

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

LCB File No. R098-12

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

AUTHORITY: NRS 624.100(1); NRS 624.940(1); NRS 624.945(1).

A REGULATION relating to the classification of general contractors in classification B.

Section 1. NAC 624.040 shall be repealed.

Section 2. NAC 624.050 shall be repealed.

Section 3. NAC 624.060 shall be repealed.

Section 4. NAC 624.100 shall be repealed.

Section 5. NAC 624.120 shall be amended to read as follows:

~~1-1~~ Any person may file with the Board a petition for a declaratory order or advisory opinion as to the applicability of any provision of chapter 624 of NRS.

~~2- The principal office of the Board is in Reno, Nevada.~~

Section 6. NAC 624.130 shall be amended to read as follows:

The Board will charge and collect the following fees:

To issue a duplicate license.....	\$25
To issue a duplicate identification card.....	10
To issue a duplicate certificate of eligibility.....	50
To consider an application for a change in the name of the licensee.....	250
To consider an application regarding a conversion of the licensee conducted pursuant to chapter 92A of NRS.....	300

To consider an application for an increase of a licensee’s monetary limit for a single project.....	75
To supply a pamphlet containing the statutes and regulations relating to contractors.....	5
To supply a report containing information regarding not more than 500 current licensees.....	100
To supply a report containing information regarding more than 500 current licensees.....	200
To consider a request for a permanent increase or decrease of a licensee’s monetary limit.....	250
To consider a request to change the qualified person or other principal listed on a license.....	250
To consider a request to broaden a license to include the entire classification or other specific subclassifications within the classification.....	250
To issue or renew a license.....	600
<i>Penalty for late filing of an active status renewal application</i>	<i>150</i>
<i>Penalty for late filing of an inactive status renewal application</i>	<i>75</i>
For an administrative fee if the applicant or licensee has established a cash deposit with the Board.....	200
To issue or renew an inactive license.....	300
To consider an application for the issuance of a license for a classification in which the applicant is not licensed.....	300
To issue a certificate of eligibility.....	500

To renew a certificate of eligibility.....	300
For photocopies (per page).....	1
To charge for returned checks.....	25

Section 7. NAC 624.138 shall be repealed.

Section 8. NAC 624.605 shall be repealed.

Section 9. NAC 624.630 shall be amended to read as follows:

1. The Board will mail to each licensee, at his or her address of record, an application for the renewal of his or her license. Except as otherwise provided in subsection 2, the licensee must return the completed application to the Board not later than the last day of the month in which the license expires. If the Board prescribes a shorter or longer period of validity for the licensee pursuant to NRS 624.283, the Board will notify the licensee of that fact.

2. If the Board has requested that a licensee submit a financial statement with the application for renewal, the licensee must return to the Board, not later than the first day of the month in which the license expires, a completed application, the renewal fee and:

(a) For a licensee whose license is issued before June 30, 2010:

(1) If the monetary limit of the license is less than \$1,000,000:

(I) A current financial statement prepared by an independent certified public accountant;

(II) A current financial statement submitted on a form prescribed by the Board and accompanied by an affidavit that verifies the accuracy of the financial statement; or

(III) A current financial statement prepared using accounting software in accordance with generally accepted accounting principles and accompanied by an affidavit that verifies the accuracy of the financial statement; or

(2) If the monetary limit of the license is \$1,000,000 or more, a financial statement that is prepared and reviewed or audited by a certified public accountant within 1 year before the filing of the application.

(b) For a licensee whose license is issued on or after June 30, 2010, the financial statement required by NAC 624.593.

3. If a licensee fails:

(a) To renew his or her license before it expires, a late fee will be charged at the rate ~~of one-half the renewal fee~~ as set forth in NAC 624.130.

(b) To attempt renewal within the first 6 months of the new license biennium, the Board will deny, revoke or refuse to renew the license. In either situation, the licensee must apply for a new license.

4. If a licensee has filed a timely application for renewal, accompanied by the required fee, but necessary information is lacking, the Board will conditionally renew the license until the information is received. If the information is not received within a reasonable time, the Board will deny the renewal.

5. If the completed application for renewal contains information which warrants the action, the Board will impose or reduce the limits upon the license, or remove a classification or subclassification from the license.

Section 10. NAC 624.640 shall be amended to read as follows:

1. If a licensee bids or contracts outside the scope of his or her license or exceeds the monetary limit placed on the license, the bid or contract is void. ~~[This subsection applies to contracts entered into on or after April 22, 1994.]~~

2. Each licensee shall prominently display his or her unexpired license or licenses in the

licensee's chief place of business and shall exhibit his or her pocket card to any interested person.

3. If any change occurs in a licensee's address or personnel which affects the accuracy of the statements in the application upon which his or her license is based, the licensee shall report the change in writing to the Board within 30 days after the change occurs.

4. If a license issued by the Board was based in part on the employment of a particularly qualified person, the licensee must continue to employ such a person in order to retain the license.

5. Each licensee shall include in all bids the licensee submits or contracts he or she enters into for construction work within this State, the number of his or her license and any monetary limit placed upon the license.

6. Each licensee shall ascertain that each person whose bid on a construction project the licensee considers is appropriately licensed.

Section 11. NAC 624.695 shall be amended to read as follows:

As used in *NRS 624.900 to NRS 9624.965 and* NAC 624.695 to 624.697, inclusive, unless the context otherwise requires, the words and terms defined in NAC 624.69505 to 624.6957, inclusive, have the meanings ascribed to them in those sections.

Section 12. NAC 624.6951 shall be repealed.

Section 13. NAC 624.6952 shall be repealed.

Section 14. NAC 624.6954 shall be repealed.

Section 15. NAC 624.6957 shall be repealed.

Section 16: NAC 624.6958 shall be amended to read as follows:

NAC 624.6958 Requirements for contracts. (NRS 624.100, 624.940) A contractor shall

ensure that each contract for the construction of a residential pool or spa that the contractor enters into:

1. Is evidenced in writing and that any changes to the contract are also evidenced in writing.
2. Contains *all the elements required by subsection 2 of NRS 624.940, and in addition to those elements, also contains* the following, each of which must be printed in at least 10-point bold type:

bold type:

- (a) ~~[The name of the contractor and his or her business address and license number;~~
- ~~—(b) The name and mailing address of the owner and the address or legal description of the property;~~
- ~~—(c) The date of execution of the contract;~~
- ~~—(d) The estimated date of completion of all work to be performed pursuant to the contract;~~
- ~~—(e) A description of the work to be performed pursuant to the contract;~~
- ~~—(f) The total amount to be paid to the contractor by the owner for all work to be performed pursuant to the contract, including all applicable taxes;~~
- ~~—(g) The amount of any advance deposit paid or promised to be paid to the contractor by the owner in accordance with subsection 4 of NAC 624.6964;~~
- ~~—(h) The dollar amount of any progress payment and the stage of construction at which the contractor will be entitled to collect progress payments during the course of construction pursuant to the contract in accordance with subsection 1 of NAC 624.6964;~~
- ~~—(i) A statement that the contractor has provided to the owner:~~
 - ~~—(1) The notice and informational form required pursuant to NRS 624.600; and~~
 - ~~—(2) Any other notices and forms required pursuant to federal, state or local law;~~
- ~~—(j) A statement that any additional work to be performed pursuant to the contract, whether or~~

~~not pursuant to a change order, which will require the owner to pay additional money and any other change in the terms in the original contract must be agreed to in writing by the parties and incorporated into the original contract as a change order;~~

~~—(k) A plan and scale drawing showing the shape, size, dimensions and the specifications for the construction and equipment for the residential pool or spa and for other home improvements, and a description of the work to be done, the materials to be used and the equipment to be installed, and the agreed consideration for the work;~~

~~—(l) A notice, in close proximity to the signatures of the owner and the contractor, stating that the owner has the right to request a bond for payment and performance;~~

~~—(m)] A schedule of payments that meets the requirements of NAC 624.6964;~~

~~(n)] (b)~~ An agreement by the contractor to provide to each subcontractor or supplier prompt and full payment upon completion of each stage or phase of construction for the contracted amount of services rendered or materials supplied; and

~~(o)] (c)~~ A statement that upon satisfactory payment being made for any portion of the work performed, the contractor shall, in accordance with subsection 3 of NAC 624.6966 and before any further payment is requested or made, provide to the owner a full and unconditional release from any claim of mechanic's lien for that portion of the work for which payment has been made.

3. Is signed by the contractor or a person named on his or her license.

Section 17. NAC 624.6962 shall be repealed.

Section 18. NAC 624.6964 shall be amended to read as follows:

Except as otherwise provided in this section, a schedule of payments that is required to be included in a contract for the construction of a residential pool or spa pursuant to paragraph ~~(m)]~~

(a) of subsection 2 of NAC 624.6958 and any payment made pursuant to that schedule must comply with the following requirements:

1. The schedule of payments must be stated in dollars and cents and must, for each payment, specifically reference the amount of work or services to be performed and any materials and equipment to be supplied or installed.

2. The schedule of payments must not set a timetable for the completion of any stage or phase of the project that exceeds 30 days, unless completion of the stage or phase is delayed by an act of God or the owner agrees in writing to a longer period.

3. Except as otherwise provided in subsection 4, the schedule of payments must not provide for the contractor to receive, nor may the contractor actually receive, payments in excess of 100 percent of the contracted amount for any stage or phase of the work performed on the project at any time, excluding any applicable finance charges.

4. The schedule of payments may provide for the owner to pay to the contractor a down payment ~~[before the commencement of work pursuant to the contract, but a down payment must not exceed \$1,000 or 10 percent of the aggregate price of the contract, whichever is less, excluding any applicable finance charges]~~ *pursuant to the terms of paragraph (i) of subsection 2 of NRS 624.940.*

5. Payment for any stage or phase of the work performed for the contracted amount, as set forth in the schedule of payments, must not be due until the completion of that stage or phase of construction.

6. A contractor may require final payment for the final stage or phase of the construction of a residential pool or spa after the completion of the plastering and the final inspection by the local building department, unless any installation of equipment, decking or fencing that is

required in the contract is not completed.

7. The requirements set forth in subsections 1 to 6, inclusive, do not apply if the contract provides for:

(a) The contractor to furnish a bond for payment and performance covering full performance and completion of the contract;

(b) Full payment to be made upon satisfactory completion of the entire project; or

(c) A schedule of payments to commence upon satisfactory completion of the entire project.

Section 19. NAC 624.69675 shall be amended to read as follows:

A contractor shall not:

1. Engage in deceptive advertising or “bait and switch” advertising *as defined in subsection 5 of NRS 624.945* in connection with the sale of contracts for the repair, restoration, improvement, construction or sale of residential pools or spas.

2. Sell a residential pool or spa for installation pursuant to the exemption set forth in subsection 4 of NRS 624.031 unless the contractor provides to the builder who is also the owner of the residential pool or spa a copy of the provisions of NRS 278.573, subsection 4 of NRS 624.031 and NRS 624.930.

Section 20. NAC 624.697 shall be amended to read as follows:

If a contractor, while carrying out duties preparatory to entering into or pursuant to a contract for the construction of a residential pool or spa, fails to comply with one or more of the provisions of *NRS 624.900 to 624.965 and* NAC 624.695 to 624.697, inclusive, such failure:

1. Render the contract unenforceable against the owner; and

2. Constitutes cause for disciplinary action pursuant to NRS 624.300.

Section 21. NAC 624.7273 shall be amended to read as follows:

1. *A party may only make those motions set out in subsection 2 of NRS 622A.360.* A motion, unless made at a hearing, must be made in writing.

2. A written motion must set forth the nature of the relief requested and the grounds for the relief.

3. A party who wishes to oppose a motion must serve and file a written response to the motion not later than 10 days after receiving the motion.

4. The moving party may serve and file a written reply only if an opposition to the motion has been served and filed.

5. The Board or its designee may issue a decision on a motion without oral argument.

6. If the Board or its designee wishes to oppose a motion, the Board or its designee is not required to serve or file a written response to the motion.

Section 22. NAC 624.795 shall be amended to read as follows:

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~~ *may be required to* 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.

Section 23. NAC 624.828 shall be amended to read as follows:

When a filing with the Commission is made, an original and ~~two~~ *10* legible copies of the document, application or other paper must be filed.

TEXT OF REPEALED SECTIONS

NAC 624.040 Regular meetings. (NRS 624.080, 624.100) The Board will hold a regular meeting in January, April, July and October of each year. The January meeting will be held in the principal office of the Board, and the other three meetings will be held within this State at times and locations designated by the Board at each preceding meeting.

(Added to NAC by Contractors' Bd., eff. 8-26-83)

NAC 624.050 Special meetings. (NRS 624.080, 624.100) To call a special meeting, at least four members of the Board or the Chair must send written notice to the Executive Officer, or the Executive Officer may call a special meeting on his or her own motion. The Executive Officer shall give each member of the Board notice of each special meeting at least 5 days before it is held. A special meeting may be held at any public place within this State.

(Added to NAC by Contractors' Bd., eff. 8-26-83; A 11-8-85)

NAC 624.060 Notice of meeting. (NRS 624.080, 624.100) The Executive Officer will direct all notices of regular or special meetings of the Board to the members of the Board at the addresses shown on the official records of the Board.

(Added to NAC by Contractors' Bd., eff. 8-26-83; A 11-6-85)

NAC 624.100 Abstention by member of Board. (NRS 624.100)

1. A member of the Board shall abstain from participating or voting on a matter if:

(a) The applicant or licensee involved in the matter is a person with whom the member has any contractual relationship;

(b) The member has an investment or other proprietary interest in the business of the applicant or licensee; or

(c) The member presently intends to invest in the business of an applicant or licensee or enter into a contractual relationship with him or her.

2. A member shall not vote on a matter if the member is biased and shall not participate in the matter unless he or she is needed for a quorum.

(Added to NAC by Contractors' Bd., eff. 8-26-83; A 11-6-85)

NAC 624.138 Unprofessional conduct. (NRS 624.100, 624.112)

1. An investigator who is employed by the Board shall not engage in any unprofessional conduct.

2. For the purposes of this section, unprofessional conduct includes, without limitation:

(a) The failure to investigate or issue a notice to correct a violation that, if not corrected, would constitute a hazard to the public health or safety;

(b) The failure to investigate properly an alleged violation of the provisions of chapter 624 of NRS;

(c) The failure to report a conflict of interest when conducting an investigation;

(d) The personal use of information obtained during an investigation or knowingly disclosing such information to a person who is not authorized to receive the information;

(e) The misrepresentation of a material fact related to the performance of his or her duties as an investigator; and

(f) The commission of any negligent or unlawful act in the performance of his or her duties as an investigator.

(Added to NAC by Contractors' Bd. by R061-01, eff. 11-20-2001)

NAC 624.605 Issuance of license prohibited if name is same as or similar to name of existing licensee. (NRS 624.100, 624.254) The Board will not issue a license to an applicant if the name on the license would be the same as the name on a previously issued license or would be so similar as to cause confusion in the minds of the public.

(Added to NAC by Contractors' Bd., eff. 10-17-86)

NAC 624.6951 "Bait and switch" advertising defined. (NRS 624.100) "Bait and switch" advertising has the meaning ascribed to it in [NRS 482.351](#).

(Added to NAC by Contractors' Bd. by R117-01, eff. 4-5-2002)

NAC 624.6952 "Contract for the construction of a residential pool or spa" defined. (NRS 624.100) "Contract for the construction of a residential pool or spa" means a contract between a contractor who is licensed pursuant to chapter 624 of NRS and the owner of a single-family residence for work upon that residence, or the land adjacent thereto, where:

1. The primary purpose of the contract is the construction, repair, restoration, alteration or improvement of a residential pool or spa, including, without limitation, all appurtenant equipment; and

2. The aggregate contract price of all such contracts, including labor, services and materials to be furnished by the contractor, exceeds \$1,000.

(Added to NAC by Contractors' Bd., eff. 12-17-97)

NAC 624.6954 "Contractor" defined. (NRS 624.100) "Contractor" means a person licensed pursuant to the provisions of chapter 624 of NRS who performs work concerning a residential pool or spa.

(Added to NAC by Contractors' Bd., eff. 12-17-97; A by R094-05, 12-29-2005)

NAC 624.6957 "Work concerning a residential pool or spa" defined. (NRS 624.100) "Work concerning a residential pool or spa" has the meaning ascribed to it in NRS 624.915.

(Added to NAC by Contractors' Bd. by R094-05, eff. 12-29-2005)

NAC 624.6962 Conditions, stipulations or provisions of contract void under certain circumstances. (NRS 624.100, 624.940) A condition, stipulation or provision in a contract for the construction of a residential pool or spa is void if the condition, stipulation or provision:

1. Requires a person to waive any right granted pursuant to NAC 624.695 to 624.697, inclusive; or

2. Relieves a person of an obligation or liability imposed pursuant to NAC 624.695 to 624.697, inclusive.

(Added to NAC by Contractors' Bd., eff. 12-17-97)