



<https://www.cslb.ca.gov/newsletter/2010-summer/page9.htm>

Time and Material Contracts Not Legal for Home Improvement

For most people a "time and material contract" would be defined as an arrangement in which a contractor is paid on the basis of:

- Actual cost of direct labor, usually at specified hourly rates
- Actual cost of materials and equipment used
- Agreed-upon fixed add-ons to cover the contractor's overhead and profit (income)

This type of arrangement is acceptable for commercial projects, but not for home improvement contracts. If a homeowner is leery of signing a contract for the job—thinking you're making too much profit on such a simple project—you might say "What if we agree on the job for the cost of my time and materials?"



Unfortunately, once the consumer realizes that the total keeps going up with no finish date in sight or other problems occur, he or she is contacting CSLB with a complaint and an investigation is opened.

The first thing you learn from the Home Improvement Contracts section of the California Contractors License Law and Reference Book is that there is no provision for time and material contracts in home improvement projects. Time and material agreements violate legal subsection guidelines that are required for home improvement contracts such as start and stop dates, and the firm payment schedule that specifically references the completed work. A total or fixed contract price must be identified when payments are made; they must directly relate to work that has been completed.

If you are found to be in violation of the law, the minimum you will receive is a Business and Professions Code Section 7159 violation warning letter—not what you wanted from an "easy" job.

Protect yourself, and provide the proper home improvement contract for all jobs over \$500. Preprinted contract forms with the appropriate legal notices to the consumer are available through contractor book stores, business supply stores, and online business form sites. You can also download the CSLB publication *Contracting for Success – A Guide to Home Improvement Contracts*.

Remember: A good contract protects you and your customers.

<https://planhub.com/resources/time-and-materials-contract>

Are time and materials contracts legal?

T & M contracts are legal for construction projects, **except in California**. A contractor and residential homeowner or tenant cannot enter into a **T & M contract in California**. **California law** requires construction contracts over \$500 with homeowners or tenants to include: the contract price, contract start and end dates, description of the work, amount of deposit, required warnings, and disclosure of insurance information.

In addition, the construction contract price must be a fixed fee, stated in dollars and cents. (California Business and Professions Code section 7159(d)(5).[2]). And it must also have a schedule of progress payments, and each progress payment “shall be stated in dollars and cents and specifically reference the amount of work or services to be performed and any materials or equipment to be supplied.” (§7159(d)(9)(B).)

Because T & M contracts do not specify the contract amount or how much the payments will be, they are declared illegal, with fines and penalties (up to \$5,000) for the contractor who uses them. In addition, the homeowner or tenant may void the noncompliant contract, leaving the contractor to accept payment that is the “reasonable value of the work.”