



Wisconsin Contractors Institute

**COMPLIANCE ESSENTIALS:
RISK MANAGEMENT, LIABILITY,
CONTRACTS, & CODE**

Course Number 962563

4 CE Hours

Wisconsin Contractors Institute

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OVERVIEW

This comprehensive course is designed to equip construction professionals with the knowledge and tools needed to navigate the complexities of insurance and ensure compliance with Wisconsin's ATCP 110 regulations, all while meeting the state requirement to complete 4 hours of continuing education covering code, contracts, risk management, and liability. This course will provide valuable insights to protect your business, manage risks, and stay on the right side of the law.

Part 1: Navigating Insurance for the Construction Professional

In this portion of the course, we'll demystify the world of insurance and explore the essential coverage every contractor should have. You'll gain a deeper understanding of the "why, when, and where" of insurance, as well as practical strategies to minimize risks and control costs. Key topics include:

- Breaking down the insurance contract: critical components you need to know.
- Exploring the types of insurance contractors should carry.
- Understanding factors that influence insurance costs.
- Strategies to reduce the likelihood of significant insurance claims.

Part 2: Reviewing Wisconsin Code ATCP 110

This section will focus on Wisconsin's ATCP 110 regulations, which govern home improvement practices. You'll learn how to navigate these rules to ensure compliance, avoid legal pitfalls, and build trust with your clients. Topics include contract requirements, prohibited practices, and best practices for maintaining ethical and legal standards in your business operations.

Course Objectives

By the end of this course, you'll walk away with actionable knowledge to safeguard your business, manage risks effectively, and operate with confidence in Wisconsin's construction industry.

After completing this course, you will be able to:

1. Understand the theory behind insurance and the important components of the insurance contract.
2. Gain a thorough understanding of the types of insurance general contractors should have.
3. Become knowledgeable about methods for reducing risks as a general contractor.
4. Realize the consequences of not being properly insured.
5. Understand and apply Wisconsin's ATCP 110 regulations to ensure compliance in home improvement practices, including contract requirements and prohibited actions.
6. Develop strategies to maintain ethical and legal standards in business operations, fostering trust and transparency with clients.

Overview – REVIEW QUESTIONS

1. **Which of the following is NOT a key topic covered in "Part 1: Navigating Insurance for the Construction Professional"?**
 - A. Breaking down the critical components of an insurance contract.
 - B. Exploring the types of insurance contractors should carry.
 - C. Understanding factors that influence insurance costs.
 - D. Learning how to draft an insurance policy from scratch.
2. **Which of the following is a topic covered in "Part 2: Reviewing Wisconsin Code ATCP 110"?**
 - A. Strategies for reducing insurance claims.
 - B. Prohibited practices in home improvement.
 - C. Drafting federal construction regulations.
 - D. Understanding factors that influence insurance costs.
3. **Which of the following is NOT an objective of this course?**
 - A. Understanding the theory behind insurance and its key components.
 - B. Learning how to apply Wisconsin's ATCP 110 regulations to home improvement practices.
 - C. Developing strategies to maintain ethical and legal business standards.
 - D. Learning how to create new insurance policies for general contractors.

NAVIGATING INSURANCE FOR THE CONSTRUCTION PROFESSIONAL

INTRODUCTION

This portion of the course will provide an overview of insurance, the different types of insurance that contractors should have; the "why, then, and where's" of insurance. We will also explore some of the factors that affect the cost of insurance and the benefits of being properly insured.

To help us navigate the insurance needs of general contractors, our agenda for this course will consider the following:

- A discussion of the insurance contract and what some of the critical components are.
- We will explore the types of insurance that contractors should have.
- Some of the factors which impact the cost of insurance.
- Ways of minimizing your risk of having a significant insurance claim.

Navigating Insurance: Introduction – REVIEW QUESTIONS

4. The first part of the course, *Navigating Insurance for the Construction Professional*, explores some of the factors that affect ____ of insurance.
- A. Cost
 - B. Type
 - C. Agents
 - D. Certificates
5. To help navigate insurance needs for contractors, the agenda for the first part of this course will consider ways of minimizing your _____ of having a significant insurance claim.
- A. Chance
 - B. Reports
 - C. Risk
 - D. Timeline

- Is the showroom covered?
- What about computers, furnishings, and inventory in the showroom?
- How about John’s personal vehicle?
- Who pays for damage and injuries to the cars John sideswiped?

In this portion of the course, we’ll discuss this and more!

Navigating Insurance: Scenario – REVIEW QUESTIONS

6. In the opening scenario, which natural disaster occurred, affecting John’s business?
- A. Tornado
 - B. Hurricane
 - C. Wildfire
 - D. Flood
7. Which of the following accidents did NOT occur in the opening scenario?
- A. The showroom was destroyed in the fire
 - B. The employee who stayed on site was injured
 - C. John gets into a car accident
 - D. John slipped and fell, hurting his back

SCENARIO

Imagine this:

John, a licensed general contractor, owns and operates ABC Custom Homes in Malibu, California. He is building a large custom home with a projected value upon completion of \$3.5 million. Unfortunately, John’s unfinished home, which is approximately 50% complete, is in the path of a raging wildfire. John, who is at his office and showroom, gets a call from one of his employees who is on the job site when the fire approaches. John instructs the employee to stay on site and attempt to protect the home. Despite his valiant efforts, the employee is unable to save the structure, and he also sustains some significant injuries, resulting in a hospitalization as well as an anticipated long recovery period.



John quickly leaves the showroom which contains items such as kitchen and bath displays, plumbing fixtures, lighting, and flooring samples. Because the showroom also serves as the office for ABC Custom Homes, there are office furnishing, files, office equipment and computers.

Jumping in his personal vehicle, John rushes toward the job site. In all the confusion and traffic John accidentally sideswipes another vehicle causing damage to both vehicles and injuring the other driver. Little did John know, but his office and showroom were also in the path of the fire and destroyed.

This leads us to ask several questions:

- What kind of insurance covers the unfinished home?
- If it is covered, how much will John receive as reimbursement?
- What about the employee?

WHAT IS INSURANCE?

According to the Merriam-Webster dictionary, insurance is defined as “coverage by contract whereby one party undertakes to indemnify or guarantee another against loss by a specified contingency or peril.” In simple terms, it is a means of protection from financial loss in which in exchange for a fee a party agrees to compensate another party in the event of a certain loss, damage, or injury. Insurance is a form of risk management primarily used to protect against the risk of a contingent or uncertain loss. An entity that provides insurance is known as an insurer, insurance company, insurance carrier, or underwriter.

The person or the entity who buys the insurance is known as the policyholder, while the person or entity covered under the policy is called an insured. The policyholder or owner and the entity or individual covered under the policy are not necessarily or always the same.

As mentioned previously, insurance is a risk management technique in which risk is transferred to a third party. In other words, risk transfer involves one party assuming the liabilities of another party. Purchasing insurance is the most common example of transferring risk from an individual or an entity to an insurance company. Risk transfer is a common risk management technique where the potential loss from an adverse outcome faced by an individual or entity is shifted to a third party, to compensate the third-party for bearing the risk, the individual or entity will generally provide the third-party with a single or periodic payments. Insurance is the most common example of a risk transfer strategy. For example, an individual who purchases car insurance is acquiring financial protection against physical damage or bodily harm that can result from traffic incidents. As such the individual is shifting the risk of having to incur significant financial losses from a traffic incident to an insurance company. In exchange for bearing such risks the insurance company will typically charge a periodic payment or what is often referred to as a premium.

Navigating Insurance: What is Insurance? – REVIEW QUESTIONS

The insurance transaction involves the policyholder assuming a guaranteed known, and relatively small loss in the form of a payment to the insurer in exchange for the insurer's promise to compensate the insured in the event of a covered loss. The small guaranteed known loss or payment is referred to as the insurance premium. The premium is paid in exchange for the insurers' promise to compensate the insured in the event of a covered loss. The loss is not always a financial loss, but it must be reducible to financial terms. It is imperative to understand that anyone who is purchasing insurance must have an insurable interest which is established by ownership, possession, or a pre-existing relationship.



When insurance is purchased, the insured receives a formal contract which is called the insurance policy. This policy details the conditions and the circumstances under which the insurer will compensate the insured or their designated beneficiary or assignee. The amount of money that is charged by the insured to the policyholder is called the premium. Many policies will also include a mandatory out-of-pocket expense which must be borne by the insured, this mandatory amount is referred to as a deductible.

The insurance policy may also include details regarding coinsurance, which is a percentage of the cost of a covered service that you pay after your deductible is met. The higher the percentage of coinsurance is, the higher your share of the cost is. Coinsurance is also a property insurance provision that imposes a penalty on an insured's loss recovery if the insurance purchased is not at least equal to a specified percentage of the value of the insured property.

As we have discussed, you as a contractor face unique daily risk, whether overseeing a construction project, managing a team, or working on individual tasks. Having the right contractor insurance is essential to protecting your business, employees, and clients from unforeseen circumstances that could result in costly financial losses. In this portion of the course, we'll cover the basics of contractor insurance, why it's essential for your business, and how you can secure the right coverage for your specific needs.

Contractor insurance is a specialized coverage designed to protect businesses and independent contractors in the construction, renovation, and repair industries. Whether you're a general contractor or specialize in a specific trade, such as plumbing, electrical work, or roofing, you are exposed to risks that could lead to significant financial liabilities. These risks may include property damage, injuries to third parties, or even legal disputes.

Many clients and other organizations require proof of insurance before you can bid on or begin work on a project. Failing to have adequate coverage can result in fines, project delays, or even the loss of business opportunities.

8. **Which of the following best describes the primary purpose of insurance?**
 - A. To eliminate all risks associated with financial loss.
 - B. To provide protection from financial loss in exchange for a fee.
 - C. To guarantee profits for insurance companies.
 - D. To manage investments for individuals and businesses.

9. **Which of the following statements is TRUE about insurance policyholders and insured individuals?**
 - A. The policyholder and the insured are always the same person or entity.
 - B. The insured is the person or entity who sells the insurance policy.
 - C. The policyholder is the person or entity who buys the insurance policy.
 - D. The insured is always responsible for paying the insurance premiums.

10. **What is the most common example of a risk transfer strategy as it relates to insurance?**
 - A. Self-insuring against potential losses.
 - B. Purchasing insurance to shift risk to a third party.
 - C. Avoiding all activities that involve risk.
 - D. Sharing risk equally among all parties involved.

11. **What is the term used to describe the payment made by the policyholder to the insurer in exchange for coverage?**
 - A. Deductible
 - B. Claim
 - C. Premium
 - D. Insurable interest

12. **What does coinsurance typically refer to in an insurance policy?**
 - A. A percentage of the cost you pay after meeting your deductible.
 - B. A fixed amount you pay before the insurer covers costs.
 - C. A penalty for filing multiple insurance claims in a year.
 - D. A discount applied for purchasing multiple insurance policies.

13. Why is contractor insurance important for businesses and independent contractors?

- A. It eliminates all risks associated with construction projects.
- B. It is required to avoid paying taxes on construction projects.
- C. It protects against financial liabilities like property damage or injuries.
- D. It guarantees winning bids on construction projects.

cover the loss falls to the insured. The insured must prove that the loss in question did indeed arise because of a peril named in the policy.

2. An All-Risks policy (also known as comprehensive policy) assumes everything is covered other than those exclusions specified in the policy. Under an All-Risks policy, the burden of proof that coverage applies (or does not) falls to the insurance company. Here, the insurer must review the wording and prove that no exclusion applies to the cause or event that triggered the policy.

Both types of policies have their place. Named Perils policies are common in property insurance wordings. Employment practices liability policies and cyber insurance policies are commonly written on a Named Perils basis. This allows the insurance company to better define and cover known risks that give rise to claims.

Insurance companies commonly write general liability and errors and omissions policies on an All-Risks basis. With these policies, the perils are far more difficult to specifically name. This could be due to their evolving nature, or because coverage could be triggered by a mere allegation of negligence, which is a broad and often complicated assertion.

Despite the standardization of some coverages and policies, the critical distinction between Named Perils and All Risks policies is still widespread, so it's important to carefully review insurance policies. A Named Perils policy might initially appear less complicated. However, it still has its own set of exclusions, those things that are specifically excluded from coverage. An All-Risks policy might have broader coverage yet still be riddled with exclusions. Where both forms are available (such as homeowner's insurance), a Named Perils policy tends to be cheaper.

To reinforce what we have just covered, it's important for us to understand the distinction between the two types of coverage: 'Named Perils' covers only loss incurred as a result of perils that are listed (or named) within the policy wording. On the other hand, 'All Risks' covers losses from any cause if it is not explicitly stated as excluded in the policy wording.

In other words, a Named Perils policy stipulates what IS INCLUDED, an All-Risks policy stipulates what is NOT INCLUDED.

This fundamental distinction impacts policy coverage, how a policy is written – and where the burden of proof lies when a claim arises.

A typical property insurance policy will contain what is referred to as a policy declarations page, this page will declare the maximum amount of coverage for real property which would include buildings and personal property.

The policy declarations page will also include the policy deductible which is the amount of money that you must pay before the insurance company contributes their coverage amount.

There is also a provision in several policies known as ordinance of law coverage. Ordinance or law insurance covers the cost to rebuild a building that has been destroyed, as well as the cost to upgrade a building so that it meets the most up-to-date building codes after a covered loss. There are two types of coverage that fall under ordinance or law insurance:

1. Cost to upgrade: In the event your building is fully or partially destroyed by a covered loss event, ordinance or law coverage will help to cover the costs of updating your building to ensure it meets current building codes.
2. Rebuilding expenses: If your building needs to be replaced, repaired or upgraded after a loss, ordinance or law insurance will help pay for the efforts needed to meet current building laws or ordinances.

A best practice is to always be aware of the realistic value of your

PROPERTY INSURANCE

Let's explore some policy types. Contractor insurance isn't a one-size-fits-all policy. Depending on the nature of your work, you'll need to consider different types of coverage to ensure that all aspects of your business are protected. Here are the key types of contractor insurance policies that are particularly important for contractors:

- Property Insurance
- General Liability
- Business Owners Policy – BOP
- Builders Risk Insurance
- Commercial/Business Vehicle Insurance
- Worker's Compensation Insurance
- Additional Insurance Contractors Should Consider
 - Professional Liability Insurance – Errors and Omissions Insurance
 - Cyber Insurance
 - Completed Products Insurance

We'll discuss each of these types of insurance and how they may pertain to your business.

You may need property insurance to cover the real property your company owns, and the personal property used in the business, such as office furnishings, computers, inventory and raw materials. Your biggest personal property loss exposures may not just be in buildings you own, but may involve valuable machinery and equipment that moves around from job to job and is not covered by standard property insurance. Such movable property is insured by contracts that insurers call "floaters."

Property insurance compensates you if the property you use in your business is lost or damaged as the result of various types of common "perils" such as fire or theft. Property insurance covers not just a building or structure but also what insurers call "personal property," meaning office furnishings, inventory, raw materials, machinery, computers and other items vital to your business operations. Property insurance can do more than protect your physical assets. It may also provide operating funds during a period when you are trying to get the business back on track after a catastrophic loss. Depending on the type of policy you have, property insurance may include coverage for equipment breakdown, removal of debris after a fire or other destructive event, some types of water damage and other losses.

There are two basic types of property insurance policies, a named perils policy and an all-risks policy, but what is the difference?

1. A Named Perils insurance policy specifically names the perils, or dangers, that the insurance company will cover. These are the things that the insurers deem to be risky or worthy of coverage within the insurance policy. When an insured organization suffers a loss under a Named Perils policy, the burden of proof that the insurance policy should

property. Market values and replacement cost are not the same. Read your policy carefully, some policies are “replacement cost” policies while others are “actual cash value” policies.

Market Value is how much a buyer is willing to pay for your property. When determining the market values real estate professionals will prepare comparables or comps. Comparables are similar properties that are used to determine the fair market value of another property. They are also known as “comps”.

When using comparables, it’s important to compare properties that are as similar as possible in the following ways:

- Location
- Size
- Age
- Condition
- Amenities or Improvements
- Proximity to desired facilities
- Traffic count

The more similar the properties are, the more reliable the valuation will be.

Replacement cost, however, deals specifically with how much it would cost to rebuild your building with materials of a similar kind and quality on the existing property. It includes:

- The materials needed to rebuild walls, ceilings, floors, windows, doors, roof, etc.
- The labor to rebuild or repair your building.
- Cleanup costs and debris removal of the building that was damaged or destroyed.

Actual Cash Value (ACV)

The amount of money needed to fix your property, minus the decrease in value of your property because of age or use. This is also called Depreciated Cash Value.

Replacement Cost Value (RCV)

The amount of money needed to repair your property at today’s prices of building supplies; or replace your belongings at today’s cost of the similar or like item. It is important to discuss replacement costs with your insurance agent when purchasing your policy.

How Replacement Cost Works

Generally, if you have Replacement Cost Coverage, the insurance company may first pay you the actual cash value. Once the item is repaired/replaced and receipt(s) submitted, the company will reimburse you the extra money you paid to replace/repair the item. This is called “Recoverable Depreciation.” It is important to know how your policy will pay replacement cost.

Navigating Insurance: Property Insurance – REVIEW QUESTIONS

14. Insurance for contractors is:

- A. A “one size fits all” solution.
- B. The same no matter what type of contractor you are.
- C. Specialized coverage which largely depends on what type of work you perform.
- D. Doesn’t cover risks that can lead to significant financial liabilities.

15. As a general contractor, you sit down to review your property insurance declarations page. The policy will customarily declare all of the following **except**:

- A. How much will be paid per square foot to replace the covered property.
- B. The maximum amount of coverage for real property.
- C. The deductible – how much you have to pay.
- D. The maximum amount of coverage for personal property.

16. What type of insurance contract covers movable property, such as machinery and equipment, that moves from job to job?

- A. Standard property insurance
- B. Liability insurance
- C. Inventory insurance
- D. Floaters

17. Which of the following is NOT typically covered by property insurance?

- A. Office furnishings and inventory
- B. Operating funds during recovery after a catastrophic loss
- C. Removal of debris after a fire
- D. Personal medical expenses of employees

18. What is the key distinction between Named Perils coverage and All-Risks coverage?

- A. Named Perils covers all losses unless specifically excluded, while All-Risks covers only listed perils.
- B. Named Perils covers only listed perils, while All-Risks covers losses from any cause not explicitly excluded.
- C. Named Perils is more comprehensive than All-Risks coverage.
- D. All-Risks requires the insured to prove coverage, while Named Perils requires the insurer to prove exclusions.

19. Property insurance covers a broad range of perils, what it customarily does not cover is:

- A. Your company-owned office building.
- B. Inventory and raw materials
- C. A new home you have under construction at a separate location.
- D. Office furnishing located in your building.

20. What does ordinance of law typically cover?

- A. The cost of routine maintenance for a building
- B. The cost to upgrade a building to meet current building codes after a covered loss
- C. The cost of insuring personal belongings inside the building
- D. The cost of landscaping improvements around the building

21. As a general contractor, your property insurance policy says that your policy covers a loss at “actual cash value”; that means:

- A. What it will cost to replace the item with a new one.
- B. What you think the item is worth.
- C. An adjusted amount which includes wear and tear, and depreciation.
- D. A brand-new item provided by the insurance company.

GENERAL LIABILITY INSURANCE

Any enterprise can be sued. People may claim that your business caused them harm as the result of, for example, a defective product, an error in a service or disregard for another person’s property. Someone may also allege that you created a hazardous environment. Your liability insurance pays damages for which you are found liable, up to the policy limits, as well as attorneys’ fees and other legal defense expenses. It also pays the medical bills of any person injured by your business.

General Liability Insurance is one of the most common forms of contractor insurance. It covers third-party bodily injuries, property damage, and legal defense costs if you’re sued. For instance, if someone is injured on your job site or you accidentally damage a client’s property, general liability insurance can help cover the associated expenses.

Everyone in society has a duty to take reasonable care that their actions do not injure others. The same rule applies to business entities. Not repairing a pothole in a parking lot, not lighting a dark stairway, failing to train workers how to do their jobs safely and legally or failing to provide directions for the safe use of a product can constitute negligence if a client, customer or member of the public is injured as a result. The legal meaning of negligence is failure to exercise reasonable care.

If the parties do not agree to settle a liability lawsuit, there may be a trial. Or, the parties may agree to use some alternative means of dispute resolution, such as arbitration, and be bound by the arbitrator’s ruling.

The law of the state where the lawsuit is filed sets the rules for the determination of liability and damages. The amount of damages imposed in any particular case is, of course, in part a function of the economic losses the plaintiff can prove they have endured due to the defendant’s negligence. In some states plaintiffs may also be awarded damages non-economic damages.

Going to trial can be expensive! In addition to legal fees, you may have a judgment entered against you. The plaintiff may be awarded both compensatory and punitive damages. Compensatory damages are a type of compensation that can be awarded in personal injury and wrongful death claims. They are intended to reimburse the victim for the costs and expenses associated with their injury. There are two types of compensatory damages: economic and non-economic.

Economic damages are more easily calculable and include:

- Medical expenses, such as hospitalization, surgery, and prescription medications
- Lost wages
- Property damage
- Travel expenses

Non-economic damages are more difficult to calculate and include:

- Pain and suffering
- Loss of consortium
- Loss of enjoyment of life
- Mental anguish
- Scarring and disfigurement

Best Practice: Always require your subcontractors to have Owners and Contractors Protective Liability Coverage (OCP). This protects you from possible liability arising from the negligent acts on independent or subcontractors that you hire.



The actual purchaser of the policy is the independent contractor or subcontractor, but the protection is for the benefit of the property/businessowner or general contractor for whom the work is being done.

Navigating Insurance: General Liability Insurance – REVIEW QUESTIONS

- 22. What does General Liability Insurance typically cover for contractors?
 - A. Damage to the contractor’s own tools and equipment
 - B. Third-party bodily injuries and property damage
 - C. Employee wages and benefits
 - D. Routine maintenance costs for the contractor’s business
- 23. What are compensatory damages intended to do in personal injury and wrongful death claims?
 - A. Reimburse the victim for costs and expenses associated with their injury
 - B. Punish the defendant for their actions
 - C. Cover the legal fees of the defendant
 - D. Provide funding for future legal cases
- 24. Why is it a best practice to require subcontractors to have Owners and Contractors Protective Liability Coverage (OCP)?
 - A. It ensures the subcontractor’s tools and equipment are insured.
 - B. It guarantees payment to the subcontractor for completed work.
 - C. It covers the subcontractor’s personal medical expenses.
 - D. It protects the property/business owner or general contractor from liability arising from the subcontractor’s negligent acts.

25. Why are general liability and errors and omissions policies commonly written on an All-Risks basis?

- A. They are less expensive to underwrite than Named Perils policies.
- B. The perils covered are easier to specifically name and define.
- C. The risks involved are broad, evolving, and may include allegations of negligence.
- D. They only cover physical property damage, which is straightforward to assess.

Only small- to medium-sized businesses - those with fewer than 100 employees and less than \$5 million in sales that also meet other specified criteria, are eligible for a BOP. Factors insurers consider include the size of the premises, the required limits of liability, the type of business and the extent of offsite activity. Premiums for BOP policies are based on those factors plus business location, financial stability, building construction, security features, and fire hazards. Most insurers will only offer a BOP to retail operations or service providers; you must also have a physical location to qualify.

A BOP does not include all the coverage you may need. It does not cover professional liability, auto insurance, workers compensation or life, health and disability insurance. You will need separate policies for those. We will look at some of those coverages later in this course.

BUSINESS OWNER'S POLICY

Insurers often combine several coverages into a package that is sold as a single contract. The advantage of a package policy is that it offers a broad variety of coverages for small businesses at a price that is usually lower than if the same coverages were bought separately. The most common type of package policy is the Businessowners Policy or BOP. The term "BOP" specifically refers to insurance policy language developed (and revised as needed) by experts at ISO. ISO is an acronym that stands for Insurance Services Office, a subsidiary of Verisk Analytics, which provides data, underwriting, and risk management services to property insurance companies. ISO provides sample insurance policy language, research and a variety of other products to insurance companies.

Many insurance companies have their own unique names for the package policies they offer, and the coverages may vary somewhat from company to company. Often, these policies are created specifically for businesses that generally face the same kind and degree of risk. There are, for example, package policies designed especially for restaurants, undertakers, hair stylists, accountants and many other enterprises.

A Businessowners Policy (BOP) combines coverage for all major property and liability insurance risks as well as many additional coverages into one package policy suitable for most small businesses.

A BOP includes business income insurance. This compensates you for the business income you may lose following a disaster. Disasters typically disrupt operations and may cause you to vacate your premises. The BOP also covers the extra expense you may incur if you must operate out of a temporary location.

To cover specific risks associated with your business, you may purchase a variety of additional coverages to add to the basic BOP. For example, the BOP doesn't cover outdoor signs unless you specifically add coverage and pay an additional premium. If your business relies on electronic commerce, you may want to add coverage for lost income and extra expenses in the event your ability to conduct e-commerce is slowed down or stopped due to a computer virus or hacker.



Navigating Insurance: Business Owner's Policy – REVIEW QUESTIONS

26. A business owners' policy is:

- A. A policy that protects the life of the owner of the business and pays a death benefit.
- B. A policy that combines several coverages into a package and is sold as a single insurance contract.
- C. A policy that is only offered to very large corporations.
- D. A policy that is never customized but has very specific types of coverage included in it.

27. What does business income insurance included in a BOP (Business Owners Policy) cover?

- A. The cost of repairing damaged equipment
- B. The cost of replacing damaged property
- C. The income lost due to a disaster disrupting operations
- D. The value of inventory lost during a disaster

28. Which of the following is a requirement for a business to qualify for a Business Owners Policy (BOP)?

- A. The business must have more than 100 employees.
- B. The business must operate entirely online without a physical location.
- C. The business must have fewer than \$5 million in sales and meet other specified criteria.
- D. The business must be a large manufacturing operation.

VEHICLE INSURANCE

You'll need commercial auto insurance if your business uses vehicles to transport tools, materials, or employees to job sites. This coverage protects your vehicles, your employees, and any third parties involved in an accident while your vehicles are used for business purposes.

As a business owner, you need some of the same insurance coverages for the cars, trucks, vans or other vehicles you use in your business as you do for vehicles used for personal purposes.

Your Businessowners Policy (BOP) does not provide any coverage for vehicles, so you must have a separate policy.



Most states require you to purchase liability insurance for bodily injury and property damage that may result from a vehicle accident occurring while you or someone from your organization is driving on business. Most states have mandatory requirements for you to have uninsured/underinsured motorists' coverage and/or medical payments coverage (known as Personal Injury Protection, PIP, in some states).

You can also purchase physical damage coverage for vehicles your business owns, leases, or hires.

The Business Auto Coverage Form (BACF) is the standard insurance form used by many insurers to provide commercial auto coverage. Although the form refers only to "autos," autos are defined to include cars, trucks, trailers, vans or other vehicles designed for use on public roads.

Each vehicle you use in your business can be separately "scheduled," or listed on your policy along with corresponding coverages. In other words, you can choose different coverages, for your various vehicles, depending on the vehicles' features (size, age, theft rating and safety rating) and the coverage you need for it.

Let's briefly take a look at what a commercial/business vehicle policy normally covers.

First, it covers physical damage to your vehicles. The three types of physical damage coverage for motor vehicles are collision, comprehensive and specified perils.

1. Collision coverage is for losses that result from the collision of a covered vehicle with any object or from the vehicle overturning.
2. Comprehensive coverage is the broadest form of auto physical damage coverage, because it provides for losses from any cause except collision and overturn (insured under collision coverage) and a few policy exclusions, such as wear and tear, mechanical breakdown and acts of war. Among the causes of loss covered under comprehensive are flood, fire, theft, glass breakage, falling objects, explosion, earthquake, or colliding with a wild bird or animal.

It is important for us to understand what the insurer will pay for physical damage. The amount an insurer will pay on an auto physical damage or theft claim depends on the market value, known as Actual Cash Value (ACV), of the vehicle at the time of the loss. The most that will be paid is the lesser of the ACV or the cost to repair or replace the vehicle with one of like kind and quality. In the event of a total loss, the ACV is adjusted for depreciation and the vehicle's physical condition. Thus, the older the vehicle and the worse its condition, the more its value has depreciated and the less the insurer will pay.

The insurance company may pay you the value of the loss in money or, according to their choice, it may repair or replace the damaged or stolen vehicle. In case of a theft, it may return the stolen vehicle to you with payment for any damage caused by the theft.

A commercial vehicle policy also includes liability coverage.

The liability portion of the BACF (business auto coverage form) obligates the insurer to pay all damages the business is legally

obligated to pay because of bodily injury or property damage caused by a covered vehicle, up to the policy limits.

When there is an auto liability lawsuit against the insured business, where the loss is covered by the policy, the insurer is obligated to defend the business or settle the lawsuit. The decision whether to contest or settle the case is entirely at the insurer's discretion.

The insurer's duty to defend or settle ends when the insurance policy limits are exhausted. By way of example, imagine that three people are injured in an accident in which you or one of your employees is at fault. The policy limit is exhausted in judgments or settlements for the first two claimants. That leaves your business liable to pay the award directly, should there be a judgment in favor of the third person.

Punitive damages may be awarded in cases of gross negligence, such as drunk or reckless driving. By law in several states, a BACF cannot cover any punitive damages for which you may be liable. Even in states where coverage for punitive damages is allowed, your policy may exclude them.

People often ask: how much liability coverage is enough? Many insurers recommend a business auto coverage limit of \$1,000,000, with \$500,000 as the minimum. The higher limit does not add a great deal to the premium, considering the amount of additional protection it provides.

Another term you should be aware of is Combined Single Limit (CSL), but exactly what is it? Unlike personal auto policies that have separate limits for bodily injury and property damage liability (split limits), the BACF commonly has a Combined Single Limit (CSL). This creates higher limits for both bodily injury and property damage coverages, including per occurrence limits. Although you can purchase other limits, the most common commercial automobile CSLs for a small business are \$500,000 and \$1,000,000.

A question that is frequently asked is: Will my personal auto policy cover business use? Your personal auto policy provides coverage for some business use of your vehicle. Similarly, your employees' personal auto policies cover some business use of their vehicles too (depending on the type of business).

Even if not specifically excluded, how you use your vehicle may not be an acceptable risk to the insurance company under a personal auto policy. The insurance company may charge additional premium for certain "business use" or refuse to insure or cancel policies when the use presents too much risk. In these cases, a commercial auto policy may be the best solution.

If a vehicle is used *primarily* in business, there is likely no coverage under a personal auto policy. If you use your personal vehicle for work *occasionally*, your personal insurance carrier might be able to tailor your policy to reflect this usage.

If the vehicle is owned by a business, there will be no coverage under a personal auto policy. A commercial auto policy would need to be purchased.

For example, imagine you are driving your car to a job site while having an intense conversation on your cell phone with one of your suppliers. By the time you notice a van ahead of you has stopped to make a left turn, it's too late to avoid a collision. The driver and five passengers are injured in the accident. They sue you *and* your company.

If you have only a personal auto policy, your insurer will probably defend you personally and pay the claim—up to the policy limit. Your personal auto policy insurer will not defend or pay damages on behalf of your business, however.

For a very serious accident or one with several injured people, your personal auto policy may not be enough to cover the damages. In that event, the injured parties would likely sue to collect damages from your business.

Do not expect to rely on a personal umbrella policy for any claims that arise from business use of a vehicle. Typically, the personal umbrella excludes all claims occurring during a business endeavor. **As best practice: Do not use your personal vehicle for business purposes or allow employees to drive them, without checking with your insurance company first!**

Navigating Insurance: Vehicle Insurance – REVIEW QUESTIONS

29. **You allow your employees to drive their own personal vehicles for your business purposes and one of them is involved in an accident. You:**
- A. Don't worry about it because their insurance will take care of it.
 - B. Don't feel responsible because they were just being careless.
 - C. Can be sued and be found liable because they were working for you even though they were in their own vehicle.
 - D. Encourage them to find a way to work the next day.
30. **What does the Business Auto Coverage Form (BACF) allow businesses to do?**
- A. Insure only cars, excluding trucks and vans.
 - B. Schedule each vehicle separately with specific coverages based on its features and needs.
 - C. Provide coverage exclusively for personal vehicles used for business purposes.
 - D. Automatically apply the same coverage to all vehicles, regardless of type or use.
31. **What determines the amount an insurer will pay for an auto physical damage or theft claim?**
- A. The Actual Cash Value (ACV) of the vehicle at the time of the loss
 - B. The original purchase price of the vehicle
 - C. The cost of a brand-new replacement vehicle
 - D. The amount the owner believes the vehicle is worth
32. **What does the liability portion of the Business Auto Coverage Form (BACF) cover?**
- A. Repairs to the business's own vehicles after an accident
 - B. Medical expenses for employees injured while driving a personal vehicle
 - C. The cost of routine maintenance for covered vehicles
 - D. All damages the business is legally obligated to pay for bodily injury or property damage caused by a covered vehicle, up to policy limits
33. **What is a Combined Single Limit (CSL) in a Business Auto Coverage Form (BACF)?**
- A. A limit that applies only to property damage liability.
 - B. A single limit that combines bodily injury and property damage liability coverages, including per occurrence limits.
 - C. A separate limit for bodily injury and property damage liability, like in personal auto policies.
 - D. A deductible amount that must be paid before coverage begins.
34. **Carolyn is a general contractor; she drives her personal car to the office each day. After arriving at the office, she uses a pick-up truck owned by the company. What type of insurance policy does Carolyn need to cover the pick-up truck owned by the company?**
- A. Business Owners Policy (BOP)
 - B. Commercial/Business Vehicle Policy
 - C. Personal Vehicle Policy
 - D. General Liability Policy

BUILDER'S RISK INSURANCE

Builder's Risk covers damage to the construction site, materials and equipment that happens during construction. This coverage safeguards against fire, theft, vandalism and natural disasters. Builder's risk insurance is essential for contractors working on new construction or major renovations. All lenders will normally require proof of builder's risk insurance.



With a Builders Risk Insurance policy, if a tornado destroys the building when it is half finished, the policy (assuming it is for replacement value) covers one-half of the value the building would have had if completed. If a tornado wipes out the building when it is three-fourths finished, the policy covers three-fourths of the completed value. Alternatively, you can report an actual amount for value completed to the insurance company each month. That is the amount of coverage should a loss occur that month.

Navigating Insurance: Builder's Risk Insurance – REVIEW QUESTIONS

35. **What does Builder's Risk insurance cover?**
- A. Liability for injuries to workers on the construction site
 - B. The cost of permits and inspections for new construction
 - C. Damage to the construction site, materials, and equipment during construction
 - D. Wages for contractors working on the project
36. **How does a Builder's Risk Insurance policy typically determine the payout for a building damaged during construction?**
- A. It covers the portion of the building's value based on the stage of completion at the time of the loss.
 - B. It pays the full value of the completed building, regardless of the stage of construction.
 - C. It only covers damages if the building is fully completed.
 - D. It pays a fixed amount regardless of the building's progress.
37. **If a building is destroyed during construction and you have a builder's risk policy, the insurance company will pay you:**
- A. A pro-rated amount of the anticipated final cost based on the percentage of project completion; up to the policy limit minus the deductible.
 - B. Pay you the actual amount you have spent on the project to date, limited to labor and material. They will not pay anticipated profit or overhead.
 - C. Nothing; partially completed structures are not covered.
 - D. The final anticipated contract or projected sale price.

WORKERS' COMPENSATION

The occupational health and safety act was signed into law by President Richard Nixon on December 29, 1970. That act legally requires employers to provide their employees with a safe and healthy workplace. However, accidents can and will happen. When they do, workers' compensation insurance provides coverage. In this section of the course, we will discuss what this coverage offers.

Workers receive benefits regardless of who was at fault in the accident. If a worker is fatally injured while working, workers' comp (as it is often abbreviated) provides death benefits for the worker's dependents.

Workers' compensation insurance serves two purposes: It assures that injured workers get medical care and compensation for a portion of the income they lose while they are unable to return to work and it usually protects employers from lawsuits by workers injured while working.

Injuries employees sustain on the workplace premises or anywhere else while the employee is acting in the "course and scope" of employment are covered if their employer has workers comp insurance. For example, the leading cause of workers' comp death claims is traffic accidents that occur when the employee is in a vehicle for work purposes, whether the trip is made in the company's car or the employee's own vehicle. Accidents driving to and from work are not covered.

In addition to injuries from accidents, workers' comp covers injuries employees may sustain from other events that may occur while they are working, including workplace violence, terrorist attacks and natural disasters.

Workers' comp insurance also covers certain illnesses and occupational diseases (defined specific state statutes) contracted because of employment. For example, employees who work with toxic chemicals can be made ill by exposure to the chemicals.

Injured workers receive all medically necessary and appropriate treatment. With medical costs soaring, many states have adopted measures designed to rein in expenditures. These include utilization management guidelines, which describe acceptable treatment protocols and diagnostic tests for specific injuries.

Income replacement benefits are based on whether the disability is total or partial and whether it is permanent or temporary. Impairment is generally defined as a reduction in earnings capacity, sometimes using the American Medical Association's criteria.

Most states require that benefits be paid for the duration of the disability, but some specify a maximum number of weeks, particularly for temporary disabilities. The benefit amount is a percentage of the worker's weekly wage (actual or state average).

Workers' compensation systems are established by statutes in each state. State laws and court decisions control the program in that state and no two states have the same laws and regulations.

States determine such features as the amount of benefits to which an employee is entitled, what impairments and injuries are covered, how impairments are to be evaluated and how medical care is to be delivered. In addition, states dictate whether workers' compensation insurance is provided by state-run agencies and by private insurance companies or by the state alone. States also establish how claims are to be handled, how disputes are resolved and they may devise strategies, such as limits on chiropractic care, to control costs.

To learn about the requirements where you live, visit your state's workers compensation department website. If your business expands to another state, you may have to deal with very different rules in the new state.

Navigating Insurance: Workers' Compensation – REVIEW QUESTIONS

38. **Worker's Compensation Insurance serves two primary purposes and has one added benefit. Which of the following is NOT one of those?**
- A. It assures proper medical care for injured workers.
 - B. It requires workers to return to work regardless of their injury.
 - C. It assures that injured employees are compensated for the portion of income they lose.
 - D. It protects employers from lawsuits from injured workers.
39. **What types of injuries are covered by workers' compensation in addition to those from accidents?**
- A. Injuries sustained during off-duty recreational activities
 - B. Injuries caused by pre-existing medical conditions
 - C. Injuries from workplace violence, terrorist attacks, and natural disasters
 - D. Injuries that occur while commuting to and from work

40. Which of the following is determined by individual states regarding workers' compensation insurance?

- A. The federal guidelines for workers' compensation benefits
- B. The amount of benefits employees are entitled to and how claims are handled
- C. The specific insurance companies required to provide coverage nationwide
- D. The uniform evaluation process for impairments across all states

Since many construction companies think that they aren't at risk for a cyber attack, they don't properly invest in cybersecurity tools and/or use outdated, end-of-life systems, making them easy targets. They also have valuable infrastructure and intellectual property information which makes them desirable targets to cyber criminals.

Let's look at some scenarios where cyber insurance might pay off.

Ransomware: A roofing company has an open communication portal for bill pay and construction management projects and discovers widespread encryption across their network, locking them out of their entire system. They receive an initial demand of \$3,000,000 to regain access.

Business email compromise: An attacker accesses the email account of a landscaping company's employee and sends fraudulent wire instructions to a client. The client pays the \$50,000 invoice.

Social engineering: A commercial project contractor receives an email claiming to be one of the company's subcontractors. The email claims to have issues with receiving check payments and requests payments to be sent to a different address. The contractor sends a \$200,000 check, only to find out later that the instructions were fraudulent.

Cyber insurance protects businesses from significant financial loss in the event of a cyber incident and helps them get back on their feet.

Here are some of the benefits of cyber insurance. A cyber insurance policy can help minimize the disruption from a cyber attack and cover the financial costs related to resolving and recovering from an incident. A cyber insurance policy traditionally covers ransomware attacks, financial fraud and cybercrime, lost income from business interruptions, your response to a data breach and recovery of that data, and any liability claims that may arise from network security or information privacy events.

The types of cyber coverage can be broken down into two categories. First party coverage, which deals with damages that your business has suffered, and third-party coverage, which covers damages to others brought about by your company either directly or indirectly. Items that are covered under first party coverage include the following:

Event response and recovery, which covers the costs to hire forensic experts to determine the source and the scope of a network security event as well as the cost to restore and re-create data that may have been lost, corrupted, or destroyed.

Event response and management: this covers costs when the insured has a legal obligation to notify individuals who may be affected by an information privacy event.

Direct business interruption: this coverage reimburses the business for lost income and extra expenses incurred following an interruption or an outage of a computer system due to a cyber event.

Contingent business interruption: covers lost income and extra expenses incurred if your business relies on 1/3 party technology provider whose systems are interrupted or shut down due to a cyber event.

Contingent and direct system failure coverage: this also covers lost income and extra expenses incurred by the insured because of an unplanned system outage to the insured's computer system or the computer systems of a third-party technology provider.

Cyber extortion: this covers the costs and expenses incurred to mitigate the severity of an extortion loss and the payment of funds or assets by the malicious third-party that is threatening the insured's systems and/or data.

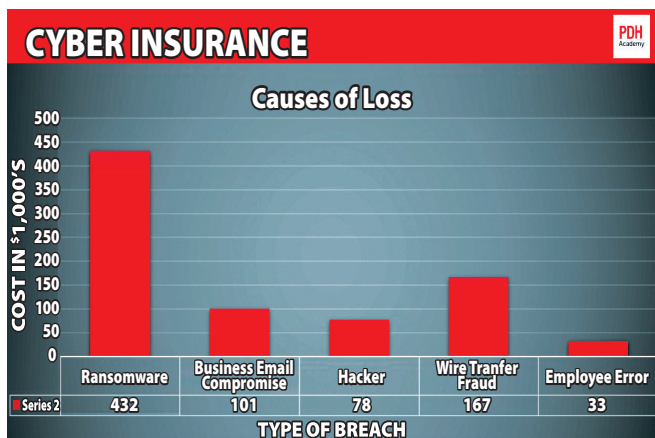
ADDITIONAL COVERAGES

In this section, we will consider some additional types of insurance that general contractors may want to purchase. We will take a thorough look at cyber insurance, consider the benefits of professional liability insurance—or what is often referred to as errors and omissions insurance—and finally, explore the benefits of buying completed products insurance.

Cyber Insurance

Cyber attacks can be a serious threat to any size business whether you're large or small business. The average loss sustained or ransom paid by businesses affected by cyber attacks has historically averaged \$205,000. The question you need to ask yourself is: Can your business afford that loss?

In 2024, a study was conducted by a cyber security firm that analyzed cyber incidents among small to medium business enterprises (SME). The SME ranged in average revenue size from as little as \$12,000 to as much as \$1.9 billion, however SMEs accounted for 98% of all the claims. The top number of claims experienced by small to medium enterprises fell into the following categories with the following attacks averaging these dollar amounts disbursed to remedy cyber issues. Ransomware attacks resulted in an average loss of \$432,000, business email compromises resulted in an average loss of \$101,000, hacking attacks had an average loss of \$78,000, wire transfer frauds equaling an average of \$167,000, and simple staff or employee errors with an average of \$33,000. Cyber insurance could help mitigate these losses which by themselves could bankrupt a business.



Far too many small to medium businesses believe that they are not targets for cyber attacks, often not seeing value in purchasing cyber insurance, and many contractors are no different. It is a myth that cyber insurance is only for companies that work heavily with computers, like an IT company; any company that utilizes email, a website, computers, or mobile devices is at risk for a cyber attack.

Social engineering and computer fraud: this covers the theft of funds or other assets that the insured suffers because of social engineering or computer fraud.

Reputational harm coverage, this covers income that is lost by the insured due to adverse publications or bad press stating that they have experienced a cyber event.

Third-Party Coverages that are frequently included in a cyber insurance policy would include:

Information privacy liability: this covers defense costs and damages for claims made by third-party due to an actual or alleged violation of privacy regulations or your failure to protect another’s personal information.

Network security liability: covers damages and claims by third parties because of a network security failure.

Regulatory liability: covers the defense of and payment of any damages or penalties if a government agency brings a claim against you for violation of privacy regulations.

Payment card liability: covers actual or alleged noncompliance with the payment card industry data security standards as well as reimbursements for chargebacks and other associated costs.

Many small business owners frequently ask the following question: “my business is small and we don’t have a lot of data, so why should I buy cyber insurance?” Despite their size, small businesses are frequent targets for cyber attacks due to their lack of resources and expertise to combat evolving threats. Cyber insurance is crucial for small businesses, not only to provide comprehensive coverage in the event of a cyber attack, but also to offer security services and access to security products these resources can help protect your business and prevent an incident that could potentially decimate your bottom line.

Many companies outsource their data, however you still need your own cyber insurance. A client or a partner may entrust their data to you. You may be legally responsible for that data, and you may ultimately be accountable for that data, being held liable for damages that your client or partners may incur regardless of whether it occurs on your computer system or on the computer system of parties you may entrust with that data.

It is important as a general contractor to be sure that your current package policy or business owner’s policy includes cyber coverage. You should be certain that added on provisions provide that critical coverage that can help mitigate the financial, operational, and reputational damage that a cyber event can inflict on your business.

Professional Liability Insurance

Professional Liability Insurance is another type of insurance you may want to consider. If your contracting business involves services such as giving advice, making recommendations, designing products, providing physical care or representing the needs of others, you could be sued by customers or clients or claiming your failure to perform your job properly harmed them in some way. Errors and Omissions or Professional Liability Insurance cover these situations. The policy will pay any judgment for which the insured is legally liable, up to the policy limit. It also provides for legal defense costs, which can be substantial, even where there has been no wrongdoing.

It’s important for us to draw a distinction between contractor’s *professional* liability insurance and *general* liability insurance.

	CONTRACTORS GENERAL LIABILITY INSURANCE	PROFESSIONAL LIABILITY – E&O INSURANCE
BODILY INJURY	X	
PROPERTY DAMAGE	X	
ECONOMIC LOSS/ PROFESSIONAL NEGLIGENCE		X
RECTIFICATION/ MITIGATION		X
FAULTY WORKMANSHIP		X
POLLUTION/MOLD		X

Designing and building a structure can be a complex process involving multiple parties, including designers, architects, building contractors, engineers, artisan contractors, construction managers, and other specialists. Construction mistakes associated with performing professional services can result in expensive delays, costly rework, budget overruns, and third-party bodily injury and/or property damage claims. Understanding and anticipating these potential risks can be the difference between a profitable project and one that is tied up in expensive litigation for years.

It’s not uncommon for contractors to think their general liability insurance provides coverage for rework or other errors, but CGL responds to bodily injury or property damage caused by an accident or resulting from the contractor’s work. Typically, general liability policies do not address economic loss or other issues of vicarious liability such as Indemnity, Rectification/Mitigation of Damages, Faulty Workmanship, or Pollution/Mold Liability. Contractors’ Professional Liability Insurance can provide the protection a contractor needs when facing accusations of errors or negligent design, engineering, construction management, or consulting services performed by the contractor or on the contractor’s behalf.

Let’s take a deeper dive into the coverages that are typically provided in a contractor’s professional liability and errors and omissions policy.

Economic loss & professional negligence: Contractors face significant financial risk when promising to deliver a completed project on time and within budget. For example, if a contractor estimates the cost of a warehouse project to be \$2,000,000 and a loading platform is later revealed to be inadequate to meet the stated warehouse needs, the required revision can push project costs to \$2,500,000, leaving the contractor liable for the additional \$500,000 required to replace the platform. Or, if a contractor subcontracts the design of a ventilation system to a mechanical engineer that specifies an inadequate system, the contractor can be held liable to help replace the underperforming system if the mechanical engineer doesn’t carry adequate E&O insurance.

Protective indemnity & faulty workmanship: While many contractors believe CGL policies cover faulty workmanship claims, the truth is that most don’t cover rectification of errors, and they often exclude damages resulting from defective workmanship, as well as the funds, time, and work hours needed to correct the mistake. The Protective Indemnity provisions of a Contractors Professional Liability program can help cover an insured’s financial loss associated with claims by a contractor against another entity providing professional services such as an architect or engineer. Protective Indemnity is designed to

function in excess of a subcontracted architect or engineer's underlying insurance, when their insurance isn't adequate to cover third-party. It will step in to defend the contractor and pay the difference in costs if needed.

Rectification/mitigation & pollution/mold: Contractors Professional Liability can also help prevent errors or project issues from growing into bigger problems. Mitigation coverage proactively responds to professional and/or pollution issues that could reasonably lead to a third-party claim against the contractor. If a contractor discovers an error during construction, the carrier advances funds directly to the insured to rectify the error and get the project back on track. This coverage can inspire a faster response to pollution or professional service exposures, helping the contractor stay on schedule and within budget. It also helps maintain a strong relationship between the project owner and the contractor. Because pollution is excluded from nearly all general liability policies, an add-on is typically needed to cover pollution arising from construction activities or operations. Policies typically include coverage for transported pollutants, mold, emergency response, and restoration costs. Mold losses can impact a variety of different contractors, including roofers, window installation contractors, HVAC firms, and plumbers, among others. Mold is troublesome, because it often grows in hidden areas—behind walls, under carpeting, or inside HVAC ducts—often not noticed immediately, and results in damage and liabilities that can be catastrophic for a contractor without pollution coverage.

Products Completed Operations Coverage

Products-Completed Operations Coverage helps cover liability claims resulting from your business' product or completed operations that were done away from your location. It can help cover claims that your business caused bodily injury or property damage. You'll find this coverage in some small business insurance policies like a general liability policy or a business owners policy. However, in many instances it is a standalone floater or rider that must be attached to the policy.

Businesses that provide a professional service, like contractors, can face completed operations claims. These kinds of claims are for work done away from business premises that may be faulty and cause bodily injury or property damage.

For example, let's say you're a contractor and recently renovated a client's kitchen. After finishing the work, your client sued your business because a cabinet fell and damage occurred to the wall and the client's valuable crystal was damaged. Products-Completed Operations Insurance can help cover the costs and if need be, to defend your business in a lawsuit.

There are three criteria claims must meet to be eligible for coverage:

1. The claim is about your business' products or completed work causing bodily injury or property damage.
2. The injury or property damage occurred after the product is no longer in your business' location or after you completed a service away from your location.
3. The injury or property damage claim is linked to your business' product or services.

There are exclusions on covered claims. Not every claim made against your business is eligible for products-completed coverage. This coverage won't help your business if there's:

- Damage while you're completing a service. If you're working away from your business and damage someone else's property before you complete the service, this coverage won't help you.

- Property damage to the product you sold to a customer. Your coverage only helps cover claims of injury or property damage to others, not the product itself. You'll need commercial property insurance to help cover damage to your products.
- Property damage to impaired property. This means the person's damaged property wasn't in good condition before your business' services started.
- Product recalls. If your business sells a product that needs to be recalled, the products-completed operations coverage will not apply to damages associated with that recall.

Be aware that there are aggregate limits for products-completed operations coverage. This means your insurer will only cover a certain number of total losses during your policy period. If your aggregate limit is \$1 million, you'll be eligible for coverage up to that amount for the entire policy period. Once your business reaches that limit, your insurer won't provide products-completed coverage for additional claims until the next policy period begins.

MISCELLANEOUS COVERAGES

There are several additional insurance coverages that your business may need to consider, and this section will examine these. Among them are umbrella policy, an employment practices liability policy, directors and officers liability policy, business identity insurance, and terrorism insurance.

Umbrella Policy

As the name implies, an umbrella liability policy provides coverage over and above your other liability coverages. It is designed to protect against unusually high losses, when the policy limits of one of the underlying policies have been depleted. For the typical business, the umbrella policy would provide protection over and above general liability and auto liability policies. If you have Employment Practices Liability Insurance, Directors and Officers Liability or other types of liability insurance, the umbrella could provide protection over and above those policy limits as well.

Employment Practices Liability Insurance



Employment Practices Liability Insurance pays, up to the policy limits, damages for which an employer is legally liable for violating an employee's civil or other legal rights. In addition to paying a judgment for which the insured is liable, it also provides for legal defense costs, which can be substantial even where there has been no wrongdoing.

Directors and Officers Liability Insurance

Directors and Officers Liability Insurance protects directors and officers of corporations or not-for-profit organizations if there is a lawsuit claiming they managed the business or organization without proper regard for the rights of others, including the misuse of business funds. The policy will pay any judgment for which the insured is legally liable, up to the policy limit. It also provides for legal defense costs, which can be substantial even where there has been no wrongdoing.

Business Identity Insurance

Business Identity Theft Insurance, which may be included in a cyber insurance policy or a standalone policy, provides legal liability coverage to businesses that are victims of data theft. Such policies can also provide coverage to notify customers whose personal identification information may have been compromised and pay for services to provide identity theft recovery services for customers.

Terrorism Insurance

Prior to the terrorist attacks of September 11, 2001, standard commercial insurance policies included terrorism coverage as part of the package, effectively free of charge. Today, terrorism coverage is generally offered separately at a price that more adequately reflects the current risk. Insurance losses attributable to terrorist acts under these commercial policies are insured by private insurers and reinsured or “backstopped” by the federal government pursuant to the Terrorism Risk and Insurance Act (TRIA), enacted by Congress in 2002. Under the act, the federal government reimburses the insured for 90% of the claim after the deductible. The Act was renewed in December 2005 and renewed again in 2007, and 2015. Under TRIA, owners of commercial property, such as office buildings, factories, shopping malls and apartment buildings, must be offered the opportunity to purchase terrorism coverage. This requirement also applies to your Businessowners Policy (BOP)—your insurer must offer terrorism coverage as mandated by TRIA. In some cases, insurers still include terrorism for no additional premium. In other cases, there is a separate charge. You should confirm with your agent or broker whether your BOP or other package policy provides terrorism coverage. It is important to note that TRIA excludes certain lines, such as burglary and theft and commercial auto. Workers’ compensation is the only line of insurance that automatically covers acts of terrorism. In 2019, the president signed into law the Terrorism Risk Insurance Program Reauthorization act the extend the program through December 31, 2027.

Navigating Insurance: Additional Coverages – REVIEW QUESTIONS

- 41. Cyber insurance policies can cover all of the following except:**
- A. Ransomware payments and mitigation.
 - B. Damage to office furnishings.
 - C. Lost income from business interruption.
 - D. Liability claims from network security and information privacy events.
- 42. Why are construction companies often targeted by cybercriminals?**
- A. They are required to store customer credit card information.
 - B. They have no valuable data or intellectual property to protect.
 - C. They are legally exempt from investing in cybersecurity measures.
 - D. They frequently use outdated systems and lack proper cybersecurity tools.
- 43. Which of the following is an example of first-party cyber coverage?**
- A. Covering damages to third parties caused by your company’s cyber event
 - B. Paying legal fees for lawsuits filed by affected individuals
 - C. Reimbursing lost income due to a system outage caused by a cyber event
 - D. Covering damages to a third-party technology provider’s systems
- 44. Which of the following is an example of third-party coverage in a cyber insurance policy?**
- A. Reimbursing a business for lost income due to a system outage
 - B. Covering claims made by third parties for a network security failure
 - C. Paying for the restoration of lost or corrupted data
 - D. Covering the cost of hiring forensic experts to investigate a cyber event
- 45. Why is cyber insurance important for small businesses?**
- A. It provides comprehensive coverage and access to security services to help prevent and recover from cyber attacks.
 - B. Small businesses are exempt from cyber threats due to their size.
 - C. Small businesses are legally required to have cyber insurance.
 - D. It eliminates the need for any additional cybersecurity measures.
- 46. Professional liability – errors and omission insurance covers:**
- A. Mistakes made by your employees only.
 - B. Covers mistakes made by you as well as third parties you hire, such as architects or engineers.
 - C. Injuries to workers on the jobsite.
 - D. Theft of building materials.
- 47. The major difference between Contractors General Liability Insurance and Professional Liability – E&O Insurance is:**
- A. Professional Liability – Errors and Omissions Insurance does not cover bodily injury or property damage.
 - B. Professional Liability – Errors and Omissions Insurance covers errors you may have made and property damage and bodily injury.
 - C. There is no difference between the two.
 - D. Contractors General Liability is required for contractors and Professional liability insurance is never needed.

48. **What does Professional Liability Insurance (Errors and Omissions Insurance) cover?**
- Claims from customers alleging harm due to failure to perform a job properly
 - Damage to physical property on a job site
 - Injuries to employees while performing their duties
 - Losses due to natural disasters affecting the business
49. **Which of the following is a benefit of a contractor's professional liability and errors and omissions policy?**
- It covers general liability claims unrelated to construction activities.
 - It eliminates the need for additional coverage for pollution-related incidents.
 - It only applies to contractors working on residential projects.
 - It provides proactive mitigation coverage to address errors or pollution issues before they lead to third-party claims.
50. **What does Products-Completed Operations Coverage help protect businesses against?**
- Claims for injuries or damages caused by work done on the business premises
 - Liability claims resulting from products or completed operations done away from the business location
 - Employee injuries that occur during work hours
 - Loss of business income due to natural disasters
51. **Which of the following is covered by Products-Completed Operations Coverage?**
- Damage to someone's property before you complete a service
 - Property damage to the product you sold to a customer
 - A claim about your business' products or completed work causing bodily injury or property damage
 - Product recalls
52. **What does the aggregate limit in Products-Completed Operations Coverage refer to?**
- The maximum amount your insurer will pay for a single claim
 - The total number of claims your business can file in a year
 - The maximum total amount your insurer will cover during the policy period
 - The amount your business must pay out-of-pocket before coverage begins
53. **What does Employment Practices Liability Insurance (EPLI) cover?**
- Legal defense costs and damages for violating an employee's civil or legal rights
 - Damages and legal defense costs for claims of workplace injuries
 - Costs associated with product recalls and customer complaints
 - Property damage caused by employees during work
54. **What does Directors and Officers Liability Insurance (D&O) primarily protect against?**
- Claims related to workplace injuries caused by employees
 - Lawsuits alleging improper management or misuse of business funds by directors and officers
 - Property damage caused by the organization's operations
 - Claims related to product defects and recalls
55. **Products – Completed Operations Insurance covers:**
- Property damage to a dilapidated structure.
 - Property damage while you are working on the project.
 - Injuries to employees while working on the job.
 - Claims that your business caused bodily injury or property damage after a project was completed.

FACTORS THAT IMPACT THE COST OF INSURANCE

Navigating how the cost of construction insurance is calculated is not an easy job. But it's also important to make informed decisions about the appropriate amount of coverage for the right price – striking that balance between cost and protection. Here's a brief overview of each factor that's considered when determining the premium:

Project size and scope: Larger projects or those involving complex designs may require higher coverage limits, affecting premium rates.

Construction type: The type of project – residential, commercial, industrial – influences the insurance premium because some construction types have a higher risk of claims.

Project duration: Longer durations expose the project to more risks, potentially leading to higher premiums.

Risk assessment: Insurers evaluate risks associated with the project, such as location, environmental factors and historical data. Projects labeled as riskier may result in higher insurance costs.

Coverage limits and deductibles: Higher coverage limits and lower deductibles often lead to increased premiums. This is where the balance between coverage and cost comes in.

Experience and safety record: A construction company's track record in safety and risk management influences insurance costs. Companies with solid safety records might be eligible for lower premiums.

Subcontractor management: Effective subcontractor management can have cost-saving benefits when it comes to your insurance costs. Lower your risks and save money by requiring subcontractors to have insurance.

Claims history: A history of frequent or very expensive

construction claims can lead to higher premiums. Having fewer claims shows you are managing risk, and it will result in more favorable rates.

Insurance market conditions: Fluctuations in the insurance market – driven by factors such as supply and demand, economic conditions or natural disasters – can influence insurance premiums.

How can you keep premiums down?

1. Shop around. Prices vary from company to company, so it pays to get several quotes. Get the names of insurance companies or brokers who specialize in your type of business. Call several so that you can compare prices and get a feel for the types of services they would provide.

It's also important to pick a company that is financially stable. Check the financial health of insurers with rating companies and consult consumer magazines. Your trade association or other group that represents your business may be able to provide recommendations.

2. Choose a higher deductible. Deductibles represent the amount of money you pay before your insurance policy kicks in. The higher the deductible, the less you will pay for the policy. At the same time, be sure you don't set the deductible so high that it will be a financial burden for you to pay the deductible if you have a loss.
3. Buy a package policy. A package policy, such as a Businessowners Policy (BOP), rather than individual coverages will cost less.
4. Work closely with your agent. The more the agent understands about your overall business and finances, the better he or she will be able to find competitively priced products for you.
5. Ask about specific actions you can take to prevent losses. You may be able to reduce your premium for certain coverages by following your insurer's specific recommendations. These can include tips on workplace safety, disaster preparation and devices that reduce losses (loss mitigation), such as installing alarms and sprinklers. In addition, there are steps you can take to lower the possibility that one of your employees might file a lawsuit against your business.
6. Avoid losses. Remember insurance works a lot like credit. Costs are lower for customers with better claim histories. The more losses you have, the higher your premiums will be, because it suggests that you are not very careful and there will be more losses in the future. If your loss history is bad enough, you may have trouble obtaining insurance at all from a private insurance company.

Choosing an Agent

How do you find and choose the right agent? The best way to find someone you're comfortable with is to talk to several over the phone or visit their offices. Competent insurance agents should be able to answer your questions, help you assess what coverage you need, and offer you insurance products to meet those needs. Ask them also how they deal with claims. Then, decide whether the agencies you contacted are likely to provide you with prompt, quality service on an ongoing basis.

Good agents can consult with you not only about the insurance you may need but also inform you of ways to reduce the likelihood of theft, injuries to workers, and other business-related losses. Look for an agent who knows about your type of contracting business. Ask friends and acquaintances in the same kind of business about the agent they use. You can contact your business trade associations like the homebuilder's association, realtors' association etc., to see if they sponsor an insurance program designed specifically for your

business or if they can provide a list of insurers who specialize in your field. The agent who handles your personal business—your auto and homeowners' insurance—may be able to recommend an agent or broker to handle your business needs.

An agent is a person who solicits, negotiates and implements contracts of insurance on behalf of an insurer, subject to the terms of the agency contract with the insurer and to the laws of your state. Keep in mind there are two kinds of insurance agents: those who represent only one insurance company and those who represent more than one. A "captive agent" represents only one company. An "independent agent" represents several companies.

You may also obtain insurance with the help of a broker, although brokers generally work with larger entities. Traditionally, a broker represents the policyholder. Now, the distinction between an agent and broker is blurring. The broker may act as an agent of the insurer for certain purposes such as delivery of the policy or collection of the premium. In the insurance industry, both agents and brokers may be known as "producers;" both can sell you insurance policies.

Finally, part of finding the right agent is assessing the level of professional confidence and personal comfort you feel with that person.

Navigating Insurance: Factors that Impact the Cost of Insurance – REVIEW QUESTIONS

56. **There are several strategies that general contractors can employ to keep their insurance premiums as low as possible. The most efficient strategy is to:**
 - A. Change insurance companies frequently.
 - B. Develop comprehensive strategies for mitigating risk and avoiding claims.
 - C. Reduce coverage to the lowest possible levels.
 - D. Self-insure.
57. **What factors do insurers evaluate during a risk assessment for a project?**
 - A. Employee performance and customer satisfaction
 - B. Marketing strategies and project deadlines
 - C. Product pricing and supply chain efficiency
 - D. Location, environmental factors, and historical data
58. **Which of the following is NOT a factor in keeping insurance premiums low?**
 - A. Choose a higher deductible
 - B. Work closely with an agent
 - C. Buy a package policy
 - D. Submit as many claims as possible

59. What is one way to find an insurance agent who understands your contracting business?

- A. Search for agents who specialize in personal insurance like auto and homeowners' policies
- B. Ask friends and acquaintances in the same type of business for recommendations
- C. Choose an agent based solely on their proximity to your business location
- D. Select an agent who offers the lowest insurance premiums

MANAGING RISK

In the previous section of this course, we discussed various methods of keeping your insurance premiums lower. The best way for general contractors to keep the cost of their insurance as low as possible is to avoid losses which must be absorbed by the insurance company. This section will review ways in which we can manage risks to help prevent expensive insurance claims. Specifically, we will explore ways to manage general liability risks, vehicle risks, and Workers' Compensation risks.

A party who seeks liability damages from you cannot usually prevail in a liability lawsuit against your business or you personally unless they can convince a judge, jury, or other adjudicator that you breached your legal duty to that person. Examples of such duties include:

- Making a reasonable effort to maintain a safe environment for the public.
- Posting warning signs at jobsites; for example, danger work zone/no trespassing etc.
- Refraining from making derogatory or slanderous statements about others.
- Correcting an unsafe condition or hazard immediately.
- Investigating an employee's complaint regarding civil rights discrimination, or bias.

In general, to reduce liability risks, you must behave lawfully and with demonstrable responsibility for the welfare of third parties, a group that includes your clients or customers, your employees, competitors and the public. If you can provide evidence that you took your responsibility seriously and made reasonable efforts to prevent harm to others, you are much less likely to be found liable. Evidence can be in a variety of forms, depending on the nature of the risk of liability. A few examples are:

- Copies of communications with your customers or employees about safety and risk.
- Records of your efforts to verify that someone you hired was not a risk to others.
- Testimony that you provided warning signs or other warning signals regarding a hazardous condition on your property. Use video or cameras to document your efforts.
- Records which indicate that your equipment was regularly serviced by knowledgeable technicians.

Notice that in most of these examples, some form of written record is involved. Documenting your efforts to behave lawfully can be vital to proving that you are not liable.

Vehicle Risk

Traffic accidents are the number one cause of on-the-job fatalities. According to a 2023 analysis by The National Safety Council, 37% of all on-the-job fatalities are the result of transportation or vehicle related accidents while at work. General contractors who employ

effective risk management techniques can reduce the number of injuries and deaths, including the potential liability lawsuits that may result from accidents in which employees were involved.

The recommended practices general contractors can employ to help manage motor vehicle risk include:

- Before allowing anyone to drive company vehicles, check motor vehicle department records in any state where the person previously lived or worked.
- Prohibit driving and drinking or use of certain nonprescribed drugs.
- If intoxication or substance abuse is suspected, implement a safety-oriented procedure for dealing with it.
- Implement and enforce a mandatory seat-belt policy for all drivers and passengers.
- Prohibit employees from using cell phones while driving. Require that they park the vehicle talking on a cell phone.
- Recognize that aggression and hostility are personality traits that may lead to accidents. Some drivers may need behavior modification training.
- Require drivers to report any off-duty accidents to you or your company. Review the motor vehicle records of your company drivers at least annually.
- Limit non-business use of vehicles.
- Require employees that regularly drive vehicles as part of their employment an accident-free a driver-training program that includes: safe following distance, speed awareness and control, and proper backing techniques.
- Implement a periodic safety inspection and maintenance program for all vehicles used for business purposes.
- Offer recognition for accident-free drivers, encouraging better driving and setting a good example.
- Make sure that your work schedule doesn't pressure drivers to speed or engage in other risky tasks such as completing paperwork while driving or other poor driving habits.
- Have a procedure for drivers to follow if an accident occurs.
- Investigate the causes of all accidents and use the results as a training opportunity for all drivers.
- Use security measures to prevent theft and vandalism of vehicles stored on your property.

Managing Workers' Compensation Risks

For most employers, the cost of an employee's work-related injury is covered by workers' compensation insurance, which pays for medical care and replaces some of the income of the injured employee while unable to work. There is no coverage, however, for the hidden costs to your organization of that injury, such as reduced efficiency, the cost of training replacements and increased overtime expenditure, or delays in meeting construction guidelines. The effects can be particularly pronounced if you run a small general contracting enterprise.

On-the-job injuries or vehicle accidents aren't limited to occupations that are obviously dangerous. In most years, the top causes of injuries in the construction workplace are falls, stuck by incidents, caught incidents, and overexertion, which includes injuries caused from excessive lifting, pushing, pulling, holding, carrying or throwing objects, falls on level ground, falls from heights and injuries from bending, climbing, slipping or tripping. Such injuries can affect workers in most environments but especially in the building business.



Employees should be trained to recognize hazards and to report them to the appropriate person so that the hazard can be corrected as soon as possible. Work requirements involving safety should take precedence over any other. All employees should know OSHA safety standards and practices. It is important to ensure that your employees or subcontractors are comfortable about reporting hazards. If a safety concern is reported to you swiftly, take the appropriate action so that your employees realize that safety across your company is a priority. Safe work practices should take precedence over all other activities.

Any near miss, first aid incident, accident or other workplace injury-related event should be investigated. Where possible, the investigation should be carried out immediately by a team that includes both management and other employees or contractors, all of whom have been trained in incident investigation. Remember the goal of investigations is to identify the cause of the accident or injury and to correct the problem – not assign blame.

Reducing the risk of work-related injuries should be prioritized. General contractors and superintendents should be trained to recognize and correct unsafe behaviors that can lead to injuries, including rushing, frustration, complacency and fatigue. Additionally, take time to have weekly safety briefings.

Once per year, teams should review all incidents from the prior year to see whether there are any patterns in the accidents and, if so, how to address the problems identified.

Navigating Insurance: Managing Risk – REVIEW QUESTIONS

60. As a general contractor, you may need several types of insurance. Which type of insurance is not generally considered a type of insurance that is associated directly with the business of general contracting?
- A. Life Insurance
 - B. General Liability Insurance
 - C. Worker’s Compensation Insurance
 - D. Commercial Vehicle Insurance.
61. Liability risks for general contractors can be minimized by:
- A. Shredding all documentation or communication with customers.
 - B. Maintaining evidence that you took reasonable cautionary measures regarding hazards on job sites.
 - C. Not allowing cameras or video recording around your construction projects.
 - D. Not doing background checks on prospective employees or subcontractors.

62. The most common cause of on-the-job fatalities in the construction industry are:
- A. Traffic accidents and falls.
 - B. Nail gun accidents.
 - C. Being struck by falling materials.
 - D. Improper use of power tools.
63. Most insurance companies exclude claims that arise from:
- A. Theft
 - B. Fire
 - C. Terrorism
 - D. Wind
64. To help reduce the risk of motor vehicle accidents and claims you should do all the following except:
- A. Allow employees to drive company vehicles even if they have a history of aggressive driving.
 - B. Require employees to limit their use of business-owned vehicles to business use only.
 - C. Require employees to take a defensive driving class.
 - D. Investigate all accidents and use them as a training opportunity for other drivers.
65. Why is insurance considered to be a risk management technique? Select the best answer.
- A. You are taking a risk when you don’t purchase insurance.
 - B. Dealing with insurance companies can be considered a risk.
 - C. The risk of financial loss is transferred from one party to a third party, wherein the party transferring the risk makes periodic payment to the third party to compensate them from assuming the risk.
 - D. The insurance company will probably deny your claim.

CONCLUSION

As we get ready to conclude this section, we will circle back to our friend John from the introduction. You’ll remember John, a licensed general contractor who owns and operates ABC Custom Homes in Malibu, California. He is building a large custom home with a projected value upon completion of \$3.5 million. Unfortunately, John’s unfinished home, which is approximately 50% complete, is in the path of a raging wildfire. John, who is at his office and showroom, gets a call from one of his employees who is on the job site when the fire approaches. John instructs the employee to stay on site and attempt to protect the home. Despite his valiant efforts, the employee is unable to save the structure, and he also sustains some significant injuries, resulting in a hospitalization as well as an anticipated long recovery period.

John quickly leaves the showroom which contains items such as kitchen and bath displays, plumbing fixtures, lighting, and flooring samples. Because the showroom also serves as the office for ABC Custom Homes, there are office furnishing, files, office equipment and computers.

Jumping in his personal vehicle, John rushes toward the jobsite. In all the confusion and traffic, John accidentally sideswipes another vehicle causing damage to both vehicles and injuring the other

driver. Little did John know but his office and showroom were also in the path of the fire and destroyed.

- What kind of insurance covers the unfinished home?
 - **Builders' Risk Insurance will cover the home based on the percentage of completion.**
- If it is covered how much will John receive as reimbursement?
 - **\$3.5 million x .50 = \$1,750,000 – (deductible)**
- What about the employee?
 - **The employee will receive medical treatment, and compensation for lost wages.**
- Is the showroom covered?
 - **Perhaps – Either under Property Insurance or a Business Owners Policy (BOP)**
- What about computers, furnishings, and inventory in the showroom?
 - **Computers, furnishings, and inventory in the showroom will be covered up to the personal property limit of a property policy or a Business Owners Policy**
- How about John's personal vehicle?
 - **John's personal vehicle is covered under John's auto policy, assuming John has collision insurance. The value will be based on the cost of repairs up to the actual cash value of the vehicle.**
- Who pays for damages and injuries to the cars John side-swiped?
 - **The liability portion of John's personal vehicle policy will pay for the property damage sustained by the victim as well as for any medical bills the injured party incurred. This, however, is where John may have a problem because all of these have specific limits as to how much the insurance company will pay. Any amounts above and beyond the specified limit must be paid by John.**

By completing this section of the course, you have taken a significant step toward mastering the complexities of insurance and safeguarding your business. Throughout this course, we explored insurance fundamentals, from dissecting contract components to understanding key policy forms like named perils versus all-risk, replacement cost versus actual cash value, and the importance of deductibles and ordinance or law coverage. You now have a solid grasp of the essential policies every construction professional needs, including property, general liability, builders' risk, commercial auto (BACF), workers' compensation, and professional liability. We also covered how market conditions and your risk profile influence premiums and the critical role of practical risk management.

Proactive measures such as enforcing strict vehicle policies, requiring OCP from subcontractors, and thorough documentation, are your best defense against costly claims.

Your journey doesn't end here. Consider these next steps:

- Audit your current policies and coverage limits.
- Verify subcontractor insurance compliance.
- Update your safety and training protocols.
- Schedule a review with your insurance agent to apply what you've learned.

By implementing these strategies, you are not just buying insurance; you are building a resilient business. Go forward with the confidence that you have the knowledge to protect your projects, your people, and your profits.

Navigating Insurance: Conclusion – REVIEW QUESTIONS

- 66. What type of insurance covers the unfinished home that John was building?**
 - A. General Liability Insurance
 - B. Builders' Risk Insurance
 - C. Property Insurance
 - D. Business Owners Policy (BOP)
- 67. What will the liability portion of John's personal vehicle policy cover in the accident where he sideswiped another vehicle?**
 - A. Only the damage to John's vehicle
 - B. The property damage to the other vehicle and medical bills for the injured party, up to policy limits
 - C. The full cost of repairs for both vehicles and all medical expenses
 - D. None of the damages or injuries
- 68. What type of insurance might cover the computers, furnishings, and inventory in John's showroom?**
 - A. Workers' Compensation Insurance
 - B. Builders' Risk Insurance
 - C. Property Insurance or a Business Owners Policy (BOP)
 - D. General Liability Insurance

REVIEW OF CHAPTER ATCP 110

INTRODUCTION

This course provides an in-depth review of Wisconsin's ATCP 110, the administrative code governing home improvement practices, tailored specifically for dwelling contractors. Participants will gain a comprehensive understanding of the regulations, including contractor responsibilities, consumer protection requirements, and compliance standards. This course equips contractors with the knowledge to navigate legal obligations, avoid common pitfalls, and uphold ethical practices in their work. You will find sections of the code followed by concise summaries reviewing the primary points of each section. Ideal for professionals aiming to enhance their expertise and maintain compliance, the goal is to ensure contractors are well-prepared to meet state standards and deliver exceptional service.

Chapter ATCP 110

HOME IMPROVEMENT PRACTICES

ATCP 110.01 Definitions.

ATCP 110.02 Prohibited trade practices.

ATCP 110.023 Substituting products or materials; altering the written contract.

ATCP 110.025 Lien waivers.

ATCP 110.027 Delay in contract performance.
 ATCP 110.03 Building permits.
 ATCP 110.04 Warranties.
 ATCP 110.05 Home improvement contract requirements.
 ATCP 110.06 Preservation of buyers' claims and defenses.
 ATCP 110.07 Contract cancellation; return of payments.
 ATCP 110.08 Contract compliance.
 ATCP 110.09 Basement waterproofing practices.

History: Chapter Ag 110 as it existed on May 31, 1974 was repealed and a new chapter Ag 110 was created, Register, May, 1974, No. 221, effective June 1, 1974; chapter Ag 110 was renumbered chapter ATCP 110 under s. 13.93 (2m) (b) 1., Stats., Register, April, 1993, No. 448.

Note: This chapter is adopted under authority of s. 100.20 (2), Stats., and is administered by the Wisconsin department of agriculture, trade and consumer protection. Violations of this chapter may be prosecuted under s. 100.20 (6), 100.26 (3) or (6), Stats. A person who suffers a monetary loss because of a violation of this chapter may sue the violator directly under s. 100.20 (5), Stats., and may recover twice the amount of the loss, together with costs and reasonable attorneys' fees.

Did you know that home improvement regulations are designed to protect both consumers and contractors? These rules ensure safety, quality, and fairness in every project. Ignoring them can lead to costly mistakes and legal troubles. Non-compliance with these regulations can result in hefty fines and legal actions. It's crucial to understand the consequences to avoid unnecessary risks.

Key prohibited practices in home improvement include misleading advertising and unauthorized contract changes. Violating these rules can damage business reputation and lead to financial penalties. Avoiding these practices not only protects your business but builds trust with clients.

Essential contract requirements are in place to ensure compliance and clarity. A solid home improvement contract should include clear terms, conditions, and warranties. These elements protect both parties and prevent misunderstandings, and altering contracts without consent is a major violation. Warranties and clear terms ensure that expectations are met and disputes are minimized.



Understanding your rights regarding contract cancellations and payments is vital. Lien waivers and building permits play a crucial role in safeguarding your interests. By preserving claims and defenses, you maintain control over your projects, and adhering to these regulations will ensure successful completion and satisfied clients. Remember to review your contracts, educate your team, and stay informed.

ATCP 110: Introduction – REVIEW QUESTIONS

69. What is the primary goal of the course section covering Wisconsin's ATCP 110 for dwelling contractors?

- To teach contractors how to market their services effectively.
- To provide an in-depth understanding of home improvement regulations and compliance standards.
- To focus on advanced construction techniques and materials.
- To review consumer trends in home improvement projects.

70. Which of the following is NOT a topic within ATCP 110?

- Prohibited trade practices
- Lien waivers
- Licensing renewal requirements
- Warranties

ATCP 110.01 Definitions.

- “Buyer” means either of the following persons who is a party or prospective party to a home improvement contract:
 - The owner of residential or noncommercial property to which the home improvement contract pertains.
 - The tenant or lessee of residential or noncommercial property to which the home improvement contract pertains if the tenant or lessee is or will be obligated to make a payment under the home improvement contract.
- “Home improvement” means the remodeling, altering, repairing, painting, or modernizing of residential or non-commercial property, or the making of additions thereto, and includes, but is not limited to, the construction, installation, replacement, improvement, or repair of driveways, sidewalks, swimming pools, terraces, patios, landscaping, fences, porches, garages, basements and basement waterproofing, fire protection devices, heating and air conditioning equipment, water softeners, heaters and purifiers, wall-to-wall carpeting or attached or inlaid floor coverings, and other changes, repairs, or improvements made in or on, attached to, or forming a part of, the residential or non-commercial property. The term extends to the conversion of existing commercial structures into residential or non-commercial property. “Home improvement” does not include the construction of a new residence or the major renovation of an existing structure.
 - “Major renovation of an existing structure” means a renovation or reconstruction contract where the total price of the contract is more than the assessed value of the existing structure at the time the contract is initiated.
- “Residential or non-commercial property” means a structure used, in whole or in part, as a home or place of residence by any natural person, whether or not a single or multi-unit structure, and that part of the lot or site on which it is situated and which is devoted to the residential use of the structure, and includes all appurtenant structures. The term extends to all other existing non-commercial structures and the immediate premises on which they are situated even though they are not used for residential purposes.
- “Home improvement contract” means an oral or written agreement between a seller and an owner, tenant, or lessee of residential or non-commercial property for the performance of a home improvement.
- “Seller” means a person engaged in the business of making or selling home improvements and includes corporations, partnerships, associations, and any other form of business organization or entity, and their officers, representatives, agents and employees.
- “Warranty” means any warranty or guarantee made with respect to labor, services, products or materials provided under a home improvement contract and includes any warranty or guarantee made by the seller or manufacturer.

Home improvement contracts are agreements between a seller and a property owner or tenant for making improvements. Who qualifies as a buyer? Buyers can be property owners or tenants obligated to pay under the contract. These contracts cover residential or non-commercial properties, ensuring clarity on who can engage in these agreements.



Home improvements include remodeling, repairing, or modernizing properties—think driveways, patios, or even landscaping. But remember, constructing a new residence or major renovations aren't included. Common projects like painting or installing new heating systems fall under home improvements. However, major renovations, where costs exceed the property's value, are a different category. Major renovations are significant projects where costs surpass the property's assessed value. These require careful financial planning and differ from regular improvements due to their scale and impact. Understanding the financial implications is crucial. Major renovations can transform a property but require substantial investment, unlike smaller, regular improvements. Sellers in these contracts are businesses or individuals providing home improvements. They play a vital role in ensuring quality and compliance with agreements.

ATCP 110.02 Prohibited trade practices.

No seller shall engage in the following unfair methods of competition or unfair trade practices:

- (1) Model home representations. Representing, directly or by implication, that the buyer's residential or non-commercial property is to serve as a "model" or "advertising job," or otherwise to be used for promotional purposes by the seller, in order to mislead the buyer into a belief that the buyer will be receiving a price reduction, a special price, or other inducement.
- (2) Production and material representations. Misrepresenting, directly or by implication, the characteristics, qualities, or purposes of products or materials to be used in the home improvement.
 - (a) Need no periodic repainting, finishing, maintenance, or other service.
 - (b) Are of a specific or well-known brand name, or are produced by a specific manufacturer or exclusively distributed by the seller.
 - (c) Are of a specific size, weight, grade, or quality, or possess any other distinguishing characteristics or features.
 - (d) Perform certain functions or substitute for, or are equal in performance to, other products or materials.
 - (e) Meet or exceed municipal, state, federal, or other applicable standards or requirements.
 - (f) Are approved or recommended by any governmental agency, person, firm, or organization, or that they are the users of such products or materials.
 - (g) Are of sufficient size, capacity, character, or nature to do the job expected or represented.
 - (h) Are or will be custom-built or specially designed for the needs of the buyer.
- (3) Bait selling.
 - (a) Offer or represent specific products or materials as being for sale, where the purpose or effect of the offer or representation is not to sell as represented but to bait or entice the buyer into the purchase of other or higher priced substitute products or materials.
 - (b) Disparage, degrade, or otherwise discourage the purchase of products or materials offered or represented by the seller as being for sale, by statements or representations in conflict with other claims or representations made with respect to such products and materials, to induce the buyer to purchase other or higher priced substitute products or materials.
 - (c) Refuse to show, demonstrate, or sell products or materials as advertised, offered, or represented as being for sale.
 - (e) Fail to have available a quantity of the advertised product sufficient to meet reasonably anticipated demands.
 - (f) Misrepresent that certain products or materials are un-available or that there will be a long delay in their manufacture, delivery, service, or installation in order to induce a buyer to purchase other or higher priced substitute products or materials from the seller.
- (4) Identity of seller.
 - (a) Deceptively gain entry into the prospective buyer's home or onto the buyer's property under the guise of any governmental or public utility inspection, or otherwise misrepresent that the seller has any official right, duty, or authority to conduct an inspection.
 - (b) Misrepresent that the seller is an employee, officer, or representative of a manufacturer, importer, or any other person, firm, or organization, or that such person, firm, or organization will assume some obligation in fulfilling the terms of the contract.
 - (c) Misrepresent the status, authority, or position of the sales representative in the organization he or she represents.
 - (d) Misrepresent that the seller is licensed, bonded, or insured. If the seller represents that the seller is licensed, bonded, or insured, the seller shall provide the buyer with a written statement specifically describing the type of license, bond, or insurance that the seller possesses.
- (5) Gift offers. Offering gifts, prizes, bonuses, coupons, or similar inducements without clearly and conspicuously disclosing all material terms and conditions, including eligibility requirements, the nature and approximate value of the item offered, any shipping or handling charges, and any other obligation of the buyer.
- (6) Price and financing.
 - (a) Misrepresent to a prospective buyer that an introductory, confidential, close-out, going out of business, factory, wholesale, or any other special price or discount is being given, or that any other concession is made because of materials left over from another job, a market survey, or test, or any other reason.
- (i) May be serviced or repaired within the buyer's immediate trade area, or be maintained with replacement and repair parts which are readily available.

- (b) Misrepresent that any person, firm, or organization, whether or not connected with the seller, is especially interested in seeing that the prospective buyer gets a bargain, special price, discount, or any other benefit or concession.
 - (c) Misrepresent or mislead the prospective buyer into believing that insurance or some other form of protection will be furnished to relieve the buyer from obligations under the contract if the buyer becomes ill, dies, or is unable to make payments.
 - (d) Misrepresent or mislead the buyer into believing that no obligation will be incurred because of the signing of any document, or that the buyer will be relieved of some or all obligations under the contract by the signing of any document.
 - (e) Request the buyer to sign a completion slip or certificate, or make final payment on the contract before the home improvement is completed in accordance with the terms of the contract.
 - (f) Fail to disclose that the offered or contract price does not include delivery or installation, or that other requirements must be fulfilled by the buyer as a condition to the performance of labor, services, or the furnishing of products or materials at the offered or contract price.
 - (g) Misrepresent that the down payment or any other sum constitutes the full amount the buyer will be obligated to pay.
 - (h) Misrepresent or fail to disclose to a buyer, before the buyer enters into a home improvement contract, the existence or amount of any financing charges, interest service charges, credit investigation costs, building or installation permit fees, or other costs or charges to be paid by the buyer.
 - (i) Fail to disclose that the home improvement contract, promissory note, or other evidence of indebtedness may be assigned or sold to a financial institution or any other third party.
 - (j) Advise or induce the buyer to inflate the value of the buyer's property or assets, or to misrepresent or falsify the buyer's true financial position in order to obtain credit.
 - (k) Increase or falsify the contract price, or induce the buyer by any means to misrepresent or falsify the contract price or value of the home improvement for financing purposes or to obtain additional credit.
 - (l) Where the buyer requests lien waivers under s. ATCP 110.025 (2), fail to give or furnish to the buyer lien waivers in writing from all contractors, subcontractors, and material suppliers at, or prior to, the time final payment is made on the home improvement contract.
 - (m) Where partial payments are required at various stages in the performance of the contract, and the buyer requests lien waivers under s. ATCP 110.025 (2), fail to give or furnish to the buyer lien waivers in writing from all contractors, subcontractors, and material suppliers for the proportionate value of all labor, services, and products or materials furnished or delivered as of the time partial payment is made.
 - (n) Fail to provide notice to a buyer as required under s. ATCP 110.025 (1), before the buyer enters into a home improvement contract, that the buyer is entitled to receive written lien waivers.
 - (o) Misrepresent that the seller is the only person who can provide financing for the home improvement contract.
- (7) Performance.
 - (a) Deliver materials, begin work, or use any other tactic to pressure the buyer into a home improvement contract, or make any claim or assertion that a binding contract has been agreed upon where no final agreement or understanding exists.
 - (b) Solicit or accept any payment for home improvement materials or services which the seller does not intend to provide according to the terms of the home improvement contract, or which the seller has reason to believe will not be provided according to the terms of the contract.
 - (8) Interference with competitors.
 - (a) Make false derogatory statements concerning any competitor, the competitor's equipment, products or materials, workmanship, performance, reputation or responsibility, or attempt to or induce the breach of any existing home improvement contract between a prospective buyer and a competitor, or interfere with or obstruct the performance of any home improvement contract by a competitor.
 - (b) Misrepresent that the work of a competitor was performed by the seller.
 - (c) Misrepresent that the seller's products, materials, or workmanship are equal to or better than those of a competitor.
 - (d) Use or imitate the trademarks, trade names, labels, or other distinctive marks of a competitor.
 - (9) Sales representations.
 - (a) Misrepresent or mislead the buyer into believing that a purchase will aid or help some public, charitable, religious, welfare, or veteran's organization, or any other person, group, or organization, or misrepresent the extent of such aid or assistance.
 - (b) Fail to make any statement of fact, qualification, or explanation if the omission of such statement, qualification, or explanation causes an advertisement, announcement, statement, or representation to be false, deceptive, or misleading.
 - (c) Misrepresent that the customer's present equipment, material, product, home, or a part thereof, is dangerous or defective, or in need of repair or replacement.
 - (10) Misappropriations of buyer's prepayments. Use any home improvement contract payment, received from a buyer prior to the completion of a home improvement, for any purpose other than to provide materials or services for the home improvement.
 - (11) Misrepresentations; general. Make any false, deceptive, or misleading representation in order to induce any person to enter into a home improvement contract, to obtain or keep any payment under a home improvement contract, or to delay performance under a home improvement contract.

Did you know that non-compliance with ATCP 110.02 can lead to hefty fines and damage your reputation? Understanding these regulations is crucial for every contractor in Wisconsin. Avoid claiming a client's home will be a 'model' or 'advertising job' to lure them with false promises. Such tactics can severely harm your credibility and lead to legal consequences. Honest communication is key to maintaining trust, and misleading offers not only damage your reputation but can also result in financial penalties.

Always ensure your advertising is truthful and transparent to build long-lasting client relationships, keeping all product descriptions accurate. Misrepresenting materials as maintenance-free or falsely claiming brand names can lead to client dissatisfaction and legal issues. Always verify your claims before making them. Meeting standards is non-negotiable. Claims about product performance or compliance with regulations must be truthful. This not only protects your business but also builds client trust.

Bait selling involves misleading offers to lure customers. It's not just unethical; it's illegal. Avoid making promises you can't keep, as this can severely damage your reputation. Misleading customers with false offers can lead to trust issues. Ensure your advertisements are honest and transparent to maintain credibility and customer loyalty. Having sufficient stock is crucial to meet customer demands, and failing to do so can lead to disappointed clients and lost sales. Anticipate demand accurately to avoid these pitfalls. Not meeting advertised promises can harm your business. Ensure you have the resources to deliver what you offer, maintaining trust and reliability with your clients.

Honest product descriptions are vital for building trust. Misrepresentation can lead to legal issues and dissatisfied customers. Transparency in your offerings fosters long-term client relationships. By being truthful about your products, you not only comply with regulations but also enhance your brand's reputation. Trust is a key factor in customer retention.

Misrepresenting your identity or authority can have legal consequences. Present your credentials accurately to avoid misunderstandings and maintain integrity. False claims about your status or authority can lead to distrust. Ensure your clients know exactly who they're dealing with, reinforcing confidence in your services. Licensed, bonded, or insured is more than just a claim. It provides clients with assurance of your professionalism. Clearly communicate these credentials to build trust.

Proper documentation is beneficial for both you and your clients. It demonstrates your commitment to quality and compliance, enhancing your business's credibility. By adhering to this practice, you'll protect your business and build lasting client relationships.

Transparency in home improvement contracts is crucial. Misleading offers can severely damage your business reputation. Gift offers can be enticing, but they must be clear. Always disclose terms, including expiration dates and conditions. Avoid common pitfalls by ensuring transparency in advertising free items or bonuses. Misleading pricing tactics can lead to legal issues, so always communicate clearly about discounts and special offers. Ensure that all costs, including delivery and installation, are disclosed upfront.

Never mislead buyers about financing terms. Disclose all charges, including interest and permit fees, before signing. Transparency in pricing builds trust and prevents misunderstandings. Clarifying buyer obligations is essential to prevent disputes. Ensure all contract terms are fully disclosed before signing. This transparency helps avoid future misunderstandings and legal complications.

Inflating property values for credit is risky and unethical. Always ensure accurate representation of financial positions. Misrepresentation can lead to severe legal consequences and loss of trust. Disclose any potential contract assignments to third parties. Understand the implications of selling contracts to financial institutions.

Pressuring buyers into contracts is not just unethical; it's prohibited. ATCP 110 ensures that agreements are made without coercion, fostering trust and transparency in every transaction. Learn to establish clear agreements by communicating openly. Avoid tactics that pressure or mislead, and instead focus on building genuine relationships with your clients. Delivering promised materials and services is non-negotiable.

ATCP 110 emphasizes the importance of fulfilling commitments, ensuring that contractors maintain their reputation and trustworthiness. Never accept payments for services you cannot provide. This principle not only protects consumers but also upholds the integrity of your business.

Making false statements about competitors can damage your reputation. ATCP 110 encourages fair competition by respecting existing contracts and avoiding misleading claims. Respecting competitors means acknowledging their work and not imitating their trademarks. Fair practices lead to a healthier industry and better consumer trust.

Misleading buyers regarding charitable contributions is unethical. ATCP 110 ensures that all sales representations are truthful, fostering honesty in advertising. Ensure your advertisements are

clear and not deceptive. Transparency in sales builds long-term relationships with clients and enhances your brand's credibility. Prepayments must be used legally and ethically. ATCP 110 outlines the correct use of prepayments, ensuring they are allocated for the intended services or materials. Misappropriating prepayments can lead to serious legal issues. Protect your business by adhering to the guidelines and maintaining transparency with your clients.

ATCP 110: Definitions & Prohibited Trade Practices – REVIEW QUESTIONS

71. _____ means the owner of a residential or noncommercial property to which the home improvement practice pertains.
 - A. Buyer
 - B. Seller
 - C. Contractor
 - D. Customer
72. _____ means a person engaged in the business of making or selling home improvements.
 - A. Buyer
 - B. Seller
 - C. Contractor
 - D. Customer
73. According to ATCP 110.02, which of the following is considered a prohibited trade practice for sellers?
 - A. Offering discounts for bulk purchases of materials.
 - B. Representing a buyer's property as a "model home" to imply a special price or discount.
 - C. Providing free estimates for home improvement projects.
 - D. Advertising seasonal promotions for home improvement services.
74. Which of the following is an example of a prohibited bait selling practice under ATCP 110.02?
 - A. Offering a discount on bulk purchases of materials.
 - B. Providing free delivery for higher-priced substitute products.
 - C. Offering a warranty on all products sold.
 - D. Failing to have enough advertised products to meet reasonably anticipated demand.
75. Sellers may not misrepresent that they are licensed, bonded, or _____ under ATCP 110.02.
 - A. Insured
 - B. Working
 - C. Advertising
 - D. Inspected

76. A Dwelling Contractor fails to disclose that the offered or contractor price does not include delivery or installation. This violates which section of ATCP 110.02?
- Model home representations
 - Bait selling
 - Gift offers
 - Price and financing
77. Under ATCP 110.02, sellers are prohibited from increasing or falsifying the contract _____.
- Sections
 - Negotiations
 - Price
 - Identities
78. Why should contractors avoid claiming a client's home will be a "model" or "advertising job"?
- It can lead to increased project costs for the contractor.
 - Such claims can harm credibility and result in legal consequences.
 - It is an effective marketing strategy but requires additional permits.
 - Clients prefer homes that are not used for promotional purposes.
79. Having sufficient _____ is crucial for meeting customer demands. Contractors should ensure they have the resources to deliver what is offered.
- Stock
 - Contracts
 - Advertising
 - Pricing
80. Why is it important for contractors to provide honest product descriptions?
- It allows contractors to charge higher prices.
 - It reduces the need for customer service follow-ups.
 - It helps build trust and fosters long-term client relationships.
 - It ensures faster project completion times.
81. What is a key practice to ensure transparency in home improvement contracts?
- Offering free items without disclosing terms and conditions.
 - Using enticing gift offers without expiration dates.
 - Clearly communicating all costs, including delivery and installation.
 - Advertising discounts without specifying the conditions.

ATCP 110.023 Substituting products or materials; altering the written contract.

- No seller may substitute products or materials for those specified in the home improvement contract, or for those which the seller represented would be used in the home improvement, without the prior consent of the buyer. Except as provided in sub. (2), if a written home improvement contract is required under s. ATCP 110.05 (1) or the buyer signs a written contract, the buyer's consent under this paragraph shall also be in writing.

Note: According to s. 137.15 (3), Stats., if a law requires a record to be in writing, an electronic record satisfies that requirement in that law.

- Verbal Authorization. The seller may act on alterations to the contract that are verbally authorized by the buyer, if all the following conditions are met:
 - The alteration does not represent any additional cost to the buyer.
 - The alteration does not represent a decrease in the value of the materials used or the services provided.
 - The seller maintains documentation of the following:
 - The manner in which the buyer communicated the authorization for the alteration. In this subdivision, "manner" means face-to-face discussion, phone call, or some other method of communicating.
 - The name of the buyer who authorized the alteration.
 - The date and time that the buyer authorized the alteration.
 - A description of the alteration.
 - The seller must report any alterations documented pursuant to par. (c) to the buyer before final payment is accepted.

Adhering to ATCP 110.023 ensures that you meet legal standards and protect your business interests. This section covers product substitutions and contract alterations. It requires written consent for changes, ensuring transparency and accountability. This regulation is designed to protect both sellers and buyers. One of the key requirements is to obtain written or electronic consent for any changes. This documents that all parties are aware of and agree to the modifications, preventing misunderstandings and disputes. Written consent is necessary for any contract changes that affect cost or materials. Electronic records can fulfill this requirement, making it easier to document and store agreements securely. Verbal authorization is acceptable under specific conditions, specifically in situations when there are no increased costs or decrease in value. Proper documentation of the communication method, buyer's name, and details of the change is essential. Report any verbal alterations to the buyer before final payment. This transparency helps maintain trust and prevents potential disputes over unauthorized changes. It's essential to report any alterations before the final payment to keep buyers informed and ensure their agreement. Open communication fosters stronger client relationships. By clearly explaining the changes and their implications, you demonstrate a proactive approach that prevents misunderstandings and highlights your dedication to transparency.

ATCP 110.023 Substituting Products or Materials; Altering the Written Contract – REVIEW QUESTIONS

82. Under ATCP 110.023, when is a seller allowed to substitute products or materials specified in a home improvement contract?

- A. When the seller believes the substitution is of higher quality.
- B. Only with the prior consent of the buyer, which must be in writing if a written contract exists.
- C. When the substitution does not increase the cost of the project.
- D. Only after the project is completed.

83. What conditions must be met for a seller to act on a verbally authorized alteration to a home improvement contract?

- A. The alteration must not increase the cost or decrease the value of the materials or services, and the seller must document the authorization details.
- B. The alteration must be approved by the seller's supervisor.
- C. The buyer must provide a written confirmation within 24 hours of the verbal authorization.
- D. The seller must notify the buyer after the alteration is completed.

84. According to s. 137.15 (3), Stats., if a law requires a record to be in writing, a(n) _____ record satisfies that requirement in that law.

- A. Expired
- B. Signed
- C. Verbal
- D. Electronic

(c) The seller shall retain evidence of the buyer's acknowledgement of receipt of the notice.

- (2) Upon request from the buyer, the seller shall provide the buyer with lien waivers in writing from all contractors, subcontractors, and material suppliers for the proportionate value of all labor, services, and products or materials furnished or delivered as of the time payment is made. Unless the buyer specifies that the lien waiver request applies only to the final payment, the seller shall provide lien waivers at the time any partial payments are made.

Did you know that failing to secure lien waivers can lead to unexpected liens on property? Lien waivers are crucial in home improvement contracts to protect consumers from such risks. Lien waivers ensure that contractors, subcontractors, and suppliers are paid, preventing them from filing liens against property. This protection is vital for homeowners and a legal obligation for contractors in Wisconsin. Consumers have the right to request lien waivers, and contractors must inform them of this right. This transparency is essential for trust and compliance with Wisconsin law. Contractors must provide clear, written notice about lien waivers before any contract is signed. This notice must be separate and easy to understand, ensuring consumers are fully aware of their rights.

Contractors must issue lien waivers upon receiving partial or final payments. This process safeguards both parties and ensures that all involved are compensated fairly. Retaining evidence of notice acknowledgment is crucial. It protects contractors from future disputes and demonstrates compliance with legal requirements. Non-compliance with lien waiver laws can damage your business reputation and lead to legal consequences. Proper practices protect your business and build consumer trust. For more guidance, contact the Wisconsin Consumer Protection Bureau. By staying informed and compliant, you safeguard your business and enhance your professional standing.

ATCP 110.025 Lien Waivers – REVIEW QUESTIONS

85. When must the seller provide notice to the buyer about their right to request lien waivers?

- A. After the first payment is made on the home improvement contract.
- B. Before the buyer and seller enter into a home improvement contract.
- C. At the time of project completion.
- D. Only if the buyer specifically asks for it.

86. What must a seller inform the buyer about under ATCP 110.025 regarding lien waivers?

- A. The buyer is required to provide lien waivers to the seller.
- B. The buyer may request written lien waivers from contractors, subcontractors, and material suppliers at or before making any payment.
- C. The seller must provide lien waivers only after the project is completed.
- D. The buyer must waive their right to request lien waivers before signing the contract.

ATCP 110.025 Lien waivers.

- (1) A seller shall provide notice to buyer that buyer may request written lien waivers from all contractors, subcontractors, and material suppliers at, or prior to, the time any payment is made on the home improvement contract. Notice shall be provided before the buyer and seller enter into a home improvement contract. The notice shall meet the following requirements:

- (a) The notice shall be in writing and consist of the following, verbatim statement:

Notice of Consumer's Right to Receive Lien Waivers
If a consumer requests lien waivers, a seller of home improvement services must provide lien waivers from all contractors, subcontractors, and material suppliers. This Wisconsin law protects consumers from having liens filed against their property. Lien waivers prevent the filing of a lien on your home in the event that a contractor does not pay suppliers or subcontractors.

For more information about home improvement law, contact the Wisconsin Consumer Protection Bureau at 1-800-422-7128 or www.datcp.wi.gov.

- (b) The notice shall be provided as a separate document, written in a clear and conspicuous font, in a format that the buyer can retain.

ATCP 110.027 Delay in contract performance.

- (1) A seller must give the buyer timely notice of any impending delay in the home improvement contract performance if performance will be delayed beyond a deadline specified in the home improvement contract. The notice shall specify any reasons for the delay and shall specify new proposed deadlines by which the seller will begin and complete the

work. If a written home improvement contract is required under s. ATCP 110.05 (1) or the buyer signs a written contract, no change in performance deadlines is effective unless the buyer agrees in writing to the change.

Note: *According to s. 137.15 (3), Stats., If a law requires a record to be in writing, an electronic record satisfies that requirement in that law.*

- (2) Notwithstanding sub. (1), a seller shall not be responsible for delays in contract performance if the seller can demonstrate any of the following:
- (a) The delay was caused by actions or inactions of the buyer.
 - (b) The delay was caused by a destructive act of nature such as tornado, flood, or fire.
 - (c) The delay was caused by disruptive civil disorder such as a strike, hostile action, or war.

Timely communication about delays is crucial in contract performance. It ensures transparency and trust, allowing both parties to adjust expectations and plan accordingly. When delays occur, specify the reasons clearly and propose new deadlines. This proactive approach helps maintain a positive relationship and keeps the project on track. Remember, written agreement is essential for any deadline changes. Sellers aren't always responsible for delays. If a buyer's actions cause a delay, the seller is not at fault. This exception protects sellers from unfair blame. Natural disasters like floods or tornadoes can also exempt sellers from responsibility. Similarly, civil disorders such as strikes or wars are valid exceptions. Demonstrating these exceptions effectively is key.



Written or electronic records are legally required for contract changes. Electronic records satisfy these requirements, keeping all communications documented and legally binding. Understanding legal requirements is crucial for contractors. It ensures that all contract changes are valid and protects both parties in case of disputes.

ATCP 110.027 Delay in Contract Performance – REVIEW QUESTIONS

- 87. What must a seller do if there is an impending delay in the performance of a home improvement contract?**
- A. Notify the buyer only after the original deadline has passed.
 - B. Automatically extend the deadline without notifying the buyer.
 - C. Complete the work as soon as possible without informing the buyer of the delay.
 - D. Provide timely notice specifying the reasons for the delay and propose new deadlines, with any changes to deadlines requiring the buyer's written agreement.

- 88. In which of the following scenarios is a seller NOT responsible for delays in contract performance?**

- A. Delay due to inaction of the buyer
- B. Delay due to destructive act of nature
- C. Delay due to lack of workers
- D. Delay due to disruptive civil disorder

ATCP 110.03 Building permits.

- (1) Before a buyer enters into a home improvement contract, the seller shall inform the buyer of all building or construction permits that are required for the home improvement. Except as provided in sub. (4), no seller may start work under a home improvement contract until all the required state and local permits have been issued.
 - (2) Where midpoint or final inspections are required under state laws or local ordinances, copies of inspection certificates shall be furnished to the buyer when construction is completed and before final payment is due or the signing of a completion slip is requested of the buyer.
 - (3) Pursuant to sub. (2), if the state or local inspector who completed the inspection does not issue an inspection document, the seller may provide a summary of the inspection to the buyer.
- The summary shall include the inspector's name, the date of the inspection, and inspection number or some other way to identify the inspection in the state or local building inspection database.
- (4) Notwithstanding sub. (1), if the home improvement contract includes subprojects, no seller may start work on any subproject of a home improvement contract that requires state or local permits until all permits required for that subproject have been issued.

Permits ensure that your project complies with local regulations, protecting both contractors and homeowners from potential fines and safety issues. Permits are not just bureaucratic hurdles; they safeguard the integrity of your work. By obtaining them, you ensure that all construction meets safety standards, peace of mind for everyone involved.

ATCP 110.03 mandates that contractors inform buyers about necessary permits before starting work. This transparency is crucial for maintaining trust and ensuring compliance with state regulations. Starting work without the required permits is prohibited. This rule protects both parties by ensuring that all legal requirements are met before any construction begins. When inspections are required, contractors must provide inspection certificates to buyers. These documents confirm that the work meets all necessary standards before final payment is made. If an inspection document isn't issued, a summary must be provided. This summary includes the inspector's name, inspection date, and number, ensuring transparency and accountability.

Each subproject within a home improvement contract requires its own permits. Managing these permits is crucial to avoid delays and ensure compliance with all legal requirements. Before starting any subproject, verify that all necessary permits are obtained. This proactive approach prevents legal issues and ensures a smooth construction process.

ATCP 110.03 Building Permits – REVIEW QUESTIONS

89. According to ATCP 110.03, what must a seller do before starting work under a home improvement contract?
- A. Inform the buyer of required permits and wait until all permits are issued.
 - B. Begin work immediately and apply for permits later.
 - C. Only inform the buyer of state permits, not local permits.
 - D. Start work without permits if the buyer agrees.
90. When must copies of inspection certificates be provided to the buyer if midpoint or final inspections are required under state laws or local ordinances?
- A. After the buyer signs the completion slip
 - B. Before construction begins
 - C. When construction is completed and before final payment is due or the signing of a completion slip is requested
 - D. Only upon the buyer's request
91. Under ATCP 110.03(3), what can a seller do if a state or local inspector does not issue an inspection document?
- A. Skip providing any inspection information to the buyer.
 - B. Start work without informing the buyer about the inspection.
 - C. Provide a summary of the inspection to the buyer.
 - D. Request the buyer to contact the inspector directly.
-

ATCP 110.04 Warranties.

- (1) A seller shall give a buyer a copy of every written warranty made with respect to labor, services, products, or materials furnished in connection with a home improvement. If a seller makes any oral warranty, the seller shall document that warranty in writing and give a copy to the buyer. The seller shall provide all warranty documents to the buyer at the time the buyer enters into a home improvement contract, except that a manufacturer's product warranty may be provided at any of the following times:
- (a) At the time the buyer enters into a home improvement contract.
 - (b) At the time the product is installed.
 - (c) At the conclusion of the project, if specified in the contract.
- (2) If a seller warrants any labor, service, product, or material furnished in connection with a home improvement, the warranty shall be clear and specific and shall clearly specify all of the following:
- (a) Any warranty conditions or exclusions.
 - (b) Any limitations on the scope or duration of the warranty.
 - (c) The time period within which the seller will perform the seller's warranty obligations after the buyer makes a valid warranty claim.
- (3) No seller may give any warranty which the seller does not intend to honor in full, or which the seller has reason to believe will not be honored in full.

Imagine losing a client because of a warranty issue. Warranties are more than just paperwork; they build trust and enhance your business reputation. A solid warranty can be the difference between a satisfied customer and a lost opportunity. It reassures clients and reflects your commitment to quality, fostering long-term relationships and positive word-of-mouth. ATCP 110.04 is crucial for Wisconsin contractors. It outlines the requirements for warranties in home improvement contracts, ensuring transparency and compliance.

This regulation mandates written documentation of all warranties, whether oral or written. It specifies when warranty documents should be provided, ensuring clarity and protecting both parties. Written warranties are straightforward, but oral warranties require documentation. Failing to document oral promises can lead to disputes, so always ensure that every warranty is clearly recorded and shared with the client.



When should you provide warranty documents? Options include at contract signing, product installation, or project completion. Choose the timing that best suits your project and client needs. Manufacturer's product warranties can be delivered at various stages. Ensure your contract specifies when clients will receive these documents to avoid confusion and ensure compliance.

ATCP 110.04 Warranties – REVIEW QUESTIONS

92. According to ATCP 110.04(1), when must a seller provide a buyer with a copy of a manufacturer's product warranty?
- A. Only at the time the product is installed.
 - B. Only at the conclusion of the project.
 - C. At the time specified in the contract, which could be when the contract is signed, when the product is installed, or at the conclusion of the project.
 - D. After the buyer requests it, regardless of the project timeline.
93. Under ATCP 110.04(2), what must a seller include in a warranty for labor, services, products, or materials furnished in connection with a home improvement?
- A. A general statement of coverage without specifics.
 - B. A clear and specific description of conditions, exclusions, limitations, and the time period for fulfilling warranty obligations.
 - C. Only the duration of the warranty, without mentioning conditions or exclusions.
 - D. A verbal explanation of the warranty, without any written documentation.
94. According to ATCP 110.04 Warranties, what is prohibited for a seller regarding warranties?
- A. Offering a warranty longer than one year
 - B. Giving a warranty that the seller does not intend to honor in full
 - C. Providing a warranty without a written contract
 - D. Charging extra fees for warranty services
-

ATCP 110.05 Home improvement contract requirements.

- (1) The following home improvement contracts and all changes in the terms and conditions thereof, shall be in writing:
 - (a) Contracts requiring any payment of money or other consideration by the buyer prior to completion of the seller's obligations under the contract.
 - (b) Contracts which are initiated by the seller through face-to-face solicitation away from the regular place of business of the seller, mail or telephone solicitation away from the regular place of business of the seller, mail or telephone solicitation, or handbills or circulars delivered or left at places of residence.
 - (2) If sub. (1) requires a written home improvement contract or the buyer signs a written contract, the written contract shall be signed by all parties and shall clearly, accurately and legibly set forth all material terms and conditions of the contract, including:
 - (a) The name and address of the seller, including the name and address of the sales representative or agent who solicited or negotiated the contract for the seller.
 - (b) A description of the work to be done and the principal products and materials to be used or installed in performance of the contract. The description shall include, where applicable, the name, make, size, capacity, model, and model year of principal products or fixtures to be installed, and the type, grade, quality, size, or quantity of principal building or construction materials to be used. Where specific representations are made that certain types of products or materials will be used, or the buyer has specified that certain types of products or materials are to be used, a description of such products or materials shall be clearly set forth in the contract.
 - (c) The total price or other consideration to be paid by the buyer, including all finance charges. If the contract is one for time and materials the hourly rate for labor and all other terms and conditions of the contract affecting price shall be clearly stated.
 - (d) The dates or time period on or within which the work is to begin and be completed by the seller.
 - (e) A description of any mortgage or security interest to be taken in connection with the financing or sale of the home improvement.
 - (f) A statement of any guarantee or warranty with respect to any products, materials, labor, or services made by the seller or which are required to be furnished to the buyer under s. ATCP 110.04 (1).
 - (g) A description or identification of any other document which is to be incorporated in or form part of the contract.
 - (3) Before the seller begins work or receives any payment under a written home improvement contract, the seller shall provide the buyer with a copy of the contract.
 - (4) Where a representation is made that insurance or some other form of protection will be provided, the contract shall clearly state the terms, conditions, and limitations thereof, as well as the name and address of the insurer or the person who is furnishing such protection, if different from the seller. A copy of the insuring or protection agreement, declarations page, or some other document that shows evidence of insurance or other protection shall be furnished to the buyer before final payment is due under the contract.
 - (5) If a person other than the seller is to act as the general contractor or assume responsibility for performance of the contract, the name and address of such person shall be disclosed in the oral or written contract, except as otherwise agreed, and the contract shall not be sold or assigned without the written consent of the buyer.
 - (6) Before a buyer enters into a written home improvement contract prepared or offered by the seller, the seller shall determine if the buyer is able to read and understand the contract. If the buyer is blind or unable to read the contract, the written contract shall be read and explained to the buyer by a third party designated by the buyer and having no connection with the seller. If a language other than English is primarily used in contract negotiations, the written contract shall be both in English and in the language used to negotiate the contract.
 - (7) Liquidated damages for breach of contract by the buyer if made a part of the contract shall not exceed 10% of the contract price.
 - (8) If the buyer is required to sign a note, the amount and terms of the note shall correspond exactly with those stated in the oral or written contract.
- Written contracts are mandatory when any payment is made before project completion. This ensures clarity and protects both parties involved. Face-to-face and remote solicitations also require written agreements. This includes contracts initiated through mail, phone, or door-to-door sales. Every contract must clearly outline the seller's name, address, and the sales representative involved. This transparency helps with accountability and communication. Ensure all material terms, including work descriptions and product details, are accurately documented. This prevents misunderstandings and disputes later.*
- Accurate descriptions of work and materials are vital. Specify product names, models, and material grades to avoid confusion and ensure quality. When specific products are promised, they must be clearly listed in the contract. This guarantees that client expectations are met. Clearly state the total price, including finance charges, in your contract. Transparency in pricing builds trust and prevents future disputes.*
- Outline payment terms and schedules clearly. This aligns both parties regarding financial expectations and timelines. Include all warranty information in your contracts, reassuring clients about the quality and durability of your work. Communicate guarantees effectively to avoid misunderstandings and clearly define what is covered, for how long.*
- Insurance and protection agreements must be clearly stated. Include insurer details and provide evidence of coverage to the client. If a general contractor is involved, disclose their details in the contract. This ensures clarity on who is responsible for project execution.*
- Contracts should be accessible and understandable to buyers. If necessary, provide third-party explanations to ensure clarity and always use the buyer's primary language in contract negotiations.*

ATCP 110.05 Home Improvement Contract Requirements – REVIEW QUESTIONS

- 95. Which of the following contracts must be in writing?**
- A. Contracts initiated by the seller through face-to-face solicitation away from the regular place of business of the seller
 - B. Mail or telephone solicitation away from the regular place of business of the seller
 - C. Contracts requiring any payment of money by the buyer prior to the completion of the seller's obligations under the contract
 - D. All the above

96. According to ATCP 110.05(2), which of the following is NOT a required element to be clearly set forth in a written home improvement contract?

- A. The name and address of the seller and sales representative.
- B. A description of the work to be done, including details about products and materials.
- C. The buyer's employment history and credit score.
- D. The total price, including finance charges, and the dates for starting and completing the work.

97. Home improvement contracts must contain descriptions of work to be done and principal products/materials to be used or installed. Descriptions should include all the following EXCEPT:

- A. Size
- B. Model
- C. Capacity
- D. Instruction Manuals

98. Before the seller begins work or receives any payment, the seller shall provide the buyer with a copy of the _____.

- A. Contract
- B. Receipt
- C. Waiver
- D. Invoice

99. Under ATCP 110.05(4), what must a seller provide if a representation is made that insurance or protection will be included?

- A. A copy of the insurance agreement or evidence of protection before final payment is due.
- B. A verbal explanation of the insurance terms before the project starts.
- C. A guarantee that the insurance will cover all possible damages.
- D. A summary of the insurance terms after the project is completed.

100. Liquidated damages for breach of contract by the buyer if made a part of the contract shall not exceed _____% of the contract price.

- A. 5
- B. 10
- C. 15
- D. 20

101. What must the amount and terms of a note correspond to if the buyer is required to sign it?

- A. The buyer's financial situation
- B. The seller's preferences
- C. The terms stated in the oral or written contract
- D. The market value of the product

ATCP 110.06 Preservation of buyer's claims and defenses.

- (1) Every assignee of a home improvement contract takes subject to all claims and defenses of the buyer or successors in interest.

Note: Under this section, where the seller assigns the debt to a finance company before completing the contract and then fails to complete the contract, the finance company is subject to the same claims and defenses the buyer has against the contractor.

- (2) No seller shall enter into any home improvement contract wherein the buyer waives the right to assert against the seller or any assignee any claim or defense the buyer may have against the seller under the contract.
- (3) No seller shall use any promissory note or instrument, other than a check, in connection to a home improvement contract unless it bears the following statement in contrasting bold-face type:
"This is a home improvement instrument and is non-negotiable. Every holder takes subject to claims and defenses of the maker or obligor."
- (4) Every holder or transferee of a negotiable instrument executed in violation of this section, who knew or should have known at the time the document was acquired that it was made to evidence an obligation for home improvements, or who knew or should have known that the payee or transferor was engaged in the home improvement business, takes subject to all claims and defenses of the maker or obligor.
- (5) Claims and defenses of any buyer against an assignee or transferee under the contract shall be limited to the total amount for which the buyer was obligated at the time of entering into the contract.

ATCP 110.06 is designed to protect buyers in home improvement contracts. It ensures that buyers can assert claims and defenses against contractors and assignees, maintaining accountability. This regulation applies to all home improvement contracts, preventing sellers from waiving buyer rights. Key terms include 'assignee' and 'non-negotiable instruments,' crucial for understanding your protections.

Claims and defenses allow buyers to hold contractors accountable. If a contractor fails to deliver, buyers can assert these claims to seek resolution and protect their investment. Examples include incomplete work or contract breaches. These claims ensure that buyers are not left vulnerable, providing a legal pathway to address grievances effectively.

Assignees, like finance companies, are bound by ATCP 110.06. They must honor buyer claims and defenses, ensuring that financial obligations are met fairly. In real-world scenarios, if a contractor defaults, finance companies must address buyer claims. This regulation ensures that buyers are not left without recourse. Non-negotiable instruments in contracts protect buyers by preventing the transfer of obligations without consent, and the bold-face statement is crucial for transparency and accountability. This impacts both buyers and sellers by clarifying rights and responsibilities. It prevents unexpected financial burdens, maintaining fairness in contractual agreements.

ATCP 110.06 Preservation of Buyer's Claims and Defenses – REVIEW QUESTIONS

102. According to ATCP 110.06(1), what happens when a home improvement contract is assigned to a finance company before the seller completes the contract?

- A. The buyer loses all claims and defenses against the seller.
- B. The finance company is not responsible for any issues with the contract.
- C. The finance company is subject to the same claims and defenses the buyer has against the seller.
- D. The buyer must resolve all disputes directly with the seller, not the finance company.

103. Under ATCP 110.06(3), what must a promissory note or instrument (other than a check) used in connection with a home improvement contract include?

- A. The seller's signature and contact information.
- B. A statement in bold-face type indicating it is a home improvement instrument and is non-negotiable.
- C. A guarantee that the buyer waives all claims and defenses.
- D. A clause allowing the seller to transfer the instrument without restrictions.

104. According to ATCP 110.06(5), what is the limit on claims and defenses a buyer can assert against an assignee or transferee under a home improvement contract?

- A. The buyer can claim any amount they choose, regardless of the contract.
- B. Claims and defenses are limited to the total amount the buyer was obligated to pay when entering into the contract.
- C. There is no limit on claims and defenses against an assignee or transferee.
- D. Claims and defenses are limited to the cost of materials only.

ATCP 110.07 Contract cancellation; return of payments.

(1) Conditions Warranting Exercise of Buyer's Remedies.

Remedies. If, under a home improvement contract, a buyer pays a seller for any home improvement materials or services before the seller provides those materials or services to the buyer, the buyer may proceed under sub. (2) if any of the following occurs:

- (a) The seller fails to provide the materials or services by a deadline specified in the home improvement contract.
- (b) The seller fails to give buyer notice of an impending delay as required under s. ATCP 110.027 (1), or fails to obtain the buyer's agreement to a new performance deadline.
- (c) The buyer believes that the seller has failed to provide the materials or services in a timely manner, and the home improvement contract specifies no deadline for the seller to provide the materials or services.

(2) Buyer's Remedies. If the conditions under sub. (1) are met,

the buyer may do all of the following:

- (a) Cancel the contract.
 - (b) Demand return of all payments which the seller has not yet expended on the home improvement.
 - (c) If the seller has used any of the buyer's payments to purchase materials for the home improvement, demand delivery to the home improvement site of those materials which have not yet been used for the home improvement or delivered to the site.
 - (d) Demand a written accounting for all payments that the buyer made to the seller. The written accounting shall detail how all payments were used by the seller.
- (3) Buyer's Exercise of Remedies; Procedure. In order to exercise any remedy under sub. (2), the buyer shall deliver written notice to the seller, or to the seller's officer, director, or agent. Notice shall be delivered in person, by certified mail to the seller's last known address, or by regular mail with evidence of mailing to the seller's last known address. If notice is mailed to the seller, the date on which the post office receives the notice for delivery is considered the date of service for purposes of sub. (4). Compliance with this subsection is not a prerequisite to the buyer's exercise of other remedies other than those specified under sub. (2).
- (4) Compliance by Seller.
- (a) If the buyer demands the return of payments to which the buyer is entitled under sub. (2) (b), the seller shall return those payments to the buyer within 15 calendar days after the buyer's demand is served on the seller under sub. (3).
 - (b) If the buyer demands delivery of materials to which the buyer is entitled under sub. (2) (c), the seller shall deliver those materials to the home improvement site within 15 calendar days after the buyer's demand is served on the seller under sub. (3), or within 5 calendar days after the seller receives the materials from the seller's supplier, whichever occurs later.
 - (c) If the buyer demands an accounting to which the buyer is entitled under sub. (2) (d), the seller shall provide the buyer with the written accounting within 30 calendar days after the buyer's demand is served on the seller under sub. (3).
- (5) Remedies Not Exclusive. A buyer's remedies under this section are in addition to any other legal remedies available to the buyer. They are not a prerequisite to the exercise of any other remedies, nor do they limit any other remedies.



A contract can be cancelled if the seller misses a deadline or fails to notify the buyer of delays. Breaches like these give buyers the right to cancel and seek remedies. Imagine a seller not delivering materials on time. This breach allows the buyer to cancel the contract, protecting their interests and requiring seller accountability.

Buyers have several remedies, including contract cancellation and demanding the return of payments. If materials were purchased, buyers can demand their delivery. These options safeguard buyers' investments and ensure they receive what they paid for. To exercise remedies, buyers must give written notice to the seller either in

person or by certified mail, guaranteeing the seller is informed of the buyer's demands. Following the correct process is crucial. It confirms that buyers' rights are upheld and that their demands are legally recognized.

Once a demand is made, sellers have 15 days to return payments or deliver materials. Compliance is essential to maintain trust and fulfill contractual obligations. Sellers must also provide a written accounting within 30 days. This transparency is vital for maintaining a fair and honest transaction and is not just a formality; it's a requirement. It details how payments were used, ensuring transparency and trust in home improvement contracts.

Buyers' remedies under this section are not exclusive. They can explore other legal options, ensuring comprehensive protection of their rights.

ATCP 110.07 Contract Cancellation; Return of Payments – REVIEW QUESTIONS

105. Under ATCP 110.07(1), when may a buyer exercise remedies if they have paid a seller for home improvement materials or services in advance?

- A. If the seller provides the materials or services ahead of schedule.
- B. If the buyer changes their mind about the home improvement project.
- C. If the seller requests additional payment before completing the work.
- D. If the seller fails to meet a specified deadline or notify the buyer of delays, or if no deadline is specified and the buyer believes the seller is untimely.

106. Under ATCP 110.07(2), what remedies are available to a buyer if the conditions for contract cancellation are met?

- A. Cancel the contract, demand a return of unspent payments, request delivery of unused materials, and demand a written accounting of payments.
- B. Cancel the contract and demand a refund of all payments, regardless of how they were used.
- C. Demand that the seller complete the project immediately without any further delays.
- D. Cancel the contract and require the seller to pay a penalty fee.

107. Under ATCP 110.07(4), what is the required timeframe for a seller to comply with a buyer's demand for a written accounting of payments?

- A. Within 15 calendar days after the demand is served.
- B. Within 30 calendar days after the demand is served.
- C. Within 5 calendar days after receiving the materials from the supplier.
- D. Within 10 calendar days after the demand is served.

108. What must a buyer do to exercise their remedies if a seller breaches a home improvement contract by missing a deadline or failing to notify the buyer of delays?

- A. File a lawsuit immediately without notifying the seller.
- B. Provide written notice to the seller in person or by certified mail.
- C. Cancel the contract without informing the seller.
- D. Wait for the seller to acknowledge the breach before taking action.

109. If the buyer demands delivery of materials to which the buyer is entitled to, the seller must deliver those materials to the home improvement site within ____ calendar days after the buyer's demand is served.

- A. 5
- B. 10
- C. 15
- D. 20

ATCP 110.09 Basement waterproofing practices.

- (1) Declaration of Policy. Basement water problems, particularly those arising from poor drainage or high water tables, are often difficult to correct without a thorough analysis of causative factors and the performance of extensive and costly waterproofing services. The effectiveness of such services, unlike many other services, cannot readily be determined until heavy rains or other conditions responsible for basement water problems occur. In the performance of basement waterproofing services, certain methods or processes have been used at substantial cost to the consumer which are ineffective, inadequate, or unsuitable for the correction of basement water problems. Guarantees, if given, may often be vague, ambiguous, or unenforceable against the seller, or otherwise made without reasonable expectancy of performance on the part of the seller to the detriment of the buyer. These and other abuses in the sale of basement waterproofing services are contrary to the public interest and are unfair trade practices and unfair methods of competition prohibited under s. 100.20, Stats.
- (2) Definitions.
 - (a) "Advertising" means any oral, written, printed, or graphic statement or representation made in connection with the solicitation or sale of basement waterproofing services.
 - (b) "Basement waterproofing" means the use or application of materials or processes for the prevention or control of water leakage or flow through the basement walls or flooring into the interior portion of a basement.
 - (c) "Engineer's analysis" means a written report from a professional engineer registered in the state of Wisconsin containing an analysis of soil conditions, water tables or pressure, and other factors or conditions affecting the existence and correction of basement water problems, and an opinion as to the probability that the process and the particular substances or materials which are to be used in the performance of basement waterproofing services will or will not cure the basement water problem or have a significant waterproofing effect.

- (d) “Pressure pumping” means a basement waterproofing process by which a substance is injected into the ground adjacent to the basement walls or beneath the basement foundation or floor by pipes or other conduits for the purpose of protecting or sealing the basement walls, foundation, or floors against water penetration.
 - (e) “Seller’s analysis” is a written statement by the seller of the causes and conditions responsible for the buyer’s basement water problem and the specific processes and materials to be used in correcting the problem.
 - (f) “Guarantee” means any promise, made by or on behalf of the seller in connection with the sale of basement waterproofing services, which provides that the seller’s services, materials, or workmanship are defect free or will meet a specified level of performance over a specified period of time, or which provides that the seller will correct, repair, service, replace, make refunds for, or otherwise remedy any systems, problems, defects, or malfunctions that relate to or arise out of basement waterproofing services. The term includes service contracts or agreements made by or on behalf of the seller in connection with a basement waterproofing contract under which the seller provides or agrees to perform, over a fixed or extended period of time, basement waterproofing inspection, maintenance, or repair services, whether or not a separate or additional charge is made for such services.
- (3) Prohibited Practices. No seller of basement waterproofing services, products, or materials shall engage in the following unfair trade practices or unfair methods of competition:
- (a) Make or offer to make any guarantee with respect to basement waterproofing services unless the guarantee meets the requirements of sub. (4), and is furnished to the buyer in writing with a seller’s analysis prior to final execution of any contract.
 - (b) Make any guarantee the seller knows or reasonably ought to know cannot be performed or which exceeds the period of time the seller or other persons obligated under the guarantee may be able to honor or perform under the guarantee.
 - (c) Submit a seller’s analysis to the buyer which the seller knows or reasonably ought to know is founded on incorrect facts or conclusions.
 - (d) Enter into a basement waterproofing contract which provides, in whole or in part, for the performance of services which the seller knows or reasonably ought to know are unnecessary or will not materially serve to correct the buyer’s basement water problem, unless such unnecessary or noncorrective services are separately and distinctly identified and enumerated in the seller’s analysis, or an amendment thereto, provided to the buyer prior to execution of a basement waterproofing contract.
 - (e) Advertise basement waterproofing services in a manner which explicitly states or otherwise suggests or implies that such services will be guaranteed, unless they are in fact guaranteed and a copy of the guarantee is furnished to the buyer in connection with any basement waterproofing contract.
 - (f) Advertise that basement waterproofing services of the seller are or will be effective unless the seller is experienced in and uses basement waterproofing methods generally recognized as being effective for the prevention or control of basement water problems in the basement waterproofing industry.
- (g) Sell basement waterproofing services using the pressure pumping method unless the need or effectiveness of such method is established in a seller’s analysis verified by an engineer’s analysis furnished to the buyer prior to the sale, and the work is guaranteed as provided under sub. (4).
 - (h) Advertise basement waterproofing services using the pressure pumping process without disclosing in the advertisement that an engineer’s analysis recommending this process is required as a condition to the use thereof, and must be furnished to the buyer before a contract is signed.
 - (i) Enter into any contract for basement waterproofing services which does not contain all agreements, promises, or representations made with respect to such services, and which is not in writing and signed by the buyer and seller.
 - (j) Fail to provide, in all instances where the seller’s basement waterproofing services are not guaranteed, the following disclaimer, which shall be set forth on the face of the contract, separate and apart from all other contract provisions, and in boldface type:

THE BASEMENT WATERPROOFING SERVICES PROVIDED BY THIS CONTRACT ARE NOT GUARANTEED.
- (4) Guarantees.
- (a) All guarantees shall be furnished to the buyer in writing prior to the final execution of any contract and include the name and address of the seller or person responsible for performance under the guarantee. Guarantees shall be considered part of the basement waterproofing contract and any breach in the terms or conditions thereof shall entitle the buyer to a full refund of money paid under the contract, less the value of benefits actually derived from the performed services. The burden of establishing any benefit to the buyer shall be on the seller.
 - (b) All guarantees shall be set forth in clear and explicit terms and shall fully guarantee that the work or services to be performed will effectively prevent or control the basement water problem they were designed or intended to prevent or control for the period of time specified in the guarantee. Basement dampness may be excluded from the guarantee if agreed to by the buyer in writing and the guarantee or contract contains the following statement in boldface type:

THE GUARANTEE PROVIDED HEREIN DOES NOT COVER DAMPNES ON THE BASEMENT WALLS–IT DOES COVER ANY WATER LEAKAGE OR FLOW.
 - (c) All guarantees shall contain a provision that any remedial work or services to be performed under the guarantee shall begin within 45 days and be completed within 6 months after notice by the buyer to the seller of any failure of the waterproofing services under the contract. Notice of any claim by the buyer under the guarantee shall be deemed actual notice if mailed by certified mail to the seller’s address as set forth in the guarantee.
- (5) Seller’s Analysis. Sellers of basement waterproofing services shall prepare and furnish to the buyer a signed copy of the seller’s analysis prior to the final execution of any basement waterproofing contract.



Basement water issues are more complex than they appear. High water tables and poor drainage can lead to costly waterproofing services. The effectiveness of these services often remains uncertain until heavy rains test them. Many waterproofing methods are ineffective or unsuitable, leading to consumer dissatisfaction. Guarantees can be vague, leaving buyers without recourse. These practices are unfair and against public interest, as outlined in ATCP 110.09.

Basement waterproofing involves materials and processes to prevent water leakage. An engineer's analysis provides a detailed report on soil and water conditions, crucial for effective solutions. Pressure pumping injects substances to seal basement walls. A seller's analysis outlines the causes of water problems and proposed solutions.

Unfair practices in waterproofing include making guarantees that can't be honored. Misleading advertising can misinform consumers about the effectiveness of services. It's crucial to ensure all claims are truthful and backed by evidence, and any seller's analysis must be fact-based to ensure effective solutions. Incorrect analyses can lead to ineffective waterproofing, wasting time and money. Misleading analyses have legal implications, and sellers must ensure their assessments are accurate and reliable to avoid legal issues and consumer dissatisfaction.

Truthful advertising is key in waterproofing services. Guarantees should be clear and honest, reflecting the true effectiveness of the services offered. Avoid making misleading claims about service effectiveness. Ensure all advertisements are backed by proven methods and reliable data.

Pressure pumping should only be used when conditions warrant it. An engineer's analysis is necessary to determine its suitability. Guaranteeing pressure pumping work is crucial—ensure all conditions and recommendations are met before proceeding with this method.

All agreements regarding basement waterproofing must be documented in contracts. This includes buyer and seller signatures to ensure clarity and accountability. Disclaimers are important for non-guaranteed services. They must be clearly stated to avoid misunderstandings and protect both parties. Clear and enforceable guarantees protect both buyers and sellers. They should outline the buyer's rights and the timeline for remedial work involving basement waterproofing. By understanding these practices, you'll ensure effective waterproofing solutions.

ATCP 110.09 Basement Waterproofing Practices – REVIEW QUESTIONS

110. Why are certain basement waterproofing practices considered unfair trade practices under ATCP 110.09(1)?

- A. Because they are always inexpensive and easy to implement.
- B. Because they often involve ineffective or unsuitable methods, vague guarantees, and lack reasonable expectancy of performance.
- C. Because they guarantee immediate results regardless of conditions.
- D. Because they are only performed during heavy rains.

111. What challenge makes it difficult to determine the effectiveness of basement waterproofing services, according to ATCP 110.09(1)?

- A. The services are too costly to evaluate.
- B. The effectiveness cannot be assessed until heavy rains or specific conditions occur.
- C. The methods used are always outdated and unreliable.
- D. The consumer is unable to monitor the work being performed.

112. _____ means any oral, written, printed, or graphic statement made in connection with the solicitation or sale of basement waterproofing services.

- A. Waterproofing
- B. Analysis
- C. Advertisement
- D. Pumping

113. _____ means a basement waterproofing process by which a substance is injected into the ground adjacent to the basement walls or beneath the basement foundation or floor by pipes or other conduits for the purpose of protecting or sealing the basement walls, foundation, or floors against water penetration.

- A. Pressure Pumping
- B. Engineer's Analysis
- C. Advertisement
- D. Guarantee

114. According to ATCP 110.09(f), what does the term "guarantee" include in the context of basement waterproofing services?

- A. Only promises to provide refunds for defective services.
- B. Any promise to ensure defect-free services, specified performance levels, or to remedy issues through repair, replacement, or refunds.
- C. Agreements that only cover inspection services without additional charges.
- D. Promises made by the buyer to accept the seller's terms without question.

115. What must a seller provide to the buyer before making a guarantee about basement waterproofing services, according to ATCP 110.09(3)(a)?

- A. A verbal promise of effectiveness.
- B. A refund policy for unsatisfactory services.
- C. A list of unnecessary services included in the contract.
- D. A written guarantee and a seller's analysis before the contract is finalized.

116. Under ATCP 110.09(3)(d), when is a seller allowed to include unnecessary or non-corrective services in a basement waterproofing contract?

- A. When the services are separately identified and enumerated in the seller's analysis provided before the contract is signed.
- B. When the seller provides a verbal explanation to the buyer.
- C. When the buyer agrees to pay extra for these services after the contract is signed.
- D. When the seller guarantees the effectiveness of these services.

117. What disclaimer must be included in a basement waterproofing contract if the seller's services are not guaranteed, as required by ATCP 110.09(3)(j)?

- A. "The seller is not responsible for any damages caused by water."
- B. "The basement waterproofing services provided by this contract are not guaranteed."
- C. "The buyer waives all claims related to basement waterproofing."
- D. "The seller will provide a guarantee upon request."

118. What must all guarantees include, according to ATCP 110.09(4)(a)?

- A. A verbal promise from the seller.
- B. The name and address of the seller or person responsible for performance, and they must be provided in writing before the contract is finalized.
- C. A refund policy that excludes any benefits derived from the services.
- D. A clause allowing the seller to modify the guarantee after the contract is signed.

119. Under ATCP 110.09(4)(b), what must a guarantee explicitly state if basement dampness is excluded from coverage?

- A. "The guarantee does not cover any water issues."
- B. "The seller is not responsible for any basement water problems."
- C. "The guarantee provided herein does not cover dampness on the basement walls—it does cover any water leakage or flow."
- D. "The buyer waives all claims related to basement dampness."

120. What is the required timeline for remedial work under a guarantee, as stated in ATCP 110.09(4)(c)?

- A. Remedial work must begin within 45 days and be completed within 6 months after notice by the buyer.
- B. Remedial work must begin within 30 days and be completed within 3 months.
- C. Remedial work must begin immediately and be completed within 1 year.
- D. Remedial work must begin within 60 days and be completed within 9 months.

