

KENNY C. GUINN
Governor

State Of Nevada

Reply To:

RENO
9670 Gateway Dr., Ste. 100
Reno, Nevada 89511
(775) 688-1141
Fax (775) 688-1271
Investigations: (775) 688-1150

MEMBERS
Kim W. Gregory, Chairman
Douglas W. Carson
Margaret Cavin
Jerry Higgins
Dennis K. Johnson
Randy Schaefer
Michael Zech



STATE CONTRACTORS' BOARD

LAS VEGAS
4220 S. Maryland Pkwy., #D-800
Las Vegas, Nevada 89119
(702) 486-1100
Fax (702) 486-1190
Investigations: (702) 486-1110

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of 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 public hearing at the Board's Reno Office located at 9670 Gateway Drive, Reno, Nevada 89511 on Monday, September 24, 2001. The hearing will begin at 10:00 a.m. The purpose of the 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 previously conducted a workshop and hearing on the proposed regulation on July 11, 2001 in Las Vegas. The regulation has been modified as a result of the workshop and hearing.

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.

Pursuant to NRS 624.560, the Board shall adopt regulations to carry out the provisions of NRS 624.400 to 624.560 including the disbursement of money from the Recovery Fund account and the manner in which a complaint is filed with the board or its designee pursuant to NRS 624.480.

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 Either the terms or the substance of the regulations to be adopted, amended or repealed or a description of the subjects and issues involved.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 the application process and rules of procedure for the administration of the Recovery Fund. A copy of the proposed regulation may be obtained by writing to the Board's offices at 9670 Gateway Drive, Reno, Nevada 89511.

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.

Beneficial effects include providing harmed homeowners with a process to recover monetary losses they have incurred. Contractors are assessed a fee based on the monetary license limit of the license.

(b) Both immediate and long-term effects.

Immediate and long-term effects include the ability of a homeowner to recover monetary losses incurred by the failure of a residential contractor to properly perform qualified services.

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

The enforcement of the proposed regulation will be paid by the fund.

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.

Does not apply.

Persons wishing to comment upon the proposed action of the Board may appear at the scheduled public hearings or may address their comments, data, views or arguments, in written form to the Executive Officer of the Nevada State Contractors' Board, 4220 South Maryland Parkway, Building D, Suite 800, Las Vegas, Nevada 89119 or in Reno at 9670 Gateway Drive, Suite 100, Reno, Nevada 89511. Written submissions must be received by the Board on or before Thursday, September 20, 2001. 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, 4220 South Maryland Parkway, Building D, Suite 800, Las Vegas, Nevada 89119 and 9670 Gateway Drive, Suite 100, Reno, Nevada 89511. 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 Las Vegas

Dated: August 13, 2001

PROPOSED REGULATION OF THE
STATE CONTRACTORS' BOARD
LCB File No. R068-01

August 13, 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 ~~46~~ 12, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to ~~46~~ 12, 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.~~ *“ 3. Complainant” “Claimant” means an injured person who files a complaint “complaint seeking recovery” pursuant to NRS 624.480 and applicable Board regulations.*

~~Sec. 4.~~ *“ 4. “Complaint Seeking Recovery” means a complaint claim filed with the board by an injured person pursuant to NRS 624.480 seeking a monetary recovery from the recovery fund.*

~~Sec. 5.~~ *“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.*

~~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. 5. The Board will not accept a complaint seeking recovery unless the claim is accompanied by a certified copy of the Civil Judgment or Final Decision and Order of the Nevada State Contractors Board.

Sec. 6. 1. *A ~~complaint~~ complaint seeking recovery must be filed with the executive officer on a form provided prescribed by the board entitled “Residential Recovery Fund Claim” and must include, without limitation:*

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

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

(c) A description of:

(1) The facts concerning the alleged failure by a residential contractor to perform qualified services adequately; 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) Three itemized bids from licensed residential contractors, contract documents, cancelled checks (front and back), paid receipts and the escrow settlement statement (if any). Copies of applicable bonds, sureties, guarantees, warranties, letters of credit and/or policies of insurance; certified copies of levy and execution documents, and proof of all efforts and inability to collect the judgment or order.

(ef) A statement detailing the efforts made by the ~~complainant~~claimant to recover the loss from the accused contractor, the estate of the ~~accused~~ contractor or a third party; and

(fg) Any other information requested by the executive officer.

2. Claims will not be processed prior to 45 days after the date indicated on the Civil Judgment or the Board's Final Decision and Order.

23. If, after a ~~complaint~~complaint seeking recovery is filed, any information included in the ~~complaint~~complaint seeking recovery changes, the complainantclaimant shall forthwith notify the board of those changes.

Sec. 6.7 1. Upon receipt of a receiving a ~~complaint~~complaint seeking recovery: the executive officer shall forthwith:

(ba) ~~Send a~~ copy of the ~~complaint~~complaint seeking recovery will be sent by registered or by certified mail, to the accused contractor named in the ~~complaint~~complaint seeking recovery; and

(b) ~~Instruct the~~ Staff of the board will commence an investigationinvestigate into the facts alleged in the ~~complaint~~complaint seeking recovery.

2. The Chairman of the Board may appoint a committee to review claims against the fund

and recommend action to Board.

~~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 Hearings are informal andthe committee may consider all relevant testimony and evidence presented will be considered. 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 complainantclaimant 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~~ the Board or its designee.

5. Claims are processed in the order in which they are received.

~~Sec. 8~~~~Sec. 7.~~ 1. The committee has sole discretion to determine whether a complaint will be granted in whole or in part. In making its a determination on a complaint seeking recovery, the committee shall consider all matters relevant to the complaint seeking recovery shall be considered, including, without limitation:

(a) The financial condition of the recovery fund;

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

~~(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;~~

(c) If there is more than one complainant claimant, the equitable division of available money from the recovery fund among the complainant claimants.

(d) The Board shall either authorize payment of the claim in full or in part, or deny the claim in full or in part, by entry of a Final Order.

Sec. 9. Approved recovery fund claims and the Final Order shall be forwarded to the Office of the Attorney General for collection efforts following payment to the claimant.

~~Sec. 10. 4. As a condition of receiving payment from the recovery fund, a complainant claimant must enter into an agreement with the board pursuant to which the board is subrogated to the rights of the complainant claimant 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 claimant 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 or a third party. The agreement must provide that the complainant claimant 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 a third party.~~

Sec 11. 1. If the Board authorizes payment of any claim in full or in part, then it shall forward the Final Order to the Accounting Office of the Board for disbursement of payment.

2. Procedures for disbursements of funds shall not commence until 45 days after the filing of the Final Order approving payment of any claim from the fund.

~~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.~~