

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

LCB File No. R201-03

November 26, 2003

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 Board will issue a subpoena, if appropriate, upon the request of a claimant to assist the claimant in obtaining appropriate documentation pursuant to this section.*

6. *The Board 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 outside the scope of the original contract,*

will be automatically denied by the Executive Officer 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 Board 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 the receipt of the*

claim. The letter from the Board 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 by 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 Board 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.

(c) The Board will not consider any document, exhibit or other evidence that was not presented to the Board at least 10 days before the date of the hearing.

5. ~~{Complaints}~~ *If the Board 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.