

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

LCB File No. R184-97

December 5, 1997

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

AUTHORITY: §§2-12, NRS 624.100.

Section 1. Chapter 624 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 12, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“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.

Sec. 4. *“Contractor” means a person licensed pursuant to the provisions of chapter 624 of NRS whose scope of work includes the construction, repair, restoration, alteration or*

improvement of any residential swimming pool or spa, regardless of use, including the repair or replacement of existing equipment or the installation of new equipment, as necessary. The scope of such work includes layout, excavation, operation of construction pumps for removal of water, steelwork, construction of floors, installation of gunite, fiberglass, tile and coping, installation of all perimeter and filter piping, installation of all filter equipment and chemical feeders of any type, plastering of the interior, construction of decks, installation of housing for pool equipment and installation of packaged pool heaters.

Sec. 5. *“Owner” means an owner of a single-family residence who enters into a contract for the construction of a residential pool or spa with a contractor.*

Sec. 6. *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 the following, each of which must be printed in at least 10-point bold type:*
 - (a) The name of the contractor and his 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 section 8 of this regulation;

(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 section 8 of this regulation;

(i) A statement that the contractor has provided to the owner:

(1) The notice and informational form required pursuant to NRS 624.321; 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 section 8 of this regulation;

(n) 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) A statement that upon satisfactory payment being made for any portion of the work performed, the contractor shall, in accordance with subsection 3 of section 9 of this regulation 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.

Sec. 7. Except as otherwise provided in section 10 of this regulation, a contract for the construction of a residential pool or spa may, in addition to the items required pursuant to section 6 of this regulation, contain any provision agreed to by the parties.

Sec. 8. 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) of subsection 2 of section 6 of this regulation 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.*

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.

Sec. 9. 1. *A contractor who receives an initial payment of \$1,000 or 10 percent of the aggregate contract price, whichever is less, pursuant to a contract for the construction of a residential pool or spa shall start the work within 30 days after the date all necessary permits for the work, if any, are issued, unless the person who made the payment agrees in writing to a longer period to apply for the necessary permits or start the work or to longer periods for both.*

2. *A contractor who receives money pursuant to a contract for the construction of a residential pool or spa shall complete the work diligently and shall not refuse to perform any work for any 30-day period.*

3. *If satisfactory payment is made for any portion of the work performed, the contractor shall, before any further payment is made, furnish 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.*

4. *The requirements of subsection 3 do not apply if the contract provides for the contractor to furnish a bond for payment and performance covering full performance and completion of the contract and the bond is furnished by the contractor.*

5. *At the time the owner signs the contract, the contractor shall furnish the owner a legible copy of all documents signed and a written and signed receipt for any money paid to the contractor by the owner.*

6. *The contractor shall apply for and obtain all necessary permits in a timely manner.*

Sec. 10. *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 sections 2 to 12, inclusive, of this regulation; or*

2. *Relieves a person of an obligation or liability imposed pursuant to sections 2 to 12, inclusive, of this regulation.*

Sec. 11. *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 sections 2 to 12, inclusive, of this regulation, such failure:*

- 1. Renders the contract unenforceable against the owner; and*
- 2. Constitutes cause for disciplinary action pursuant to NRS 624.300.*

Sec. 12. *The provisions of sections 2 to 12, inclusive, of this regulation, do not relieve a contractor of the duty to comply with any other applicable federal, state or local law.*