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FIRST REPRINT

S.B. 50

SENATE BILL NO. 50—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

(ON BEHALF OF THE STATE CONTRACTORS' BOARD)

PREFILED DECEMBER 20, 2014

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Makes various changes to the regulation of contractors by the State Contractors' Board. (BDR 54-387)

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; deleting the requirement that the State Contractors' Board establish an advisory committee concerning the classification of licensure of persons who install or maintain building shell insulation or thermal system insulation; revising the circumstances under which a natural person may qualify on behalf of another for more than one active contractor's license; requiring such a person to possess good character; expanding the acts which constitute cause for disciplinary action against a licensee to include certain international codes; expanding the circumstances under which an injured person is not eligible for recovery from the Recovery Fund; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law requires that the State Contractors' Board establish an advisory
- 2 committee to make recommendations to the Board concerning the licensure of
- 3 persons who install and maintain building shell or thermal system installation.
- 4 (NRS 624.100) **Section 1** of this bill deletes this requirement.
- 5 Existing law requires an applicant for a license as a contractor to demonstrate
- 6 certain experience or knowledge. Existing law also provides that an applicant may
- 7 qualify in regard to such knowledge and experience by the appearance of another
- 8 person on behalf of the applicant. (NRS 624.260) **Section 2** of this bill authorizes



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9 the Board to inquire into and consider that other person’s previous experience and
10 certain legal actions against them.

11 Existing law requires that the Board establish the financial responsibility of an
12 applicant or licensee seeking renewal. (NRS 624.236) **Section 3** of this bill allows
13 the Board to inquire into and consider the financial responsibility of a person who
14 qualifies on behalf of the applicant or licensee in making a determination of
15 financial responsibility. Existing law requires that the Board establish the good
16 character of an applicant or licensee seeking renewal. (NRS 624.265) **Section 4** of
17 this bill allows the Board to request certain information from any person who
18 qualifies on behalf of an applicant or licensee in making a determination of good
19 character.

20 Existing law provides that workmanship by a licensee that is not commensurate
21 with certain codified standards is grounds for disciplinary action. (NRS 624.3017)
22 **Section 5** of this bill adds certain international building codes to those standards.

23 Existing law provides that, subject to certain exceptions, certain persons who
24 suffer actual damages as a result of the acts or omissions of a licensee may be
25 eligible to recover damages from the Recovery Fund maintained by the Board.
26 (NRS 624.510) **Section 6** of this bill adds certain exceptions to the eligibility to
27 recover from the Recovery Fund.

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

1 **Section 1.** NRS 624.100 is hereby amended to read as follows:

2 624.100 1. The Board may appoint such committees and
3 make such reasonable bylaws, rules of procedure and regulations as
4 are necessary to carry out the provisions of this chapter.

5 2. ~~Except as otherwise provided in subsection 3, the~~ *The*
6 Board may establish advisory committees composed of its members
7 or employees, homeowners, contractors or other qualified persons to
8 provide assistance with respect to fraud in construction, or in any
9 other area that the Board considers necessary.

10 3. ~~The Board shall establish an advisory committee to make~~
11 ~~recommendations to the Board concerning the classification of~~
12 ~~licensure of persons who install or maintain building shell insulation~~
13 ~~or thermal system insulation, including, without limitation,~~
14 ~~recommendations relating to training and continuing education.~~

15 ~~—4.]~~ If an advisory committee is established, the Board shall:

16 (a) Select five members for the committee from a list of
17 volunteers approved by the Board; and

18 (b) Adopt rules of procedure for informal conferences of the
19 committee.

20 ~~[5.]~~ 4. If an advisory committee is established, the members:

21 (a) Serve at the pleasure of the Board.

22 (b) Serve without compensation, but must be reimbursed for
23 travel expenses necessarily incurred in the performance of their
24 duties. The rate must not exceed the rate provided for state officers
25 and employees generally.



1 (c) Shall provide a written summary report to the Board, within
2 15 days after the final informal conference of the committee, that
3 includes recommendations with respect to actions that are necessary
4 to reduce and prevent the occurrence of fraud in construction, or on
5 such other issues as requested by the Board.

6 ~~[6.]~~ 5. The Board is not bound by any recommendation made
7 by an advisory committee.

8 ~~[7. As used in this section:~~

9 ~~—(a) “Building shell insulation” means a product that is used as~~
10 ~~part of the building which insulates a boundary between indoor and~~
11 ~~outdoor space or conditioned and unconditioned space, including,~~
12 ~~without limitation, walls, ceilings or floors.~~

13 ~~—(b) “Thermal system insulation” means a product that is used in~~
14 ~~a heating, ventilating, cooling, plumbing or refrigeration system to~~
15 ~~insulate any hot or cold surface, including, without limitation, a~~
16 ~~pipe, duct, valve, boiler, flue or tank, or equipment on or in a~~
17 ~~building.]~~

18 **Sec. 2.** NRS 624.260 is hereby amended to read as follows:

19 624.260 1. The Board shall require an applicant or licensee to
20 show such a degree of experience, financial responsibility and such
21 general knowledge of the building, safety, health and lien laws of
22 the State of Nevada and the administrative principles of the
23 contracting business as the Board deems necessary for the safety
24 and protection of the public.

25 2. An applicant or licensee may qualify in regard to his or her
26 experience and knowledge in the following ways:

27 (a) If a natural person, the applicant or licensee may qualify by
28 personal appearance or by the appearance of his or her responsible
29 managing employee.

30 (b) If a copartnership, a corporation or any other combination or
31 organization, it may qualify by the appearance of the responsible
32 managing officer or member of the personnel of the applicant firm.

33 ↪ If an applicant or licensee intends to qualify pursuant to this
34 subsection by the appearance of another person, the applicant or
35 licensee shall submit to the Board such information as the Board
36 determines is necessary to demonstrate the duties and
37 responsibilities of the other person so appearing with respect to the
38 supervision and control of the operations of the applicant or licensee
39 relating to construction.

40 3. The natural person qualifying on behalf of another natural
41 person or firm under paragraphs (a) and (b) of subsection 2 must
42 prove that he or she is a bona fide member or employee of that
43 person or firm and when his or her principal or employer is actively
44 engaged as a contractor shall exercise authority in connection with



1 the principal or employer's contracting business in the following
2 manner:

- 3 (a) To make technical and administrative decisions;
- 4 (b) To hire, superintend, promote, transfer, lay off, discipline or
5 discharge other employees and to direct them, either by himself or
6 himself or through others, or effectively to recommend such action
7 on behalf of the principal or employer; and
- 8 (c) To devote himself or herself solely to the principal or
9 employer's business and not to take any other employment which
10 would conflict with his or her duties under this subsection.

11 4. *If, pursuant to subsection 2, an applicant or licensee*
12 *intends to qualify by the appearance of another person, the Board*
13 *may inquire into and consider any previous business experience*
14 *of, and any prior and pending lawsuits, liens and judgments*
15 *against, the other person.*

16 5. A natural person may not qualify on behalf of another for
17 more than one active license unless:

- 18 (a) One person owns at least 25 percent of each licensee for
19 which the person qualifies; or
- 20 (b) One licensee owns at least 25 percent of the other licensee.

21 ~~5.1~~ 6. Except as otherwise provided in subsection 6, in
22 addition to the other requirements set forth in this section, each
23 applicant for licensure as a contractor must have had, within the 10
24 years immediately preceding the filing of the application for
25 licensure, at least 4 years of experience as a journeyman, foreman,
26 supervising employee or contractor in the specific classification in
27 which the applicant is applying for licensure. Training received in a
28 program offered at an accredited college or university or an
29 equivalent program accepted by the Board may be used to satisfy
30 not more than 3 years of experience required pursuant to this
31 subsection.

32 ~~6.1~~ 7. If the applicant who is applying for licensure has
33 previously qualified for a contractor's license in the same
34 classification in which the applicant is applying for licensure, the
35 experience required pursuant to subsection 5 need not be accrued
36 within the 10 years immediately preceding the application.

37 ~~7.1~~ 8. As used in this section, "journeyman" means a person
38 who:

- 39 (a) Is fully qualified to perform, without supervision, work in
40 the classification in which the person is applying for licensure; or
- 41 (b) Has successfully completed:
 - 42 (1) A program of apprenticeship for the classification in
43 which the person is applying for licensure that has been approved by
44 the State Apprenticeship Council; or
 - 45 (2) An equivalent program accepted by the Board.



Sec. 3. NRS 624.263 is hereby amended to read as follows:

624.263 1. The financial responsibility of a licensee or an applicant for a contractor's license must be established independently of and without reliance on any assets or guarantees of any owners or managing officers of the licensee or applicant ~~[.]~~ *or any person who qualifies on behalf of the licensee or applicant pursuant to subsection 2 of NRS 624.260*, but the financial responsibility of ~~[any owners or managing officers of the licensee or applicant]~~ *the following persons* may be inquired into and considered as a criterion in determining the financial responsibility of the licensee or applicant ~~[.]~~ :

(a) Any owner of the licensee or applicant;

(b) Any managing officer of the licensee or applicant; or

(c) Any person who qualifies on behalf of the licensee or applicant pursuant to subsection 2 of NRS 624.260.

2. The financial responsibility of an applicant for a contractor's license or of a licensed contractor may be determined by using the following standards and criteria in connection with each applicant or contractor and each associate or partner thereof:

(a) Amount of net worth.

(b) Amount of liquid assets.

(c) Amount of current assets.

(d) Amount of current liabilities.

(e) Amount of working capital.

(f) Ratio of current assets to current liabilities.

(g) Fulfillment of bonding requirements pursuant to NRS 624.270.

(h) Prior payment and credit records.

(i) Previous business experience.

(j) Prior and pending lawsuits.

(k) Prior and pending liens.

(l) Adverse judgments.

(m) Conviction of a felony or crime involving moral turpitude.

(n) Prior suspension or revocation of a contractor's license in Nevada or elsewhere.

(o) An adjudication of bankruptcy or any other proceeding under the federal bankruptcy laws, including:

(1) A composition, arrangement or reorganization proceeding;

(2) The appointment of a receiver of the property of the applicant or contractor or any officer, director, associate or partner thereof under the laws of this State or the United States; or

(3) The making of an assignment for the benefit of creditors.

(p) Form of business organization, corporate or otherwise.



1 (q) Information obtained from confidential financial references
2 and credit reports.

3 (r) Reputation for honesty and integrity of the applicant or
4 contractor or any officer, director, associate or partner thereof.

5 3. A licensed contractor shall, as soon as it is reasonably
6 practicable, notify the Board in writing upon the filing of a petition
7 or application relating to the contractor that initiates any proceeding,
8 appointment or assignment set forth in paragraph (o) of subsection

9 2. The written notice must be accompanied by:

10 (a) A copy of the petition or application filed with the court; and

11 (b) A copy of any order of the court which is relevant to the
12 financial responsibility of the contractor, including any order
13 appointing a trustee, receiver or assignee.

14 4. Before issuing a license to an applicant who will engage in
15 residential construction or renewing the license of a contractor who
16 engages in residential construction, the Board may require the
17 applicant or licensee to establish financial responsibility by
18 submitting to the Board:

19 (a) A financial statement that is:

20 (1) Prepared by a certified public accountant; or

21 (2) Submitted on a form or in a format prescribed by the
22 Board together with an affidavit which verifies the accuracy of the
23 financial statement; and

24 (b) A statement setting forth the number of building permits
25 issued to and construction projects completed by the licensee during
26 the immediately preceding year and any other information required
27 by the Board. The statement submitted pursuant to this paragraph
28 must be provided on a form approved by the Board.

29 5. In addition to the requirements set forth in subsection 4, the
30 Board may require a licensee to establish financial responsibility at
31 any time.

32 6. An applicant for an initial contractor's license or a licensee
33 applying for the renewal of a contractor's license has the burden of
34 demonstrating financial responsibility to the Board, if the Board
35 requests the applicant or licensee to do so.

36 **Sec. 4.** NRS 624.265 is hereby amended to read as follows:

37 624.265 1. An applicant for a contractor's license or a
38 licensed contractor, ~~and~~ each officer, director, partner and
39 associate thereof, *and any person who qualifies on behalf of the*
40 *applicant pursuant to subsection 2 of NRS 624.260* must possess
41 good character. Lack of character may be established by showing
42 that the applicant or licensed contractor, ~~or~~ any officer, director,
43 partner or associate thereof, *or any person who qualifies on behalf*
44 *of the applicant* has:



1 (a) Committed any act which would be grounds for the denial,
2 suspension or revocation of a contractor's license;

3 (b) A bad reputation for honesty and integrity;

4 (c) Entered a plea of guilty, guilty but mentally ill or nolo
5 contendere to, been found guilty or guilty but mentally ill of, or
6 been convicted, in this State or any other jurisdiction, of a crime
7 arising out of, in connection with or related to the activities of such
8 person in such a manner as to demonstrate his or her unfitness to act
9 as a contractor, and the time for appeal has elapsed or the judgment
10 of conviction has been affirmed on appeal; or

11 (d) Had a license revoked or suspended for reasons that would
12 preclude the granting or renewal of a license for which the
13 application has been made.

14 2. Upon the request of the Board, an applicant for a
15 contractor's license, ~~and~~ any officer, director, partner or associate
16 of the applicant ***and any person who qualifies on behalf of the***
17 ***applicant pursuant to subsection 2 of NRS 624.260*** must submit to
18 the Board completed fingerprint cards and a form authorizing an
19 investigation of the applicant's background and the submission of
20 the fingerprints to the Central Repository for Nevada Records of
21 Criminal History and the Federal Bureau of Investigation. The
22 fingerprint cards and authorization form submitted must be those
23 that are provided to the applicant by the Board. The applicant's
24 fingerprints may be taken by an agent of the Board or an agency of
25 law enforcement.

26 3. Except as otherwise provided in NRS 239.0115, the Board
27 shall keep the results of the investigation confidential and not
28 subject to inspection by the general public.

29 4. The Board shall establish by regulation the fee for
30 processing the fingerprints to be paid by the applicant. The fee must
31 not exceed the sum of the amounts charged by the Central
32 Repository for Nevada Records of Criminal History and the Federal
33 Bureau of Investigation for processing the fingerprints.

34 5. The Board may obtain records of a law enforcement agency
35 or any other agency that maintains records of criminal history,
36 including, without limitation, records of:

37 (a) Arrests;

38 (b) Guilty and guilty but mentally ill pleas;

39 (c) Sentencing;

40 (d) Probation;

41 (e) Parole;

42 (f) Bail;

43 (g) Complaints; and

44 (h) Final dispositions,



1 ↪ for the investigation of a licensee or an applicant for a
2 contractor's license.

3 **Sec. 5.** NRS 624.3017 is hereby amended to read as follows:

4 624.3017 The following acts, among others, constitute cause
5 for disciplinary action under NRS 624.300:

6 1. Workmanship which is not commensurate with standards of
7 the trade in general or which is below the standards in the building
8 or construction codes adopted by the city or county in which the
9 work is performed. If no applicable building or construction code
10 has been adopted locally, then workmanship must meet the
11 standards prescribed in the ~~Uniform Building Code,~~ Uniform
12 Plumbing Code , ~~or~~ National Electrical Code , International
13 Building Code or International Residential Code in the form of the
14 code most recently approved by the Board. The Board shall review
15 each edition of the ~~Uniform Building Code,~~ Uniform Plumbing
16 Code , ~~or~~ National Electrical Code , International Building Code
17 or International Residential Code that is published after the 1996
18 edition to ensure its suitability. Each new edition of the code shall
19 be deemed approved by the Board unless the edition is disapproved
20 by the Board within 60 days of the publication of the code.

21 2. Advertising projects of construction without including in the
22 advertisements the name and license number of the licensed
23 contractor who is responsible for the construction.

24 3. Advertising projects of construction beyond the scope of the
25 license.

26 **Sec. 6.** NRS 624.510 is hereby amended to read as follows:

27 624.510 1. Except as otherwise provided in NRS 624.490
28 and subsection 2, an injured person is eligible for recovery from the
29 account if the Board or its designee finds that the injured person
30 suffered actual damages as a result of an act or omission of a
31 residential contractor that is in violation of this chapter or the
32 regulations adopted pursuant thereto.

33 2. An injured person is not eligible for recovery from the
34 account if:

35 (a) The injured person is ~~the spouse of~~ cohabitating with the
36 licensee, is related to the licensee by marriage ~~the licensee,~~ or by
37 blood in the first or second degree of consanguinity, or is a
38 personal representative of ~~the spouse of~~ a person cohabitating
39 with the licensee or related to the licensee by marriage ~~the~~
40 ~~licensee;~~ or by blood in the first or second degree of
41 consanguinity;

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



1 (c) At the time of contracting with the residential contractor, the
2 license of the residential contractor was suspended or revoked
3 pursuant to NRS 624.300 ~~H~~;

4 (d) *The injured person:*

5 (1) *Applied for and obtained any building permit for the*
6 *single-family residence at which the act or omission occurred and*
7 *for which the injured person wishes to recover actual damages*
8 *from the account; or*

9 (2) *Constructed the residence as the owner-builder of the*
10 *residence;*

11 (e) *The claim submitted by the injured person for recovery*
12 *from the account contains:*

13 (1) *A false or misleading statement; or*

14 (2) *A forged or altered receipt or other document which*
15 *includes an improvement, upgrade or work that exceeds the scope*
16 *of the contract at issue;*

17 (f) *The injured person is a lien claimant who has not filed a*
18 *lien in accordance with the provisions of NRS 108.221 to 108.246,*
19 *inclusive; or*

20 (g) *The single-family residence at which the act or omission*
21 *occurred and for which the injured person wishes to recover*
22 *actual damages from the account was constructed, remodeled,*
23 *repaired or improved with the intent of renting, leasing or selling*
24 *the residence within 1 year after the date of completion of the*
25 *construction, remodeling, repair or improvement. The offering of*
26 *the residence for rent, lease or sale within 1 year after that date*
27 *creates a rebuttable presumption that the construction,*
28 *remodeling, repair or improvement was performed with the intent*
29 *to rent, lease or sell the residence.*

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

33 (a) The amount of actual damages suffered, but not to exceed
34 \$35,000; or

35 (b) If a judgment was obtained as set forth in NRS 624.490, the
36 amount of actual damages included in the judgment and remaining
37 unpaid, but not to exceed \$35,000.

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

41 5. If the injured person has recovered a portion of his or her
42 loss from sources other than the account, the Board shall deduct the
43 amount recovered from the other sources from the amount payable
44 upon the claim and direct the difference to be paid from the account.



1 6. To the extent of payments made from the account, the Board
2 is subrogated to the rights of the injured person, including, without
3 limitation, the right to collect from a surety bond or a cash bond.
4 The Board and the Attorney General shall promptly enforce all
5 subrogation claims.

6 7. The amount of recovery from the account based upon claims
7 made against any single contractor must not exceed \$400,000.

8 8. As used in this section, "actual damages" includes attorney's
9 fees or costs in contested cases appealed to the appellate court of
10 competent jurisdiction. The term does not include any other
11 attorney's fees or costs.

12 **Sec. 7.** 1. This section and section 1 of this act become
13 effective upon passage and approval.

14 2. Sections 2 to 6, inclusive, of this act become effective on
15 October 1, 2015.

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