The Contract

Make sure that all project details are in writing to avoid misunderstandings.

The contract must include a description of the work and the materials and equipment that will be used. Swimming pool contracts require a plan and scale drawing of the shape, size, and dimensions of the pool, and the construction and equipment specifications.

Identify all materials to be used, along with quality, amount, weight, color, size, or brand names or numbers. Include details like cleanup, restoration of fences and landscaping, and removal of debris and materials. You may also give safety instructions regarding pets, children or areas where materials may not be stored.

Carefully review the contract before you sign.

Who Can Build Pools and Spas?

California state law requires a valid license issued by the Contractors State License Board (CSLB), in the field of work that will be performed, for any contracting job of $500 or more.

Swimming pools, spas and hot tubs can be built by contractors with a C-53 Swimming Pool contractor license.

A General Building "B" contractor and a C-27 Landscape contractor may also contract for swimming pool work, provided they hold the swimming pool specialty classification, or they enter into a subcontract with a licensed C-53 Swimming Pool specialty contractor to perform the actual work.

The law allows Home Improvement Salespersons (HIS) to solicit, negotiate, sell, or execute contracts, including swimming pool construction and repair. But, they must be registered by CSLB.

Licensed contractors must pass a written trade examination, verify four years of journey-level experience, pass a routine background investigation (that, since 2005, has included fingerprints), post a license bond, and show proof of workers' compensation insurance, if needed.

You should ask to see proof of a contractor's license or a home improvement salesperson's registration, along with a valid photo identification.

Hire a licensed contractor.

CONTRACTORS STATE LICENSE BOARD
P.O. Box 26000
Sacramento, CA 95826-0026
800.321.CSLB (2752)
www.cslb.ca.gov

DEPARTMENT OF CONSUMER AFFAIRS

13P-072/0909

C-53 CLASSIFICATION

Before You Dive In

A Consumer Guide to Swimming Pool Construction

CONTRACTORS STATE LICENSE BOARD

California Department of Consumer Affairs

Where to Find a Contractor

Ask friends and relatives for references or get suggestions from trade associations, like a local builders exchange or a swimming pool and spa association.

- Compare bids from at least three different contractors on similar proposals;
- Check with CSLB to make sure that the contractor or the Home Improvement Salesperson is properly licensed or registered, and is in good standing. Verify it online at www.cslb.ca.gov or call, toll-free, 800.321.CSLB (2752); and
- Ask the contractor for the names of clients (current and past) and talk to them about their jobs and their satisfaction with the contractor.

Warning! Owner-Builders

Watch out for "swimming pool consultants" who claim they can save you money by guiding you through the owner-builder process for a fee.

It *is* legal for you to act as an owner-builder; however, unless you hire licensed contractors for the work, you become an employer and are responsible for workers' tax withholding, workers' compensation insurance, and making sure that all work passes building inspections.

CSLB suggests that—unless you are very experienced in construction—it is best to hire a legitimate, licensed contractor. A consultant who takes on the duties of a general contractor may be violating state law and putting you at risk.

Include These Basics in Your Swimming Pool Contract:

- The contractor's name, address, and CSLB license number;
- The approximate dates when the work will begin and be substantially completed;
- A description of the work, equipment, materials, and contract price;
- A schedule of payments in dollars and cents for work that has been completed. It is illegal for payments to get ahead of finished work;
- By law, a down payment cannot exceed 10 percent of the total project price or $1,000, whichever is less.*
- A Notice to Owner regarding the state's lien laws (A mechanic's lien could force you to pay for the same work twice if the contractor doesn't pay employees, sub-contractors or for materials.);
- A description of what constitutes substantial commencement of work; and
- Documentation of whether or not the contractor carries commercial general liability insurance and the name of the insurance carrier.

* (Note: A contractor who furnishes a blanket performance and payment bond, lien and completion bond, a bond equivalent, or joint control agreement approved by the Registrar that covers full performance and payment of project labor and materials, is exempt from this rule. Be sure to obtain documentation verifying that your contractor can use this exemption for your project before giving a greater sum of money than is otherwise authorized by law.)

For more detailed information on swimming pool and other home improvement contracts, please refer to CSLB's booklets, *Terms of Agreement—A Consumer Guide to Home Improvement Contracts, What You Should Know Before You Hire a Contractor*, and *Preventing Mechanic's Liens*. Download free copies from www.cslb.ca.gov or call 800.321.CSLB (2752).

Warning! Frontloading is Illegal

"Frontloading" is a source of many complaints against swimming pool contractors. Some contractors will try to take excessive down payments or money for work before it's completed. A common example is taking the final payment before a pool has been plastered and all other work is completed.

When your payments get ahead of the work, you risk being stuck with an incomplete or abandoned project and having to pay someone else to finish the job.

You can make the final payment at the completion of the final plastering phase of construction, provided that any installation or construction of equipment, decking, or fencing required by the contract is also completed.

The Work in Progress

The contractor will usually obtain the necessary building permits. This arrangement should be written out in your contract or you could be held legally responsible.

Any changes made to the project in materials, completion date, and equipment (after you've signed a contract and even after work has begun) should be made in writing. The "change order" should be clearly worded and signed by both parties. It then becomes part of the contract.

Keep a job file of all documents related to your project, including the contract, change orders, plans and specifications, bills and invoices, cancelled checks, lien releases, notes, correspondence, delivery of supplies, warranties, and photos of the job in progress.

Handling Problems

If you run into problems during or after construction, try talking with your contractor first. Document the issue and send the contractor a letter addressing your concerns. Contractors will usually work with homeowners to resolve the disagreements.

You can file a complaint with CSLB if you are unable to resolve a project dispute with your contractor. CSLB will attempt to mediate a settlement in most cases. A contractor found to be in violation of the law can receive a citation, license suspension or revocation. There is no guarantee that CSLB action will result in restitution. Homeowners can also take the issue to small claims court.

For more information, order *A Consumer Guide to Filing Construction Complaints* and submit a complaint form online at www.cslb.ca.gov or by calling 800.321.CSLB (2752).

Other Resources

- **Better Business Bureau: www.bbb.org**
- **California Spa and Pool Education Industry Council: 916.447.4113 or www.calspec.org**
- **Association of Pool & Spa Professionals: 703.838.0083 or www.theapsp.org**