

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
9 the Board to inquire into and consider that other person's previous experience and



certain legal actions against them. **Section 2** also allows a natural person to qualify on behalf of more than one licensee if the licensee is a corporation for public benefit.

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

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

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

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

Section 1. NRS 624.100 is hereby amended to read as follows:
624.100 1. The Board may appoint such committees and make such reasonable bylaws, rules of procedure and regulations as are necessary to carry out the provisions of this chapter.

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

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

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

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

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

~~{5.}~~ **4.** If an advisory committee is established, the members:

(a) Serve at the pleasure of the Board.

(b) Serve without compensation, but must be reimbursed for travel expenses necessarily incurred in the performance of their



1 duties. The rate must not exceed the rate provided for state officers
2 and employees generally.

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

8 ~~{6.} 5.~~ The Board is not bound by any recommendation made
9 by an advisory committee.

10 ~~{7.—As used in this section:~~

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

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

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

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

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

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

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

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

42 3. The natural person qualifying on behalf of another natural
43 person or firm under paragraphs (a) and (b) of subsection 2 must
44 prove that he or she is a bona fide member or employee of that
45 person or firm and when his or her principal or employer is actively



1 engaged as a contractor shall exercise authority in connection with
2 the principal or employer's contracting business in the following
3 manner:

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

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

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

- 19 (a) One person owns at least 25 percent of each licensee for
20 which the person qualifies; ~~or~~
- 21 (b) One licensee owns at least 25 percent of the other licensee ~~or~~
22 ; or
- 23 (c) *One licensee is a corporation for public benefit as defined*
24 *in NRS 82.021.*

25 ~~5.~~ 6. Except as otherwise provided in subsection 6, in
26 addition to the other requirements set forth in this section, each
27 applicant for licensure as a contractor must have had, within the 10
28 years immediately preceding the filing of the application for
29 licensure, at least 4 years of experience as a journeyman, foreman,
30 supervising employee or contractor in the specific classification in
31 which the applicant is applying for licensure. Training received in a
32 program offered at an accredited college or university or an
33 equivalent program accepted by the Board may be used to satisfy
34 not more than 3 years of experience required pursuant to this
35 subsection.

36 ~~6.~~ 7. If the applicant who is applying for licensure has
37 previously qualified for a contractor's license in the same
38 classification in which the applicant is applying for licensure, the
39 experience required pursuant to subsection 5 need not be accrued
40 within the 10 years immediately preceding the application.

41 ~~7.~~ 8. As used in this section, "journeyman" means a person
42 who:

- 43 (a) Is fully qualified to perform, without supervision, work in
44 the classification in which the person is applying for licensure; or
- 45 (b) Has successfully completed:



1 (1) A program of apprenticeship for the classification in
2 which the person is applying for licensure that has been approved by
3 the State Apprenticeship Council; or

4 (2) An equivalent program accepted by the Board.

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

6 624.263 1. The financial responsibility of a licensee or an
7 applicant for a contractor's license must be established
8 independently of and without reliance on any assets or guarantees of
9 any owners or managing officers of the licensee or applicant ~~[] or~~
10 *any person who qualifies on behalf of the licensee or applicant*
11 *pursuant to subsection 2 of NRS 624.260*, but the financial
12 responsibility of ~~[any owners or managing officers of the licensee or~~
13 ~~applicant]~~ *the following persons* may be inquired into and
14 considered as a criterion in determining the financial responsibility
15 of the licensee or applicant ~~[]~~ :

16 (a) *Any owner of the licensee or applicant;*

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

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

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

24 (a) Amount of net worth.

25 (b) Amount of liquid assets.

26 (c) Amount of current assets.

27 (d) Amount of current liabilities.

28 (e) Amount of working capital.

29 (f) Ratio of current assets to current liabilities.

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

32 (h) Prior payment and credit records.

33 (i) Previous business experience.

34 (j) Prior and pending lawsuits.

35 (k) Prior and pending liens.

36 (l) Adverse judgments.

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

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

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

42 (1) A composition, arrangement or reorganization
43 proceeding;



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

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

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

6 (q) Information obtained from confidential financial references
7 and credit reports.

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

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

14 2. The written notice must be accompanied by:

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

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

19 4. Before issuing a license to an applicant who will engage in
20 residential construction or renewing the license of a contractor who
21 engages in residential construction, the Board may require the
22 applicant or licensee to establish financial responsibility by
23 submitting to the Board:

24 (a) A financial statement that is:

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

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

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

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

37 6. An applicant for an initial contractor's license or a licensee
38 applying for the renewal of a contractor's license has the burden of
39 demonstrating financial responsibility to the Board, if the Board
40 requests the applicant or licensee to do so.

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

42 624.265 1. An applicant for a contractor's license or a
43 licensed contractor, ~~and~~ each officer, director, partner and
44 associate thereof, *and any person who qualifies on behalf of the*
45 *applicant pursuant to subsection 2 of NRS 624.260* must possess



1 good character. Lack of character may be established by showing
2 that the applicant or licensed contractor, ~~or~~ any officer, director,
3 partner or associate thereof, *or any person who qualifies on behalf*
4 *of the applicant* has:

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

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

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

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

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

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

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

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

41 (a) Arrests;

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

43 (c) Sentencing;

44 (d) Probation;

45 (e) Parole;



- 1 (f) Bail;
- 2 (g) Complaints; and
- 3 (h) Final dispositions,
- 4 ↪ for the investigation of a licensee or an applicant for a
- 5 contractor's license.

6 **Sec. 5.** NRS 624.3017 is hereby amended to read as follows:
7 624.3017 The following acts, among others, constitute cause
8 for disciplinary action under NRS 624.300:

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

24 2. Advertising projects of construction without including in the
25 advertisements the name and license number of the licensed
26 contractor who is responsible for the construction.

27 3. Advertising projects of construction beyond the scope of the
28 license.

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

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

36 2. An injured person is not eligible for recovery from the
37 account if:

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



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

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

6 (d) *The injured person:*

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

11 (2) *Constructed the residence as the owner-builder of the*
12 *residence;*

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

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

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

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

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

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

35 (a) The amount of actual damages suffered, but not to exceed
36 \$35,000; or

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

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

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



1 amount recovered from the other sources from the amount payable
2 upon the claim and direct the difference to be paid from the account.

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

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

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

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

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

