

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

LCB File No. R201-03

Effective January 22, 2004

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

AUTHORITY: §§1-3, NRS 624.560.

Section 1. NAC 624.750 is hereby amended to read as follows:

624.750 1. A complaint seeking recovery must be filed on a form entitled “Residential Recovery Fund Claim” that will be provided by the Board. A complaint seeking recovery must include, without limitation:

(a) The name, address and telephone number of the claimant filing the complaint seeking recovery;

(b) The name, address, license number and telephone number, if known, of the accused residential contractor;

(c) A description of:

(1) The facts concerning the alleged failure by the accused residential contractor to perform qualified services adequately; and

(2) The nature and extent of the claimed loss;

(d) The date on which, or the period during which, the alleged loss occurred;

(e) ~~Itemized bids from three licensed residential contractors, not including the accused residential contractor, to repair or otherwise fix the problem created by the alleged failure of the accused residential contractor to perform qualified services adequately;~~

~~—(f) Documents relating to the underlying claim, including, without limitation, contracts between the claimant and the accused residential contractor, copies]~~ *A copy of the original contract and all change orders, credits, refunds or discounts;*

(f) Copies of the front and back of all cancelled checks [paid receipts and escrow settlement accounts, if any;

~~—(g) Proof of payment on the underlying claim from other sources, including, without limitation, payment from bonds, sureties, guarantees, warranties, letters of credit or policies of insurance;~~

~~—(h) Certified copies of all writs of execution, garnishment or attachment or of any other writ designed to enforce any judgment of the court in favor of the claimant against the accused residential contractor, and proof of all efforts, and inability resulting therefrom, to collect the judgment or order;~~

~~—(i) A statement detailing the efforts made by the claimant to recover the loss from the accused residential contractor, the estate of the accused residential contractor or a third party; and~~

~~—(j) Any other information requested by the Executive Officer.] payable to the contractor, subcontractor or supplier that support the claim;~~

(g) Proof of any cash payment that supports the claim and a signed receipt from the contractor, subcontractor or supplier, if applicable; and

(h) A copy of a perfected lien, if applicable.

2. The Board will not ~~[process]~~ *approve* a complaint seeking recovery until ~~[45]~~ *30* days after the date on which the civil judgment was issued by the court or the final decision and order was issued by the Board or its designee, as appropriate.

3. If, after a complaint seeking recovery is filed, any information in the complaint changes, the claimant shall forthwith notify the Board of the change.

4. *The Executive Officer of the Board or his designee may request additional information or documentation to support the complaint.*

5. *The Executive Officer of the Board will issue a subpoena pursuant to NRS 624.170, if appropriate, upon the request of a claimant to assist the claimant in obtaining appropriate documentation pursuant to this section.*

6. *The Executive Officer of the Board or his designee may require a claimant to obtain and submit an itemized bid from a contractor licensed in this state for an estimate of the cost to complete a repair of the original work. The estimate must include only the cost of the repair or replacement of the original work and must not include any enhancement, improvement or upgraded service or material.*

7. *A claim that includes:*

(a) A false or altered document;

(b) A document, billing, receipt or estimate that is found to include an enhancement, improvement, upgraded service or material; or

(c) Work or repair that is outside the scope of the original contract, will be automatically denied by the Executive Officer of the Board or his designee and will not be considered by the Board or a committee appointed pursuant to NAC 624.755.

8. *The Board will not approve a payment from the Residential Recovery Fund until the claimant has provided complete documentation of the claim, as determined by the Executive Officer of the Board or his designee.*

9. The Executive Officer of the Board or his designee will advise the claimant by certified mail that the requirements of subsection 4 of NRS 624.500 are being tolled pending receipt of additional documentation to support the claim if the claim cannot be investigated and processed within 6 months after receipt of the claim. The letter from the Executive Officer of the Board or his designee will include an identification of the specific documents that the Board is requesting and a period within which the documents must be produced.

10. If, within 6 months after filing a claim or within the period specified pursuant to subsection 9, a claimant cannot provide adequate documentation to support the claim, the claim will be closed. A claim may be reopened upon receipt by the Board of all the documents the Executive Officer of the Board or his designee has requested from the claimant.

Sec. 2. NAC 624.755 is hereby amended to read as follows:

624.755 1. Upon receiving a complaint seeking recovery, the staff of the Board shall:

(a) Send a copy of the complaint seeking recovery, by certified mail, to *the address of record* of the accused residential contractor named in the complaint seeking recovery; and

(b) Commence an investigation into the facts alleged in the complaint seeking recovery.

2. When necessary, the Chairman of the Board may appoint a committee to hear complaints seeking recovery filed with the Board or appoint a specific committee to hear a specific complaint seeking recovery. Such a committee will act as the designee of the Board.

3. A hearing on a complaint seeking recovery before the Board or an appointed committee is informal, and the Board or appointed committee will consider all relevant testimony and evidence presented. The written report of the results of the investigation conducted by the staff must be made a part of the record of the hearing.

4. A claimant or an accused residential contractor:

(a) May appear before the Board or appointed committee to present evidence and arguments in support or defense of a claim.

(b) Shall appear before the Board or appointed committee to present evidence and arguments in support or defense of a claim upon the request of any member of the Board or appointed committee.

5. ~~[Complaints]~~ *The Board may refuse to consider any documentary evidence or exhibit presented by a party at a hearing if the documentary evidence or exhibit was not provided to the staff of the Board at least 10 calendar days before the date of the hearing.*

6. *If the Executive Officer of the Board or his designee determines that each complaint is complete as received, complaints* seeking recovery will be ~~[processed]~~ *investigated* in the order in which the complaints are received.

Sec. 3. NAC 624.770 is hereby amended to read as follows:

624.770 1. If the Board or appointed committee issues a final order approving in full or in part a complaint seeking recovery, the Board or appointed committee will forward:

(a) A copy of the final order approving the complaint seeking recovery to the Accounting Office of the Board; and

(b) A copy of the complaint seeking recovery and the final order to the Office of the Attorney General so that the Attorney General may commence efforts to enforce any subrogation claims against the accused residential contractor.

2. The Accounting Office of the Board shall not commence procedures for the disbursement of money pursuant to a final order approving a complaint seeking recovery until ~~[45]~~ *30* days after the date on which the Board or appointed committee issued the final order.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R201-03**

The State Contractors' Board adopted regulations assigned LCB File No. R201-03 which pertain to chapter 624 of the Nevada Administrative Code on December 16, 2003.

Notice date: 10/30/2003
Hearing date: 12/3/2003

Date of adoption by agency: 12/16/2003
Filing date: 1/22/2004

INFORMATIONAL STATEMENT

- 1. A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary.**

A workshop and hearing were noticed on October 30, 2003 by posting at the Washoe County Court House; Washoe County Library; Reno City Hall; Las Vegas City Hall; Sawyer State Building; Clark County Library and Offices of the Contractors' Board in Reno and Las Vegas. The workshop and hearing were held on December 3, 2003. The notice was posted on the agency's website and mailed to approximately 135 interested individuals.

- 2. The number of persons who:**

(a) Attended each hearing:	0
(b) Testified at each hearing:	0
(c) Submitted to the agency written comments:	0

- 3. A description of how comment was solicited from affected businesses, a summary of their response and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses by the notice posting, website and direct mail.

- 4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The regulation was adopted by the Nevada State Contractors Board at its December 16, 2003 meeting.

- 5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be state separately, and each case must include:**
(a) Both adverse and beneficial effects; and
(b) Both immediate and long-term effects

- (a) The proposed revisions are expected to have a minimal economic impact on the regulated industry and the public. The amendments simply clarify certain portions of the procedures for processing Residential Recovery Fund claims.
- (b) The revisions should provide individuals with a clear understanding of the procedure required to file Residential Recovery Fund claims.

6. The estimated cost to the agency for enforcement of the adopted regulation.

The cost of enforcement of the proposed regulation will be minimal.

7. A description of any regulation of other state or government agencies which the proposed regulation overlaps or duplicates and a statement why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations which the proposed amendments duplicate.