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Construction Laws and Customs: Colorado

by Daniel C. Wennogle, Nick Herrick, and Nicole Klein, Womble Bond Dickinson, with Practical Law Real Estate

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A Q&A guide to construction projects in Colorado. This Q&A addresses state law and customs 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 applicable "Little Miller Act" statutes, construction statutes of limitation and repose, pleading requirements, and the enforceability of specific clauses such as liquidated damages, limitations of 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).

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?

Colo. Rev. Stat. Ann. §§ 24-91-101 to 24-91-110, particularly 24-91-103, govern the timing and conditions for payment on contracts with public entities exceeding $150,000, which covers payments to:

- Contractors.
- Subcontractors.
- Sub-subcontractors.
- Suppliers.
- Laborers.
- Any other person who provides goods, materials, labor, or equipment to a subcontractor.

These sections cover contracts for the construction, alteration, or repair of any:

- Highway.
- Public building.
- Public work.
- Public improvement, structure, or system, including real property.

(Colo. Rev. Stat. Ann. § 24-91-103(1)(a), (2).)

Public entities include:

- The state of Colorado.
- A county.
- A city.

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- A city and county.
- A town.
- A district.
- Any political subdivision of the above.

(Colo. Rev. Stat. Ann. § 24-91-102(3).)

Payments by Owners

If the prime contractor is satisfactorily performing the contract, the public entity must authorize partial payments of the amount due under the contract to the contractor either at the end of each calendar month, or as soon as practicable afterward (Colo. Rev. Stat. Ann. § 24-91-103(1)(a)).

The public entity must:

- Pay at least 95% of the calculated value of completed work.
- Make a final settlement under Colo. Rev. Stat. Ann. § 38-26-107 within 60 days after the contract is completed satisfactorily and finally accepted by the public entity.

(Colo. Rev. Stat. Ann. § 24-91-103(1)(a), (b).)

When political subdivisions of the State of Colorado enter into public contracts, the contracts are generally subject to annual appropriations, meaning funds are only committed for the current fiscal year. This can affect a prime contractor's ability to pay subcontractors in multi-year projects because appropriations generally may only be made for that fiscal year. (Colo. Rev. Stat. Ann. §§ 24-91-103.6 and 24-30-202(3).) Some entities may be given special authority from the State Controller to make purchases in anticipation of appropriations for the next fiscal year. However, this authority is limited to only the amount necessary to meet the requirements of the first quarter of the next fiscal year (Colo. Rev. Stat. Ann. § 24-30-202(4)).

Parties may enter into phased, multiyear contracts with public entities after making only the initial appropriation, but should understand that payment could depend on future appropriations (Colo. Rev. Stat. Ann. §§ 24-91-103.6 and 24-106-105). The statute also permits bond-financed construction, allowing appropriations to repay bond debt after work begins and spreading repayment across multiple years – a tool often used to support large, complex projects (Colo. Rev. Stat. Ann. § 24-91-103.6(7)).

Additional provisions allow:

- Contract modifications allowing payments of more than the initial appropriation amount, if either:
  - the public entity gives the contractor written assurance that appropriations to cover the additional work have been made and are available before the additional work is performed; or
  - the additional work is covered under a remedy-granting provision in the contract. Remedy-granting clauses include, without limitation, change clauses, differing site conditions clauses, variation in quantities clauses, and termination for convenience clauses.

  (Colo. Rev. Stat. Ann. § 24-91-103.6(2)(b), (4).)
- Periodic reimbursement of actual costs for additional work before finalization of a contract modification (Colo. Rev. Stat. Ann. § 24-91-103.6(2)(c)).
- Claims for compensation under the contract, regardless of available appropriation or appropriation laws, if the contracts for a public work project is more than available appropriations or otherwise fails to comply with the appropriations provisions of this statute (Colo. Rev. Stat. Ann. § 24-91-103).
- Claims for additional compensation under remedy-granting provisions in the contract, regardless of available appropriations (Colo. Rev. Stat. Ann. § 24-91-103.6(4)).

Provisions of Colo. Rev. Stat. Ann. § 24-91-103.6 that conflict with the terms of any federal grant that funds the subject construction project in whole or in part are inapplicable (Colo. Rev. Stat. Ann. § 24-91-103.6(6)).

Payment by Prime Contractors

A prime contractor must, within seven days of receipt of funds from a public entity, pay its subcontractors any amounts included in the contractor's request for payment and owed to them, provided each such subcontractor is performing satisfactorily under its contract. A subcontractor must also pay its suppliers, sub-subcontractors, laborers, and any other persons who satisfactorily provide goods, materials, labor, or equipment for amounts included in the subcontractor's request for payment within seven calendar days after receiving payments from the prime contractor. (Colo. Rev. Stat. Ann. § 24-91-103(2).)

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When the subcontractor submits a request for payment to the prime contractor, the subcontractor must also submit a list of the subcontractor's suppliers, sub-subcontractors, and laborers. The prime contractor is relieved of the seven-day requirement for payment and any interest penalties until the subcontractor submits this list. (Colo. Rev. Stat. Ann. § 24-91-103(2).)

Penalties for Failure to Comply

A prime contractor or subcontractor that fails to make timely payment under Colo. Rev. Stat. Ann. § 24-91-103 must pay interest on the payment at the rate of the higher of either:

- 15% per year.
- The amount set out in the parties' contract.

Interest begins to accrue once the payment becomes overdue and runs until the date of payment. (Colo. Rev. Stat. Ann. § 24-91-103(2).)

Colorado's False Claim Act imposes civil penalties and liability for treble damages on anyone who, among other things, knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval to a public entity (Colo. Rev. Stat. Ann. § 24-31-1203(1)(a)). Further, contractors may be debarred from bidding for submitting false claims on Colorado Department of Transportation projects (2 Colo. Code Regs. §§ 601-10:3.02 and 10:3.03).

Also, persons who submit verified statements of claim to the public entity under Colo. Rev. Stat. Ann. § 38-26-101 and whose claims are deemed excessive:

- Forfeit their claim.
- Are liable to:
  - the principal and surety on the applicable payment bond for the project; and
  - any other party who would have received a disbursement but for the excessive verified statement of claim.

(Colo. Rev. Stat. Ann. § 38-26-110(1).)

The Colorado Court of Appeals in *Ralph L. Wadsworth Constr. Co., LLC v. Reg'l Rail Partners* held that inclusion of disputed claims in a verified statement of claim makes the verified statement of claim excessive, and the party that filed the excessive claim forfeits all rights to pursue any remedy for that claim (558 P.3d 641, 650 (Colo. App. 2024)). On April 6, 2026, the Colorado Supreme Court reversed that ruling, holding that:

- Disputed or unliquidated amounts may be included in a verified statement of claim as long as they constitute labor, materials, sustenance, rental machinery, tools, equipment, or other supplies used in prosecution of work.
- Delay and disruption damages may be included in a verified statement of claim as long as they constitute claims for labor, materials, sustenance, rental machinery, tools, equipment, or other supplies used or consumed by contractor or subcontractor in performance or prosecution of contracted work.
- A claim held to be excessive only results in forfeiture of the statutory remedies provided by the Contractor's Bond and Lien on Funds Act, not all other legal remedies.

(*Ralph L. Wadsworth Constr. Co., LLC v. Reg'l Rail Partners*, 587 P.3d 658 (Colo. 2026).)

These holdings were also codified by the Colorado legislature, effective August 12, 2026. Specifically, a court award in an amount that is less than the amount in a person's verified statement of claim does not render the claim amount excessive if the person had a good faith basis to believe the amount in the verified statement of claim was due at the time of filing (Colo. Rev. Stat. Ann. § 38-26-110(2)). "Amount due," in this context, means the amount of money a person reasonable believes, in good faith represents the value of the labor, materials, sustenance, other supplies, laborers, rental machinery, tools, or equipment, furnished or supplied to a contractor (as defined), or their subcontractor, whether or not the amount is unliquidated or disputed (Colo. Rev. Stat. Ann. § 38-26-110(3)).

The Colorado legislature also updated the statutory language regarding forfeiture to clarify the only forfeiture in the event of excessive amounts claimed is to the verified statement of claim rights and not to the underlying rights to recover the amount claimed (Colo. Rev. Stat. Ann. § 38-26-110(1)).

Right to Stop Work

Colorado's prompt payment statute does not provide contractors with a statutory right to stop work because of nonpayment by a public entity.

For more information, see Prompt Payment Acts (Private Projects): State Comparison Chart and Prompt Payment Acts (Public Projects): State Comparison Chart.

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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:

- Payments by owners to prime contractors?
- Payments by prime contractors to subcontractors?
- Penalties for failure to comply with the requirements of the statute?
- A contractor's right to stop work for failure to receive payment?

Colorado has no statute governing the timing of payments on privately owned construction projects, but see Question 6 for retainage limits on private projects.

For more information, see Prompt Payment Acts (Private Projects): State Comparison Chart and Prompt Payment Acts (Public Projects): State Comparison Chart.

3. If your state does not have a prompt payment act, what is the custom and practice regarding:

- Timing of payments by owners to prime contractors?
- Timing of payment by prime contractors to subcontractors?
- Payment of interest on late payments?
- A contractor's right to stop work for failure to receive a payment?

Payments by Owners

Colorado has a prompt payment statute that sets out requirements for payments and interest on construction projects with public entities (see Question 1: Payments by Owners).

For private construction projects, the parties' contract governs the terms of payment between the owner and prime contractor. If the contract does not provide a timeframe, the court will impose a reasonable time for payment (*Ranta Constr., Inc. v. Anderson*, 190 P.3d 835, 841 (Colo. App. 2008)). In practice, the payment period typically ranges from 30 to 60 days after submission of a valid request for payment but can depend on the circumstances. The court considers the remaining contract language and the circumstances of each case in making this determination.

Practitioners should protect lien rights during this time, since the deadline to record a lien statement runs from the date that either:

- Work was last performed.
- Materials were last provided.

(Colo. Rev. Stat. Ann. § 38-22-109(4), (5).)

The deadline does not run from any payment due date.

Payment by Prime Contractors

Colorado has a prompt payment statute that sets out requirements for payments and interest on construction projects with public entities (see Question 1: Payment by Prime Contractors).

For private construction projects, the parties' subcontract governs the terms of payment between prime contractors and subcontractors. If the subcontract does not provide a timeframe, the court will impose a reasonable time for payment (*Ranta Constr., Inc.*, 190 P.3d at 841; see Payments by Owners).

Penalties

Colorado has a prompt payment statute that specifies the penalties for late payments on construction projects with public entities (see Question 1: Penalties for Failure to Comply). If a contract does not specify an interest rate, mechanic's liens accrue interest at the rate of 12%. If the contract specifies a rate, interest accrues at the rate specified from the date payment is overdue until the date payment is made. (Colo. Rev. Stat. Ann. § 38-22-101(5).) Other penalties for private construction projects are governed by the parties' contract.

Right to Stop Work

Colorado does not have a statute that specifically addresses whether a prime contractor or subcontractor has the right to stop work for nonpayment. One should look to the terms of the contract to see if it addresses this issue.

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

Colorado has a prompt payment statute that regulates the timing of payments to subcontractors for construction projects with public entities (see Question 1).

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Pay-If-Paid Clauses

Colorado courts enforce a pay-if-paid clause if the clause expressly contains both:

- An unequivocal statement that the subcontractor will be paid only if the prime contractor is first paid by the owner.
- A statement that the subcontractor bears the risk of the owner's nonpayment.

(*Main Elec., Ltd. v. Printz Servs. Corp.*, 980 P.2d 522, 528 (Colo. 1999).)

If a pay-if-paid clause fails to meet these requirements, the court treats it as a pay-when-paid clause and requires payment within a reasonable amount of time regardless of whether the liable party has received payment (*Main Elec., Ltd.*, 980 P.2d at 527-28; see Pay-When-Paid Clauses).

Pay-When-Paid Clauses

Colorado courts interpret a pay-when-paid clause as requiring payment to be made within a reasonable amount of time regardless of whether the liable party has received payment (*Ranta Constr., Inc.*, 190 P.3d at 841).

For more information on these types of clauses, see Practice Note, Pay-If-Paid vs. Pay-When-Paid in Construction Contracts.

5. Does your state have a statute related to withholding retainage on a publicly owned or financed construction project? If so, does the statute:

- Regulate the amount of retainage that can be withheld from a contractor or subcontractor?
- Require a partial release of or reduction in retainage at any point during the project?
- Govern when and how final retainage must be released?
- Impose any penalties for failure to comply with the statute?

Colo. Rev. Stat. Ann. § 24-91-103 regulates the withholding of retainage for construction projects with public entities.

Amount of Retainage

Under Colorado law, a public entity may withhold a maximum of 5% retainage on a project under a covered contract (Colo. Rev. Stat. Ann. §§ 24-91-103(1)).

Partial Release of Retainage

Colorado does not require public entities to release or reduce retainage during construction. However, if satisfactory progress is demonstrated and the contractor submits a written request, the public entity may authorize final payment from the withheld retainage to contractors or subcontractors who have fully and acceptably completed their portion of the work (Colo. Rev. Stat. Ann. § 24-91-103(1)(c)).

Final Release of Retainage

The public entity must make a final payment, including all retainage, within 60 days after a contract is satisfactorily completed and finally accepted by the public entity (Colo. Rev. Stat. Ann. §§ 24-91-103(1)(b), 24-91-109, and 38-26-107).

Penalties

A prime contractor must pay interest to any subcontractor to whom it fails to make a required final payment, including all retainage, at the rate of the higher of either:

- 15% per year.
- The amount stated in the parties' subcontract.

Interest begins to accrue once the payment becomes overdue and runs until the date of payment. (Colo. Rev. Stat. Ann. § 24-91-103(2).)

6. Does your state have a statute related to withholding retainage on a privately owned or financed construction project? If so, does the statute:

- Regulate the amount of retainage that can be withheld from a contractor or subcontractor?
- Require a partial release of or reduction in retainage at any point during the project?
- Govern when and how final retainage must be released?
- Impose any penalties for failure to comply with the statute?

Amount of Retainage

Under Colorado law, a property owner, contractor, or subcontractor may not withhold retainage of more than 5% of the price of the work completed under a private construction

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contract or subcontract (Colo. Rev. Stat. Ann. § 38-46-103). This limit does not alter a party's contractual right to withhold payment or deduct from payment any backcharges or other amounts authorized by the contract, and does not override or invalidate any other provision of the agreement, including provisions:

- Related to the timing of payment or final payment.
- Requiring satisfactory performance of the work before payment is due.
- Related to a condition precedent that must be satisfied before payment.

(Colo. Rev. Stat. Ann. § 38-46-103.)

This requirement does not apply to:

- Contracts for less than $150,000.
- A single contract to build either:
  - one single-family dwelling; or
  - one multifamily dwelling with four or fewer family dwelling units.

(Colo. Rev. Stat. Ann. § 38-46-102).

Colorado enacted updates to its statutory limitations on the right of a property owner, contractor, or subcontractor to withhold retainage, which took effect August 12, 2026.

In lieu of retainage, a subcontractor or contractor may tender a retainage bond in an amount not to exceed 5% of the money earned by the subcontractor or contractor. If the contractor or subcontractor tenders a retainage bond meeting the requirements of Colo. Rev. Stat. Ann. § 38-46-103(1)(b)(II) and (1)(b)(III), the property owner, contractor, or subcontractor must accept the retainage bond and release the retainage covered by the retainage bond. (Colo. Rev. Stat. Ann. § 38-46-103(b)(I).)

When a property owner accepts a bond in lieu of retainage from a contractor, the contractor must accept a like bond from any subcontractor that submits a bond in lieu of retainage (Colo. Rev. Stat. Ann. § 38-46-103(b)(VI)).

Partial Retainage

Partial or early release must be contracted for by the parties. Therefore, the availability of partial or early release of retainage differs from project to project.

Final Retainage

The terms for final release of retainage are governed by the contract. Typically, retainage is released after the work has been approved and final billing has been submitted. However, many contracts also include provisions that permit withholding funds for incomplete work or unresolved claims.

Penalties

The statute does not specify penalties for violations.

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?

Colorado regulates retainage on privately owned construction projects (see Question 6).

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?

The forms of project delivery in Colorado differ based on the nature of a given project. Design-bid-build is the most common delivery method with design-build increasing in popularity. However, some in the Colorado construction industry see advantages to other collaborative methods, including integrated project delivery.

Many practitioners are embracing these new methods. Collaborative methods, when appropriately employed, can provide benefit and savings. For more information on project delivery systems, see Practice Note, Selecting the Right Private Project Delivery System

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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?

Publicly Owned Projects

The Integrated Delivery Method for Public Projects Act (Colo. Rev. Stat. Ann. §§ 24-93-101 to 24-93-110) authorizes the use of integrated project delivery contracts for public construction and outlines specific requirements. A public entity may also award any type of contract that promotes its best interests, except for a cost-plus-a-percentage-of-cost contract (Colo. Rev. Stat. Ann. § 24-93-108). For laws regarding bidding on public construction projects, see Colo. Rev. Stat. Ann. §§ 24-92-101 to 24-92-118.

Colo. Rev. Stat. Ann. §§ 43-1-1401 to 43-1-1412 specifically authorize the Colorado Department of Transportation to:

- Select a design-build firm.
- Award a design-build contract for a transportation project.
- Set out certain requirements.

(Colo. Rev. Stat. Ann. § 43-1-1403.)

Colorado law also specifically authorizes integrated project delivery as an alternative for public contracts with special districts organized under Title 32 of the Colorado Revised Statutes (Colo. Rev. Stat. Ann. §§ 32-1-1804 to 32-1-1806).

Privately Owned Projects

Colorado has no statute related to design-build or construction management on privately owned or financed construction projects.

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?

Depending on the dollar value, nature, and complexity of the project, parties in Colorado may use an industry standard form of agreement that is modified to reflect the specific terms of the transaction or a manuscript agreement drafted specifically for that transaction. Contractors often use standard forms from one of the following:

- American Institute of Architects (AIA).
- Associated General Contractors of America (AGC).
- Engineers Joint Contract Documents Committee (EJCDC).
- Design-Build Institute of America (DBIA).

Otherwise, contractors use their own forms. Many contractors or developers edit or amend their forms or include addenda and supplementary conditions to customize the agreement, often changing the meaning, structure and effectiveness of the documents.

For more information on industry form agreements, see Practice Note, Standard Construction Industry Documents: Overview.

For lien claims in Colorado, claimants frequently use "Bradforms," from the Bradford Publishing Company.

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 Colorado construction contracts are:

- Price, including guaranteed maximum price, allowances, and price escalation controls or limits.
- Schedule and delays, including liquidated damages.
- Payment terms, including retainage, timing of payments, and final payment requirements.
- Termination, including bases for and rights of parties on termination.
- Warranties.
- Change order procedures.
- Dispute resolution processes.
- Lien rights.
- Insurance requirements.
- Permits and approvals, including who is responsible.
- Force majeure, including pandemics, immigration enforcement, labor unrest, supply chain shortages and tariffs.

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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?

Colorado requires the following construction-related professionals to be licensed or registered:

- Architects (Colo. Rev. Stat. Ann. §§ 12-120-401 to 12-120-417; see Architects).
- Engineers (Colo. Rev. Stat. Ann. §§ 12-120-201 to 12-120-216; see Engineers).
- Land surveyors (Colo. Rev. Stat. Ann. §§ 12-120-301 to 12-120-316; see Land Surveyors).
- Landscape architects (Colo. Rev. Stat. Ann. §§ 12-130-101 to 12-130-119; see Landscape Architects).
- General contractors (not licensed at state level) (see General Contractors).

Other construction trades in Colorado that require a license or certification include:

- Electricians (Colo. Rev. Stat. Ann. §§ 12-115-101 to 12-115-124).
- Plumbers (Colo. Rev. Stat. Ann. §§ 12-155-101 to 12-155-124).

Architects

An architect must be licensed to practice architecture in Colorado (Colo. Rev. Stat. Ann. § 12-120-402(1)).

The practice of architecture includes:

- Providing any of the following services in connection with the design, construction, enlargement, or alteration of a building or group of buildings and the space within and the site surrounding those buildings, which have as their principal purpose human occupancy or habitation:
  - predesign;
  - programming;
  - planning;
  - providing designs, drawings, specifications, and other technical submissions;
  - administering construction contracts; and
  - coordinating any elements of technical submissions prepared by others.
- Investigations, evaluations, schematic and preliminary studies, designs, working drawings, and specifications for construction, or for one or more buildings, and for the space within and surrounding the buildings or structures.
- Coordinating the work of technical and special consultants.
- Compliance with generally applicable codes and regulations and assistance in the governmental review process.
- Technical assistance in the preparation of bid documents and agreements between clients and contractors.
- Contract administration.
- Construction observation.

(Colo. Rev. Stat. Ann. § 12-120-402(5).)

The Board of Licensure for Architects, Professional Engineers, and Professional Land Surveyors (AES Board), which is part of the Colorado Department of Regulatory Agencies (DORA), oversees the licensing and regulation of architects (Colo. Rev. Stat. Ann. § 12-120-413). The AES Board consists of 13 members appointed by the governor (Colo. Rev. Stat. Ann. § 12-120-103(3), (5)).

Engineers

An engineer must be licensed to practice engineering in Colorado (Colo. Rev. Stat. Ann. § 12-120-201).

The practice of engineering means:

- The performance for others of any professional service or creative work requiring engineering education, training, and experience.
- The application of special knowledge of the mathematical and engineering sciences to such professional services or creative work, including any of the following in connection with the utilization of the forces, energies, and materials of nature in the development, production, and functioning of engineering processes, apparatus, machines, equipment, facilities, structures, buildings, works, or utilities, or any combination or aggregations thereof, employed in or devoted to public or private enterprise or uses:
  - consultation;
  - investigation;
  - evaluation;

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- planning;
- design; and
- the observation of construction to evaluate compliance with plans.

(Colo. Rev. Stat. Ann. § 12-120-202(6).)

The AES Board oversees the licensing and regulation of professional engineers (Colo. Rev. Stat. Ann. § 12-120-213(1)).

Land Surveyors

A land surveyor must be licensed to practice professional land surveying in Colorado (Colo. Rev. Stat. Ann. § 12-120-301).

Professional land surveying includes:

- The application of special knowledge of the principles of mathematics, methods of measurement, and the law for the determination and preservation of land boundaries.
- The restoration and rehabilitation of corners and boundaries in the United States public land survey system.
- Obtaining and evaluating boundary evidence.
- The determination of the areas and elevations of land parcels.
- The subdivision of land parcels into smaller parcels and layout of alignment and grades for streets or roads to serve the smaller parcels.
- Measuring and platting underground mine workings.
- The preparation of the boundary control portions of geographic information systems and land information systems except as allowed otherwise by Colo. Rev. Stat. Ann. § 38-51-109.3.
- The establishment, restoration, and rehabilitation of land survey monuments and benchmarks.
- The preparation of land survey plats, condominium plats, monument records, property descriptions that result from the practice of professional land surveying, and survey reports.
- The surveying, monumenting, and platting of easements and rights-of-way.
- Geodetic surveying.
- Basic control for engineering projects.
- Any other activities incidental to and necessary for the adequate performance of the professional land surveying services.
- Other types of surveying.

(Colo. Rev. Stat. Ann. § 12-120-302(5)(a), (c).)

The AES Board oversees the licensing and regulation of professional land surveyors (Colo. Rev. Stat. Ann. §§ 12-120-103 and 12-120-104).

Landscape Architects

A landscape architect must be licensed to practice professional landscape architecture in Colorado (Colo. Rev. Stat. Ann. § 12-130-105).

The practice of landscape architecture means:

- The application of landscape architectural higher education, training, and experience as well as required mathematical, physical, and social science skills to consult, evaluate, plan, and design projects and improvements principally directed at the functional and aesthetic uses of land.
- Collaboration with architects and engineers during the design of public infrastructure projects such as roads, bridges, buildings, and other structures, concerning the functional and aesthetic requirements of the area and project site.
- Assistance in the preparation and administration of construction documents, contracts, and contract offers related to site landscape improvements.

(Colo. Rev. Stat. Ann. § 12-130-104(6)(a).)

The Board of Landscape Architects, a part of DORA, oversees the licensing and regulation of professional landscape architects. The board consists of five members appointed by the governor. (Colo. Rev. Stat. Ann. § 12-130-106.)

General Contractors

Entities at the local (city or county) level regulate licensing for general contractors. Requirements and classifications vary by jurisdiction. For example, the Denver Community Planning and Development Department regulates licensing of general contractors in the city of Denver. General contractors are not regulated or licensed at the state level.

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13. What are the licensing requirements for each licensed construction professional in Question 12? Are there any continuing education requirements for those licensed construction professionals?

Architects

Licensing Requirements

An applicant for an architect's license must:

- If applying for licensure by graduation, experience, and examination, have graduated:
  - from a program accredited by the National Architectural Accrediting Board (NAAB) and have three years and 3,740 hours of practical experience; or
  - with a four-year architecture or environmental design degree or other equivalent education and have five years and 7,540 hours of practical experience.
- If applying for licensure by experience and examination, have ten years of practical experience, of which education may be a part.
- Provide proof of completion of the National Council of Architectural Registration Boards (NCARB) Intern Development Program or direct experience meeting Colorado's requirements, which mirror the NCARB IDP training requirements.
- File an application with the Board of Licensure for Architects, Professional Engineers, and Professional Land Surveyors (AES Board) and pay the required fee.
- Pass the Architect Registration Examination (ARE).

(Colo. Rev. Stat. Ann. § 12-120-413; 4 Colo. Code Regs. § 730-1:1.4-E; Colorado AES Applications and Forms: Architect Licensing Guide)

An applicant for licensure by endorsement must:

- Hold a license in good standing in a jurisdiction that requires qualifications substantially equivalent to Colorado's.
- Submit an application to the AES Board in a form and manner prescribed by the AES Board.

(Colo. Rev. Stat. Ann. § 12-120-413(3)).

Licenses expire on October 31 in odd-numbered years and must be renewed (4 Colo. Code Regs. § 730-1:1.4-I(3); Colorado AES Applications and Forms).

Architect application and renewal forms are available on the AES Board's website.

Continuing Education Requirements

To renew a license, an architect generally must:

- Complete at least 12 continuing education hours (CEHs) each year in health, safety, and welfare subjects.
- Participate in a process or procedure that demonstrates that the architect obtained the required CEHs.

(Colo. Rev. Stat. Ann. § 12-120-416; 4 Colo. Code Regs. § 730-1:1.4-I(3)).

Engineers

Licensing Requirements

An applicant for a professional engineer's license by graduation, experience, and examination must:

- Have graduated from:
  - a board-approved engineering curriculum of at least four years and have at least eight years of progressive engineering experience, of which education may be a part, and be currently enrolled as an engineer intern in Colorado;
  - a board-approved engineering technology curriculum of at least four years and have at least ten years of progressive engineering experience, of which education may be a part, and be currently enrolled as an engineer intern in Colorado;
  - either an engineering curriculum not approved by the board or a related science curriculum of at least four years and have ten years of progressive engineering experience, of which education may be a part, and be currently enrolled as an engineer intern in Colorado; or
  - an engineering curriculum or a related science curriculum of at least four years and have 20 years of progressive engineering experience, of which educational study may be a part.
- Pass an examination.
- Submit evidence of satisfactory experience the AES Board.

(Colo. Rev. Stat. Ann. § 12-120-213(2); Colorado AES Applications and Forms: Engineer Licensing Guide.)

An applicant applying for licensure by experience and examination must:

- Have 12 years of progressive engineering experience, of which educational study may be a part.

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- Have been enrolled as an engineer intern in Colorado.
- Provide evidence of experience satisfactory to the AES Board.
- Pass the appropriate examination as adopted by the AES Board.

(Colo. Rev. Stat. Ann. § 12-120-213(3); Colorado AES Applications and Forms: Engineer Licensing Guide.)

Licenses expire on October 31 in odd-numbered years and must be renewed (Colorado AES Applications and Forms).

Engineer application and renewal forms are available on the AES Board website.

Continuing Education Requirements

There are currently no continuing education requirements to renew a professional engineer license.

Land Surveyors

Licensing Requirements

An applicant for a professional land surveyor's license by education, experience, and examination must:

- Pass the appropriate examination as adopted by the AES Board.
- Pass the required examination pertaining to Colorado law.
- File an application with the AES Board and pay the required fee.
- Meet the requirements of the one of the following:
  - have graduated from a board-approved surveying curriculum of at least four years, have two years of progressive land surveying experience under the supervision of a professional land surveyor or an exempted federal employee, and be enrolled as a land surveyor intern in Colorado;
  - have graduated from a non-board-approved surveying curriculum of at least four years, have four years of progressive land surveying experience, of which at least two years must be under the supervision of a professional land surveyor or an exempted federal employee, and be enrolled as a land surveyor intern in Colorado;
  - have graduated from either a board-approved two-year surveying curriculum or a four-year engineering curriculum that included surveying course work specified by the board, have six years of progressive land surveying experience of which four years must be under the supervision of a professional land surveyor or exempted federal employee, and be enrolled as a land surveyor intern in Colorado; or
  - have a bachelor's degree in a non-surveying curriculum, have completed surveying and other related course work specified by the board, have six years of progressive land surveying experience, of which four years must have been under the supervision of a professional land surveyor or an exempted federal employee, and have been enrolled as a land surveyor intern in Colorado.

(Colo. Rev. Stat. Ann. § 12-120-313(2); Colorado AES Applications and Forms: Land Surveyor Licensing Guide.)

The board may allow an applicant to substitute the satisfactory completion of one academic year in a board-approved curriculum for one year of experience. The substitution of education for experience must not exceed three years. (Colo. Rev. Stat. Ann. § 12-120-313(3).)

Enrollment requirements for land surveyor interns are found in Colo. Rev. Stat. Ann. § 12-120-311.

Licenses expire on October 31 in odd-numbered years and must be renewed (Colorado AES Applications and Forms).

Land surveyor application and renewal forms are available on the AES Board website.

Continuing Education Requirements

There are currently no continuing education requirements to renew a professional land surveyor license.

Landscape Architects

Licensing Requirements

An applicant for a landscape architect license by examination must:

- Satisfy one of the following:
  - pass an examination;
  - satisfy all requirements of the Occupational Credential Portability Program; or
  - have a diploma or certificate from a landscape architecture degree program accredited by the Landscape Architectural Accreditation Board or its successor organization and demonstrate a combination of practical experience and education equivalent to six years of practical experience. (Those lacking the diploma or certificate must show 10 years of practical experience in the practice of landscape architecture.)

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- File an application with the Board of Landscape Architects (LA Board).
- Pay the required fee.

(Colo. Rev. Stat. Ann. §§ 12-20-202 and 12-130-109; 4 Colo. Code Regs. § 729-1:1.6-A(j).)

The board must grant one year of educational or practical experience credit to applicants for licensure by examination who provide documentation that they have engaged in one year of practical field experience in construction techniques, teaching, or accredited research. Additionally, graduates of a bachelor of science or a bachelor of arts program accredited through the National Association of Landscape Professionals (formerly the Professional Landcare Network) must receive four years of practical experience credit. (4 Colo. Code Regs. § 729-1:1.6-A(1)(i)(4), (5).)

Colorado issues landscape architect licensure by endorsement to persons licensed and in good standing in another state if the applicant qualifies for licensure under the Occupational Credential Portability Program (Colo. Rev. Stat. Ann. §§ 12-20-202 and 12-130-109(1)(c)(II); 4 Colo. Code Regs. § 729-1:1.6-A(1)(g)).

An applicant may apply for licensure in Colorado if the applicant has passed the required Council of Landscape Architectural Registration Boards examinations but has not yet completed the licensing process in another state. To be eligible for licensure, the applicant must meet all of Colorado's licensing requirements. (4 Colo. Code Regs. § 729-1:1.6-A(1)(j).)

Licenses expire on December 31 in even-numbered years and must be renewed. Renewals open approximately six weeks before the expiration date. (LA Board: Applications and Forms.)

Landscape architect application and renewal forms are available on the LA Board website.

Continuing Education Requirements

There are currently no continuing education requirements to renew a landscape architect license.

General Contractors

Licensing for general contractors is regulated at the local (city or county) level. Requirements and classifications vary by jurisdiction.

For example, the Denver Community Planning and Development Department (DCPDD) regulates licensing of general contractors in the city of Denver. There are three levels of general contractors in the city of Denver:

- **General Contractor Class A**. This is a contractor licensed to erect, add to, alter, demolish, or repair any building or structure. The minimum experience required to apply includes seven years in building construction field work as a Field Engineer or General Superintendent responsible for the certain activities on commercial buildings, multi-story buildings, and high-rise buildings.
- **Building Contractor Class B**. This is a contractor licensed to erect, add to, alter, or repair any building or structure classified as less than a high rise by the International Building Code. The minimum experience required to apply includes four years in building construction field work as a Field Engineer or General Superintendent responsible for the certain activities on commercial buildings.
- **Residential Contractor Class C**. This is a contractor licensed to erect, add to, alter, or repair one- and two-family dwellings, U Occupancy buildings, and attached single-unit dwellings (IRC townhouses). Minimum experience required to apply includes two years of building construction field work as a journeyman carpenter or construction foreman showing hands-on experience in construction of single-family or two-family dwellings (duplexes or townhomes) in specified areas.

Some education or project management experience may be substituted for some of the required field experience. Applicants for each type generally must:

- Pass the required International Code Council Contractor Examination Services exam for the type of license applied for.
- Submit a Certificate Application.
- Submit an Affidavit of Lawful Presence.
- Submit notarized letters showing listing the dates, locations, and descriptions of the applicant's required experience.
- Provide a copy of the relevant degree if substituting education for field experience requirements.

For more information on general contractor licensing in Denver, see DCPDD: Construction Certificates.

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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 licensure of an architect, engineer, land surveyor, or landscape architect is to check the Colorado Department of Regulatory Agencies' verification database.

The best way to confirm licensure of a general contractor is to check with the local city or county building department.

Consequences of Violation

Any person, firm, or corporation not being duly authorized who engages in business as one of the following licensed professionals may be subject to criminal prosecution, imprisonment, fines, or all three:

- Architects (Colo. Rev. Stat. Ann. §§ 6-1-105(1)(z), 12-20-407(1)(a)(V)(E), 12-120-405, and 18-1.3-501(1)(a), (a.5)).
- Engineers (Colo. Rev. Stat. Ann. §§ 6-1-105(1)(z), 12-20-407(1)(a)(V)(C), 12-120-205, and 18-1.3-501(1)(a), (a.5)).
- Land surveyors (Colo. Rev. Stat. Ann. §§ 6-1-105(1)(z), 12-120-305(7), 12-120-305, and 18-1.3-501(1)(a), (a.5)).
- Landscape architects (Colo. Rev. Stat. Ann. §§ 6-1-105(1)(z), 12-20-407(1)(a)(V)(F), 12-130-114, and 18-1.3-501(1)(a), (a.5).
- General contractors (Colo. Rev. Stat. Ann. § 6-1-105(1)(z)).

Warranties

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

Colorado recognizes the implied warranties of workmanlike construction and habitability in relation to new residential construction and sales by builder-vendors (*Sloat v. Matheny*, 625 P.2d 1031, 1032-33 (Colo. 1981)). However, purchasers of existing homes and commercial entities generally cannot rely on these warranties (*Utz v. Moss*, 503 P.2d 365, 367 (Colo. App. 1972)).

Commercial entities and consumers may, however, rely on the implied warranties of merchantability and fitness for a particular purpose when purchasing goods, such as heating units, to be used in construction projects, even if those products eventually become fixtures (*Thomas v. Bove*, 687 P.2d 534, 536 (Colo. App. 1984)).

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

In Colorado, warranties vary by project and by sector of the industry. Contractors often provide one-year warranties on workmanship and pass through product warranties to consumers.

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?

Building Structures and Systems

Beginning on January 1, 2026, a builder of multifamily, attached housing of two or more units may participate in an optional Multifamily Construction Incentive Program (MCIP) that provides certain protections so long as the builder:

- Provides a warranty that covers any defect and damage at no cost to the homeowner on:
  - workmanship and materials;
  - plumbing, electrical and materials; and
  - major structural components.
- Has a third-party inspection performed.
- Records a notice of election to participate in the MCIP in the real property records of the county in which the property is located for the project intended to be covered before the unit is offered for sale.

(Colo. Rev. Stat. Ann. §§ 13-20-802.5(4.5) to (6), 803.3(1).)

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Time Period

To receive the protections of the MCIP, the warranty must be for a minimum period of:

- One year for workmanship and materials.
- Two years for plumbing, electrical and materials.
- Six years for major structural components

(Colo. Rev. Stat. Ann. § 13-20-803.3(1)(a).)

Restrictions

A claimant may not bring a claim under the MCIP unless the alleged defect has resulted in one or more of the following:

- Actual damage to real or personal property.
- Actual loss of the use of real or personal property.
- Actual bodily injury or wrongful death.
- Unreasonable reduction in the capability of, or actual failure of, a building component to perform an intended function or purpose.
- Unreasonable risk of bodily injury or death to, or a threat to the life, health, or safety of, the occupants of the residential property.

(Colo. Rev. Stat. Ann. § 13-20-803.3(6).)

For more information on residential construction warranties, see Quick Compare Chart, Statutory Residential Construction Warranties - Select States.

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?

Colorado's Little Miller Act is codified at Colo. Rev. Stat. Ann. §§ 24-105-201 to 24-105-203 and 38-26-101 to 38-26-110.

Minimum Requirements

Colorado's Little Miller Act applies to:

- A contractor awarded a contract for more than $50,000 for the construction, erection, repair, maintenance, or improvement of any public work for any:
  - county;
  - city and county;
  - municipality;
  - school district; or
  - other political subdivision of the state of Colorado.
- A contractor awarded a contract with the state of Colorado for more than $150,000 for the construction, erection, repair, maintenance, or improvement of any public work.
- All contracts for more than $150,000 for the construction, erection, repair, maintenance, or improvement of any public work that is situated or located on publicly owned property using any public or private money or public or private financing, entered into with any:
  - county;
  - city and county;
  - municipality;
  - school district; or
  - any other political subdivision of the state of Colorado.

(Colo. Rev. Stat. Ann. § 38-26-106(3)(a) to (c).)

Security

The bond or other acceptable security must be:

- At least half the total amount payable under the contract.
- For contracts with values of $500 million or more, half of the total amount payable under the terms of that contract in any calendar year in which the contract is performed.

(Colo. Rev. Stat. Ann. § 38-26-106(1).)

A qualified corporate surety or other qualified financial institution must duly execute the bond or other acceptable security. A certified or cashier's check or a bank money order are also acceptable. (Colo. Rev. Stat. Ann. § 38-26-106(2).)

When a contract of more than $150,000 is awarded, the following bonds or security must be delivered to the state of Colorado and become binding on the parties on the execution of the contract:

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- A performance bond, satisfactory to the state, equal to 50% of the price specified in the contract.
- A payment bond equal to 50% of the price specified in the contract for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract.

These bonds must be executed by a surety company authorized to do business in Colorado or otherwise secured in a manner satisfactory to Colorado. (Colo. Rev. Stat. Ann. § 24-105-202.)

Although outside of the scope of this Q&A, bid security is required for all invitations for bids for construction contracts when the procurement agent estimates the price to exceed $50,000 (Colo. Rev. Stat. Ann. § 24-105-201).

Bid security must be equal to at least 5% of the amount of the bid and must be either:

- A bond provided by a surety company authorized to do business in Colorado.
- Cash.
- Another form satisfactory to Colorado.

(Colo. Rev. Stat. Ann. § 24-105-201.)

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?

Statutory Notices

To make a bond claim in Colorado, a claimant must file a verified statement of claim showing the amount due and unpaid (Colo. Rev. Stat. Ann. § 38-26-107(1)).

The verified claim must be filed:

- With the board, officer, person, or other contracting body by whom the contract was awarded.
- At any time up to and including the time of final settlement, which is the date the final payment is made by the public entity for that construction job.

(Colo. Rev. Stat. Ann. § 38-26-107(1).)

If the amount of the contract exceeds $150,000, the public entity must, no later than ten days before the final settlement is made, publish a notice of the final settlement date at least twice either in:

- A newspaper of general circulation in any county where the work was contracted for or performed.
- An electronic medium approved by the executive director of the Colorado Department of Personnel and Administration.

(Colo. Rev. Stat. Ann. § 38-26-107(1).)

Statute of Limitations

The verified statement claim must be submitted at any time up to and including the time of final settlement (Colo. Rev. Stat. Ann. § 38-26-107(1)). An action to enforce the unpaid claim must be commenced within 90 days of the published date of final settlement (Colo. Rev. Stat. Ann. § 38-26-107(2)).

Additional Requirements

A claimant must also file a lis pendens with the contracting body that awarded the contract within 90 days of the published date of final settlement (Colo. Rev. Stat. Ann. § 38-26-107(2)).

To make a claim against funds being disbursed by a lender or other party advancing funds for a construction project (disburser), a claimant may file and send a notice to the disburser stating the amount owed (Colo. Rev. Stat. Ann. § 38-22-126). The disburser then must:

- Determine the amount due.
- Pay the amount directly to the claimant before disbursing additional amounts to the borrower, even if the claimant does not have privity of contract with the disburser.

(Colo. Rev. Stat. Ann. § 38-22-126(6).)

If the disburser fails to comply with the law after receiving notice, the disburser may be liable for the amounts to the extent the claimant incurs loss or damage as a result (Colo. Rev. Stat. Ann. § 38-22-126(7)).

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20. Do private owners generally require payment or performance bonds or other types of security? Does the security vary by project type or dollar value of the construction? What types of security can be posted?

In Colorado, owners do not typically require bonds on private projects. However, certain factors (for example, dollar amount or project type) may influence whether an owner requires a bond. Although the law does not specify which bonds are sufficient, the following are generally acceptable:

- Corporate surety bonds.
- Cash bonds.
- Letters of credit.

Litigation Concerns

21. What are the applicable statutes of limitations 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 limitations apply to claims in Colorado:

- **Breach of contract**. The statute of limitations for a breach of contract claim is:
  - three years, except as provided in Colo. Rev. Stat. Ann. § 13-80-103.5 (Colo. Rev. Stat. Ann. § 13-80-101(1)(a)). The limitations period starts to run on the date the breach is discovered or should have been discovered through reasonable diligence (Colo. Rev. Stat. Ann. § 13-80-108(6)); or
  - two years, for a breach of contract for construction defect action against a construction professional (Colo. Rev. Stat. Ann. §§ 13-80-102 and 13-80-104). The claim for relief for defect in design or construction arises when the claimant discovers or should have discovered, through reasonable diligence, the physical manifestations of a defect that ultimately causes the injury (Colo. Rev. Stat. Ann. § 13-80-104(b)(I)).
- **Breach of warranty**. The statute of limitations for a breach of warranty is:
  - three years, except as provided in Colo. Rev. Stat. Ann. § 13-80-103.5 (Colo. Rev. Stat. Ann. § 13-80-101(1)(a)). The limitations period starts to run on the date the breach is discovered or should have been discovered through reasonable diligence (Colo. Rev. Stat. Ann. § 13-80-108(6)); or
  - two years, for a breach of warranty against a construction professional (Colo. Rev. Stat. Ann. § 13-80-104). For a breach of warranty based on a construction defect, the claim for relief arises when the claimant discovers or should have discovered, through reasonable diligence, the physical manifestations of a defect that ultimately causes the injury (Colo. Rev. Stat. Ann. § 13-80-104(b)(I)).
- **Negligence resulting in bodily injury or property damage**. The statute of limitations for a negligence claim is two years (Colo. Rev. Stat. Ann. §§ 13-80-102(1)(a) and 13-80-104). The limitations period starts to run on the date both the injury and its cause are known or should have been known through reasonable diligence (Colo. Rev. Stat. Ann. § 13-80-108(1)).
- **Professional malpractice by a design professional**. The statute of limitations is:
  - two years from the date the claim arises for all actions against any architect, landscape architect, contractor, builder or builder vendor, engineer, or inspector performing or furnishing the design, planning, supervision, inspection, construction, or observation of construction of any improvement to real property (Colo. Rev. Stat. Ann. §§ 13-80-102 and 13-80-104); or
  - three years from the date the claim arises for actions against any land surveyor resulting from an alleged negligent or defective land survey (Colo. Rev. Stat. Ann. §§ 13-80-101 and 13-80-105).
- **Latent defects in design or construction**. The statute of limitations is two years from the date the claim arises (Colo. Rev. Stat. Ann. §§ 13-80-102 and 13-80-104(1)(a)). A claim for relief for defect in design or construction arises when the claimant discovers or should have discovered, through reasonable diligence, the physical manifestations of a defect that ultimately causes the injury (Colo. Rev. Stat. Ann. § 13-80-104(b)).

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Actions against suppliers of products for product defects must be brought within two years of the date the claim arises (Colo. Rev. Stat. Ann. § 13-80-106).

Colorado also has a six-year statute of repose (with a possibility of extension to eight years depending on the date the claim arises) that applies to construction claims against architects, contractors, builders or builder vendors, engineers, or inspectors (Colo. Rev. Stat. Ann. § 13-80-104; *Two Denver Highlands LLLP v. Stanley Structures, Inc.*, 12 P.3d 819, 821 (Colo. App. 2000)).

Claims for indemnity, contribution, or otherwise made by a construction professional against another who allegedly caused all or part of that construction professional's liability to a third party are not subject to the statute of repose in this section. These claims arise on the date of settlement or final judgment with the third party and must be brought no later than 90 days after that settlement or final judgment. (Colo. Rev. Stat. Ann. § 13-80-104(1)(b)(II); *Goodman v. Heritage Builders, Inc.*, 390 P.3d 398, 402.)

Colorado has a ten-year statute of repose that applies to claims against land surveyors (Colo. Rev. Stat. Ann. § 13-80-105). For more information on Colorado's statutes of repose, see Question 23.

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?

Affidavit of Merit

A party making a claim for professional negligence in Colorado must file a certificate of review within 60 days after service of the complaint, counterclaim, cross-claim, third-party claim, or designation of non-party at fault unless the court allows a longer period for good cause shown. The certificate of review is filed by the attorney representing the party and declares that:

- The attorney has consulted with a person who has expertise in the area of the alleged negligent conduct.
- The consulted professional has reviewed the known facts, including the records, documents, and other materials that the professional has found to be relevant to the allegations of negligent conduct and, based on the review of these facts, has concluded that the filing of the claim, counterclaim, or cross-claim does not lack substantial justification.
- The consulted professional can demonstrate by competent evidence that, because of training, education, knowledge, and experience, the professional is competent to express an opinion about the negligent conduct alleged.

(Colo. Rev. Stat. Ann. § 13-20-602(1)(a), (3).)

The identity of the consulted professional remains undisclosed to opposing parties. However, on objection by an opposing party, the court in its discretion may:

- Require a party to disclose the identity of the consulted professional.
- Verify the content of the certificate of review.

(Colo. Rev. Stat. Ann. § 13-20-602(3)(b).)

General contractors are not licensed at the state level, so claims against them are not subject to the certificate of review requirement (Colo. Rev. Stat. Ann. § 13-20-601; *Stan Clauson Assocs. v. Coleman Bros. Constr., Ltd. Liab. Co.*, 297 P.3d 1042, 1045 (Colo. App. 2013)).

A district court opinion in Arapahoe County held that a suit against a general contractor for, among other things, defective design, required a certificate of review despite the fact that general contractors are not licensed professionals under state law (*Kaddy v. Dalkita Constr., Inc.*, 2012 WL 5882261 (Colo. Dist. Ct. Mar. 9, 2012)). This rationale has not been adopted by any appellate court, and it is not common practice to file a certificate of review when suing a general contractor, but one could be required to sue the architect or engineer employed by a design-builder who provided defective architectural or engineering design.

However, if the claim is subject to the Multifamily Construction Incentive Program (MCIP), effective January 1, 2026 (see Question 17), subject to limited exceptions, the claimant must file a certificate of review that complies with Colo. Rev. Stat. Ann. § 13-20-602 along with their complaint

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if the claim is against an architect or an engineer (Colo. Rev. Stat. Ann. § 803.3(2), (3)). A defendant that designates an architect or engineer as a non-party at fault must file a certificate of review at least 45 days before any trial or proceeding on the claim (Colo. Rev. Stat. Ann. § 803.3(4)).

Proof of Licensure

There are no proof of licensure requirements in Colorado to file a construction-related lawsuit.

Special Requirements

There are no special requirements in Colorado for lawsuits alleging latent design or construction defects. However, before they may file suit for design defects, claimants must comply with the notice of claim requirements set out in the Colorado Construction Defect Action Reform Act (see Question 23: Notice or Conditions Precedent).

There are no additional statutory procedures required to sue for defects that were latent, but one must be aware that the statute of limitations begins to run when the claimant discovers, or in the exercise of reasonable diligence should have discovered the physical manifestations of a defect in the improvement which ultimately causes the injury (Colo. Rev. Stat. Ann. § 13-80-104(1)(b)(I)).

23. Does your state have a statute of repose? If so:

- What is the applicable period of limitations?
- What types of claims fall under the statute?
- Are there any special notice requirements or conditions precedent to filing a lawsuit?

The following statutes of repose apply in Colorado:

- Colo. Rev. Stat. Ann. § 13-80-104 for construction claims against any architect, contractor, builder or builder vendor, engineer, or inspector.
- Colo. Rev. Stat. Ann. § 13-80-105 for claims against any land surveyor.

Period of Repose

A claimant must bring suit for damages for injury to or loss of use of real property within six years after the substantial completion of the improvement to the real property. This period may be extended if the cause of action arises during the fifth or sixth year after substantial completion of the improvement to real property, in which case the action must be brought within two years after the date the cause of action arises. (Colo. Rev. Stat. Ann. § 13-80-104(1), (2).) However, if the claim is subject to the Multifamily Construction Incentive Program (MCIP), effective January 1, 2026 (see Question 17), the six-year statute of repose cannot be extended unless the claimant pursues all reasonable remedies under the warranty process. In such cases, the statute is tolled until the later of:

- The end of one year.
- The end of the warranty process.

(Colo. Rev. Stat. Ann. § 13-20-803.3(7).)

In cases of multiple buildings, each building should be treated separately. A construction professional cannot assert the period of limitation or repose if they owned or possessed the property at issue at the time when the alleged defect causing the damage arose (Colo. Rev. Stat. Ann. § 13-80-104(3)).

A claimant must bring suit for damages resulting from any alleged negligent or defective land survey no later than ten years after the completion of the survey on which the action is based (Colo. Rev. Stat. Ann. § 13-80-105).

Types of Claims Allowed

Colo. Rev. Stat. Ann. § 13-80-104 applies to all claims against any architect, contractor, builder or builder vendor, engineer, or inspector performing or furnishing the design, planning, supervision, inspection, construction, or observation of construction of any improvement to real property.

Colo. Rev. Stat. Ann. § 13-80-105 applies to all claims against any land surveyor for an alleged negligent or defective land survey.

Notice or Conditions Precedent

Colorado's Construction Defect Action Reform Act (CDARA) applies to all claims for damages for injury to or loss of use of real property and sets out a pre-litigation process with which an aggrieved party must comply before filing a lawsuit (Colo. Rev. Stat. Ann. §§ 13-20-801 to 13-20-808).

A claimant must send or deliver a written notice of claim to the construction professional no later than 75 days (90 days for commercial properties) before filing an action against a construction professional (Colo. Rev. Stat. Ann. § 13-20-803.5(1)(a)).

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After the mailing or delivery of the notice of claim, at the written request of the construction professional, the claimant must provide the construction professional and its contractors or other agents reasonable access to the claimant's property during normal working hours to inspect the property and the claimed defect. The inspection must be completed within 30 days after service of the notice of claim. (Colo. Rev. Stat. Ann. § 13-20-803.5(2).)

Within 30 days (45 days for commercial properties) after the completion of the inspection process, a construction professional may send or deliver to the claimant an offer to:

- Settle the claim by payment of a sum certain.
- Remedy the claimed defect described in the notice of claim.

(Colo. Rev. Stat. Ann. § 13-20-803.5(3).)

The notice of claim and any offer to settle or remedy must be served by either:

- Certified mail with return receipt requested.
- Personal service.

(Colo. Rev. Stat. Ann. § 13-20-803.5(1), (3).)

For claims subject to the MCIP, the construction professional must either:

- Within 90 days after the deadline to inspect, provide an offer to settle the claim or remedy the claimed defect. This deadline can be extended to 270 days by agreement.
- Within 30 days after the deadline to inspect, provide a written response that either:
  - identifies the standards that apply to the claimed defect's construction or performance and explains why the claimed defect does not require repair; or
  - explains the construction professional's scope of work and why the claimed defect is not within that scope of work.

(Colo. Rev. Stat. Ann. § 13-20-803.3(9).)

If a claimant under the MCIP rejects the construction professional's offer to settle or proposal to remedy the defect, the clamant must provide their own written proposal for settlement or repair. The claimant's proposal will be deemed rejected if the construction professional fails to accept it in writing within 15 days after delivery of the proposal. (Colo. Rev. Stat. Ann. § 13-20-803.3(10).)

Effective August 6, 2025, construction professionals must provide the claimant with certain documents and information, to the extent they are within the construction professional's possession, custody, or control, by the earlier of:

- When the construction professional offers to settle the claim.
- 60 days after the construction professional receives actual notice of the claim.

(Colo. Rev. Stat. Ann. § 13-20-803.5(3.5)(a), (3.7)(a).) This provision was likely intended to apply only to the MCIP but the wording of the statute presently would indicate that this requirement applies to all construction professionals regardless of whether they are participating in the MCIP.

The construction professional may charge the claimant reasonable copying costs for these documents (Colo. Rev. Stat. Ann. § 13-20-803.5(3.5)(b), (3.7)(b)).

If the construction professional does not respond or the parties do not agree on repair or payment, the claimant may proceed with litigation. However, if the parties have contractually agreed to a mediation procedure, the mediation procedure must be satisfied before bringing an action. (Colo. Rev. Stat. Ann. § 13-20-803.5(6).) A lawsuit may be stayed for failing to comply with the CDARA.

If a claimant timely provides notice of a construction defect to a construction professional within the time provided by the applicable statute of limitations or statute of repose, the statute of limitations or statute of repose is tolled until 60 days after the completion of the notice of claim process (Colo. Rev. Stat. Ann. §§ 13-20-803.5 and 13-20-805).

Additionally, claimants must file a certificate of review against a licensed professional but do not need a certificate of review against a general contractor (see Question 22: Affidavit of Merit).

For claims subject to the MCIP, claimants also have a duty to mitigate the damage caused by the alleged defect before filing a claim and must certify in their complaint that they have satisfied their duty to mitigate (Colo. Rev. Stat. Ann. § 13-20-803.5(1)(b)). However, the claimant does not breach their duty to mitigate if the cost to mitigate is unreasonable under the circumstances or was beyond the claimant's financial ability to perform (Colo. Rev. Stat. Ann. § 13-20-803.5(1)(d)).

If the claimant and construction professional dispute whether the claimant has satisfied the duty to mitigate, the claimant may proceed with litigation but may not recover any damages that the construction professional proves were caused by the claimant's unreasonable failure to mitigate (Colo. Rev. Stat. Ann. § 13-20-803.5(1)(c)).

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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 clauses in construction contracts may be enforced in Colorado if they meet the following requirements:

- The parties intended to liquidate damages.
- When contracting, the damages specified were a reasonable estimate of the presumed actual damages that the breach would cause.
- When contracting, it was difficult to determine the actual damages that would result from a breach.

(*Powder Horn Constructors, Inc. v. City of Florence*, 754 P.2d 356, 365 (Colo. 1988).)

However, courts refuse to enforce liquidated damages clauses for delays that are wholly or partially the fault of the party claiming the clause's benefit. When a party seeks to enforce a liquidated damages provision, it should be prepared to defend against claims of concurrent delay, and either show that the party seeking to enforce the provision was not at fault in any capacity for the delay, or be able to apportion the delay period into periods where it was not at fault, and periods when it was wholly or partially at fault. (*City of Westminster v. Centric-Jones Constructors*, 100 P.3d 472, 481 (Colo. App. 2003).)

For per diem liquidated damage clauses, apportionment typically consists of allocating days of delay into:

- Compensable delays, which entitle a contractor to recover time related costs and bar assessment of liquidated damages because they are caused wholly by the owner or its agents.
- Excusable delays, which provide a time extension only, but no time-related costs or liquidated damages because they are caused by both parties, or caused by factors outside either party's control.
- Non-excusable delays, which provide for imposition of liquidated damages as they result solely from the fault of the contractor or its agents.

Colorado law has not specifically addressed whether a party can avoid imposition of liquidated damages by proving "offsetting delay" in which an owner does something that adds work to a delayed project, but the added work does not affect the critical path of the work or the end date of the project.

Limitations of Liability

In Colorado, commercial construction contracts negotiated at arm's length may contain provisions limiting a party's liability but may not excuse a party for its own willful or wanton negligence (see *Taylor Morrison of Colo., Inc. v. Bemas Constr., Inc.*, 411 P.3d 72, 77-78 (Colo. App. 2014); 1745 *Wazee LLC v. Castle Builders Inc.*, 89 P.3d 422, 426-27 (Colo. App. 2003)). Colorado courts have also held that exculpatory agreements must be closely scrutinized (*Jones v. Dressel*, 623 P.2d 370, 376 (Colo. 1981)).

In a residential context, under the Homeowner Protection Act, limitations of liability are not enforceable if they attempt to waive or limit rights or damages provided by either the:

- Construction Defect Action Reform Act (CDARA).
- Colorado Consumer Protection Act (CCPA).

(Colo. Rev. Stat. Ann. § 13-20-806(7).)

For example, a generic limitation of liability setting the contract price as the maximum amount of liability for any claims would be unenforceable in a residential context since that would limit claims available under the CCPA. The Colorado Court of Appeals notably chose not to address whether exculpatory clauses that limit rights under the CDARA or the CCPA apply in a commercial context (see *Taylor Morrison of Colo., Inc.*, 411 P.3d at 77-78). In *Broomfield Senior Living Owner, LLC v. R.G. Brinkmann Company*, the Colorado Court of Appeals refused to enforce a contractual limitation on the senior living developer's rights under the CDARA, holding that the senior living facility qualified as residential property subject to the protections of the Homeowner Protection Act because it was designed to house senior residents (413 P.3d 219, 224 (Colo. Ct. App. 2017)). Courts have even refused to enforce contractual limitations pertaining to residential living quarters that are part of mixed-use projects or exist on property zoned for commercial use (*Heights Healthcare Company, LLC v. BCER Engineering, Inc.*, 2021 WL 11669960, at *3 (Colo. Dist. Ct. Feb. 23, 2021)

Subject to certain exceptions, a provision of a construction contract is void and unenforceable if it requires a party to indemnify, insure, or defend another party against liability

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caused by that party's own negligence or the negligence of those under its supervision or control. Furthermore, an indemnitor may not be obligated to indemnify or insure another person for an amount greater than the degree of negligence or fault attributable to the indemnitor or its agents, representatives, subcontractors, or suppliers. (Colo. Rev. Stat. Ann. § 13-21-111.5(6).)

For more information, see Construction Anti-Indemnity Statutes: State Comparison Chart.

No-Damages-for-Delay Clause

Colorado courts enforce no-damages-for-delay clauses but strictly construe those clauses against the owner or contractor seeking to avoid payment. A contractor that willfully, affirmatively, and unreasonably interferes with a subcontractor's performance, causing the delay in question, may be estopped from asserting a no-damages-for-delay clause. (*Tricon Kent Co. v. Lafarge N. Am., Inc.*, 186 P.3d 155, 159 (Colo. App. 2008).)

Additionally, any clause in a public works contract that purports to waive, release, or extinguish a contractor's rights to recover costs or damages, or obtain an equitable adjustment, for delays in performing the contract caused in whole or in part by acts or omissions within the control of the contracting public entity or persons acting on its behalf is against public policy and is void and unenforceable (Colo. Rev. Stat. Ann. § 24-91-103.5(1)(a)).

Choice of Law or Forum

A choice of law provision in a construction agreement affecting improvements to real property within Colorado is unenforceable if it requires the use of another state's law (Colo. Rev. Stat. Ann. § 13-21-111.5(6)(g)). In Colorado, however, a forum selection clause is presumptively valid unless it is unreasonable, fraudulently induced, or against public policy (*Cagle v. Mathers Family Trust*, 295 P.3d 460, 465 (Colo. 2013)).

The anti-waiver provisions in the Homeowner Protection Act would likely prevent enforcement of a forum selection clause on public policy grounds for residential property. Practically speaking, however, once in the selected forum, a non-Colorado judge will look to that forum's laws on choice of law to determine which law applies, and may not abide by Colorado's statute, so practitioners should be aware that a forum selection clause coupled with a choice of law clause for non-Colorado law could lead to application of law other than Colorado law.

For more information, see Choice of Law and Forum Selection in Construction Contracts: State Comparison Chart.

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