

LCB File No. R046-05

**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 Monday, July 11, 2005. The workshop will begin at 2:00 p.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 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 concerning the submittal of a question or dispute associated with a constructional defect in accordance with the provisions of Assembly Bill No. 537 enacted by the 2005 session of the Nevada Legislature.

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 Either the terms or the substance of the regulations to be adopted, amended or repealed or a description of the subjects and issues involved.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 clarifies the language concerning the submission of a request and simplifies the process. 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.

Costs associated with the response or decision to a question or dispute are assessed to the contractor, therefore, depending upon the number of questions or disputes and the complexity of same, a contractor could see adverse economic impact. On the other hand, use of the regulation to resolve a question or dispute could alleviate the need for litigation.

(b) Both immediate and long-term effects.

The immediate effect provides an avenue for questions or disputes to be addressed through an informal process. Long term effects will depend on the number of questions or disputes filed.

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

Cost to the agency will depend upon number of questions or disputes submitted for opinion.

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.

Costs of providing a response or rendering a decision is assessed to the contractor.

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 5 days prior to the scheduled hearing. 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.

QUESTIONS AND DISPUTES CONCERNING CONSTRUCTIONAL DEFECTS

NAC 624.780 Definitions. (NRS 40.6887) As used in NAC 624.780 to 624.795, inclusive, unless the context otherwise requires, the words and terms defined in NAC 624.781 to 624.791, inclusive, have the meanings ascribed to them in those sections.

NAC 624.781 “Appurtenance” defined. (NRS 40.6887) “Appurtenance” has the meaning ascribed to it in NRS 40.605.

NAC 624.782 “Board” defined. (NRS 40.6887) “Board” means the State Contractors’ Board or its designee.

NAC 624.783 “Claimant” defined. (NRS 40.6887) “Claimant” has the meaning ascribed to it in NRS 40.610.

NAC 624.784 “Constructional defect” defined. (NRS 40.6887) “Constructional defect” has the meaning ascribed to it in NRS 40.615.

NAC 624.785 “Contractor” defined. (NRS 40.6887) “Contractor” has the meaning ascribed to it in NRS 40.620.

NAC 624.786 “Design professional” defined. (NRS 40.6887) “Design professional” has the meaning ascribed to it in NRS 40.623.

NAC 624.787 [Petitioner] “Requester” defined. (NRS 40.6887) “[Petitioner] ” *Requester* means a claimant or any contractor, subcontractor, supplier or design professional who submits a request to the Board.

NAC 624.788 “Request” defined. (NRS 40.6887) “Request” means a question or dispute that concerns any matter which may affect or relate to a constructional defect, including, without limitation, questions concerning the need for repairs, the appropriate method for repairs, the sufficiency of any repairs that have been made and the respective rights and responsibilities of homeowners, claimants, contractors, subcontractors, suppliers and design professionals, submitted to the Board pursuant to the provisions of NRS 40.6887.

NAC 624.789 “Residence” defined. (NRS 40.6887) “Residence” has the meaning ascribed to it in NRS 40.630.

NAC 624.790 “Subcontractor” defined. (NRS 40.6887) “Subcontractor” has the meaning ascribed to it in NRS 40.632.

NAC 624.791 “Supplier” defined. (NRS 40.6887) “Supplier” has the meaning ascribed to it in NRS 40.634.

NAC 624.792 When request is deemed to have been submitted to Board. (NRS 40.6887) For the purposes of subsection 3 of NRS 40.6887, the Board will deem a request to have been submitted to the Board when:

1. The request ~~[and consent in writing to the submission of the request by the claimant and any contractor, subcontractor, supplier and design professional to the residence or appurtenance have]~~ *has* been received by the Board;
2. All the materials and documentation required by the Board pursuant to NAC 624.793 have been provided to the Board; and
3. If the Board determines pursuant to the provisions of NAC 624.794 that an investigation into the request is required, the Board has completed the investigation.

NAC 624.793 Submission of request ~~[and pertinent consents,]~~ documents, materials and information. (NRS 40.6887)

1. A petitioner shall submit a request to the Board on a form prescribed by the Board. ~~[The request must include, without limitation:~~

~~(a) A consent in writing by the claimant granting access to the Board to the residence or appurtenance; and~~

~~—(b) A consent in writing to the submission of the request by the claimant and any contractor, subcontractor, supplier and design professional to the residence or appurtenance.]~~

~~—[2. If a petitioner submits a request to the Board without the consents required pursuant to the provisions of subsection 1, the Board will notify the petitioner that the Board is unable to provide a response to or render a decision on the request.]~~

3. In addition to the submission of the request pursuant to the provisions of subsection 1, the petitioner must submit to the Board, at the time of the submission of the request, copies of all documentation or materials related to the residence or appurtenance that is the subject of the request, *if available*.

4. If the Board determines that additional documentation or information related to the request is required to provide a response to or render a decision on the request, the Board will notify the petitioner ~~[and any other party to the request]~~ of the additional documentation or information required by the Board.

5. If the Board notifies a petitioner ~~[or other party to the request]~~ pursuant to subsection 4 of additional documentation or information required by the Board, the petitioner ~~[or other party to the request]~~ shall submit the documentation or information requested to the Board.

NAC 624.794 Review of request; investigation and report. (NRS 40.6887)

1. Upon the submission of a request pursuant to the provisions of NAC 624.793, the Executive Officer of the Board will review the request to determine if an investigation is required to provide a response to or render a decision on the request.

2. If the Executive Officer of the Board determines that an investigation is required to provide a response to or render a decision on the request, *the Executive Officer will designate*

staff of the Board *or an independent licensed professional to* [will] conduct an investigation into the request.

3. A written report of the results of any investigation into the request conducted pursuant to the provisions of this section must be submitted to the Executive Officer of the Board.

4. The Board will review the written report submitted to the Executive Officer of the Board before providing a response to or rendering a decision on the request.

NAC 624.795 Assessment, notification and payment of fees. (NRS 40.6887)

1. Pursuant to the provisions of NRS 40.6887, a contractor who constructed or contracted for the construction of the residence or appurtenance that is the subject of the request shall pay to the Board fees sufficient to cover the costs of providing a response to or rendering a decision on the request.

2. The Board will notify the contractor of the assessment of the fees by the Board.

3. The contractor shall pay the fees assessed to cover the costs to the Board within 15 days after receiving notice of the fees pursuant to subsection 2.