

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

LCB File No. R032-24

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

AUTHORITY: §§ 1 and 2, NRS 624.100 and 624.600.

A REGULATION relating to contractors; revising provisions relating to certain informational forms a general building contractor is required to provide to certain persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a general building contractor to provide to an owner of a single-family residence with whom he or she has contracted an informational form regarding: (1) contractors; and (2) mechanics' and materialmen's liens. Existing law requires the State Contractors' Board to prescribe the contents of such forms. (NRS 624.600)

Existing regulations set forth the required content of the informational form regarding mechanics' and materialmen's liens, which includes certain information concerning the process by which a lien may be placed on a property and suggested steps the owner of a single-family residence may wish to take to protect his or her property. (NAC 624.693) **Section 1** of this regulation eliminates the content currently required for such a form, other than certain content advising an owner to consult an attorney under certain circumstances. **Section 1** sets forth new content that is required for such a form which includes a revised description of the process by which a lien may be placed on a property, an explanation of forms associated with that process and certain actions that an owner is advised to take in the event such a lien is placed on his or her property.

Existing regulations set forth the required content of the informational form regarding contractors, which includes: (1) notice that a contractor is required to be licensed and regulated by the Board; (2) warnings to the owner of a single family residence that he or she may be liable for certain violations of law for work performed by an unlicensed contractor; and (3) contact information for the Board. (NAC 624.6932) **Section 2** of this regulation revises the required content of such a form to: (1) remove the warnings to the owner; and (2) require that certain information be included concerning the manner in which a complaint against a contractor may be filed.

Section 1. NAC 624.693 is hereby amended to read as follows:

624.693 The informational form that a general building contractor is required to provide regarding mechanics' and materialmen's liens pursuant to paragraph (b) of subsection 3 of NRS 624.600 to the owner of a single-family residence with whom he or she has contracted must be as follows:

~~['NOTICE TO OWNER']~~

~~Pursuant to NRS 108.221 to 108.246, inclusive, a contractor, subcontractor, laborer, supplier of materials or other person or entity who:~~

~~—(1) Performs work or furnishes materials of the value of \$500.00 or more to improve the value of your property; and~~

~~—(2) Is not paid for the work or materials,~~

~~→ has a right to place a lien on your property on which the work was performed and to sue you in court to obtain payment.~~

~~This means that after a court hearing, your property could be sold by an officer of the court and the proceeds of the sale used to satisfy the amount you owe. If you did not ask for and receive releases of liens from the contractors' subcontractors, laborers or suppliers of materials, a lien may be placed on your property or you may be sued even if you have paid your contractor in full.~~

~~To preserve their right to file a claim or lien against your property, certain claimants, such as subcontractors, laborers and suppliers of materials, are each required to provide you with a document called a “preliminary or pre-lien notice.” A preliminary or pre-lien notice is not a lien against your property. Its purpose is to notify you regarding persons or entities who may have a right to file a lien or claim against your property if they are not paid. To perfect their lien rights, contractors, subcontractors, laborers and suppliers of materials must file mechanics’ liens with the county recorder, which then become recorded liens against your property. Generally, the maximum time allowed for filing a mechanics’ lien against your property is 90 days after substantial completion of your project.~~

~~TO ENSURE EXTRA PROTECTION FOR YOURSELF AND YOUR PROPERTY, YOU MAY WISH TO TAKE ONE OR MORE OF THE FOLLOWING STEPS:~~

~~———(1) Request that your contractor supply you with a payment and performance bond, which guarantees completion of your project and payment of the subcontractors, laborers and suppliers of materials who work on the project. This payment and performance bond is different from the surety bond that a contractor must file for licensure pursuant to NRS 624.270. A payment and performance bond provides that if the contractor does not complete the project, the bonding company will pay damages up to the amount of the bond. This payment and performance bond, as well as a copy of the construction contract, should be filed with the county recorder for your further protection. There is a fee for a~~

~~payment and performance bond. This fee is usually equal to between 1 and 6 percent of the amount of the contract, depending on the ability of the contractor to be bonded.~~

~~———— (2) Require that payments be made directly to subcontractors, laborers and suppliers of materials through a mechanism that controls payment for construction. In the area in which you live, services to control the funding of your project may be available, for a fee, to control payment of your contractor by the use of vouchers or other means. These services may also provide you with waivers of liens and other forms of protection.~~

~~———— (3) Issue joint checks for payment, made payable to both your contractor and the subcontractors, laborers and suppliers of materials who were involved in the project or portion of the project for which payment is due and who sent a preliminary or pre-lien notice to you. Those persons or entities have indicated that they may have the right to place a lien on your property, and therefore you need to protect yourself. Making checks jointly payable will help to ensure that all persons due payment are actually paid.~~

~~———— (4) Require your contractor to provide you with unconditional “waiver and release” (lien release) forms so that when you make a payment on any completed phase of your project, each subcontractor, laborer and supplier of materials involved in that portion of the work for which the payment was made can sign the waiver and release forms. This protects you from liability to them for work for which they have already been paid.~~

- ~~• Some stationery stores sell waiver and release forms if your contractor does not have them. The subcontractors, laborers and suppliers of materials from whom you obtain releases should be those persons or entities who have filed preliminary or pre-lien notices with you. If you are not certain which subcontractors, laborers and suppliers of materials are working on your project, you may obtain a list from your contractor. In regard to projects involving improvements to a single-family residence or a duplex owned by an individual, the persons signing these releases lose their right to file a mechanics' lien against your property. In regard to other types of projects, obtaining such releases may still be important, but may not provide complete protection.~~
- ~~• To protect yourself by use of a waiver and release form, you must be certain that all subcontractors, laborers and suppliers of materials who work on your project sign a waiver and release form. If a mechanics' lien has already been filed against your property, in most cases the lien can only be released voluntarily by a recorded "release of mechanics' lien," which is signed by the person or entity that filed the mechanics' lien against your property. However, if the person or entity that filed the lien fails to bring an action to enforce the lien in a timely manner, the lien may be removed without voluntary action on the part of that person or entity. You should not make final payment on your project until all mechanics' liens that are filed against your property have been removed.}~~

Any person who provides work, materials or equipment with a value of \$500 or more to improve your property should be paid for the work performed or materials or equipment provided under this contract. If the person is not paid, the person has the legal right to place a lien upon your property as part of a legal process to obtain payment.

You may receive from one or more of the people who provided work, materials or equipment with a value of \$500 or more to improve your property a document titled “Pre-Lien Notice,” “Preliminary Notice,” “Notice of Right to Lien” or a similar title. THIS DOCUMENT IS NOT A LIEN AND HAS NO EFFECT ON YOUR PROPERTY. This document is required to be given by any person if he or she later must resort to filing a lien for nonpayment.

If a person who has provided work, materials or equipment with a value of \$500 or more to improve your property has given you a Pre-Lien Notice, Preliminary Notice, Notice of Right to Lien or a document with a similar title and is not paid for the work performed or the materials or equipment provided, the person may file a lien. The formal document used to file a lien will be titled “Notice of Lien.” If you receive a Notice of Lien, this means that the placement of a lien upon your property is being pursued.

EVERY contractor, subcontractor or supplier who furnishes work, materials or equipment to improve your property and has been paid in full or in part should provide you with a signed document called an “Unconditional Waiver and Release” that should accurately reflect the amount you have paid the contractor, subcontractor or supplier. This document terminates all lien rights of the contractor, subcontractor or supplier as to the amount you paid.

AT THE END OF YOUR PROJECT, YOU SHOULD INSIST THAT YOUR GENERAL CONTRACTOR PROVIDE YOU WITH AN UNCONDITIONAL WAIVER AND RELEASE UPON FINAL PAYMENT FROM EVERY SUBCONTRACTOR OR SUPPLIER THAT THE GENERAL CONTRACTOR HIRED TO IMPROVE YOUR PROPERTY.

LIEN LAW IS COMPLEX. TO PROTECT YOURSELF FULLY, YOU SHOULD CONSULT AN ATTORNEY:

- (1) BEFORE YOU SIGN A CONSTRUCTION CONTRACT; OR**
- (2) IF A LIEN IS FILED AGAINST YOUR PROPERTY.**

Sec. 2. NAC 624.6932 is hereby amended to read as follows:

624.6932 The informational form that a general building contractor is required to provide regarding contractors pursuant to paragraph (a) of subsection 3 of NRS 624.600 to the owner of a single-family residence with whom he or she has contracted must be as follows:

Contractors are required by law to be licensed and regulated by the State Contractors' Board. The State Contractors' Board has jurisdiction to investigate complaints that are filed against contractors. Any questions concerning a contractor may be referred to the State Contractors' Board.

~~The law of this State requires that a person or entity who enters into a contract to perform construction work be properly licensed by the State Contractors' Board for the category of work that the person or entity intends to perform. Laws regulating licensed contractors are designed to~~

~~protect the public. If you contract with a person or entity who is not licensed to perform construction work, your remedies against that person or entity may be limited to a suit in civil court. You may be liable for damages arising out of any injuries to an unlicensed contractor or that contractor's employees, as well as withholding taxes, contributions pursuant to the Federal Insurance Contributions Act and contributions for industrial insurance and unemployment compensation. In addition, you must comply with other applicable state and federal laws regarding employment. Finally, you should be aware that construction performed on your property must comply with all applicable laws, ordinances, building codes and regulations.]~~

A contractor is required to include the contractor's license number on all of his or her advertising, vehicles, bids and contracts. You may contact the State Contractors' Board to find out if a contractor has a valid license and, if so, the status of that license and the status of any disciplinary action by visiting the website of the Board at <http://www.nvcontractorsboard.com> or calling the Board at ~~[one of]~~ the telephone ~~[numbers listed above.]~~ *number: (702) 486-1100 or (775) 688-1141. You may also file a complaint against a contractor at the same website and telephone numbers.*