

**WHAT
YOU
SHOULD
KNOW . . .**

**Before
You Hire
A Contractor**



Department of Professional and Occupational Regulation

Virginia Board for Contractors

BOARD FOR CONTRACTORS

About This Publication

This publication is meant to be instructional—to assist the consumer in dealing with contractors. The Virginia Board for Contractors, the Department of Professional and Occupational Regulation (DPOR), and the Commonwealth of Virginia assume no responsibility for any damage that arises from any action based on information found in this publication. Questions regarding civil law and the civil courts system should be addressed to an attorney.

Portions of text appear courtesy of the California Contractors State License Board.



BOARD FOR CONTRACTORS
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Before You Begin

Most licensed contractors are competent, honest, hardworking, and financially responsible. And yet almost everyone knows someone who has a nightmare story to tell about a remodeling job: the length of time it took; the inconvenience of the noise and dust; or the cost overruns associated with even the smallest project.

Adding a room or updating a kitchen can cost more than a new car, and consumers should take time and care in planning a home improvement project. Unfortunately, most consumers spend less time choosing a contractor than they do choosing a car.

This publication is a brief summary of some of the things you as a consumer can do to avoid costly mistakes and misunderstandings in dealing with your contractor.

Planning Your Project

In order to minimize the chances that you will be the one with such complaints, you should understand that planning is the first step in the process. Before you do anything else, ask the question:

What do I want done?

A silly question? Not at all. Carefully plan exactly what you want done, what you want it to look like when finished, and how much you have to spend. Thoughtful, carefully prepared plans will be helpful in getting accurate bids from contractors. By carefully considering what you want done to your property, what it will realistically take to do the job, and what kind of professional should be brought in to do the job, you may avoid many of the headaches often associated with remodeling.

Selecting A Contractor

If the work you are considering is valued at \$1,000 or more, a valid Virginia Contractor's License is required for the license category in which the contractor is to work. Licensed contractors are subject to laws designed to protect the consumer. By hiring a licensed contractor, you become eligible to receive monetary compensation from the Contractor Transaction Recovery Fund in case of improper or dishonest conduct. Licensed contractors possess the necessary education and experience to perform competently.

Unlicensed contracting is against the law. If you contract with someone who does not hold a license, the Board for Contractors may not be able to help you resolve a complaint, leaving you with little recourse against the unlicensed contractor.

What Kind Do You Need?

There are more than 40 different types of contractor licenses, including general and specialty contractors. General building contractors usually oversee projects and coordinate the specific subcontractors for a job. A general building contractor may also contract for specialty work, but must hold a specialty license for that work or actually have a specialty contractor do the work. Specialty or subcontractors usually are hired to perform a single job.

For example, if you want only roofing or plumbing work, you may want to hire a contractor licensed in that particular specialty. If your kitchen remodeling will involve the performance of plumbing, electrical, and carpentry work under one contract, a licensed general building contractor should be hired.

One of the best ways to select a licensed contractor is to seek out personal recommendations from friends or relatives who recently had work of the type you want completed.

Check the Contractor's License

Is the contractor properly licensed? A license number in an advertisement or on a business card does not necessarily mean the contractor's license is valid. Contact the Board for Contractors at (804) 367-8511, or check our

website at <http://dpor.virginia.gov/>, to make sure the contractor is properly licensed to perform the work you want. Information on past complaints and disciplinary actions is also available from the Board.

Check the Contractor's References

Ask the contractor for local references, and call them to see if they were satisfied with the contractor's work. Skilled contractors will be proud to take credit for their work. If possible, go out and look at finished projects. Some consumers even try to find jobs in progress to see how the contractor works and to speak with the homeowner about work habits or inconveniences. Remember, the person you hire to work on your home will be a part of your home and your life until the job is completed.

When speaking to the contractor's customers, ask such questions as:

- **Did the contractor keep to the schedule and the contract terms?**
- **Were you pleased with the work and the way it was done?**
- **Did the contractor listen to you when you had a problem, and seem concerned about resolving it?**
- **Did the contractor willingly make any necessary corrections?**

In addition to customer references, you may want to talk with references from material suppliers, subcontractors, or financial institutions to determine whether the contractor is financially responsible.

Ask the contractor for the address of his or her business location and business telephone number, and verify them with the Board for Contractors. A contractor who operates a business out of the back of a truck with a cellular telephone may be difficult to find to complete a job or fix something that has gone wrong after the bill is paid.

Don't be fooled or pressured by a smooth-talking salesperson. Take the time and effort to make sure that the person or business doing your home improvement is going to perform in a professional manner.

Bids

A bid is an offer to do work. It is advisable to get at least three written bids or estimates using identical plans and specifications so you can compare prices and contractors.

Get Competitive Bids for the Project

Solicit at least three bids for the work you need. Do not automatically accept the lowest.

Make sure all bids are based on the same set of specifications. Discuss bids in detail with each contractor, and be sure you understand the reasons for any variations in price. Sometimes a higher price may be worth it, if the materials to be used are of higher quality or the work is more extensive. For example, if you are having your kitchen remodeled, and one bid is based on installing prefabricated cabinets in standard sizes while another is based on installing custom-made cabinets, the prices will not be comparable.

Beware of any bid substantially lower than the others. It probably indicates that the contractor has made a mistake or is not including all the work quoted by his or her competitors. You may be headed for a dispute with your contractor if you accept an abnormally low bid.

Don't forget the old adage,

“If the offer sounds too good to be true, it probably is!”

The Contract

Although you might assume that a “contract” should look like a contract, anything you sign could be used by a contractor as authorization to go forward with your project. This means that any bid or estimate you sign may become the contract. Do not sign anything until you completely understand what you are signing, and agree to all the terms.

Assume Nothing!

Be sure to ask questions until you fully understand the contract and what the work will look like. Before signing anything, you may wish to discuss the proposed contract, plans, and specifications with an attorney.

Have It In Writing

One of the best ways to stop problems before the job begins is with your contract. Virginia law requires all licensed contractors to provide a written contract for residential work.

The contract binds you and the contractor to the project. Since a written contract protects you and the contractor, all agreements should be put in writing. It should include everything you have agreed upon and the extent of work to be done. Get all oral promises and guarantees in writing, include start and finish dates, and spell out exactly what the contractor will and will not do. If you intend to do some of the work yourself or hire another contractor to do it, this also should be written into the contract. **Be as specific as possible.**

Be sure the financial terms of the contract are clear. The contract should include the total price, when payments will be made, and whether there is a cancellation penalty.

A reputable contractor should be able to front the costs of supplies without a large sum of up-front money from you. On any home improvement job, you can expect to make a down payment, but a good rule of thumb is an initial deposit of no more than 10% of the total price

or \$1,000, whichever is less. (If the job requires custom-made items or special orders, a reasonable deposit could be as high as 30% of the total contract value.)

Never sign a blank or partially blank contract. Get a copy of the contract as soon as you sign it, and keep it for your records. Both you and the contractor are bound by everything set down in the contract, so read it carefully. If you have any questions or do not understand something, ask before you sign.

Describing the Job –
The Good, The Bad and the Ugly

The Good	The Bad	The Ugly
Install oak kitchen cabinets manufactured by Company XYZ, model ABC, as per the plan.	Install country-style kitchen cabinets.	Install some cabinets.
Paint indoor entry (per plan) using brand X paint, color ABC, two coats, with preparation described in next paragraph.	Prep and paint entryway with blue paint.	Paint the entry.
Brand X kitchen faucet in style 123 and color ABC.	Kitchen faucet replaced if necessary.	Kitchen fixtures.

Make Sure Everything Is In The Contract

The contract should specify all materials to be used, such as quality, quantity, weight, color, size, or brand name as it may apply. Be as specific as possible.

Make sure your contract includes everything you feel is important to the job, including complete cleanup and removal of debris and materials, and special requests such as saving lumber for firewood. Also give instructions regarding pets, children, or areas where materials may not be stored.

After you have read and signed the contract, and even after work has already begun, your contractor may offer suggestions that could change your original ideas for the project. If you choose to add work to the contract, substitute materials or equipment, or delay the completion date, make sure clearly worded and signed “change orders” reflect all changes to the original, signed contract.

Scheduling The Work

Your contract should specify start and finish dates for your project. However, external factors such as weather or availability of supplies might cause delays.

Scheduling The Payments

Some contractors may ask you to make periodic payments during the course of the project – such payments are usually called a “draw” and how often you make them is called a “draw schedule.” If your contractor wants you to make payments according to a draw schedule, be sure that the specifics of that schedule are listed in detail in the contract. A draw schedule should be based on progress made toward project completion and never on a date.

For example: avoid a draw schedule that requires you to pay 10% down; 25% one week after construction starts; 25% two weeks after construction starts and the remainder upon completion of the project. An example of a reasonable draw schedule would be: 10% down; 25% upon passing inspection by the Building Official of the completed foundation and framing; 25% upon passing inspection by the Building Official of the roofing and all rough-in work; and the remainder upon completion of the project and final satisfactory inspection by the Building Official.

Make sure the payment schedule in your contract is based on the contractor’s performance. Never let your payments get ahead of the contractor’s work. Try to make payments during the project contingent upon the completion of certain tasks. That way, if the contractor is behind schedule your payments are delayed. Be sure the contract provides

for “retention” – a percentage of each payment or of the total job, ordinarily 10 percent, which you retain until the job is completed.

Do not pay 100% of the total bill until the work is 100% complete. Make sure all required building inspections have been completed to the satisfaction of the proper authorities. Never sign a completion certificate until all the work called for in the contract has been properly completed.

Changes After the Contract Is Signed

The Board for Contractors requires **all** changes to a contract be made in writing and signed by both the contractor and consumer **before** such changes are implemented. Be sure that the written change orders to the contract are detailed and seek legal advice if you have any questions about the changes.

Keep A Job File

You should keep a file of all papers relating to your project. The job file should include:

1. A copy of the signed contract and any change orders.
2. Plans and specifications.
3. A copy of the contractor’s application for required permit(s) and a copy of the officially issued permit(s) for your project.
4. Bills and invoices.
5. Canceled checks.
6. Lien releases from subcontractors and material suppliers.
7. Record of all project-related correspondence (email, texts, etc.).
8. Documentation (photographs/video) of the job start, phases/progress, and completion.

It is also a good idea to keep a record of each subcontractor who works on your project, the work performed, and length of time on the job. When suppliers make a delivery, write down the name of the company, the date, and a general description of what materials they delivered. You may want to keep a daily/weekly journal of job-related progress.

During Construction

Permits, Plans and Specifications

Your contract should call for the work to be performed in accordance with all applicable building codes. Keep in mind that building codes only set minimum safety standards for construction – they do not protect you against poor quality work.

Building officials in each locality are responsible for administering the Uniform Statewide Building Code in Virginia. If you have any questions about Building Code requirements, contact the Department of Housing and Community development at (804) 371-7000 or visit www.dhcd.virginia.gov.

The contractor should apply for and obtain any necessary building permits. This should be spelled out in your contract; otherwise, you may be held legally responsible for failure to obtain any required permits. All permit applications should match the work as written into your contract. Do not allow work to start until the contractor gives you copies of the officially issued permit(s), as required.

Make sure you keep copies of the signed contract and the plans and specifications for your project. Resist the temptation to make any changes verbally with the contractor. Be sure all changes are in writing and are signed by you and your contractor.

A WORD OF WARNING

Anyone who tries to talk you into getting your own building permit is not doing you any favors. **Licensed contractors should apply for and obtain all building permits, not the consumer.** The permit holder becomes the general contractor and assumes responsibility for the overall job—which may include taxes, workers' compensation, and other legal liabilities.

Unless you are very experienced in construction, it is best to leave these matters to your licensed contractor—and insist the contractor applies for all necessary building permits *in the contractor's name*.

Avoiding Complaints And Problems

Some warning signs of possible trouble ahead:

- You cannot verify the name, address, and telephone number or credentials of the contractor.
- The salesperson tries to pressure you into signing a contract by using scare tactics, intimidation, or threats.
- The company or salesperson says your home will be used for advertising purposes (as a model job or show-house), and that you will be given a special low price.
- The contractor tells you this is a special price available only if you sign the contract today.
- The contractor refuses to provide references, or the references have some reservations about the contractor's work.
- You cannot verify that the contractor is licensed as required by law.
- You are asked to pay for the entire job in advance, or to pay cash instead of writing a check or money order.

The best way to avoid problems is to follow the steps outlined in this publication, and to cover all details in your contract.

What If Problems Occur?

In spite of all the precautions you take, problems will sometimes occur with the work that was done on your home. If problems do arise, either during construction or afterward, contact your contractor first. Usually he or she will make corrections willingly.

Be sure to address all problems or complaints directly to your contractor in writing, so that you both have a record. If the contractor refuses to make corrections, you should file a written complaint with the Board for Contractors (see <http://www.dpor.virginia.gov/File-Complaint/>). You may also wish to consult an attorney.

What Happens to a Consumer Complaint?

The Board for Contractors complaint investigation procedures are designed to resolve problems between contractors and consumers – including, where appropriate, disciplinary or legal actions against anyone in violation of the law.

Every complaint filed with the Board for Contractors is logged and reviewed to determine whether a violation may have occurred. If the review indicates that a violation of the law or regulation may have occurred, the complaint is assigned to an investigator. You may be asked to provide additional information.

For complaints involving licensed contractors, if the investigation shows probable cause that a violation occurred, the Board for Contractors may take action to discipline the contractor. You may be asked to appear at a disciplinary proceeding to provide testimony for the case. The Board may suspend or revoke the contractor's license, fine the contractor, or fail to renew the contractor's license. The Board cannot force the contractor to refund money or correct deficiencies.

For complaints involving unlicensed contractors, if the investigation shows probable cause that a violation occurred, the Board for Contractors may pursue criminal action against the contractor. You may be asked to appear in court to provide testimony for the case. If the Board takes legal

action against the contractor, there is no assurance that action will result in restitution.

If an investigation does not show probable cause that a violation occurred, the case will be closed.

Enforcement Jurisdiction

The most common areas of complaint within the Board for Contractors' jurisdiction include:

- Failure of a licensed contractor to fulfill the terms of an agreement;
- Abandonment;
- Building code violations;
- Use of false, misleading, or deceptive advertising; and
- Failure to pay subcontractors or material suppliers.

For a complete listing of violations under the regulations of the Board for Contractors, visit <http://www.dpor.virginia.gov/Boards/Contractors/>.

Alternative Dispute Resolution

In some cases involving complaints against a licensed contractor, the Department of Professional and Occupational Regulation may offer Alternative Dispute Resolution (ADR) to resolve the complaint. Consumers and contractors are offered the opportunity to participate in the ADR process at no cost.

ADR is voluntary, confidential, and non-adversarial, with the objective of reaching a mutually acceptable agreement between the consumer and the contractor. Parties that resolve disputes through ADR avoid months of a formal investigation and possible civil litigation.

If the dispute cannot be resolved through the ADR process, the complaint will follow the traditional enforcement process.

Virginia Contractor Transaction Recovery Fund

In certain cases, consumers victimized by the improper or dishonest conduct of a licensed contractor may be eligible to receive monetary relief. The Contractor Transaction Recovery Fund may pay claims up to \$20,000 to consumers who are awarded civil court judgments against a

licensed contractor for improper or dishonest conduct. The Recovery Fund is supported entirely by assessments paid by licensed contractors, not by any tax revenues.

Consumers who want to know if they are eligible for the Fund should visit http://www.dpor.virginia.gov/Boards/Contractors_Recovery_Fund/ for more information or contact:

Contractor Transaction Recovery Fund Section
Department of Professional and Occupational Regulation
Perimeter Center, 9960 Mayland Drive
Richmond, VA 23233
(804) 367-1559 | RecoveryFund@dpor.virginia.gov

Top 10 Tips

for making sure your
contractor measures up.

1. Hire **only** licensed contractors.
2. Verify license status online at <http://www.dpor.virginia.gov/LicenseLookup/> or call (804) 367-8511.
3. Check references and review past work.
4. Get *at least three* written bids.
5. Insist on a detailed written contract— and do not sign anything until you completely understand the terms.
6. **Limit your deposit** to 10% down or \$1,000, whichever is less. (*Up to 30% of total contract value in case of special orders/custom-made items.*)
7. Don't let your payments get ahead of the work.
8. Don't pay 100% of the bill until the job is 100% complete.
9. **Never pay cash.**
10. Keep a job file of all payments and papers relating to your project (permits, change orders, warranties, etc.).

About DPOR

WHO WE ARE

DPOR is an umbrella agency for **18 policy boards**—comprised of practitioners and citizens appointed by the governor—responsible for regulating professions and occupations, as determined by the General Assembly. Our **200 employees** serve more than **300,000** individuals and businesses across **hundreds of license types**, ranging from architects and contractors to cosmetologists and polygraph examiners.

WHAT WE DO

DPOR issues professional credentials—licenses, certificates, or registrations—in the least intrusive, least burdensome, and most efficient way. The goal is to ensure the *minimum competency* necessary to practice without harming the public, not to enhance professional stature or limit competition by keeping newcomers out. Regulatory boards determine the minimum standards necessary to enter a profession, and qualify applicants based on a combination of **education, experience and examination**.

DPOR also enforces standards of professional conduct. The agency **investigates** reports of regulatory violations and seeks to **obtain compliance** with the law or, when necessary, **discipline** the licensee. Regulatory board sanctions against licensees include fines, probationary terms, suspension, or license revocation.

Unlicensed activity—practicing a profession without a required state license—is a misdemeanor criminal violation. **Regulatory boards do not have jurisdiction over unlicensed individuals**. In cases involving allegations of unlicensed practice, DPOR attempts to obtain compliance with licensing requirements or works with local law enforcement to assist in bringing criminal charges. Ultimately, unlicensed activity is outside the boards' legal jurisdiction and prosecution is at the discretion of local officials.

WHY WE DO IT

DPOR strives to promote a **positive business climate**, ensure a **competent workforce**, and provide exceptional **customer service**. As an executive branch agency under the Secretary of Commerce and Trade, we support Virginia’s economic vitality by helping qualified people start businesses and work in their chosen fields.

We **protect the public** by verifying minimum competency, investigating complaints, and upholding professional compliance with state laws and regulations.

HOW WE DO IT

As a non-general fund agency, DPOR is financed solely by revenue collected through fees paid by licensees, not by any tax revenues. Fees are adjusted periodically, as required by the “**Callahan Act**” (§ 54.1-113 of the *Code of Virginia*), to ensure revenues are sufficient to cover expenses, but not excessive.

DPOR operates in full view of the public and welcomes participation by licensees, consumers, and all Virginians. All board meetings are announced in advance and open to the public, and board actions are reflected in the meeting minutes—all available online at the [Virginia Regulatory Town Hall](#).

Agency operations are governed by the **Administrative Process Act (APA)**, which provides opportunities for public comment on proposed regulations as well as due process protections for licensees. The APA’s three-stage process provides elected officials, businesses, individuals, and other interested parties ample opportunity to study proposed changes and provide comments.

CONSUMER GUIDES

http://www.dpor.virginia.gov/Consumers/Consumer_Guides/

What to Look For (and Look OUT For) In a Contractor

After a Disaster, Don't Get Scammed | Storm Damage Raises Fraud Risk

What SENIORS Should Know Before Hiring a Contractor

STATEMENT OF CONSUMER PROTECTIONS

**mandatory for residential door-to-door solicitations*

Contractor Transaction Recovery Fund | FACT SHEET

Call Before You Dig | DIAL 811 to have underground utility lines marked for free
Call 811 before any excavation (digging) project--DIY or professional contractor. It's the LAW!



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