



WESTLAW CONSTRUCTION LAW PRACTITIONER RESEARCH GUIDE

OCTOBER 2009



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About This Guide

In this guide, the graphics and step-by-step instructions are based on accessing Westlaw via the Internet. Because of the evolving nature of Internet technology, there may be recent changes to the Westlaw interface and functionality that are not reflected in this documentation.

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1 Introduction

Welcome to Westlaw Construction Law Practitioner

Well-organized and accurate information helps you to provide expert, diligent representation to your clients. Westlaw Construction Practitioner provides you with all your practice resources in a single location so you can access them quickly and efficiently.

This reference guide will assist you in using these materials as you perform research tasks such as the following:

- client intake
- drafting agreements and contracts
- risk management
- alternative dispute resolution
- litigation

Selecting the Tabbed Construction Practitioner Page

When you access Westlaw, you can select a tabbed page that is customized for construction law practice. The tabbed Construction Practitioner page places resources and search options within easy reach to help you quickly access the materials you need. To add the Construction Practitioner page, follow these steps:

1. Click **Add a Tab** at the top of any page. At the next page, click **Add Westlaw Tabs** to display a list of available tabbed pages.
2. Select the check box next to *Construction Practitioner* under *Topical* and then click **Add to My Tab Set**.
3. A list of the pages you've selected is displayed under *In Tab Display*. One page is designated as your default page (the page that is displayed when you sign on to Westlaw). Click **Set as Default** next to *Construction Practitioner* to set this page as your default.
4. To display the Construction Practitioner page, click its tab (Figure 1).

The Construction Practitioner page allows you to add materials for up to three jurisdictions. To add materials for a specific jurisdiction, click **Edit** in the left or right frame.

Construction Practitioner Page Overview

The left frame provides quick access to common research tasks. The right frame allows you to easily access resources in the following areas:

- Practice Guides and Law Journals
- Forms and Checklists
- Dispute Resolution and Litigation Resources
- Construction News
- Cases, Statutes, and Regulations
- ICC Model Codes with Commentary
- Fifty-State Public Records and Jury Verdicts
- Stimulus Plan

The screenshot shows the Westlaw Construction Practitioner page. The top navigation bar includes links for FIND & PRINT, KEYCITE, DIRECTORY, KEY NUMBERS, COURT DOCS, FORMFINDER, SITE MAP, HELP, and SIGN OFF. Below the navigation bar, there are tabs for Westlaw and Construction Practitioner. The main content area is divided into several sections:

- Shortcuts:** Search Online Expert Witness Filings, Find by citation, Search for a database, KeyCite this citation, Profiler - Attorney or Judge, Profiler - Expert, and Related Westlaw Tabs.
- Resources:** Practice Guides & Law Journals, Forms, Checklists & Clauses, Dispute Resolution & Litigation Resources, Construction News, Cases, Statutes & Regulations, Browse & Search Key Construction Topics, ICC Model Codes (1 Codes) with Commentary, and Fifty-State Public Records & Jury Verdicts.
- Stimulus Plan:** Stimulus Plan Federal Regulations, Stimulus Plan State Regulations, Stimulus Plan Federal Register, and Stimulus Plan Pending Legislation - State & Federal.

Figure 1. Construction Practitioner page

2 Client Intake

Finding Information About People and Companies

It is important to perform a thorough evaluation of the people and companies involved in a case. Westlaw includes a large collection of public records and current awareness resources that you can quickly access from the Construction Practitioner page.

PEOPLE AND BUSINESS RECORDS

Use the resources in the *Fifty-State Public Records and Jury Verdicts* section to find public records that can help you track individuals and investigate businesses. For example, to retrieve information on a particular company, complete these steps:

1. Click **Public Records–Business** in the *Fifty-State Public Records and Jury Verdicts* section. A Search page is displayed (Figure 2).

The screenshot shows the Westlaw search interface. At the top, it says "Search" and "Construction Practitioner > Fifty-State Public Records & Jury Verdicts". There is a "Search Tips" link. Below this is a "Terms and Connectors" section with an "Edit" link. The search box contains the text "spring decks". To the right of the search box are buttons for "Search Westlaw" and "Thesaurus". Below the search box is a "Recent Searches & Locates" dropdown menu and a "Fields: Select an Option" dropdown menu. Below this is a "Select Database(s)" section with an "Add/Remove Databases" link. Under "Public Records - Business", there are three checkboxes: "Business Tracker Records" (checked), "Fictitious Business Name Records" (unchecked), and "California Fictitious Business Name Records" (unchecked). A note below the checkboxes states: "This database can only be searched singularly and not in combination with other databases on this list." At the bottom of the search area is a "Search Westlaw" button.

Figure 2. Fifty-State Public Records and Jury Verdicts Search page

2. In the *Search* text box, type a company name, e.g., "spring decks".
3. Choose a database such as *Business Tracker Records* by selecting its check box.

4. Click **Search Westlaw**. To view a document in the result list, click its number (Figure 3).

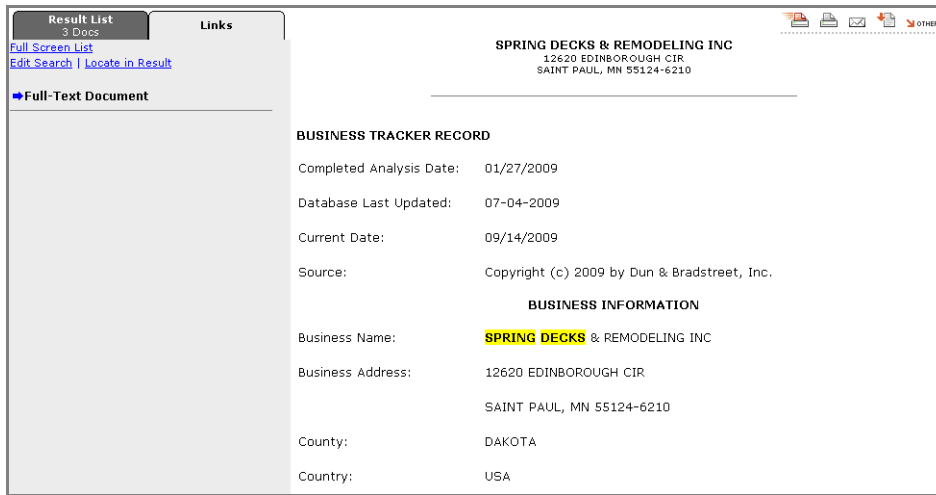


Figure 3. Document from search result

Staying Current

CONSTRUCTION NEWS

Use the resources in the *Construction News* section to search numerous newspapers, magazines, and journals to find timely articles on individuals and businesses and stay current on construction law issues.

To search legal and industry construction news, complete the following steps:

1. Click **Construction–Legal and Industry News** in the *Construction News* section. A Search page is displayed (Figure 4).

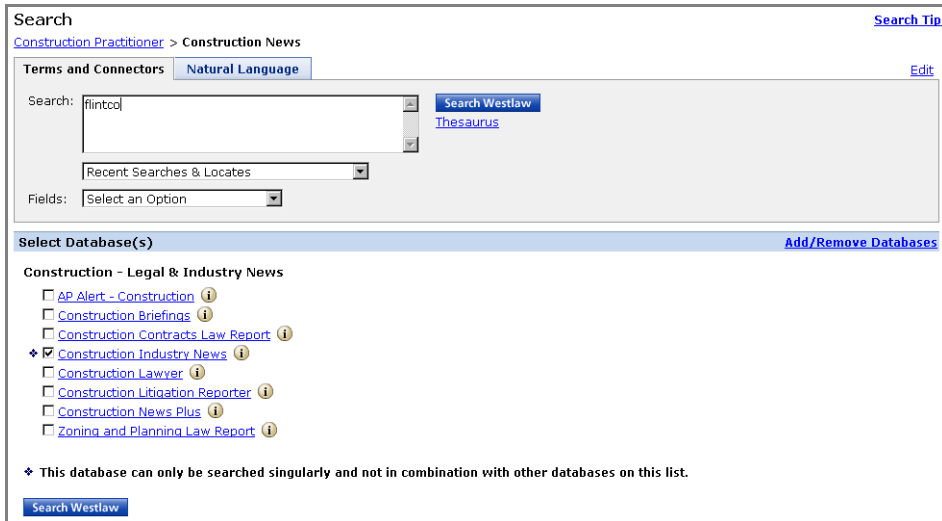


Figure 4. Construction News Search page

2. Type your Terms and Connectors query in the *Search* text box, e.g., *flintco*.
3. Choose a database such as *Construction Industry News* by selecting its check box.
4. Click **Search Westlaw**. To view a document in the result list, click its number (Figure 5).

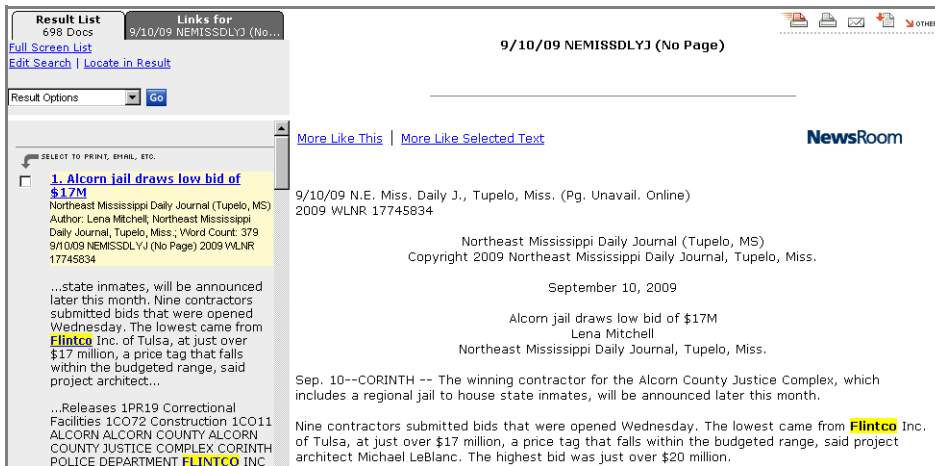


Figure 5. Document from search result

3 Drafting Agreements and Contracts

Locating Forms and Clauses

Locating the right form or clause can save you valuable time when creating, modifying, or updating agreements. The Forms Finder tool on the Construction Practitioner page provides easy access to hundreds of contracts, clauses, and checklists. The AIA (American Institute of Architects) Interpretations search feature allows you to locate cases that have cited specific AIA forms or language. Well-recognized practice guides are also available to assist you in the negotiation and drafting of agreements.

FORMS FINDER

Use a Forms Finder database to locate a form, clause, or checklist relative to a particular topic. For example, to find sample language for contracts involving construction of office buildings, follow these steps:

1. Click a state-specific link such as **Contracts** under *Illinois* in the *Forms, Checklists, and Clauses* section. A search template is displayed (Figure 6).

The screenshot shows a web-based search interface titled "Search". At the top, it indicates "Selected Databases" as "Illinois Construction Law Forms (IL-CSTRFORM)". There are three tabs: "Terms and Connectors", "Natural Language", and "Template", with "Template" being the active tab. A "Search Westlaw" button is located above the search area. The "Enter Search Terms:" section contains a text box with "office building" and a "Connectors/Expanders" link. The "Limit by Topic:" section has a dropdown menu with "Contract Formation" selected. The "Document Type:" section has checkboxes for "Forms" (checked), "Checklist", and "Clause". The "Document Jurisdiction:" section has checkboxes for "Illinois Construction Forms and Checklists" (checked) and "General Construction Forms and Checklists". A "Search Westlaw" button is at the bottom. Two informational text boxes provide tips on using connectors and selecting subtopics.

Figure 6. Illinois Construction Law Forms and Checklist search template

2. Type "office building" in the *Enter Search Terms* text box.
3. Choose a topic such as *Contract Formation* in the *Limit by Topic* list box.
4. Choose a document type and jurisdiction by selecting the appropriate check boxes.

- Click **Search Westlaw**. To view a form in the result list, click its title (Figure 7). You can then print or download the form using the print or download icons at the top of the document, or copy and paste it into a word-processing document.

The screenshot shows a Westlaw search result for '§ 19:44. Design and build agreement for office building'. The left sidebar contains a 'Result List' with 4 documents. The selected result is '2. 6 Ill. Forms Legal & Bus. § 19:44', which is highlighted in yellow. The main content area displays the title 'IL-LF § 19:44' and the text of the design-build agreement form. The form includes fields for the date, company name, and builder/owner information. The text of the agreement is as follows:

THIS DESIGN-BUILD AGREEMENT ("Agreement") is entered into on _____ [date] by and between _____ [company name] an Illinois corporation, with an address of _____ ("Builder"), and _____ [company name] an Illinois corporation, with an address of: _____ ("Owner").

BACKGROUND INFORMATION:

A. Builder creates buildings for its customers by integrating and assembling premanufactured

Figure 7. Form

Researching Issues

PRACTICE GUIDES

Analytical resources are useful for researching new areas of law and for finding expert guidance in particular subjects. Many of them also provide sample forms and contract provisions. An easy way to find information in these guides is by using the table of contents for a specific publication.

For example, *Bruner and O'Connor on Construction Law* is a seven-volume treatise that provides in-depth analysis of every facet of construction law. To access the table of contents for this resource, follow these steps:

- Click **Bruner and O'Connor on Construction Law** in the *Practice Guides and Law Journals* section. The table of contents for this treatise is displayed (Figure 8).

The screenshot shows the Table of Contents for Bruner and O'Connor on Construction Law (BOCL). The table lists chapters from 1 to 4, with Chapter 4 expanded to show sub-sections: § 4:1, § 4:2, § 4:3, and § 4:4.

Chapter	Section
1	INTRODUCTION TO CONSTRUCTION LAW
2	CONTRACT FORMATION
3	CONTRACT INTERPRETATION
4	CONTRACT "CHANGES" AND "EXTRAS"
	Research References
	§ 4:1. Construction's "constant": Certainty of change
	§ 4:2. Purposes of "changes" and "extras" clauses
	§ 4:3. Origins and evolution of "changes" and "extras" clauses
	§ 4:4. Modern construction contract standard form approaches to "changes"

Figure 8. *Bruner and O'Connor on Construction Law* table of contents

2. Browse the table of contents by clicking the plus (+) and minus (-) symbols.
3. When you find a relevant document, click its link to view the document in the Link Viewer.
4. Click **Maximize** in the Link Viewer to view the document in the right frame (Figure 9). Click **Previous Section** or **Next Section** at the top of the document to browse the publication. To return to the publication's table of contents, click **Table of Contents** on the Links tab in the left frame.

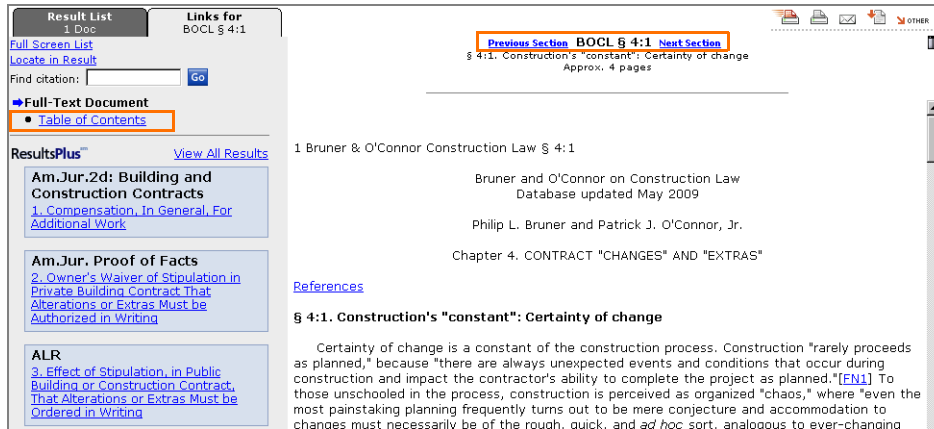


Figure 9. Document retrieved using table of contents

4 Risk Management

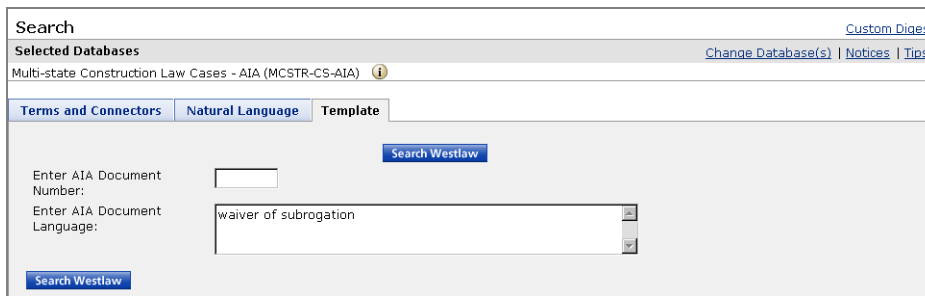
Interpreting Contracts

Identifying and managing risk are critical components of the construction law practice. Westlaw materials can help you evaluate the weaknesses of a lawsuit, investigate the reliability of individuals and businesses, accurately interpret contracts, and understand possible contract enforcement options. The Construction Practitioner page offers ICC Model Codes, AIA interpretations, and public records to help you complete a thorough cost/benefit analysis.

AIA INTERPRETATIONS

The AIA Interpretations search feature allows you to locate judicial interpretations of specific AIA forms or language. For example, to find cases where courts have interpreted waiver of subrogation language, complete the following steps:

1. Click **Search for AIA Interpretations** in the *Cases, Statutes, and Regulations* section. A search template is displayed (Figure 10).



The screenshot shows a web interface for searching AIA interpretations. At the top, it says "Search" with a "Custom Digest" link. Below that, it lists "Selected Databases" as "Multi-state Construction Law Cases - AIA (MCSTR-CS-AIA)" with a "Change Database(s)" link and "Notices | Tips" links. There are three tabs: "Terms and Connectors", "Natural Language", and "Template". The "Template" tab is active. It contains two input fields: "Enter AIA Document Number:" with an empty text box, and "Enter AIA Document Language:" with a text box containing "waiver of subrogation". There are two "Search Westlaw" buttons, one above the language input and one below it.

Figure 10. AIA Interpretations search template

2. Type **waiver of subrogation** in the *Enter AIA Document Language* text box.
3. Click **Search Westlaw**.

You can also retrieve the interpretation of a specific AIA document by typing the document number in the *Enter AIA Document Number* text box.

Investigating Facts and Parties

ADVERSE FILINGS

Westlaw provides you with extensive records on adverse filings to help you identify financial relationships, investigate indebtedness, locate collateral, and find civil judgments involving individuals and businesses.

For example, to retrieve adverse filings involving a particular person, complete these steps:

1. Click **Public Records–Liens, Judgments, and Adverse Filings** in the *Fifty-State Public Records and Jury Verdicts* section. A Search page is displayed.
2. Click **Combined UCC, Lien, and Civil Judgment Records** under *Select Database(s)*. A search template is displayed (Figure 11).

The screenshot shows a search interface with the following sections:

- Search** header with links for [Change Database\(s\)](#), [Coverage](#), [Notices](#), and [Tips](#).
- Selected Databases**: Combined UCC, Lien & Civil Judgment Records (ULJ-ALL).
- Terms and Connectors** and **Template** tabs.
- Search Westlaw** button.
- Name** section with input fields for:
 - Debtor Name:
 - Creditor or Secured Party Name:
 - Instrument or Filing Number:
- Filing Type** section with checkboxes:
 - UCC Filings
 - UCC-NYC Filings
 - Lien
 - Civil Judgment Filings
 - Unlawful Detainer Filings
- State Selection** section with a grid of checkboxes for states: AL, DE, IN, MA, NV, OH, TN, WI, AK, DC, IA, MI, NH, OK, TX, WY, AZ, FL, KS, MN, NJ, OR, UT, AR, GA, KY, MS, NM, PA, VT, CA, HI, LA, MO, NY, RI, VA, CO, ID, ME, MT, NC, SC, WA.
- A note on the right: "To restrict your search to specific states, make your selection(s) below. Note: The billing rate for the ULJ-ALL database will apply."

Figure 11. Combined UCC, Lien, and Civil Judgment Records search template

3. In the *Debtor Name* text box, type a person's name, e.g., **jane sample-document**. The search automatically includes all filing types unless you choose a specific type by selecting its check box under *Filing Type*. You can also restrict your search to one or more states.
4. Click **Search Westlaw**.

PROPERTY RECORDS

In addition to the previously mentioned risk management resources, you can also search property records to further investigate people and businesses. Your results may contain information about sales transactions, ownership transfers, refinancing transactions, second mortgages, construction loans, or equity loans.

5 Alternative Dispute Resolution

Finding Information on Mediation and Arbitration

Alternative dispute resolution is an efficient and cost-effective method to resolve conflicts. The ADR resources on the Construction Practitioner page can help you gather information on all forms of dispute resolution options and retrieve sample clauses and agreements.

MEDIATION RESOURCES

Click **Mediation Resources** under *Dispute Resolution and Litigation Resources* to access practice guides and journals you can use to examine ADR techniques and procedures, pinpoint important issues, and retrieve checklists, drafting guidance, and sample forms.

ARBITRATION RESOURCES

In addition to general ADR materials, you can find resources on commercial arbitration. To locate information on commercial arbitration, follow these steps:

1. Click **Arbitration Resources** in the *Dispute Resolution and Litigation Resources* section. A Search page is displayed (Figure 12).

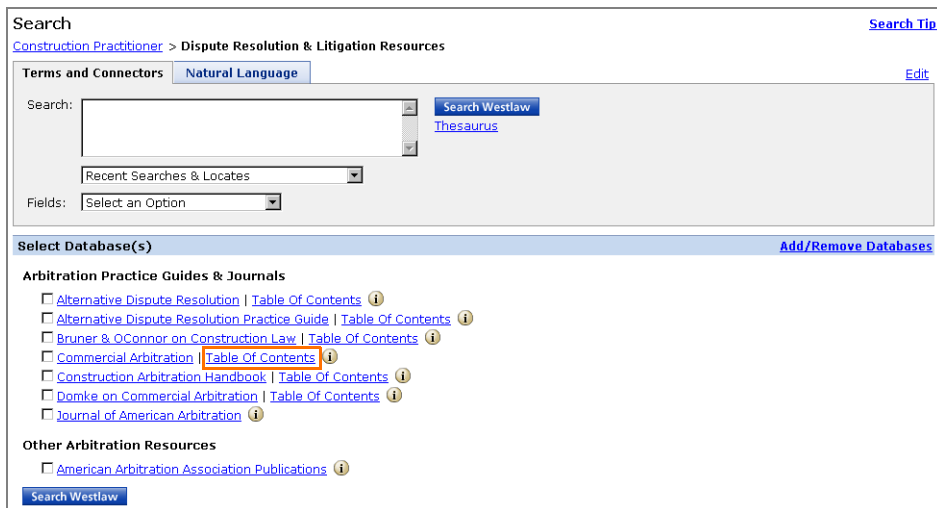


Figure 12. Arbitration Resources Search page

2. Under *Select Database(s)*, click **Table of Contents** next to *Commercial Arbitration* to display the table of contents of the five-volume treatise *Commercial Arbitration*.
3. Browse the entire table of contents by clicking the plus (+) and minus (-) symbols.

6 Litigation

Researching Case Law

In the event an agreement or contract is challenged, you can access useful state and federal cases, statutes, and regulations using the Construction Practitioner page. Litigation-related practice guides, forms, journals, and other resources are also available.

CONSTRUCTION LAW CASES

The Construction Practitioner page helps you narrow the scope of your research by providing access to construction law cases. You can search construction case law for either your state or all states.

For example, to search for state construction case law regarding historic preservation, follow these steps:

1. Click a state-specific link such as **Illinois Construction Cases** in the *Cases, Statutes, and Regulations* section. A Search page is displayed (Figure 13).

Search [Custom Digest](#)

Selected Databases [Change Database\(s\)](#) | [Notices](#) | [Tips](#)

Illinois Construction Law Cases (ILCSTR-CS) ⓘ

Terms and Connectors [Natural Language](#)

Search: [Search Westlaw](#)
[Thesaurus](#)
[Term Frequency](#)

Recent Searches & Locates

Dates:

Fields:

[Add Connectors or Expanders](#) [Help](#)

Figure 13. Illinois Construction Law Cases Search page

2. Type **histor! /s preserv!** in the *Search* text box.
3. Click **Search Westlaw**.

Using Statutes

STATE STATUTES

To access a statutes database, click an appropriate link in the *Cases, Statutes, and Regulations* section. For example, to retrieve state statutes concerning the construction of an assisted living facility, click a state-specific link such as **Illinois Statutes Annotated**. A Search page is displayed (Figure 14), which provides several search options, including the following:

- In the *Search* text box, enter a Terms and Connectors search such as the following: **“assisted living” & construction**
- Click **Find by Citation** at the top of the page and enter the chapter and section number of the statute you want to retrieve in the text boxes, e.g., **210** and **9/20**.
- Click **Table of Contents** to display the table of contents. Browse the table of contents by clicking the plus (+) and minus (–) symbols. Click a link to view the full text of a document in the Link Viewer.
- Click **Statutes Index** to browse the index. Select **Starts with**, type **construction** in the text box, and click **Search**. Then click **Construction** to display a list of statutes pertaining to construction and click the citation next to *Assisted living establishments*.

The screenshot shows the search interface for Illinois Statutes - Annotated. At the top, there are navigation links: [Find by Citation](#), [Table of Contents](#), [Statutes Index](#), [Pop. Name Table](#), and [50 State Surveys](#). Below these is the 'Selected Databases' section, which includes 'Illinois Statutes - Annotated (IL-ST-ANN)' and links for [Change Database\(s\)](#), [Notices](#), and [Tips](#). The main search area is titled 'Terms and Connectors' and has a 'Natural Language' button. The search box contains the text 'assisted living' & construction. To the right of the search box are buttons for 'Search Westlaw' and 'Thesaurus'. Below the search box is a 'Recent Searches & Locates' dropdown menu. Further down, there are fields for 'Search sections effective on:' (with a date format 'mm/dd/yyyy' and a calendar icon) and 'Fields:' (with a dropdown menu set to 'Select an Option'). At the bottom, there is a link for 'Add Connectors or Expanders' and a 'Help' link.

Figure 14. Illinois Statutes–Annotated Search page

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