



## STATE CONTRACTORS BOARD

Investigations: (702) 486-1110

### 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 Thursday, March 11, 2004. The workshop will begin at 10:00 a.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 Board conducted a workshop on November 7, 2003 and received numerous comments concerning the proposed regulation, therefore, the Board has made changes to the initial proposed regulation.

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 to implement the provisions of NRS 40.6887, Subsection 6 addressing the submittal of a question or dispute to the State Contractors Board pursuant to a Chapter 40 construction defect proceeding.

**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 Either the terms or the substance of the regulations to be adopted, amended or repealed or a description of the subjects and issues involved.**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 sets forth procedures for parties involved in construction defect matters to request advisory opinions from the Board. 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.**

At this time it is difficult to determine the economic impact. Investigative costs and fees are to be paid by licensees named in the dispute, therefore the economic impact will be determined based on the number of construction defect matters that come before the Board. Parties to a construction defect dispute may seek an advisory opinion from the Contractors Board that could alleviate further litigation.

**(b) Both immediate and long-term effects.**

The immediate effect provides an avenue for construction defect parties to seek an advisory opinion from the Board that may save litigation expenses. Long term effects will depend upon the number of cases that come before the Board.

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

The cost to the agency has not been determined.

**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.**

A fee to cover initial investigative costs is assessed.

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 on or before Monday, March 8, 2004. 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

Dated: February 4, 2004

**PROPOSED REGULATION OF THE  
STATE CONTRACTORS' BOARD  
LCB File No. R158-03  
February 3, 2004**

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

AUTHORITY: §§1-18, NRS 624.100, 624.160 and subsection 6 of NRS 40.6887.

**Section 1.** Chapter 624 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this regulation.

**Sec. 2.** *As used in sections 2 to 19, inclusive, of this regulation unless the context otherwise requires, the words and terms defined in sections 2 to 13, inclusive, of this regulation have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Appurtenance” has the meaning ascribed to it in NRS 40.605.*

**Sec. 4.** *“Claimant” has the meaning ascribed to it in NRS 40.610.*

**Sec. 5.** *“Constructional defect” has the meaning ascribed to it in NRS 40.615.*

**Sec. 6.** *“Contractor” has the meaning ascribed to it in NRS 40.620.*

**Sec. 7.** *“Design professional” has the meaning ascribed to it in NRS 40.623.*

**Sec. 8.** *“Group of petitioners” means a claimant and any contractor, subcontractor, supplier or design professional who agrees with the claimant to submit a request to the Board.*

**Sec. 9.** *“Member of the group of petitioners” means a person who is a claimant, contractor, subcontractor, supplier, or design professional who has agreed to be a part of a group of petitioners submitting a request to the Board.*

**Sec. 10.** *“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.*

**Sec. 11.** *“Residence” has the meaning ascribed to it in NRS 40.630.*

**Sec. 12.** *“Subcontractor” has the meaning ascribed to it in NRS 40.632.*

**Sec. 13.** *“Supplier” has the meaning ascribed to it in NRS 40.634.*

**Sec. 14.** *1. For the purposes of subsection 3 of NRS 40.6887 the Board will interpret the term “30 days after a question or dispute is submitted to the State Contractors’ Board” to mean 30 days after a group of petitioners has submitted to the Board:*

*(a) The request;*

*(b) Any materials and documentation requested by the Board pursuant to subsection 2 of section 16 of this regulation.*

*2. The Executive Officer of the Board or his designee will advise the group of petitioners by certified mail that the requirements of subsection 3 of NRS 40.6887 are being tolled pending receipt of additional documentation to support the request if a response to the request cannot be made within 30 days. The letter from the Executive Officer of the board or his designee will identify specific documentation required.*

**Sec. 15.** *If a dispute is submitted and an investigation and hearing is required, the Executive Officer of the Board or his designee will advise the group of petitioners by certified mail that the requirements of subsection 3 of NRS 40.6887 are being tolled in order to properly investigate the dispute and notice a hearing in accordance with the provisions of NRS 233B.*

**Sec. 16. 1. A group of petitioners shall submit a request to the Board on a form prescribed by the Board.**

**2. At the time a request is submitted to the Board, the group of petitioners shall also submit to the Board, copies of all documentation and information related to the residence or appurtenance that the Board or its designee determines is required to respond to a question or to investigate a dispute and render a decision.**

**Sec. 17. 1. The Board will charge and collect a fee of \$500 from the members of a group of petitioners that have been issued a license pursuant to chapter 624 of NRS to cover the costs of carrying out the duties of the Board that relate to the request.**

**2. In addition to the fee required pursuant to subsection 1, if the costs of carrying out the duties of the Board that relate to the request exceed \$500, the Board will charge and collect from the members of the group of petitioners that have been issued a license pursuant to chapter 624 of NRS a fee equal to the costs of the Board that exceed \$500.**

**3. The members of the group of petitioners that have been issued a license pursuant to chapter 624 of NRS are jointly and severally liable for the fees provided for in subsections 2 and 3.**

**Sec. 18. 1. Upon the submission of a request or dispute to the Board, the staff of the Board shall commence an investigation into the facts related to the request.**

**2. The written report of the results of the investigation conducted by the staff of the Board must be delivered to the Executive Officer of the Board.**

**Sec. 19. 1. In determining a response to a request or decision on a dispute, the Board or its designee will review the written report of the results of the investigation conducted by the staff of the Board.**

**2. Upon determining the response to the request or decision on the dispute, the Board or its designee will notify the group of petitioners of the response or decision of the Board or its designee.**