

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

LCB File No. R030-21

October 7, 2021

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

AUTHORITY: § 1, NRS 624.100 and section 10 of Senate Bill No. 303, chapter 227, Statutes of Nevada 2021, at page 1057.

A REGULATION relating to contractors; prohibiting certain contractors from engaging in certain deceptive practices relating to advertising; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

During the 2021 Legislative Session, the Nevada Legislature passed Senate Bill No. 303, which requires the State Contractors' Board to adopt by regulation standards for advertisements used by contractors in connection with the solicitation or sale of contracts for work concerning residential photovoltaic systems used to produce electricity. (Section 10 of Senate Bill No. 303, chapter 227, Statutes of Nevada 2021, at page 1057) In accordance with that requirement, this regulation: (1) prohibits a contractor from engaging in deceptive advertising or "bait and switch" advertising regarding work concerning residential photovoltaic systems used to produce electricity; and (2) describes the acts which constitute such prohibited advertising.

Section 1. Chapter 624 of NAC is hereby amended by adding thereto a new section to read as follows:

1. A contractor shall not engage in deceptive advertising or bait and switch advertising regarding work concerning a residential photovoltaic system used to generate electricity or the sale or lease of a residential photovoltaic system used to generate electricity.

2. A contractor engages in deceptive advertising if, when advertising work concerning a residential photovoltaic system used to generate electricity, the contractor knowingly:

- (a) Makes a false representation about work concerning a residential photovoltaic system used to generate electricity.*
- (b) Makes a false representation as to the source, sponsorship, approval or certification of work concerning a residential photovoltaic system used to generate electricity.*
- (c) Makes a false representation as to affiliation, connection, association with or certification by another person or entity.*
- (d) Represents that work concerning a residential photovoltaic system used to generate electricity is of a particular standard, quality or grade, or that goods related to such work are of a particular style or model, if the contractor knows or reasonably should know that the work or goods do not meet the advertised standard, quality, grade, style or model.*
- (e) Makes false or misleading statements of fact concerning the price of work concerning a residential photovoltaic system used to generate electricity or the reasons for, existence of or amounts of reductions in price.*
- (f) Makes any untrue statement of a material fact while advertising for work concerning a residential photovoltaic system used to generate electricity.*
- (g) Fails to disclose a material fact in connection with advertising for work concerning a residential photovoltaic system used to generate electricity.*
- (h) Disparages the goods, services or business of another provider of work concerning a residential photovoltaic system used to generate electricity by false or misleading representation of fact.*
- (i) Advertises work concerning a residential photovoltaic system used to generate electricity with the intent not to perform the work as advertised.*

(j) Advertises work concerning a residential photovoltaic system used to generate electricity with the intent not to supply reasonably expected public demand, unless the advertisement discloses a limitation of quantity.

(k) Advertises that work concerning a residential photovoltaic system used to generate electricity can be completed within a certain number of days, unless, at the time the advertisement was made, more than half of the projects of work concerning residential photovoltaic systems used to generate electricity the contractor has completed were completed within the advertised number of days.

(l) As a part of an advertising plan or scheme, notifies a person that the person has won a prize and that as a condition of receiving the prize, the person must enter into a contract for work concerning a residential photovoltaic system used to generate electricity.

(m) Advertises for work concerning a residential photovoltaic system used to generate electricity:

(1) Using an illustration of a residential photovoltaic system used to generate electricity and setting forth a price that, at the time the advertisement was made, does not accurately reflect the completed residential photovoltaic system used to generate electricity as illustrated;
or

(2) Setting forth an offer for work concerning a residential photovoltaic system used to generate electricity that does not comply with the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq., and any federal regulations adopted pursuant thereto.

(n) Advertises that the use of a residential photovoltaic system used to generate electricity is free of charge for any period of time based on the payment of undisclosed costs as a condition of receiving the residential photovoltaic system used to generate electricity.

3. *As used in this section:*

(a) *“Advertising” means attempting by publication, dissemination, solicitation or circulation to induce, directly or indirectly, any person to enter into any obligation for work concerning a residential photovoltaic system used to generate electricity.*

(b) *“Bait and switch advertising” means an offer to sell or lease goods or provide services which, in truth, the seller, lessor or provider may not intend or desire to sell, lease or provide, accompanied by one or more of the following practices:*

(1) *Refusal to show any goods which are advertised.*

(2) *Disparagement in any material respect of the advertised goods or services or the terms of the sale, lease or contract.*

(3) *Requiring other sales or services or other undisclosed conditions to be met before selling, leasing or providing the advertised goods or services.*

(4) *Refusal to take orders for the sale, lease or provision of goods or services advertised for delivery within a reasonable time.*

(5) *Showing or demonstrating defective goods for sale or lease which are unusable or impractical for the purposes set forth in the advertisement.*

(6) *Accepting a deposit for the goods or services for sale, lease or provision and subsequently switching the purchase order, lease or contract to higher priced goods or services.*

(7) *Tendering a lease of goods advertised for sale or a sale of goods advertised for lease or tendering terms of sale or lease less favorable than the terms advertised.*