

Massachusetts

Contracts, Liabilities and Risk Management

6-Hour CE



Course Description

This six hour video course explains the principles of contract law and the important elements of a home building and remodeling contract. It is in the best interest of any contractor to be able to understand the basic principles of a contract, and how to craft one that is binding and legal. There are many elements to consider, from the initial process of placing a bid to the final signing of a mutually agreed upon contract. Understanding the concepts of offer and acceptance, consideration, fraud and breach of contract are necessary in order to create a document that meets the requirements of the law, and is to the satisfaction of all parties involved.

Builders' exposure to risk, and the need to recognize the costs of inadequate insurance is challenging. Risk assessment and strategies that minimize risk are important aspects of a successful construction business.

Learning Objectives are provided to facilitate student understanding and progress. Informal progress checks throughout the module help students review and measure their understanding of the material. The assessment at the end of each chapter accurately reflects Learning Objectives. A 70% passing score on each assessment is required to move on to the next chapter.

COURSE OUTLINE

Chapter 1 – Contract Rules and Elements

***Learning Objectives:** 1) Understand laws to remember when making agreements 2) Why clarity of the contract language is so important 3) Learn the basic elements of a contract 4) Understand what language should always be in a contract 5) Understand what language can be useful in certain situations.

- A. Contractor law
- B. Content of written agreements
- C. Clarity
- D. Required Documents

Chapter 2 – Contract Types

***Learning Objectives:** 1) Describe what other documents may be included with a contract 2) Understand what different positions a contractor may be in 3) Understand what constitutes a fixed price, unit price or cost-plus-fee contract, and what the differences are.

- A. Contract Documents
- B. Role of the Contractor
- C. Fixed Price Contract
- D. Unit Price Contract
- E. Cost Plus Fee Contracts

Chapter 3 – Retainage and Scope Creep

***Learning Objectives:** 1) Identify liquidated damages and retainage 2) Understand how to manage scope creep 3) Be able to write an RFP and how to decline a proposal.

- A. Liquidated Damages
- B. Retainage
- C. Scope Creep
- D. Request for Proposal

Chapter 4 - Bidding and Letters of Intent

***Learning Objectives:** 1) List reasons for holding a pre-proposal meeting 2) Understand how to create and use a decision matrix 3) Know how to write a residential letter of intent 4) Describe the differences between a commercial letter of intent and a residential one 5) Identify a no-bid letter and understand how to use it.

- A. Pre-proposal Meetings
- B. Decision Matrix
- C. Letter of Intent
- D. No Bid Letter
- E. Contract Sources
- F. Bidding Large Jobs

Chapter 5 – Contract Formatting

***Learning Objectives:** 1) Identify the components of a contract 2) Define consideration as it relates to contracts 3) Understand the many formats a contract can take 4) Understand legal interpretation of written contracts.

- A. Fundamentals
- B. Consideration
- C. Written vs. Oral

Chapter 6 – Offer and Acceptance

***Learning Objectives:** 1) Describe capacity and how it may affect an agreement 2) Identify what makes an offer valid and what constitutes an adequate acceptance 3) Know what conditions may apply to a contract 4) Describe reliance.

- A. Capacity
- B. Offer and Acceptance
- C. Terms and Conditions

Chapter 7 - Consideration

***Learning Objectives:** 1) Understand mutuality of obligation in terms of consideration 2) Identify who and what agents represent 3) Describe delegation and assignment of responsibilities 4) Understand the concept of a "reasonable person".

- A. Consideration
- B. Agents
- C. Delegation of Responsibility
- D. Reasonable Person
- E. Beware Mistakes that Bind

Chapter 8 – Duress and Fraud

***Learning Objectives:** 1) Describe what things make a contract illegal 2) Define duress and undue influence 3) Describe the difference between fraud and a mistake 4) Understand how situational changes can affect a contract.

- A. Illegal Contracts
- B. Duress
- C. Fraud

Chapter 9 – Breach of Contract

***Learning Objectives:** 1) Understand how the statute of limitations for malpractice and the statute of repose works for contractors 2) Identify the positive and negative forms of contracts 3) Appreciate the need to read the entire document and get all agreements in writing.

- A. Time Limits
- B. Form Contracts
- C. Fine Print
- D. Get it in Writing
- E. Stopping Work Before a Dispute
- F. Excluding Work from a Contract
- G. Who Pays if Something is Wrong?

Chapter 10 – Insurance, Risk and Liability

***Learning Objectives:** 1) Describe a contractor's risk exposure and how to manage it 2) Identify what builders' risk insurance covers 3) List the kinds of property insurance available to contractors 4) Understand liability insurance.

- A. Risk Management
- B. Builder's/Property Insurance
- C. Liability Insurance

Chapter 11 – Workers' Compensation

***Learning Objectives:** 1) Describe how construction bonds work 2) Distinguish who is required to carry workers' compensation insurance, and who can be excluded from that requirement 3) List the classifications of an independent contractor.

- A. Surety Bonds
- B. Workers' Compensation
- C. Independent Contractors
- D. Classifications

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