

**LCB File No. R158-03**

**PROPOSED REGULATION OF THE  
STATE CONTRACTORS' BOARD**

**NOTICE OF INTENT TO ACT UPON A REGULATION**

**Notice of Workshop and Hearing for the Adoption, Amendment or Repeal of Regulations  
Of  
The State of Nevada Contractors' Board**

The State of Nevada Contractors' Board ("Board") will hold a workshop and public hearing on Thursday, March 11, 2004. The workshop will begin at 10:00 a.m. and the hearing will commence immediately following the workshop. The workshop and hearing will be video-conferenced between the Board's Henderson Office located at 2310 Corporate Circle, Suite 200, Henderson, Nevada 89074 and the Reno Office located at 9670 Gateway Drive, Reno, Nevada 89521. The purpose of the workshop and hearing is to receive comments from all interested persons regarding the adoption, amendment or repeal of regulations that pertain to Chapter 624 of the Nevada Administrative Code. The Board conducted a workshop on November 7, 2003 and received numerous comments concerning the proposed regulation, therefore, the Board has made changes to the initial proposed regulation.

The following information is provided pursuant to the requirements of NRS 233B.060 and 233B.0603:

**1. The need for and purpose of the proposed regulation or amendment.**

The purpose of the proposed regulation is to amend Chapter 624 of the Nevada Administrative Code to implement the provisions of NRS 40.6887, Subsection 6 addressing the submittal of a question or dispute to the State Contractors Board pursuant to a Chapter 40 construction defect proceeding.

**2. Either the terms or the substance of the regulations to be adopted, amended or repealed or a description of the subjects and issues involved.**

The proposed regulation sets forth procedures for parties involved in construction defect matters to request advisory opinions from the Board. A copy of the proposed regulation may be obtained by writing to the Board's offices at 9670 Gateway Drive, Reno, Nevada 89521.

**3. The estimated economic effect of this proposed regulation on the business which it is to regulate and on the public.**

**(a) Adverse and beneficial effects.**

At this time it is difficult to determine the economic impact. Investigative costs and fees are to be paid by licensees named in the dispute, therefore the economic impact will be determined based on the number of construction defect matters that come before the Board. Parties to a construction defect dispute may seek an advisory opinion from the Contractors Board that could alleviate further litigation.

**(b) Both immediate and long-term effects.**

The immediate effect provides an avenue for construction defect parties to seek an advisory opinion from the Board that may save litigation expenses. Long term effects will depend upon the number of cases that come before the Board.

**4. The estimated cost to the Agency for enforcement of the proposed regulation.**

The cost to the agency has not been determined.

**5. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.**

The proposed regulation does not overlap or duplicate any regulation of other state or local governmental entities.

**6. If the regulation is required pursuant to federal law, a citation and description of the federal law.**

Does not apply.

**7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

Does not apply.

**8. Whether proposed regulation establishes a new fee or increases an existing fee.**

A fee to cover initial investigative costs is assessed.

Persons wishing to comment upon the proposed action of the Board may appear at the scheduled public workshop and hearing or may address their comments, data, views or arguments, in written form to the Executive Officer of the Nevada State Contractors' Board, 2310 Corporate Circle, Suite 200, Henderson, Nevada 89074 or in Reno at 9670 Gateway Drive, Suite 100, Reno, Nevada 89521. Written submissions must be received by the Board on or before Monday, March 8, 2004. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board may proceed immediately to act upon any written submissions.

A copy of this notice and the regulations to be adopted, amended or repealed will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notices and the regulation to be adopted will be available at the State Contractors' Board, 2310 Corporate Circle, Suite 200, Henderson, Nevada 89074 and 9670 Gateway Drive, Suite 100, Reno, Nevada 89521. In all counties in which an office of the Board is not maintained, a copy of this notice and the text of the proposed regulation will also be available for public inspection and copying at the main public library during business hours. This notice and the text of the proposed regulation will be available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed

to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the Board, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice has been mailed to all persons on the agency's mailing list of administrative regulations and posted at the following locations:

Washoe County Court House  
Washoe County Library  
Reno City Hall  
Las Vegas City Hall  
Sawyer State Building  
Clark County Library  
Offices of the State Contractors' Board in Reno and Henderson

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**EXPLANATION** – Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

**AUTHORITY:** SB 241, Sec. 12(6); NRS 624.100; and NRS 624.160.

**Section 1.** Chapter 624 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

**Sec. 2.** *As used in sections 2 to 9, inclusive, of this regulation, unless the context otherwise requires, the words and terms in this regulation have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Request” means a request for a Construction Defect Advisory Opinion question concerning, without limitation, the need for repair, the appropriate method of repair, the sufficiency of any repair that has been made and or the respective rights and responsibilities of homeowners, claimants, contractors, subcontractors, suppliers and or design professionals*

**Sec. 4.** *“Petitioner” means a claimant and any contractor, subcontractor, supplier, and design professional who are parties to a Chapter 40 proceeding, and, agree, in writing, to the submission of a request for a Construction Defect Advisory Opinion to the Board.*

**Sec. 5.** *The Board is not authorized to require an owner of a residence or appurtenance to participate in any administrative hearing held pursuant to this act.*

**Sec. 6.** *A petitioner who submits a request must submit to the board:*

- a. A request on a form provided by the board;*
- b. Copies of current photographs of the issue or problem;*
- c. Copies of expert witness reports or analyses;*
- d. Documentation showing repairs attempted or recommended;*
- e. Copies of industry standards and/or building codes for the identified issue;*
- f. Copies of all warranty information or documentation related to the issue;*
- g. Identity of the general contractor for the project at issue;*
- h. A written summary of all subcontractor and specialty contractors the contractor reasonably believes performed work on the project at issue;*
- i. Written documentation that the contractor has sent a copy of the complaint to all subcontractors and specialty contractors who the contractor believes performed work on the project at issue;*
- j. Any other documentation required by the board.*

**Sec. 7.** *Upon submission of a Request, the licensee shall deposit with the Board the sum of \$500.00, for initial investigative costs. The general contractor, subcontractor and or specialty*

*contractor named in the request shall be held jointly and severally liable for all additional costs and expenses incurred for the investigation by the board.*

**Sec. 8. 1.** *Staff shall determine if a violation of the provisions of NRS 624 or NAC 624 has occurred.*

*2. If Staff determines a violation has occurred, a summary report (“Investigation Report”) shall be transmitted to the Executive Officer of the Board.*

**Sec. 9. 1.** *If a hearing is required, the board may render a decision not later than thirty (30 ) days after the hearing has been conducted.*

*2. The decision of the Nevada State Contractors Board is not binding, is not subject to judicial review, and is not admissible in any judicial or administrative proceeding.*