

PANORAMIC

**US CONSTRUCTION  
(STATE-BY-STATE)**

USA - Nebraska



LEXOLOGY

# US Construction (state-by-state)

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## REGULATION AND COMPLIANCE

### Licensing procedures

#### Must foreign designers and contractors be licensed locally to work and, if so, what are the consequences of working without a license?

In Nebraska, foreign designers and contractors must generally be licensed locally to work legally within the state.

General licensing requirements for architects and interior designers, engineers and contractors:

Architects and interior designers:

- Under Section 81-3420, architects must be licensed under the Engineers and Architects Regulation Act to legally practice or offer to practice in Nebraska.

Engineers:

- Under Section 81-3421, engineers are required to be licensed under the Engineers and Architects Regulation Act to practice or offer to practice engineering in Nebraska.
- The Nebraska Engineers and Architects Regulation Act (Neb. Rev. Stat. §§ 81-3401 to 81-3455) also outlines continuing education, enforcement procedures, and disciplinary actions that govern architects and engineers.

Contractors:

- Under Section 48-2104, contractors (general contractors, electrical, plumbing, etc.) must register with the Nebraska Department of Labor under the Nebraska Contractor Registration Act. This requirement does not apply to persons performing construction work on his or her own property or any persons earning less than \$5,000 a year for construction services.

Consequences of working without a licence in Nebraska:

- Working without a licence in the construction industry in Nebraska can lead to serious legal consequences. Here's an outline of these consequences according to Nebraska statutes:

Architects and interior designers:

- Under Section 81-3442, practicing architecture or offering to practice without a license is unlawful and subjects the individual to penalties. Specifically, the first offense results in a misdemeanor and the second or any subsequent offense results in a felony.

Engineers:

- Under Section 81-3442, similar to architects, engineers practicing without a license face legal consequence, including misdemeanor or felony charges for unlicensed practice or offering to practice engineering in Nebraska.

Contractors:

- Under Section 48-2114, if a contractor is found to be unregistered or has provided incomplete or inaccurate registration information, the Nebraska Department of Labor can issue a citation with an administrative penalty of up to \$500. For a second or subsequent violation, the penalty can be up to \$5,000.

Law stated - 11 September 2025

## **Bribery**

**If a contractor has illegally obtained the award of a contract, for example, by bribery, will the contract be enforceable? Are bribe-givers and bribe-takers prosecuted and, if so, what are the penalties they face? Are facilitation payments allowable under local law?**

In Nebraska, if a contractor illegally obtains the award of a contract through bribery or other illegal means, the contract is generally considered unenforceable. Both bribe-givers and bribe-takers are prosecuted under Nebraska law, and facilitation payments are not permissible.

Prosecution of bribe-givers and bribe-takers:

Under Section 28-917, offering or providing something of value with the intent to influence the actions of a public official is a Class IV felony. A Class IV felony in Nebraska can result in up to 2 years of imprisonment, a fine of up to \$10,000, or both. Additionally, those convicted may face disqualification from holding public office or possessing a firearm. Witnesses and jurors who accept bribes are subject to the same level of felony charges under Section 28-918 and Section 28-920.

Facilitation payments:

Regarding facilitation payments, Nebraska law does not make exceptions for these payments. Facilitation payments, which are typically small bribes intended to expedite routine governmental actions, are considered illegal and treated as bribery under both state and federal laws. The penalties for such actions are like those for other forms of bribery, emphasizing Nebraska's strict stance against any form of corruption.

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## **CONTRACTS**

### **Construction contracts**

**What standard contract forms are used for construction and design? Must the language of the contract be the local language? Are there restrictions on choice of law and the venue for dispute resolution?**

The construction and design industry in Nebraska frequently utilizes standard contract forms developed by well-established organizations, including:

- American Institute of Architects (AIA) Contracts: In the state of Nebraska, the construction and design industry commonly utilize standard contract forms

published by the AIA for a wide range of projects, such as AIA A101 Standard Form of Agreement between Owner and Contractor; A201 General Conditions of the Contract for Construction; and AIA B101 Standard Form of Agreement between Owner and Architect.

- **ConsensusDocs:** These are another set of widely recognized contract forms, such as ConsensusDocs 200 (Standard Agreement and General Conditions Between Owner and Constructor) and ConsensusDocs 240 (Agreement Between Owner and Design Professional).
- **EJCDC Contracts (Engineers Joint Contract Documents Committee):** EJCDC contracts are frequently used for engineering projects in Nebraska, particularly in public works and infrastructure projects. These documents are recognized as industry-standard contracts for engineers, architects, and public project owners.
- **State-Specific Contracts:** Nebraska Department of Transportation (NDOT) and other state agencies often use specific contract forms and bid documents for public construction projects. These contracts are typically guided by state laws and must adhere to specific requirements set by the agency involved.

Some Nebraska-specific public contracts may use forms developed by local agencies. These forms often need to comply with Nebraska-specific laws.

Language of contract:

Under Section 76-2718, foreclosure consulting contracts must be written in English and accompanied by a certified translation into any other language principally spoken by the homeowner.

Restrictions on contract terms:

Under Section 45-1209, the following provisions in any contract or subcontract for construction work performed within the State of Nebraska shall be against public policy and shall be void and unenforceable:

- (1) A provision that purports to waive, release, or extinguish rights to file a claim against a payment or performance bond, except that a contract or subcontract may require a contractor or subcontractor to provide a waiver or release of such rights as a condition for payment, but only to the extent of the amount of the payment received;
- (2) A provision that purports to make any state law other than that of Nebraska applicable to or governing any contract for construction within the state; or
- (3) A provision that purports to require that the venue for a court or arbitration hearing be held at any location outside of the state.

The courts may refuse to apply a foreign law if it contradicts Nebraska's public policy. Under Section 25-2704, contracts involving real estate in Nebraska are typically governed by Nebraska law.

**Law stated - 11 September 2025**

## | **Payment methods**

## How are contractors, subcontractors, vendors and workers typically paid and is there a standard frequency for payments?

In Nebraska, the payment practices for contractors, subcontractors, vendors, and workers are governed by specific statutes that outline the frequency and conditions under which payments must be made.

Contractors:

- **Progress Payments:** Under Section 45-1203(1), contractors must be paid within 30 days of receiving an invoice, provided the work meets the contract requirements. If a progress payment is going to be withheld, it is best practice to notify the contractor in writing of the contractual reasons for the withholding which under section 45-1204 may include (a) reasonable evidence showing that the contractual completion date will not be met due to unsatisfactory job progress; (b) third-party claims filed or reasonable evidence that such a claim will be filed with respect to work under the contract; or (c) failure of the contractor to make timely payments for labor, equipment, subcontractors, or materials.
- **Retainage:** Under Section 45-1204, the amount should not exceed the rate specified in the contract, which shall not exceed ten percent. When the scope of work is fifty percent complete and the contractor has performed work in accordance with the contract, no more than five percent of any additional progress payment may be withheld. After substantial completion, an amount not to exceed one hundred twenty-five percent of the estimated cost to complete the work remaining on the contract may be withheld. This ensures the contractor completes all aspects of the project satisfactorily. Under Section 45-1203(3), any retained amounts must be paid within 45 days of the completion of the work unless there is a good faith dispute.
- **Payment Timing:** Under Section 45-1205, if a periodic or final payment to the contractor is delayed by more than 30 days after the contractor's request, the owner must pay the contractor statutory interest at the rate of one percent per month due from the date payment is due until final payment is made. To collect interest under this section, the contractor must notify the owner that interest may be collected under this section. If a contractor accepts final payment, claims for interest on such payment are deemed released.

Subcontractors and vendors:

- **Progress Payments:** Under Section 45-1203(2), when a subcontractor has completed work according to the subcontract and satisfied all conditions for payment, the contractor must pay the subcontractor within 10 days after receiving payment from the owner.
- **Retainage:** Under Section 45-1203(3), when a subcontractor has performed work in accordance with the provisions of a subcontract and all conditions precedent to payment contained in the subcontract have been satisfied, the contractor shall pay all retainage due such subcontractor within ten days after receipt of the retainage.
- **Vendor Payments:** Payments to vendors for supplies and materials are typically not subject to retainage but are governed by the terms of the purchase order or contract between the contractor and the vendor.

#### Workers:

- **Payment Frequency:** Under Section 48-1230, employers must establish regular paydays, designated by the employer or agreed upon between the employer and the employee that are not more than 31 days apart. Payment must be made on each payday for all wages earned up to that date.
- **Wage Laws:** Under Section 48-1231, if an employer fails to pay wages on time or within 30 days of the regular payday, the employee can take legal action, and the employer may be liable for damages equal to two times the unpaid wages.
- **Prevailing Wages:** Nebraska does not have its own prevailing wage law for state or local public works projects.

#### Mode of payment for contractors, subcontractors, vendors, and workers:

Contractors, subcontractors, vendors, and workers in the state are typically paid through various methods, including checks, electronic funds transfers (EFT), direct deposits, and payroll cards. The specific mode of payment depends on the contract terms and industry practices. Contractors and subcontractors often receive payments via checks or EFTs, while workers are usually paid through direct deposit, check or payroll cards. Vendors might be paid through purchase orders with net terms, wire transfers, or credit cards. Ensuring timely payment through these methods is crucial for compliance with Nebraska law and maintaining good business relationship.

**Law stated - 11 September 2025**

### **PPP and PFI**

#### **Is there a formal statutory and regulatory framework for PPP and PFI contracts?**

Nebraska does have a formal framework for public-private partnerships (PPPs), particularly in the context of transportation and water/natural resources projects. While the term Public Financia Initiatives (PFI) is not explicitly used in Nebraska law, PPPs often involve private financing, making the framework applicable to PFI-like arrangements.

- Nebraska statutes under Section 61-520 and Section 39-2825 authorize the use of public-private partnership delivery methods for projects under specific acts, such as the Public Water and Natural Resources Project Contracting Act and the Transportation Innovation Act. These statutes provide that state contracts using this method shall be awarded by competitive negotiation and outline the responsibilities of the contracting agency and the private partner. They also require the adoption of rules and regulations to guide the implementation of PPPs, including criteria for when a PPP is to be used for a particular project.
- Under Neb. Admin. Code, Section 412-4-003, the regulatory framework emphasises the promotion and encouragement of using PPPs when it is determined to be more appropriate than other alternative project delivery methods, based on specific criteria and when it is in the state's best interest. The purpose of these regulations is to establish criteria for determining when a PPP should be considered for a particular Department of Transportation project.

Law stated - 11 September 2025

## LABOR LAW

### Labor requirements

**Are there any laws requiring a minimum amount of local labor to be employed on a particular construction project?**

Nebraska does not have specific laws that mandate a minimum amount of local labor on construction projects. While Nebraska does not impose minimum local labor requirements, other labor-related laws can affect workforce composition. Nebraska Contractor Registration Act under Section 48-2104 requires contractors working on construction projects in Nebraska to register with the state. While this law doesn't mandate the use of local labor, it ensures that contractors comply with state labor regulations, including worker compensation and insurance requirements.

Law stated - 11 September 2025

### Labor and human rights

**What laws apply to the treatment of foreign construction workers and what rights do they have? What are the local law consequences for failure to follow those laws?**

Laws for the treatment of foreign workers:

In Nebraska, foreign construction workers are subject to both federal and state laws governing wages, working conditions, and immigration status. Key federal laws include the Immigration and Nationality Act (INA), Fair Labor Standards Act (FLSA), and Occupational Safety and Health Act (OSHA) among others.

Nebraska state laws:

- Nebraska Fair Employment Practice Act: Under Section 48-1124, the Act ensures that no law, including those related to the treatment of foreign workers, repeals any provisions of civil rights law or any other state law or municipal ordinance relating to discrimination because of race, creed, color, religion, sex, disability, national origin, or military or veteran status.
- Nebraska Workers' Compensation Act: Under Section 48-132, the Act includes provisions for compensation for employees or dependents under disability, ensuring that foreign workers have the right to claim and exercise rights or privileges under the act, such as compensation for injuries sustained during employment.

Consequences for non-compliance:

- Under Section 48-1117, if an employer is found in violation of the Nebraska Fair Employment Practice Act, it provides for civil remedies through the Nebraska Equal Opportunity Commission (NEOC) or court orders. If an employer fails to comply with

an NEOC order, the commission may seek enforcement through the courts, which can issue injunctions and further civil penalties.

- Under Section 48-146.03, any violation of the subsection that prohibits requiring or attempting to require an employee to pay any of the deductible amount or to give up their right of selection of physician is classified as a Class II misdemeanor.

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## PAYMENT

### Statutory payment protection

**Where major projects have been interrupted or canceled, do the local laws provide any protection for unpaid contractors who have performed work?**

In Nebraska, local laws provide protections for unpaid contractors when major projects are interrupted or cancelled. These protections primarily come through mechanics lien laws, which allow contractors to secure payment for work performed by placing a lien on the property.

Nebraska mechanics lien law:

Under Section 52-137, the contractor must file a lien statement with the county recorder's office where the property is located within 120 days after the last date they furnished labor or materials to the project. If the lien is not satisfied, the contractor can file a lawsuit to enforce the lien. This action must be initiated within 2 years of filing the lien statement as outlined under Section 52-140.

Payment bonds:

- Under Section 52-118, contractors working on state or local public construction projects are required to provide a payment bond for contracts exceeding \$15,000. This bond must be issued by a surety company authorized to do business in Nebraska. Subcontractors and suppliers typically must provide a written notice of their claim to the bond issuer within a specified time frame. The Nebraska Little Miller Act requires notice to be given within 90 days after the last date labor or materials were furnished to the project.
- Under Section 14-365, for work contracted with a city of the metropolitan class, contractors are required to provide a bond with not less than two sureties, or a reliable surety company, in an amount not less than fifty percent of the contract price. This bond is for the faithful performance of the work and includes provisions for the protection of workers and suppliers.

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## FORCE MAJEURE

### Force majeure and acts of God

## Under local law are contractors excused from performing contractual obligations owing to events beyond their control?

Force majeure:

Nebraska law does not have a specific statute governing force majeure clause. However, Nebraska has adopted commercial impracticability provisions under the Uniform Commercial Code (UCC). Under Section 2-615, it states that a seller is not in breach if performance is made impracticable due to unforeseen events, such as natural disasters or government actions, provided that the non-occurrence of these events was a basic assumption of the contract.

Termination and modification of contracts:

Under Section 25-2001, the statute provides courts with the power to grant relief when it becomes evident that a contract cannot be performed as originally intended due to changed conditions, though it does not directly mention force majeure.

**Law stated - 11 September 2025**

## DISPUTES

### Limitation periods

Are there any statutory limitation periods within which lawsuits must be commenced for construction work or design services and are there any statutory preconditions for commencing or maintaining such proceedings?

In Nebraska, there are statutory limitation periods for commencing lawsuits related to construction work or design services. Additionally, there are statutory preconditions for commencing or maintaining such proceedings.

Statutory limitation periods:

- Under Section 25-223, actions based upon a deficiency in the design, planning, supervision, or observation of construction, or the construction itself, must be commenced within four years. This limitation period applies unless the parties have entered into a written contract that specifies a different period of time within which to commence such an action. If the cause of action is not discovered and could not be reasonably discovered within such four-year period, or within one year preceding the expiration of such four-year period, then the cause of action may be commenced within two years from the date of such discovery or from the date of discovery of facts which would reasonably lead to such discovery, whichever is earlier.
- Under Section 25-223, no action may be commenced to recover damages for an alleged breach of warranty on improvements to real property or deficiency in the design, planning, supervision, or observation of construction, or construction of an improvement to real property more than ten years beyond the time of the act giving rise to the cause of action.. This limits the time within which any claims (regardless of when discovered) can be brought against persons involved in the construction or design of an improvement to real property.

- Under Section 25-222, any action to recover damages based on professional negligence or failure to render professional service must be commenced within two years after the alleged act or omission giving rise to a claim. Provided, if the cause of action is not discovered and could not be reasonably discovered within such two-year period, then the action may be commenced within one year from the date of such discovery or from the date of discovery of facts which would reasonably lead to such discovery, whichever is earlier. Similar to actions based on deficiency of design and construction, any action for professional negligence or failure to render professional service must be brought within 10 years (regardless of when the basis for the cause of action occurred).

Statutory preconditions for commencing or maintaining proceedings:

- To bring an action for professional negligence, a claimant must establish that the defendant provided professional services. Courts look to the nature of the act or service to determine whether the defendant's occupation is a "profession" under the two-year statute of limitations under Section 25-222. Architects and engineers are considered professionals. Therefore, any claims against them are subject to the statute of limitations period in Section 25-222.
- Under Section 25-201.01, if an action is commenced within the applicable statute of limitations but fails for a reason other than those specified, the plaintiff may commence a new action within six months after the failure of the action or a period equal to the period of the applicable statute of limitations of the original action, whichever is lesser.

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