
ASSEMBLY BILL NO. 215—ASSEMBLYMAN OCEGUERA

FEBRUARY 26, 2009

Referred to Committee on Commerce and Labor

SUMMARY—Expands the circumstances under which an owner of a residence may recover damages from the Recovery Fund administered by the State Contractors’ Board. (BDR 54-893)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

AN ACT relating to contractors; expanding the circumstances under which an owner of a residence may recover damages from the Recovery Fund administered by the State Contractors’ Board for an act or omission of a contractor; clarifying the application of the limitation on amounts paid out of the Recovery Fund; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law allows an owner of a single-family residence to recover from the
2 Recovery Fund administered by the State Contractors’ Board when the owner
3 suffers damages for an act or omission by a residential contractor who has
4 contracted to perform qualified services on the residence. (NRS 624.420, 624.430,
5 624.470, 624.510) This bill expands the circumstances for recovery from the
6 Recovery Fund to allow an owner of any residence to recover from the Recovery
7 Fund when the owner suffers damages for an act or omission by any contractor who
8 performs any services on the residence, regardless of whether the services were
9 performed pursuant to a contract. This bill also clarifies the application of the
10 limitation on the amount of money which the Board or its designee may pay out of
11 the Recovery Fund by stating that the limit applies on a per unit basis.



* A B 2 1 5 *

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 624.283 is hereby amended to read as follows:
2 624.283 1. Each license issued under the provisions of this
3 chapter expires 2 years after the date on which it is issued, except
4 that the Board may by regulation prescribe shorter or longer periods
5 and prorated fees to establish a system of staggered biennial
6 renewals. Any license which is not renewed on or before the date for
7 renewal is automatically suspended.
8 2. A license may be renewed by submitting to the Board:
9 (a) An application for renewal;
10 (b) The fee for renewal fixed by the Board;
11 (c) Any assessment required pursuant to NRS 624.470 ; ~~if the~~
12 ~~holder of the license is a residential contractor as defined in NRS~~
13 ~~624.450;~~ and
14 (d) All information required to complete the renewal.
15 3. The Board may require a licensee to demonstrate his
16 financial responsibility at any time through the submission of:
17 (a) A financial statement that is:
18 (1) Prepared by an independent certified public accountant;
19 or
20 (2) Submitted on a form or in a format prescribed by the
21 Board , together with an affidavit which verifies the accuracy of the
22 financial statement; and
23 (b) If the licensee performs residential construction, such
24 additional documentation as the Board deems appropriate.
25 4. If a license is automatically suspended pursuant to
26 subsection 1, the licensee may have his license reinstated upon filing
27 an application for renewal within 6 months after the date of
28 suspension and paying, in addition to the fee for renewal, a fee for
29 reinstatement fixed by the Board, if he is otherwise in good standing
30 and there are no complaints pending against him. If he is otherwise
31 not in good standing or there is a complaint pending, the Board shall
32 require him to provide a current financial statement prepared by an
33 independent certified public accountant or establish other conditions
34 for reinstatement. An application for renewal must be accompanied
35 by all information required to complete the renewal. A license
36 which is not reinstated within 6 months after it is automatically
37 suspended may be cancelled by the Board, and a new license may be
38 issued only upon application for an original contractor's license.
39 **Sec. 2.** NRS 624.420 is hereby amended to read as follows:
40 624.420 "Injured person" means an owner who is damaged by
41 the failure of a ~~residential~~ contractor to perform ~~qualified~~



1 services adequately ~~[]~~ *with regard to a residence owned by the*
2 *owner.*

3 **Sec. 3.** NRS 624.430 is hereby amended to read as follows:

4 624.430 "Owner" means ~~[a]~~ :

5 *1. A natural person who owns a ~~[single family residence and~~*
6 *~~who contracts with a residential contractor for the performance of~~*
7 *~~qualified services with respect to the~~ residence ~~[]~~ ; or*

8 *2. A representative of a homeowners' association that is*
9 *responsible for a residence or appurtenance and is acting within*
10 *the scope of his duties pursuant to chapter 116 or 117 of NRS.*

11 *↳ The term includes a subsequent owner.*

12 **Sec. 4.** NRS 624.460 is hereby amended to read as follows:

13 624.460 "Subsequent owner" means a natural person who
14 purchases a ~~[single family]~~ residence from the owner of the
15 residence.

16 **Sec. 5.** NRS 624.470 is hereby amended to read as follows:

17 624.470 1. Except as otherwise provided in subsection 3, in
18 addition to the fee for a license required pursuant to NRS 624.280, a
19 ~~[residential]~~ contractor shall pay to the Board an assessment not to
20 exceed the following amount, if the monetary limit on his license is:

21		
22	Not more than \$1,000,000.....	\$200 per biennium
23	More than \$1,000,000 but limited.....	500 per biennium
24	Unlimited.....	1,000 per biennium
25		

26 2. The Board shall administer and account separately for the
27 money received from the assessments collected pursuant to
28 subsection 1. The Board may refer to the money in the account as
29 the "Recovery Fund."

30 3. The Board shall reduce the amount of the assessments
31 collected pursuant to subsection 1 when the balance in the account
32 reaches 150 percent of the largest balance in the account during the
33 previous fiscal year.

34 4. Except as otherwise provided in NRS 624.540, the money in
35 the account must be used to pay claims made by owners who are
36 damaged by the failure of a ~~[residential]~~ contractor to perform
37 ~~[qualified]~~ services adequately, as provided in NRS 624.400 to
38 624.560, inclusive.

39 **Sec. 6.** NRS 624.480 is hereby amended to read as follows:

40 624.480 Except as otherwise provided in NRS 624.490, an
41 injured person who wishes to recover from the account must file a
42 complaint with the Board or its designee within 4 years after the
43 completion of ~~[qualified]~~ the services ~~[]~~ *that a contractor is alleged*
44 *to have failed to perform adequately.*



1 **Sec. 7.** NRS 624.490 is hereby amended to read as follows:

2 624.490 Within 2 years after an injured person has obtained a
3 judgment in any court of competent jurisdiction for recovery of
4 damages against a [residential] contractor for an act or omission of
5 the [residential] contractor that is in violation of this chapter or the
6 regulations adopted pursuant thereto, the injured person may apply
7 to the Board for satisfaction of the judgment from the account if:

8 1. The proceedings in connection with the judgment have
9 terminated, including appeals;

10 2. He submits an application on a form established for this
11 purpose by the Board;

12 3. He submits proof satisfactory to the Board of the judgment;
13 and

14 4. Upon obtaining payment from the account, he assigns his
15 rights to enforce the judgment to the Board.

16 **Sec. 8.** NRS 624.510 is hereby amended to read as follows:

17 624.510 1. Except as otherwise provided in NRS 624.490
18 and subsection 2, an injured person is eligible for recovery from the
19 account if the Board or its designee finds that the injured person
20 suffered actual damages as a result of an act or omission of a
21 [residential] contractor that is in violation of this chapter or the
22 regulations adopted pursuant thereto.

23 2. An injured person is not eligible for recovery from the
24 account if:

25 (a) The injured person is the spouse of the licensee, or a personal
26 representative of the spouse of the licensee;

27 (b) The injured person was associated in a business relationship
28 with the licensee other than the contract at issue; or

29 (c) At the time of [contracting] *entering into an agreement for*
30 *services* with the [residential] contractor, the license of the
31 [residential] contractor was suspended or revoked pursuant to
32 NRS 624.300.

33 3. If the Board or its designee determines that an injured person
34 is eligible for recovery from the account pursuant to this section or
35 NRS 624.490, the Board or its designee may pay out of the account:

36 (a) The amount of actual damages suffered, but not to exceed
37 \$35,000 [H] *per unit*; or

38 (b) If a judgment was obtained as set forth in NRS 624.490, the
39 amount of actual damages included in the judgment and remaining
40 unpaid, but not to exceed \$35,000 [H] *per unit*.

41 4. The decision of the Board or its designee regarding
42 eligibility for recovery and all related issues is final and not subject
43 to judicial review.

44 5. If the injured person has recovered a portion of his loss from
45 sources other than the account, the Board shall deduct the amount



1 3. The Board shall deposit any money received pursuant to this
2 section in the account established pursuant to NRS 624.470.

3 **Sec. 10.** NRS 624.530 is hereby amended to read as follows:

4 624.530 The provisions of NRS 624.400 to 624.560, inclusive,
5 do not limit the authority of the Board to take disciplinary action
6 against a ~~[residential]~~ contractor.

7 **Sec. 11.** NRS 624.622 is hereby amended to read as follows:

8 624.622 1. A prime contractor shall provide a copy of any
9 notice given to an owner pursuant to subsection 1 or 2 of NRS
10 624.610 to each lower-tiered subcontractor with whom the prime
11 contractor has entered into an agreement. Upon receipt of payment
12 pursuant to NRS 624.609, the prime contractor shall notify all such
13 lower-tiered subcontractors in writing of his receipt of payment.

14 2. A condition, stipulation or provision in an agreement which:

15 (a) Requires a prime contractor to waive any rights provided in
16 ~~[this section,]~~ NRS 624.609 ~~[-624.610, -624.620]~~ to **624.622,**
17 **inclusive,** or 624.630, or which limits those rights;

18 (b) Relieves an owner of any obligation or liability imposed
19 pursuant to NRS 624.606 to 624.630, inclusive; or

20 (c) Requires a prime contractor to waive, release or extinguish a
21 claim or right for damages or an extension of time that the prime
22 contractor may otherwise possess or acquire as a result of delay,
23 acceleration, disruption or an impact event that is unreasonable
24 under the circumstances, that was not within the contemplation of
25 the parties at the time the agreement was entered into, or for which
26 the prime contractor is not responsible,

27 **↪ is against public policy and is void and unenforceable.**

28 3. All notices required pursuant to ~~[this section,]~~ NRS 624.609
29 ~~[-624.610 and 624.620]~~ to **624.622, inclusive,** must be:

30 (a) Delivered personally, in which case the prime contractor
31 shall obtain a notarized statement from the person who delivered the
32 notice as proof of delivery;

33 (b) Sent by facsimile and delivered by regular mail, in which
34 case the prime contractor shall retain proof of a successful
35 transmission of the facsimile;

36 (c) Delivered by certified mail; or

37 (d) Delivered in the manner provided for in the agreement.

38 4. ~~[This section,]~~ NRS 624.609 ~~[-624.610 and 624.620]~~ to
39 **624.622, inclusive,** do not apply to an agreement between:

40 (a) A prime contractor and a natural person who owns **and**
41 **occupies** a single-family residence for the performance of
42 ~~[qualified]~~ services with respect to the residence; or

43 (b) A public body and a prime contractor for the performance of
44 work and labor on a public work.



1 5. Within 5 days after an owner receives a written request for
2 the information set forth in paragraphs (a), (b) and (c) from a lower-
3 tiered subcontractor, the owner shall notify the lower-tiered
4 subcontractor in writing of the following:

5 (a) The date the owner made a specified payment to his prime
6 contractor;

7 (b) Whether the owner has paid the entire amount of a specified
8 payment to his prime contractor; and

9 (c) The amount withheld by the owner from a specified payment
10 to the prime contractor and the condition or reason for the
11 withholding.

12 **Sec. 12.** The amendatory provisions of this act apply only to
13 agreements entered into on or after October 1, 2009, between a
14 contractor and an owner of a residence.

15 **Sec. 13.** NRS 624.440 and 624.450 are hereby repealed.

TEXT OF REPEALED SECTIONS

624.440 “Qualified services” defined. “Qualified services” means any construction, remodeling, repair or improvement performed by a residential contractor on a single-family residence occupied by the owner of the residence.

624.450 “Residential contractor” defined. “Residential contractor” means a contractor who is licensed pursuant to this chapter and who contracts with the owner of a single-family residence to perform qualified services.



