

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

**LCB File No. R068-01**

July 9, 2001

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

AUTHORITY: §§1-16, NRS 624.560.

**Section 1.** Chapter 624 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this regulation.

**Sec. 2.** *As used in sections 2 to 16, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this regulation have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Accused contractor” means a residential contractor properly licensed pursuant to chapter 624 of NRS who is accused in a complaint of providing inadequate service.*

**Sec. 4.** *“Committee” means the committee for the recovery fund appointed pursuant to section 10 of this regulation.*

**Sec. 5.** *“Complainant” means an injured person who files a complaint.*

**Sec. 6.** *“Complaint” means a complaint filed with the board by an injured person pursuant to NRS 624.480 seeking a monetary recovery from the recovery fund.*

**Sec. 7.** *“Inadequate service” means an act or omission by a residential contractor that is determined by the committee to be in violation of NRS 624.301 or 624.3011, or subsection 1 of NRS 624.3017.*

**Sec. 8.** *“Loss” means actual damages consisting of a loss of money or a diminution of the monetary value of real or personal property which are suffered by a complainant and which are the direct result of inadequate service provided by an accused contractor.*

**Sec. 9.** *“Recovery fund” means the account established pursuant to NRS 624.470.*

**Sec. 10.** *1. The chairman of the board shall appoint the committee for the recovery fund. The committee must consist of:*

*(a) Three members of the board; or*

*(b) Two members of the board and the executive officer.*

*2. The chairman of the board shall designate one of the members of the committee to serve as the chairman of the committee.*

*3. The committee shall hold hearings and rule on complaints, and may order the payment of money from the recovery fund based on a complaint.*

**Sec. 11.** *1. The committee has the sole discretion to determine:*

*(a) Whether a complaint should be approved; and*

*(b) What amount of money, if any, will be awarded to a complainant from the recovery fund.*

*2. The committee shall not approve a complaint unless:*

*(a) The complainant is otherwise eligible pursuant to NRS 624.510;*

*(b) The committee determines that, under the circumstances of the case, the approval of the complaint will further the objectives of the recovery fund and the board;*

*(c) The act or omission alleged to constitute the inadequate service occurred while the accused contractor was properly licensed in this state and was acting within the scope of his license; and*

*(d) The complainant has, under the circumstances of the case, made a reasonable effort to recover the loss from the accused contractor, the estate of the accused contractor or a third party.*

**Sec. 12.** *1. A complaint must be filed with the executive officer on a form provided by the board and must include, without limitation:*

*(a) The name, address and telephone number of the complainant;*

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

*(c) A description of:*

*(1) The facts alleged to constitute the inadequate service; 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) A statement detailing the efforts made by the complainant to recover the loss from the accused contractor, the estate of the accused contractor or a third party; and*

*(f) Any other information requested by the executive officer.*

*2. If, after a complaint is filed, any information included in the complaint changes, the complainant shall forthwith notify the board of those changes.*

**Sec. 13.** *1. Upon receiving a complaint, the executive officer shall forthwith:*

*(a) Notify the chairman of the board of the complaint;*

*(b) Send a copy of the complaint, by registered or certified mail, to the accused contractor named in the complaint; and*

*(c) Instruct the staff of the board to investigate the facts alleged in the complaint.*

2. *Except as otherwise provided in this subsection, the executive officer shall, within 90 days after receiving a complaint, submit a written report to the chairman of the board setting forth the results of the investigation conducted by the staff. Upon receiving the written report, the chairman of the board shall forward the complaint and the written report to the committee. The chairman of the board may extend the time for completing an investigation or submitting a written report pursuant to this subsection if necessary.*

3. *A hearing before the committee is informal and the committee may 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 complainant or an accused contractor:*

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

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

5. *A complainant or an accused contractor may be represented or assisted before the committee by an attorney. An attorney who represents or assists a complainant or an accused contractor before the committee pursuant to this subsection is not entitled to compensation from the recovery fund for that representation or assistance.*

6. *The committee may issue subpoenas for the attendance of witnesses and the production of records, books and papers in the manner provided in NRS 624.170.*

7. *Subject to the limitation set forth in subsection 4 of NRS 624.500, unless that limitation is waived in writing by a complainant, if multiple complaints are filed against an accused contractor or if the committee determines that such multiple complaints are likely to be filed,*

*the committee may continue any hearing on a complaint and delay the issuance of any decision on a complaint or the payment of a claim to allow for the equitable distribution of money from the recovery fund among all eligible complainants.*

**Sec. 14. 1.** *The committee has sole discretion to determine whether a complaint will be granted in whole or in part.*

*2. In making its determination on a complaint, the committee shall consider all matters relevant to the complaint, including, without limitation:*

*(a) The financial condition of the recovery fund;*

*(b) The nature of the complaint and the amount of money sought to be recovered by the complainant;*

*(c) The promptness of the action by the complainant upon the discovery of the inadequate service upon which the complaint is based;*

*(d) The comparative hardship suffered by the complainant as a result of the loss;*

*(e) The degree, if any, to which the conduct of the complainant may have contributed to the inadequate service or made the inadequate service more likely;*

*(f) The credibility of the testimony and evidence presented to the committee by the complainant, accused contractor and other persons; and*

*(g) If there is more than one complainant, the equitable division of available money from the recovery fund among the complainants.*

**Sec. 15. 1.** *As a condition of receiving payment from the recovery fund, a complainant must enter into an agreement with the board pursuant to which the board is subrogated to the rights of the complainant against the accused contractor, the estate of the accused contractor or a third party for an amount equal to the amount of money paid from the recovery fund to*

*the complainant plus the amount of all costs incurred by the board in recovering that amount of money from the accused contractor, the estate of the accused contractor or the third party. The agreement must provide that the complainant will cooperate with the board in any proceeding commenced to recover such money from the accused contractor, the estate of the accused contractor or the third party.*

*2. Any amount of money recovered by the board in accordance with this section must first be used to cover the costs incurred by the board in recovering that money and the remainder of the recovery must be deposited into the recovery fund.*

**Sec. 16.** *1. The staff of the board shall prepare and retain for 3 years written minutes of a hearing conducted by the committee.*

*2. If the chairman of the committee is absent from a meeting of the committee, the chairman of the board shall designate another member of the committee to preside as the temporary chairman of the committee.*

*3. The chairman of the board may authorize the executive officer or the treasurer of the board to sign checks or vouchers relating to the recovery fund on behalf of the board.*