remember...never pay all of the money up front. Your home is the single biggest investment you'll probably ever make, so take your time, do your homework, and consider hiring a licensed contractor.

To check licensing status or for information about hiring a licensed professional, call the Consumer Resource Center (CRC) at 587-4272 or visit the State's website at: cca.hawaii.gov/rico.

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