A Q&A guide to construction projects in Iowa. This Q&A addresses state law and custom relating to public and private construction projects, including prompt payment laws, retainage, project delivery systems, contract forms and commonly negotiated terms, warranties, and licensing requirements for construction professionals. It also addresses payment and performance bonds, including any "Little Miller Acts," construction litigation statutes of limitation and pleading requirements, and the enforceability of specific clauses such as liquidated damages, limitations on liability, and no-damages-for-delay. Answers to questions can be compared across a number of jurisdictions (see Construction Laws and Customs: State Q&A Tool (http://us.practicallaw.com/w-001-4485)).

PROMPT PAYMENT ACTS AND RETAINAGE

1. Does your state have any statutes governing the timing of payments to contractors or subcontractors on publicly owned or financed construction projects? If so, what do those statutes require regarding:
   ■ Payments by owners to prime contractors?
   ■ Payments by prime contractors to subcontractors?
   ■ Penalties for failure to comply with requirements of the statute?
   ■ A contractor's right to stop work for failure to receive payment?

Sections 573.12 to 573.15 of the Iowa Code govern the timing of payments to contractors or subcontractors on publicly owned or financed construction projects.

PAYMENTS BY OWNERS

Payments under contracts for the construction of public improvements must be made based on monthly estimates of labor performed and material delivered as determined by the project architect or engineer (Iowa Code § 573.12(1)(a)). An approved progress payment must be made within 14 days following receipt of the request for payment, unless the contract provides otherwise. However, the contract may not specify a time period that exceeds 30 days. (Iowa Code § 573.12(2)(a)(1).)

Final payments must be made within 40 days, unless the contract specifies otherwise. However, the contract may not specify a time period that exceeds 50 days. Final payment is a payment of any amount due the contractor under the terms of the contract following completion and acceptance of the contractor's work. (Iowa Code § 573.14.)

PAYMENT BY PRIME CONTRACTORS

Payments must be made to subcontractors for satisfactory performance of the subcontractor's work within either:
   ■ Seven days after the contractor receives payment for the subcontractor's work.
   ■ A reasonable time after the contractor could have received payment for the subcontractor's work, if the reason for nonpayment is not the subcontractor's fault. (Iowa Code § 573.12(2)(b).)

PENALTIES

A state agency that does not make a payment by the required date owes interest on the unpaid amount (Iowa Code §§ 12C.6, 573.12(2) (a) and 573.14). Interest rates are available on the Iowa Treasurer's website.

Interest begins to accrue:
   ■ For progress payments, on the 15th day after the approval if the contract does not specify otherwise. However, the contract may not specify a time period that exceeds 30 days. (Iowa Code § 573.12(2)(a).)
   ■ For final payments, on the 31st day following completion of the work (Iowa Code § 573.14).
Subcontractors are entitled to a share of interest payments proportional to the payment for the subcontractor's work (Iowa Code § 573.12(3)(a)). A court may award reasonable attorneys' fees to claimants (Iowa Code § 573.21).

**RIGHT TO STOP WORK**

Iowa's payment statutes do not address a contractor's right to stop work for failure to receive payment on a public improvement project.

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<th>2. Does your state have any statutes governing the timing of payments to contractors or subcontractors on privately owned construction projects? If so, what do those statutes require regarding:</th>
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Iowa does not have a prompt payment act governing private construction projects, though it does have a mechanic's lien statute that provides certain remedies to contractors (see Iowa Code §§ 572.1 to 572.34). The mechanic's lien statute prioritizes payment for services rendered, but does not govern the timing of payments or a contractor's right to stop work for failure to receive payment. For more information on the priority of mechanics' liens in Iowa, see State Q&A, Real Estate Finance: Iowa (http://us.practicallaw.com/w-000-4414).

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<th>3. If your state does not have a prompt payment act, what is the custom and practice regarding:</th>
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<td>Timing of payments by owners to prime contractors?</td>
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<td>Payment of interest on late payments?</td>
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Iowa has a prompt payment act that sets out the requirements for payments, interest and a contractor's right to stop work on public construction projects (Iowa Code §§ 573.12 to 573.15; see Question 1).

For private construction projects, the custom and practice is to define payment terms in the parties' construction contract. These terms may vary widely.

| 4. If your state does not regulate the timing of payments to subcontractors, are there any common law restrictions on the flow down of payments to subcontractors, such as prohibiting "pay-if-paid" or "pay-when-paid" clauses? |

Iowa has a prompt payment act for public improvements (Iowa Code §§ 573.12 to 573.15; see Question 1).

There are few Iowa cases addressing "pay-if-paid" and "pay-when-paid" clauses. Iowa courts generally follow the approach taken by the US Court of Appeals for the Sixth Circuit (Thos. J. Dyer Co. v. Bishop International Engineering Co. (303 F.2d 655 (6th Cir. 1962))). Absent express subcontract terms to the contrary, final payment to the subcontractor is an "absolute debt" of the prime contractor. Pay-if-paid and pay-when-paid clauses are not prohibited, but must be expressly identified in the subcontract (see, for example, Grady v. S.E. Gustafson Constr. Co., 103 N.W.2d 737, 739 (Iowa 1960)).

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<th>5. Does your state have a statute related to withholding retainage on a publicly owned or financed construction project? If so, does the statute:</th>
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<tr>
<td>Regulate the amount of retainage that can be withheld from a contractor or subcontractor?</td>
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<tr>
<td>Require a partial release of or reduction in retainage at any point during the project?</td>
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<tr>
<td>Govern when and how final retainage must be released?</td>
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<tr>
<td>Impose any penalties for failure to comply with the statute?</td>
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Section 573.12 of the Iowa Code regulates retainage for public improvements.

**AMOUNT OF RETAINAGE**

Public corporations must retain not more than 5% of the amount due based on the monthly estimate of the project's architect or engineer (Iowa Code § 573.12(1)(a)). The contractor may retain up to the lesser of 5% or the amount specified in the contract between the contractor and the subcontractor (Iowa Code § 573.12(1)(b)).

**PARTIAL RELEASE OF RETAINAGE**

There is no Iowa statute requiring a partial release or reduction in retainage. However, a project that is substantially complete is eligible for early release of retainage, which is discretionary. Substantial completion refers to 95% completion of the project. (Iowa Code § 573.15A).

**FINAL RELEASE OF RETAINAGE**

If no claims to the retainage are on file, the retainage must be released 30 days following completion and final acceptance of the public improvement. However, if a party files a claim to the retainage within the 30-day limit, the public corporation must continue to retain from the unpaid funds a sum equal to double the total amount of all claims on file. The remainder of the retainage held, if any, is released and paid to the contractor. (Iowa Code § 573.14.)

**PENALTIES**

Interest accrues on unpaid balances, including undistributed retainage (Iowa Code § 573.14; see Question 1: Penalties).
Iowa does not have a statute regarding the percentage an owner can withhold from a contractor as retainage on a privately owned or financed project.

7. If your state does not regulate retainage on privately owned construction projects, what is the custom and practice regarding:

- The amount of retainage withheld from each payment requisition? Does it differ for labor or material?
- Partial or early release of retainage upon achieving any project milestone or for early completion subcontractors?
- Requirements for the final release of retainage, including hold backs for incomplete work or disputed amounts?

The custom and practice is to define retainage terms in the parties’ construction contract. Retainage generally ranges anywhere from 5% to 10%, though there is no state law preventing a party from contracting for greater than 10% retainage.

**PROJECT DELIVERY SYSTEMS AND CONTRACT FORMS**

8. What forms of project delivery systems are most commonly used in your state? Do they differ by the nature of the construction project?

On private construction projects in Iowa, the parties commonly use:
- Design-bid-build.
- Design-build.
- Construction management.

On public construction projects, design-bid-build is used almost exclusively due to Iowa’s requirements that projects of certain public corporations that are over certain dollar values must be publicly bid (Iowa Code § 26.3).

The selection of the appropriate delivery system depends on the parties’ preferences. For more information on project delivery systems, see Practice Note, Selecting the Right Private Project Delivery System (http://us.practicallaw.com/3-549-4368).

9. Does your state have any statutes specifically related to design-build or construction management? If so, do they apply to:

- Publicly owned or financed construction projects?
- Privately owned or financed construction projects?

Iowa does not have any statutes specifically related to design-build or construction management (see Question 8).

10. Are industry standard forms of documents customarily used in private construction projects? If so:

- Do they vary by delivery system or type of project?
- Which forms are most widely used?

American Institute of Architects (AIA) and ConsensusDOCS forms are generally used in Iowa. For more information on industry form agreements, see Practice Note, Standard Construction Industry Documents: Overview (http://us.practicallaw.com/9-560-0605).

Architects and engineers typically favor the AIA form documents, while contractors favor the ConsensusDOCS forms. This is because AIA documents are deemed to be more architect-friendly, while ConsensusDOCS are considered more neutral and fair to all parties. ConsensusDOCS are generally gaining in popularity in Iowa.

11. What terms are customarily most heavily negotiated in construction contracts? Do they vary by delivery system or type of project?

The most commonly negotiated terms in construction contracts in Iowa are:

- Price.
- Scope of work.
- Schedule-related provisions, including:
  - time frame for completion of the work;
  - payment for additional costs for extended contract durations; and
  - no-damages-for-delay and liquidated damages provisions.
- Indemnification obligations.
- Limitations of liability.

**LICENSING**

12. Does your state license construction professionals? If so:

- Which construction professionals are licensed (general contractors, specialty contractors, construction managers, design professionals)?
- Which departments oversee the licensing and regulation of these construction professionals?

Iowa requires the following professions to be licensed to practice:

- Architects (see Architects).
- Landscape architects (see Landscape Architects).
- Engineers (see Engineers).
- Land surveyors (see Land Surveyors).
- Interior designers (see Interior Designers).

**ARCHITECTS**

An architect’s license is required for an individual to practice architecture in the state of Iowa.

The practice of architecture is performing or offering to perform professional architectural services in connection with the design, preparation of construction documents, or construction of one or more buildings, structures, or related projects and the space within and surrounding the buildings or structures, which buildings or structures have as their principal purpose human occupancy or habitation (Iowa Code § 544A.16(8)).

Architectural services may include, but are not limited to:

- Consultation.
- Investigation.
- Evaluation.
- Programming.
Planning.

Preliminary design.

Feasibility studies, designs, drawings, specifications, and other technical submissions.

Administration of construction contracts.

Observation of construction site progress.

Other services and instruments of service related to architecture.

(lowa Code § 544A.16(9).)

The Architectural Examining Board creates rules concerning registering architects and regulating the practice of architecture (lowa Code §§ 544A.1 and 544A.9).

LANDSCAPE ARCHITECTS

A license is required for an individual to practice landscape architecture in the state of Iowa (lowa Code § 544B.2).

The practice of landscape architecture is the performance of professional services including consultations, investigations, reconnaissance, research, planning, design, or responsible supervision in connection with projects involving the arranging of land and the elements on it for public and private use and enjoyment (lowa Code § 544B.1(2)).

The Landscape Architectural Examining Board oversees the licensing and regulation of landscape architects in Iowa (lowa Code § 544B.5).

ENGINEERS

An individual must hold an engineer's license to practice engineering in Iowa (lowa Code § 544B.1).

The practice of engineering is any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences. This includes consultation, investigation, evaluation, planning, design, and design coordination of engineering works and systems, planning the use of land and water, performing engineering surveys and studies, and the review of construction for the purpose of monitoring compliance with drawings and specifications in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, that involve safeguarding life, health, or property. (lowa Code § 542B.2(9)(a).)

The Engineering and Land Surveying Examining Board oversees the licensing and regulation of engineers in Iowa (lowa Code §§ 542B.3, 542B.15 and 542B.17).

LAND SURVEYORS

An individual must hold a license to practice land surveying in Iowa (lowa Code § 542B.1).

The practice of land surveying is providing professional services including consultation, investigation, testimony, evaluation, planning, mapping, assembling, and interpreting reliable scientific measurements and information relative to the location of property lines or boundaries, and the use, development, and interpretation of these facts into an orderly survey, plat, or map (lowa Code § 544B.2(10)).

The practice of land surveying includes but is not limited to the following:

- Locating, relocating, establishing, reestablishing, setting, or resetting of permanent monumentation for any property line or boundary of any tract or parcel of land. Setting permanent monuments constitutes an improvement to real property.
- Making any survey for the division or subdivision of any tract or parcel of land.
- Determining, by the use of the principles of land surveying, the position for any permanent survey monument or reference point, or setting, resetting, or replacing any survey monument or reference point excluding the responsibility of engineers.
- Creating and writing metes and bounds descriptions.
- Geodetic surveying for determination of the size and shape of the earth both horizontally and vertically of the precise positioning of permanent land survey monuments on the earth from angular and linear measurements using spatially orientated spherical geometry.
- Creating, preparing, or modifying electronic or computerized data, including land information systems and geographical information systems, relative to the performance of the activities identified above.

(lowa Code § 542B.2(10).)

The Engineering and Land Surveying Examining Board oversees the licensing and regulation of land surveyors in Iowa (lowa Code §§ 542B.3, 542B.15 and 542B.19).

INTERIOR DESIGNERS

An individual must hold a license to engage in the practice of interior design in Iowa (lowa Code §§ 544C.1 and 544C.7).

Interior design is the design of interior spaces, including the preparation of documents relating to space planning, finish materials, furnishings, fixtures, and equipment, and the preparation of documents relating to interior construction that does not affect the mechanical or structural systems of a building. Interior design does not include services that constitute the practice of architecture or the practice of professional engineering. (lowa Code § 544C.1(3).)

The Interior Design Examining Board oversees the licensing and regulation of interior designers in Iowa (lowa Code § 544C.2).

The board is in charge of the following:

- Administering and enforcing Chapter 544C of the Iowa Code.
- Establishing requirements for the examination, education, and practical training of applicants for registration.
- Adopting rules necessary for the proper performance of its duties.
- Establishing fees for registration as a registered interior designer, renewal of registration, reinstatement of registration, and for other activities of the board pertaining to its duties.
- Maintaining records.

(lowa Code § 544C.3.)
All training must be completed in health, safety, and welfare subjects acquired in structured educational activities. (Iowa Admin. Code r. 193B-3.3.)

A registered architect is deemed to have complied with the continuing education requirements if the architect attests in the required affidavit that for not less than 21 months of the preceding two-year period of registration the architect:

- Has served honorably on active duty in the military service.
- Is a resident of another state or district having a continuing education requirement for registration as an architect and has complied with all requirements of that state or district.
- Is a government employee working as an architect and assigned to duty outside the US.

(Iowa Admin. Code r. 193B-3.5(1).)

**LANDSCAPE ARCHITECTS**

**Licensing Requirements**

An applicant for registration as a landscape architect must meet one of the following sets of requirements:

- Graduation from a school, college, or university offering an accredited minimum four-year curriculum in landscape architecture and a minimum of three years of practical experience in landscape architectural work which in the opinion of the board is of satisfactory character. At least one year of practical experience must be under the supervision of a professional landscape architect or a person that becomes a professional landscape architect within one year after July 1, 2002.
- Graduation from a non-accredited course of landscape architecture of a minimum of four years in a school, college, or university and a minimum of four years of practical experience in landscape architectural work which in the opinion of the board is of satisfactory character. At least one year of practical experience must be under the supervision of a professional landscape architect.
- A minimum of ten years of practical experience in landscape architectural work which in the opinion of the board is of satisfactory character to properly prepare the applicant for the examination.

The following may be accepted instead of practical experience:

- A master’s degree from an accredited school, college, or university may be accepted instead of one year of practical experience.
- A satisfactorily completed year of study in an accredited course of landscape architecture in an accredited school, college, or university may be accepted instead of one year practical experience.
- Any four-year college or university may be accepted instead of two years of practical experience.

(Iowa Code § 544B.9.)

The applicant must:

- Apply for licensure on forms prescribed and furnished by the Landscape Architectural Examining Board.
- Pay a fee.
- Pass an examination.

(Iowa Code §§ 544B.8 and 544B.9(1).)
An applicant is not required to take the written examination if the applicant either:

- Holds a current Council of Landscape Architectural Registration Boards certificate.
- Has a license to practice landscape architecture issued on written examination by another jurisdiction and has submitted a certificate from the jurisdiction of original licensure verifying that the applicant passed the examination in that jurisdiction.

(Iowa Admin. Code r. 193D-2.6.)

Certificates of registration expire biennially on June 30. A registrant must renew the certificate of registration before the expiration date to maintain authorization to practice in Iowa. (Iowa Admin. Code r. 193D-2.8.)

**Continuing Education Requirements**

Registered landscape architects are subject to the following continuing education requirements:

- At least 24 continuing education hours are required for landscape architects registered for 24 months or more.
- At least 12 continuing education hours are required for landscape architects registered for more than 12 months but less than 24 months.
- No continuing education hours are required for landscape architects registered for less than 12 months.

(Iowa Admin. Code r. 193D-3.2(1), (3).)

All training must be completed in health, safety, and welfare subjects acquired in structured educational activities. A landscape architect may earn up to six hours of self-study activities during any renewal period. Hours acquired in any 24-month renewal period may not be carried over to another 24-month renewal period. (Iowa Admin. Code r. 193D-3.2(2).)

A registered landscape architect is deemed to have complied with the continuing education requirements if, during the continuing education compliance period, the landscape architect:

- Serves honorably on active duty in the military service.
- Resides in another state or district having a continuing education requirement for the occupation or profession and meets all the requirements of that state or district for practice.
- Is a government employee working as a professional landscape architect and assigned to duty outside the US.
- Is approved by the board for periods of active practice and absence from the state.

(Iowa Admin. Code r. 193D-3.6.)

**ENGINEERS**

**Licensing Requirements**

An applicant for registration as an engineer must meet all of the following requirements:

- Graduation from a course in engineering of four years or more in a school or college which, in the opinion of the board, properly prepares the applicant for the examination in fundamental engineering subjects.
- Passing an examination designed to show the knowledge of general engineering principals.
- A specific record of four years or more of practical experience in engineering work which is of a character satisfactory to the board.
- Passing an examination designed to determine the proficiency and qualifications to engage in the practice of engineering. An applicant may take this examination only after showing the necessary practical experience in engineering work.
- Paying a fee to the Engineering and Land Surveying Examining Board.

(Iowa Code §§ 542B.14(1)(a) and 542B.17.)

Certificates of licensure expire biennially on December 31. Certificates that were initially issued in even numbered years expire in odd-numbered years and certificates that were initially issued in odd-numbered years expire in even-numbered years. (Iowa Admin. Code r. 193C-3.4(1).)

A registrant must renew the certificate of registration before its expiration date to maintain authorization to practice in Iowa. However, the board can accept an untimely but otherwise sufficient renewal application if the board receives the application and late fee within 30 days of the date of expiration. (Iowa Admin. Code r. 193C-3.4(1).)

A person holding a certificate of licensure as a professional engineer issued by a proper authority of a state, territory, or possession of the US, the District of Columbia, or any other foreign country, based on requirements and qualifications equal to or higher than the requirements in Iowa may be licensed without examination. However, even a person licensed under a different state must still pay the required fee as set by the board. (Iowa Code § 542B.20.)

**Continuing Education Requirements**

Individuals licensed as professional engineers must complete 30 professional development hours every two years. A licensee may carry forward no more than 15 hours into the next two-year period. (Iowa Admin. Code r. 193C-7.5(1).

Inactive licensees are not required to complete any continuing education hours (Iowa Admin. Code r. 193C-7.5(2)).

An individual active in both engineering and land surveying must complete 20 professional development hours in engineering and 20 professional development hours in land surveying. A licensee may carry forward ten hours or less for each profession. (Iowa Admin. Code r. 193C-7.5(4).)

A new licensee must satisfy one-half of the biennial continuing education requirements at the first renewal following initial licensure (Iowa Admin. Code r. 193C-7.5(6)).

The continuing education requirements may be reduced in proportion to the following:

- Periods of time that the licensee serves honorably on active duty in the military services.
- Periods of time that the licensee is licensed in and a resident of another state or district having continuing education requirements for professional engineering and meets all requirements of that state or district for practice.
- Periods of time that the licensee is a government employee working as a professional engineer and assigned to duty outside the US.
Documented periods of the licensee’s active practice and absence from the US approved by the board.

No exemption is granted without a written request from the licensee with records of the period of absence. (Iowa Admin. Code r. 193C-7.6.)

**LAND SURVEYORS**

**Licensing Requirements**

An applicant for registration as a land surveyor in Iowa must meet all of the following requirements:

- Complete a course of two years or more in mathematics, physical sciences, mapping, and surveying, or engineering in a school or college and six years of practical experience, all of which in the opinion of the board, properly prepares the applicant for the examination in fundamental land surveying subjects.
- Pass the Fundamentals of Land Surveying examination any time after the education and experience requirements described above are completed.
- Pass the Principles and Practice of Land Surveying examination. An applicant for this examination must have a minimum of one year of practical experience in the US or a territory under its jurisdiction.
- In addition to any other requirement, a specific record of four years or more of practical experience in land surveying work of a character satisfactory to the board. Up to three years of practical experience obtained after high school graduation and before satisfying the education requirement, if under the tutelage of a professional land surveyor, may be accepted toward the additional experience requirement for qualification to take the Fundamentals of Land Surveying examination.
- Pass an examination designed to determine the proficiency and qualifications to engage in the practice of land surveying. An applicant may take this examination only after showing the necessary practical experience in land surveying work.
- Complete and enclose with the application a statement of approximately 200 words describing a significant project on which the applicant worked closely during the last 12 months. The statement must describe the applicant's degree of responsibility for the project and identify the project's owner and location. The statement must be signed and dated.
- Pay a fee. (Iowa Code § 542B.14; Iowa Admin. Code r. 193C-5.1.)

An applicant for the Fundamentals of Land Surveying examination must provide three references on forms provided by the board:

- At least three of the five references must be from licensed professional land surveyors.
- If the applicant has had more than one supervisor, at least two of the references must be from the applicant's supervisors.
- If an applicant has had professional experience under more than one employer, the applicant must provide references from individuals with knowledge of the work performed under a minimum of two employers. (Iowa Admin. Code r. 193C-5.1(5)(a).)

An applicant for the Principles and Practice of Land Surveying examination must have a minimum of one year of practical experience in land surveying work of a character satisfactory to the board. Up to three years of practical experience obtained after high school graduation and before satisfying the education requirement, if under the tutelage of a professional land surveyor, may be accepted toward the additional experience requirement for qualification to take the Fundamentals of Land Surveying examination.

Individuals applying with a non-ABET or CEAB four-year surveying and mapping degree must submit one reference. (Iowa Admin. Code r. 193C-5.1(5)(b).)

**Continuing Education Requirements**

Professional land surveyors must complete 30 professional development hours every two years. A licensee may carry forward no more than 15 hours into the next two-year period. (Iowa Admin. Code r. 193C-7.5(1).)

An individual active in engineering and land surveying must complete 20 professional development hours in engineering and 20 professional development hours in land surveying. A licensee may carry forward no more than ten hours for each profession. (Iowa Admin. Code r. 193C-7.5(4).)

A new licensee must only satisfy one-half the biennial continuing education requirement at the first renewal following initial licensure (Iowa Admin. Code r. 193C-7.5(6)).

The continuing education requirements may be reduced in proportion to the following:

- Periods of time that the licensee serves honorably on active duty in the military services.
- Periods of time that the licensee is licensed in and a resident of another state or district having continuing education requirements for professional land surveyor and meets all requirements of that state or district for practice.
- Periods of time that the licensee is a government employee working as a professional land surveyor and assigned to duty outside the US.
- Documented periods of the licensee's active practice and absence from the US that are approved by the board.

No exemption is granted without a written request from the licensee with records of the period of absence. (Iowa Admin. Code r. 193C-7.6.)

**INTERIOR DESIGNERS**

**Licensing Requirements**

An applicant for registration as an interior designer in Iowa must meet all of the following requirements:

- Satisfy one of the following education and practical training categories:
  - a baccalaureate degree from a four-year interior design program or a substantially equivalent program, and at least two years of acceptable full-time work experience in the performance of interior design services;
  - a certificate, degree or diploma from a three-year interior design program or a substantially equivalent program, and at least three years of acceptable full-time work experience in the performance of interior design services; or
a certificate, degree or diploma from a two-year interior design program or a substantially equivalent program, and at least four years of acceptable full-time work experience in the performance of interior design services.

- Complete the National Council for Interior Design Qualification examination or its equivalent.
- Pay a registration fee of $275.

(Iowa Admin. Code r. 193G-2.1.)

An individual may apply to become registered as an interior designer in Iowa by reciprocity. The applicant must have:

- A valid registration or license issued by another registration authority recognized by the board, where the qualifications for registration or licensure were substantially equivalent to those prescribed in this state on the date of original registration or licensure with the other registration authority.
- A current certificate number issued by the national council for interior design qualification.

(Iowa Code § 544C.6.)

Continuing Education Requirements

Registered interior designers are subject to the following continuing education requirements:

- At least 12 contact hours are required for interior designers registered for 24 months or more. At least eight contact hours must be in health, safety, and welfare subjects in a structured activity. A maximum of four contact hours may be in self-directed activities.
- At least six contact hours are required for interior designers registered for more than 12 months but less than 24 months. A minimum of four hours must be in health, safety, and welfare subjects in a structured activity.
- No continuing education hours are required for landscape architects registered for less than 12 months.

(Iowa Admin. Code r. 193G-3.2(1), (2) and (3).)

Hours acquired in any 24-month renewal period may not be carried over to another 24-month renewal period (Iowa Admin. Code r. 193G-3.2(2)).

Continuing education hours may be acquired in any location provided that the registrant can demonstrate that the program meets the definition of either structured activity or self-directed activity (Iowa Admin. Code r. 193G-3.2(2)).

A person registered as an interior designer is deemed to have complied with the continuing education requirements during the continuing education compliance period in which the registrant:

- Serves honorably on active duty in the military service.
- Resides in another state or district having a continuing education requirement for registered interior designers and meets all the requirements of that state or district for practice (registrants of states not having a continuing education requirement must comply with Iowa’s continuing education requirements).
- Is a government employee working as a registered interior designer outside the US.

(Iowa Admin. Code r. 193G-3.6.)

14. What is the best way to confirm that a construction professional is duly licensed? Are there any consequences if a construction professional is not properly licensed?

LICENSE CONFIRMATION

The best way to confirm that an architect, landscape architect, engineer, land surveyor, or interior designer is properly licensed in Iowa is by searching the Iowa Professional Licensing Agency verification database.

CONSEQUENCES

Architects

It is unlawful for a person to engage in or to offer to engage in the practice of architecture in Iowa or use in connection with the person’s name the title “architect,” “registered architect,” or “architectural designer” or to imply that the person provides or offers to provide professional architectural services, or to otherwise assume, use or advertise any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person is an architect or is engaged in the practice of architecture unless the person is qualified by registration. A person illegally practicing architecture in the state of Iowa is guilty of a serious misdemeanor. (Iowa Code § 544A.15(1).)

In addition to the criminal penalty, the board may impose a civil penalty on a person not registered as an architect that does any of the following:

- Engages in or offers to engage in the practice of architecture.
- Uses the words “architect,” “registered architect,” “architectural designer,” or implies authorization to provide or offer professional architectural services, or otherwise uses or advertises any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person or entity is an architect or is engaged in the practice of architecture.
- Presents or attempts to use the certificate of registration or the seal of an architect.
- Gives false or forged evidence of any kind to the board or any member of the board in obtaining or attempting to obtain a certificate of registration.
- Falsely impersonates any other registered architect.
- Uses or attempts to use an expired, suspended, revoked, or nonexistent certificate of registration.
- Knowingly aids or abets an unregistered person engaging in any activity identified in this paragraph.

The penalty may not exceed $1,000 for each offense. Each day of a continued violation constitutes a separate offense. (Iowa Code § 544A.15(3); see Iowa Admin. Code r. 193B-7.3.)

Landscape Architects

Any person using the words “landscape architect,” “professional landscape architect,” or “landscape architecture designer,” or any word or any letters or figures indicating or tending to imply that the person using it is a professional landscape architect, without having a valid certificate of licensure as a professional landscape architect is guilty of a simple misdemeanor (Iowa Code § 544B.18).
Any person violating any part of Chapter 544B of the Iowa code may be restrained and permanently enjoined from committing or continuing any violations (Iowa Code § 544B.19).

The board may also impose civil penalties, the amount of which is set at the discretion of the board but cannot exceed $1,000 (Iowa Admin. Code r. 193D-4.5(4)).

**Engineers**

Any person not legally authorized to practice in Iowa and practices, or in connection with the person’s name uses any designation tending to imply or designate the person as a professional engineer, may be restrained by permanent injunction (Iowa Code § 542B.24).

A person is guilty of fraudulent practice if that person does any of the following:

- Violates a permanent injunction.
- Presents or attempts to file another's certificate of licensure as that person's.
- Gives false or forged evidence of any kind to the board, or any member of it, in obtaining a certificate of licensure.
- Falsely impersonates another practitioner.
- Uses or attempts to use a revoked certificate of licensure.

(Iowa Code § 542B.25.)

The board may impose civil penalties by order against a person not licensed as an engineer that:

- Engages in or offers to engage in the practice of professional engineering.
- Uses the words "professional engineer" or implies authorization to provide or offer professional engineering services, or otherwise uses or advertises any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person is a professional engineer or is engaged in the practice of professional engineering.
- Presents or attempts to use the certificate of licensure or the seal of a professional engineer.
- Gives false or forged evidence of any kind to the board or any member of the board in obtaining or attempting to obtain a certificate of licensure.
- Falsely impersonates any licensed professional land surveyor.
- Uses or attempts to use an expired, suspended, revoked, or nonexistent certificate of licensure.
- Knowingly aids or abets an unlicensed person engaging in any of the above activities.

A civil penalty may not exceed $1,000 for each offense. Each day of a continued violation constitutes a separate offense. (Iowa Code § 542B.27; Iowa Admin. Code r. 193C-13.1.)

**Interior Designers**

It is unlawful for a person to use the title, or aid or abet a person in using the title, of “registered interior designer” or any title or device indicating that the person is a registered interior designer unless the person has been issued a certificate of registration (Iowa Code § 544C.10(1)). A person unlawfully using the title “registered interior designer” is guilty of a simple misdemeanor (Iowa Code § 544C.10(2)).

The board, in its discretion and instead of prosecuting a first offense may enter into a consent agreement with a violator which acknowledges the violation and the violator’s agreement to refraining from any further violations (Iowa Code § 544C.10(2)).

Additionally, the board may deny a registrant’s renewal if the registrant fails to:

- Complete the continuing education requirements.
- File a report of completed continuing education.
- Submit a written request for waiver or exemption.

(Iowa Admin. Code r. 193G-3.7.)

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WARRANTIES

15. Does your state recognize any implied warranties related to construction projects, whether established by statute or case law?

Iowa law recognizes the following implied warranties:
- Workmanlike construction.
- Fitness for a particular purpose.
- Habitability.

WORKMANLIKE CONSTRUCTION

Iowa case law recognizes the implied warranty of workmanlike construction for residential construction projects (see Speight v. Walters Dev. Co., 744 N.W.2d 108, 111 (Iowa 2008)). To prevail on a claim for breach of implied warranty of workmanlike construction, the plaintiff must show that:
- The house was constructed to be occupied by the warrantee as a home.
- The house was purchased from a builder-vendor, which constructed it for the purpose of sale.
- When sold, the house was not reasonably fit for its intended purpose or was not constructed in a good and workmanlike manner.
- At the time of purchase, the buyer was unaware of the defect and had no reasonable means of discovering it.
- By reason of the defective condition the buyer suffered damages. (Kirk v. Ridgway, 373 N.W.2d 491, 496 (Iowa 1985).)

The Iowa legislature has not codified the implied warranty of workmanlike construction. The implied warranty extends to later purchasers, provided they bring the action within five years of discovering the defect (Speight, 744 N.W.2d at 114).

FITNESS FOR A PARTICULAR PURPOSE

Iowa law recognizes the implied warranty of fitness for a particular purpose (Iowa Code § 554.2315; Semler v. Knowling, 325 N.W.2d 395 (Iowa 1982)). Based in the Iowa Uniform Commercial Code, this implied warranty is only applicable to contracts for the sale of goods (Semler, 325 N.W.2d at 397).

HABITABILITY

Finally, Iowa law recognizes the implied warranty of habitability, but it mainly applies to residential leases (see Iowa Code §§ 562A.1 to 562A.37; Mease v. Fox, 200 N.W.2d 791, 796 (Iowa 1972)).

16. What types of warranties are customarily included in construction contracts? What are the customary warranty periods?

Most construction contracts require the contractor to obtain and pass on the manufacturers’ warranties for all equipment and systems installed at the project. Most owners generally require that all warranties run from the date of acceptance of the equipment or building systems, rather than from the date of delivery or installation of the equipment.

17. Does your state have any statutes governing warranties for new residential construction? If so:
- What building structures and systems are warranted?
- When is each warranty in effect?
- Are there any restrictions on filing claims under the warranty?

Iowa does not have any specific statutes governing warranties for new residential construction. For information on implied warranties applicable to residential construction, see Question 15.

PAYMENT AND PERFORMANCE BONDS

18. Does your state have a “Little Miller Act” requiring contractors to provide security in connection with performing public improvement contracts? If so:
- What are the minimum requirements to trigger the law?
- What types of security can be posted?
- Where is the security posted?

Iowa has a “Little Miller Act” requiring contractors to provide security in connection with performing public improvement contracts (see Iowa Code § 573.2).

MINIMUM REQUIREMENTS

The law is triggered when:
- The contract price equals or exceeds $25,000.
- Demanded by the owner. (Iowa Code § 573.2.)

However, the bonding requirement must be waived if the contract amounts to $50,000 or less and the contractor is a “targeted small business” that demonstrates an inability to secure a bond because of a lack of experience, net worth, or capital (Iowa Code § 12.44).

SECURITY POSTING

The security requirement can be met by any of the following:
- A surety on the bond.
- A deposit of money.
- Certified check or share draft.
- Other government bonds. (Iowa Code § 573.4.)

The security is posted with the owner.
19. What is the mechanism for making a claim or filing a lawsuit against the security? Specifically:
- Are there any statutory notices for making claims against the security?
- What is the statute of limitations for making a claim against the security? For filing a lawsuit?
- Are there any other requirements associated with collection of funds against the security?

FORM AND PROCEDURES FOR FILING CLAIM
In Iowa, a claimant can file a claim on the bond and retainage posted for the project (see Question 18). However, a person furnishing only materials to a subcontractor that furnishes only materials to the project is not entitled to file a claim against the retainage or bond (Iowa Code § 573.7).

The claim must be:
- Filed with the party letting the contract.
- In the form of an itemized, sworn written statement.

(Iowa Code § 573.7)

Certain public owners in Iowa have their own forms for this process. Often a claimant simply mails a letter to the public owner, while other claimants submit a more formal document setting out what is claimed.

SPECIAL NOTICE REQUIRED BY MATERIAL SUPPLIERS
In Iowa, material suppliers must either:
- Notify the general contractor of the amount, kind and value of the materials furnished to a project within 30 days after first furnishing the materials.
- Provide the general contractor with itemized invoices during the progress of the work.

(Iowa Code § 573.15.)

TIMING OF CLAIMS AND STATUTE OF LIMITATIONS
A claim may be filed during the 30 days following completion and final acceptance of the project or later if the public corporation has not paid the full contract price and no action is pending on the unpaid portion of the contract price (Iowa Code § 573.10).

At any time after the expiration of 30 days, but not later than 60 days, following the completion and final acceptance of the improvement, the public corporation, principal contractor, any claimant for labor or material filing a claim, or the performance bond surety, may bring action in equity in the county where the improvement is located to adjudicate all rights to said fund, or to enforce liability on the bond (Iowa Code § 573.16). The court may permit claims to be filed during an action if the late filing does not materially delay the action (Iowa Code § 573.11).

Private owners generally do not require payment or performance bonds in Iowa. However, an owner is more likely to require either a payment or performance bond for larger projects. The type of security may vary, but it generally takes the form of a surety or cash bond.

LITIGATION CONCERNS

21. What are the applicable statutes of limitation for filing a lawsuit or commencing arbitration in connection with a construction project for:
- Breach of contract?
- Breach of warranty?
- Negligence resulting in bodily injury or property damage?
- Professional malpractice by a design professional?
- Latent defects in design or construction?

The following statutes of limitation apply to construction claims in Iowa:

- **Breach of contract.** The statute of limitations is:
  - ten years for breach of written contracts (Iowa Code § 614.1(5)); and
  - five years for breach of oral contracts (Iowa Code § 614.1(4)).
  The limitations period starts to run when the contract is breached (see *Diggan v. Cycle Sat, Inc.*, 576 N.W.2d 99, 102 (Iowa 1998)).
- **Breach of warranty.** The statute of limitations is five years (Iowa Code § 614.1(4)). The limitations period starts to run when the injured party has actual or imputed knowledge of the facts that supports a cause of action (Speight, 744 N.W. 2d at 116).
- **Negligence resulting in bodily injury or property damage.** The statute of limitations is:
  - two years for a personal injury claim (Iowa Code § 614.1(2)); and
  - five years for an injury to property claim (Iowa Code § 614.1(4)).
- **Professional malpractice by a design professional.** The statute of limitations is five years (Iowa Code § 614.1(4)).
- **Latent defects in design or construction.** The statute of limitations is 15 years (Iowa Code § 614.1(11)). If the cause of action is based on negligence, the statute of limitations may be tolled until the plaintiff has discovered that it has suffered an injury or should have discovered it through reasonable diligence (Bob *McKiness Excavating & Grading, Inc. v. Morton Bldgs., Inc.*, 507 N.W.2d 405, 408 (Iowa 1993)).

22. Are there any special requirements for filing a construction-related lawsuit? For example:
- Is an affidavit of merit required for filing a professional malpractice claim against a design professional?
- Must a party required to be licensed allege or attach proof of licensure?
- Are there any special requirements for lawsuits alleging damages resulting from latent design or construction defects?

A construction-related lawsuit is filed in the same manner as any other lawsuit.
AFFIDAVIT OF MERIT AND DISCLOSURE OF EXPERTS
An affidavit of merit is not required to file a professional malpractice claim against a design professional under Iowa law. However, within 180 days of the filing of defendant’s answer, a party bringing a professional negligence claim against a licensed professional must certify to the court and the other parties, the name, qualifications and purpose for calling any expert witness. If this deadline is not met, the expert is prohibited from testifying in the action unless the court is shown good cause. (Iowa Code § 668.11.)

PROOF OF LICENSURE
Iowa does not require proof of licensure to be attached or alleged in construction-related lawsuits.

SPECIAL REQUIREMENTS
Iowa is a notice pleading state. However, to prove damages based on latent design or construction defects under the implied warranty of workmanlike construction for the sale of new homes built by a builder-vendor, the plaintiff must show that:

- The house was constructed to be occupied by the warrantee as a home.
- The house was purchased from a builder-vendor, which constructed it for the purpose of sale.
- When sold, the house was not reasonably fit for its intended purpose or was not constructed in a good and workmanlike manner.
- At the time of purchase, the buyer was unaware of the defect and had no reasonable means of discovering it.
- By reason of the defective condition the buyer suffered damages. (Kirk, 373 N.W.2d at 496.)

PERIOD OF LIMITATIONS
Iowa’s statute of repose imposes a 15-year limitation period for claims based on the following:

- Improvements to real property (Iowa Code § 614.1(11)).
- Product liability claims based on the theories of strict liability in tort, negligence or breach of implied warranty (Iowa Code § 614.1(2A)).

TYPES OF CLAIMS ALLOWED
The 15-year statute of repose applies to claims:

- Arising out of the unsafe or defective condition of an improvement to real property.
- Based on tort and implied warranty.
- For contribution and indemnity.
- Founded on injury to real or personal property or injury to the person or wrongful death. (Iowa Code § 614.1(11).)

Claims of negligence, implied warranty, and strict liability are all within the scope of the 15-year statute of repose (Iowa Code § 614.1(2A)). Breach of contract and breach of express warranty claims are not barred by the statute of repose (Bob McKiness Excavating & Grading, Inc., 507 N.W.2d at 409).

A claim against a person solely in the person’s capacity as an owner, occupant, or operator of an improvement to real property does not fall within the scope of the 15-year statute of repose (Iowa Code § 614.1(11)).

NOTICE OR CONDITIONS PRECEDENT
There are no special notice requirements or conditions precedent to filing a lawsuit.

However, to qualify as an “improvement” under the statute of repose, the product must:

- Enhance the real property’s value.
- Involve the expenditure of labor or money.
- Be intended to make a property more useful or valuable.


24. Are the following contractual provisions enforceable in your state:
- Liquidated damages?
- Limitations on liability?
- No-damages-for-delay clause?
- Choice of law or forum?

LIQUIDATED DAMAGES
Liquidated damages provisions are generally enforceable under Iowa law (see Am. Soil Processing, Inc. v. Iowa Comprehensive Petroleum Underground Storage Tank Fund Bd., 586 N.W.2d 325, 334 (Iowa 1998)).

To be considered enforceable as liquidated damages, the amount stipulated must be in “reasonable proportion to the loss or injury actually sustained or reasonably to be anticipated” (Engel v. Vernon, 215 N.W.2d 506, 516 (Iowa 1974)).

LIMITATIONS OF LIABILITY
In general, limitations of liability clauses in contracts are enforceable under Iowa law if the limitation is not unconscionable (see Iowa Code § 554.2719; Advance Elevator Co. v. Four State Supply Co., 572 N.W.2d 186, 188 (Iowa Ct. App. 1997)).

NO-DAMAGES-FOR-DELAY CLAUSE
"No-damages-for-delay" clauses are generally enforceable in Iowa (see Dickinson Co. v. Iowa State Dept. of Transp., 300 N.W.2d 112, 114 (Iowa 1981)). However, the Iowa Supreme Court has held that a no-damages-for-delay clause is unenforceable where the delay:

- Was of a kind not contemplated by the parties.
■ Amounted to an abandonment of the contract.
■ Was caused by bad faith on the part of the contracting authority.
■ Was caused by active interference of a party.

(Dickinson Co., 300 N.W.2d at 114.)

**CHOICE OF LAW AND VENUE**

Choice of law or forum selection clauses have been held enforceable under Iowa law (see EFCO Corp. v. Norman Highway Constructors, Inc., 606 N.W.2d 297, 299 (Iowa 2000); Liberty Bank, F.S.B. v. Best Litho, Inc., 737 N.W.2d 312, 315 (Iowa Ct. App. 2007)).

However, effective January 1, 2014 this has changed based on Section 537A.6 of the Iowa Code, which provides that:

■ Iowa law must apply to every in-state construction contract.
■ Any litigation, mediation, arbitration, or other dispute resolution proceeding arising from or relating to an in-state construction contract must be conducted in Iowa.

(Iowa Code § 537A.6(3), (4).)

The statute also voids as contrary to public policy provisions in in-state construction contracts that either:

■ Makes the in-state construction contract subject to the laws of another state.
■ Requires any litigation, mediation, arbitration, or other dispute resolution proceeding arising from the in-state contract to be conducted in another state.

(Iowa Code § 537A.6(2).)

In-state construction contracts are defined to include a public, private, foreign, or domestic agreement relating to construction, alteration, repair, or maintenance of any real property in Iowa and includes agreements for architectural services, demolition, design services, development, engineering services, excavation, or any other improvement to real property in Iowa, including buildings, shafts, wells, and structures, whether on, above, or under real property in Iowa. In-state construction contract does not include any agreement between Iowa and any other state. (Iowa Code § 537A.6(1).)