

SENATE BILL NO. 241—COMMITTEE ON COMMERCE AND LABOR

MARCH 6, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning constructional defects. (BDR 3-156)

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 real property; requiring notice, a right to inspect and a right to repair to be provided to a contractor before an action for constructional defects may be commenced; establishing the State Contractors' Board as a resource to answer questions and assist in resolving disputes concerning matters which may affect or relate to constructional defects; making various other changes concerning constructional defects; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 40 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 15, inclusive, of this
3 act.
4 **Sec. 2.** *“Amend a complaint to add a cause of action for a*
5 *constructional defect” means any act by which a claimant seeks*
6 *to:*
7 1. *Add to the pleadings a defective component that is not*
8 *otherwise included in the pleadings and for which a notice was not*
9 *previously given; or*
10 2. *Amend the pleadings in such a manner that the practical*
11 *effect is the addition of a constructional defect that is not*
12 *otherwise included in the pleadings.*



* S B 2 4 1 R 2 *

1 *The term does not include amending a complaint to plead a*
2 *different cause for a constructional defect which is included in the*
3 *same action.*

4 **Sec. 3.** *“Design professional” means a person who holds a*
5 *professional license or certificate issued pursuant to chapter 623,*
6 *623A or 625 of NRS.*

7 **Sec. 4.** *“Subcontractor” means a contractor who performs*
8 *work on behalf of another contractor in the construction of a*
9 *residence or appurtenance.*

10 **Sec. 5.** *“Supplier” means a person who provides materials,*
11 *equipment or other supplies for the construction of a residence or*
12 *appurtenance.*

13 **Sec. 6. 1.** *Except as otherwise provided in subsection 2, not*
14 *later than 60 days after a contractor receives a notice pursuant to*
15 *subsection 4 of NRS 40.645 which alleges common constructional*
16 *defects to residences or appurtenances within a single*
17 *development and which complies with the requirements of*
18 *subsection 4 of NRS 40.645 for giving such notice, the contractor*
19 *may respond to the named owners of the residences or*
20 *appurtenances in the notice in the manner set forth in section 9 of*
21 *this act.*

22 **2.** *The contractor may provide a disclosure of the notice of*
23 *the alleged common constructional defects to each unnamed*
24 *owner of a residence or appurtenance within the development to*
25 *whom the notice may apply in the manner set forth in this section.*
26 *The disclosure must be sent by certified mail, return receipt*
27 *requested, to the home address of each such owner. The disclosure*
28 *must be mailed not later than 60 days after the contractor receives*
29 *the notice of the alleged common constructional defects, except*
30 *that if the common constructional defects may pose an imminent*
31 *threat to health and safety, the disclosure must be mailed as soon*
32 *as reasonably practicable, but not later than 20 days after the*
33 *contractor receives the notice.*

34 **3.** *The disclosure of a notice of alleged common*
35 *constructional defects provided by a contractor to the unnamed*
36 *owners to whom the notice may apply pursuant to subsection 2*
37 *must include, without limitation:*

38 *(a) A description of the alleged common constructional defects*
39 *identified in the notice that may exist in the residence or*
40 *appurtenance;*

41 *(b) A statement that notice alleging common constructional*
42 *defects has been given to the contractor which may apply to the*
43 *owner;*

44 *(c) A statement advising the owner that he has 30 days within*
45 *which to request the contractor to inspect the residence or*



1 *appurtenance to determine whether the residence or appurtenance*
2 *has the alleged common constructional defects;*

3 (d) *A form which the owner may use to request such an*
4 *inspection or a description of the manner in which the owner may*
5 *request such an inspection;*

6 (e) *A statement advising the owner that if he fails to request an*
7 *inspection pursuant to this section, no notice shall be deemed to*
8 *have been given by him for the alleged common constructional*
9 *defects; and*

10 (f) *A statement that if the owner chooses not to request an*
11 *inspection of his residence or appurtenance, he is not precluded*
12 *from sending a notice pursuant to NRS 40.645 individually or*
13 *commencing an action or amending a complaint to add a cause of*
14 *action for a constructional defect individually after complying*
15 *with the requirements set forth in NRS 40.600 to 40.695, inclusive,*
16 *and sections 2 to 15, inclusive, of this act.*

17 4. *If an unnamed owner requests an inspection of his*
18 *residence or appurtenance in accordance with subsection 3, the*
19 *contractor must provide the response required pursuant to section*
20 *9 of this act not later than 45 days after the date on which the*
21 *contractor receives the request.*

22 5. *If a contractor who receives a notice pursuant to*
23 *subsection 4 of NRS 40.645 does not provide a disclosure to*
24 *unnamed owners as authorized pursuant to this section, the*
25 *owners of the residences or appurtenances to whom the notice*
26 *may apply may commence an action for the constructional defect*
27 *without complying with any other provision set forth in NRS*
28 *40.600 to 40.695, inclusive, and sections 2 to 15, inclusive, of this*
29 *act. This subsection does not establish or prohibit the right to*
30 *maintain a class action.*

31 6. *If a contractor fails to provide a disclosure to an unnamed*
32 *owner to whom the notice of common constructional defects was*
33 *intended to apply:*

34 (a) *The contractor shall be deemed to have waived his right to*
35 *inspect and repair any common constructional defect that was*
36 *identified in the notice with respect to that owner; and*

37 (b) *The owner is not required to comply with the provisions set*
38 *forth in NRS 40.645 or section 11 of this act before commencing*
39 *an action or amending a complaint to add a cause of action based*
40 *on that common constructional defect.*

41 **Sec. 7. 1.** *Except as otherwise provided in subsection 2, not*
42 *later than 30 days after the date on which a contractor receives*
43 *notice of a constructional defect pursuant to NRS 40.645, the*
44 *contractor shall forward a copy of the notice by certified mail,*
45 *return receipt requested, to the last known address of each*



1 subcontractor, supplier or design professional whom the
2 contractor reasonably believes is responsible for a defect specified
3 in the notice.

4 2. If a contractor does not provide notice as required
5 pursuant to subsection 1, the contractor may not commence an
6 action against the subcontractor, supplier or design professional
7 related to the constructional defect unless the contractor
8 demonstrates that, after making a good faith effort, he was unable
9 to identify the subcontractor, supplier or design professional who
10 he believes is responsible for the defect within the time provided
11 pursuant to subsection 1.

12 3. Except as otherwise provided in subsection 4, not later
13 than 30 days after receiving notice from the contractor pursuant to
14 this section, the subcontractor, supplier or design professional
15 shall inspect the alleged constructional defect in accordance with
16 subsection 1 of section 8 of this act and provide the contractor
17 with a written statement indicating:

18 (a) Whether the subcontractor, supplier or design professional
19 has elected to repair the defect for which the contractor believes
20 the subcontractor, supplier or design professional is responsible;
21 and

22 (b) If the subcontractor, supplier or design professional elects
23 to repair the defect, an estimate of the length of time required for
24 the repair, and at least two proposed dates on and times at which
25 the subcontractor, supplier or design professional is able to begin
26 making the repair.

27 4. If the notice of a constructional defect forwarded by the
28 contractor was given pursuant to subsection 4 of NRS 40.645 and
29 the contractor provides a disclosure of the notice of the alleged
30 common constructional defects to the unnamed owners to whom
31 the notice may apply pursuant to section 6 of this act:

32 (a) The contractor shall, in addition to the notice provided
33 pursuant to subsection 1, upon receipt of a request for an
34 inspection, forward a copy of the request to or notify each
35 subcontractor, supplier or design professional who may be
36 responsible for the alleged defect of the request not later than 5
37 working days after receiving such a request; and

38 (b) Not later than 20 days after receiving notice from the
39 contractor of such a request, the subcontractor, supplier or design
40 professional shall inspect the alleged constructional defect in
41 accordance with subsection 2 of section 8 of this act and provide
42 the contractor with a written statement indicating:

43 (1) Whether the subcontractor, supplier or design
44 professional has elected to repair the defect for which the



1 contractor believes the subcontractor, supplier or design
2 professional is responsible; and

3 (2) If the subcontractor, supplier or design professional
4 elects to repair the defect, an estimate of the length of time
5 required for the repair, and at least two proposed dates on and
6 times at which the subcontractor, supplier or design professional
7 is able to begin making the repair.

8 5. If a subcontractor, supplier or design professional elects to
9 repair the constructional defect, the contractor or claimant may
10 hold the subcontractor liable for any repair which does not
11 eliminate the defect.

12 **Sec. 8. 1.** Except as otherwise provided in subsection 2,
13 after notice of a constructional defect is given to a contractor
14 pursuant to NRS 40.645, the claimant shall, upon reasonable
15 notice, allow the contractor and each subcontractor, supplier or
16 design professional who may be responsible for the alleged defect
17 reasonable access to the residence or appurtenance that is the
18 subject of the notice to determine the nature and extent of a
19 constructional defect and the nature and extent of repairs that
20 may be necessary. To the extent possible, the persons entitled to
21 inspect shall coordinate and conduct the inspections in a manner
22 which minimizes the inconvenience to the claimant.

23 2. If notice is given to the contractor pursuant to subsection 4
24 of NRS 40.645, the contractor and each subcontractor, supplier or
25 design professional who may be responsible for the defect do not
26 have the right to inspect the residence or appurtenance of an
27 owner who is not named in the notice unless the owner requests
28 the inspection in the manner set forth in section 6 of this act. If
29 the owner does not request the inspection, the owner shall be
30 deemed not to have provided notice pursuant to NRS 40.645.

31 **Sec. 9. 1.** Except as otherwise provided in NRS 40.670 and
32 40.672 and section 6 of this act, a written response must be sent by
33 certified mail, return receipt requested, to a claimant who gives
34 notice of a constructional defect pursuant to NRS 40.645:

35 (a) By the contractor not later than 90 days after the
36 contractor receives the notice; and

37 (b) If notice was sent to a subcontractor, supplier or design
38 professional, by the subcontractor, supplier or design professional
39 not later than 90 days after the date that the subcontractor,
40 supplier or design professional receives the notice.

41 2. The written response sent pursuant to subsection 1 must
42 respond to each constructional defect in the notice and:

43 (a) Must state whether the contractor, subcontractor, supplier
44 or design professional has elected to repair the defect or cause the
45 defect to be repaired. If an election to repair is included in the



1 *response and the repair will cause the claimant to move from his*
2 *home during the repair, the election must also include monetary*
3 *compensation in an amount reasonably necessary for temporary*
4 *housing or for storage of household items, or for both, if*
5 *necessary.*

6 *(b) May include a proposal for monetary compensation, which*
7 *may include contribution from a subcontractor, supplier or design*
8 *professional.*

9 *(c) May disclaim liability for the constructional defect and*
10 *state the reasons for such a disclaimer.*

11 *3. If the claimant is a homeowners' association, the*
12 *association shall send a copy of the response to each member of*
13 *the association not later than 30 days after receiving the response.*

14 *4. If the contractor, subcontractor, supplier or design*
15 *professional has elected not to repair the constructional defect, the*
16 *claimant or contractor may bring a cause of action for the*
17 *constructional defect or amend a complaint to add a cause of*
18 *action for the constructional defect.*

19 *5. If the contractor, subcontractor, supplier or design*
20 *professional has elected to repair the constructional defect, the*
21 *claimant must provide the contractor, subcontractor, supplier or*
22 *design professional with a reasonable opportunity to repair the*
23 *constructional defect.*

24 **Sec. 10. 1.** *If the response provided pursuant to section 9 of*
25 *this act includes an election to repair the constructional defect:*

26 *(a) The repairs may be performed by the contractor,*
27 *subcontractor, supplier or design professional, if he is properly*
28 *licensed, bonded and insured to perform the repairs and, if he is*
29 *not, the repairs may be performed by another person who meets*
30 *those qualifications.*

31 *(b) The repairs must be performed:*

32 *(1) On reasonable dates and at reasonable times agreed to*
33 *in advance with the claimant;*

34 *(2) In compliance with any applicable building code and in*
35 *a good and workmanlike manner in accordance with the generally*
36 *accepted standard of care in the industry for that type of repair;*
37 *and*

38 *(3) In a manner which will not increase the cost of*
39 *maintaining the residence or appurtenance than otherwise would*
40 *have been required if the residence or appurtenance had been*
41 *constructed without the constructional defect, unless the*
42 *contractor and the claimant agree in writing that the contractor*
43 *will compensate the claimant for the increased cost incurred as a*
44 *result of the repair.*



1 (c) Any part of the residence or appurtenance that is not
2 defective but which must be removed to correct the constructional
3 defect must be replaced.

4 (d) The contractor, subcontractor, supplier or design
5 professional shall prevent, remove and indemnify the claimant
6 against any mechanics' liens and materialmen's liens.

7 2. Unless the claimant and the contractor, subcontractor,
8 supplier or design professional agree to extend the time for
9 repairs, the repairs must be completed:

10 (a) If the notice was sent pursuant to subsection 4 of NRS
11 40.645 and there are four or fewer owners named in the notice, for
12 the named owners, not later than 105 days after the date on which
13 the contractor received the notice.

14 (b) If the notice was sent pursuant to subsection 4 of NRS
15 40.645 and there are five or more owners named in the notice, for
16 the named owners, not later than 150 days after the date on which
17 the contractor received the notice.

18 (c) If the notice was sent pursuant to subsection 4 of NRS
19 40.645, not later than 105 days after the date on which the
20 contractor provides a disclosure of the notice to the unnamed
21 owners to whom the notice applies pursuant to section 6 of this
22 act.

23 (d) If the notice was not sent pursuant to subsection 4 of
24 NRS 40.645:

25 (1) Not later than 105 days after the date on which the
26 notice of the constructional defect was received by the contractor,
27 subcontractor, supplier or design professional if the notice of a
28 constructional defect was received from four or fewer owners; or

29 (2) Not later than 150 days after the date on which the
30 notice of the constructional defect was received by the contractor,
31 subcontractor, supplier or design professional if the notice was
32 received from five or more owners or from a representative of a
33 homeowners' association.

34 3. If repairs reasonably cannot be completed within the time
35 set forth in subsection 2, the claimant and the contractor,
36 subcontractor, supplier or design professional shall agree to a
37 reasonable time within which to complete the repair. If the
38 claimant and contractor, subcontractor, supplier or design
39 professional cannot agree on such a time, any of them may
40 petition the court to establish a reasonable time for completing the
41 repair.

42 4. Any election to repair made pursuant to section 9 of this
43 act may not be made conditional upon a release of liability.

44 5. Not later than 30 days after the repairs are completed, the
45 contractor, subcontractor, supplier or design professional who



1 *repaired or caused the repair of a constructional defect shall*
2 *provide the claimant with a written statement describing the*
3 *nature and extent of the repair, the method used to repair the*
4 *constructional defect and the extent of any materials or parts that*
5 *were replaced during the repair.*

6 **Sec. 11.** 1. *Except as otherwise provided in section 6 of this*
7 *act, after notice of a constructional defect is given pursuant to*
8 *NRS 40.645, before a claimant may commence an action or*
9 *amend a complaint to add a cause of action for a constructional*
10 *defect against a contractor, subcontractor, supplier or design*
11 *professional, the claimant must:*

12 (a) *Allow an inspection of the alleged constructional defect to*
13 *be conducted pursuant to section 8 of this act; and*

14 (b) *Allow the contractor, subcontractor, supplier or design*
15 *professional a reasonable opportunity to repair the constructional*
16 *defect or cause the defect to be repaired if an election to repair is*
17 *made pursuant to section 9 of this act.*

18 2. *If a claimant commences an action without complying with*
19 *subsection 1 or NRS 40.645, the court shall:*

20 (a) *Dismiss the action without prejudice and compel the*
21 *claimant to comply with those provisions before filing another*
22 *action; or*

23 (b) *If dismissal of the action would prevent the claimant from*
24 *filing another action because the action would be procedurally*
25 *barred by the statute of limitations or statute of repose, the court*
26 *shall stay the proceeding pending compliance with those*
27 *provisions by the claimant.*

28 **Sec. 12.** 1. *A claimant and any contractor, subcontractor,*
29 *supplier and design professional may submit a question or dispute*
30 *to the State Contractors' Board concerning any matter which may*
31 *affect or relate to a constructional defect, including, without*
32 *limitation, questions concerning the need for repairs, the*
33 *appropriate method for repairs, the sufficiency of any repairs that*
34 *have been made and the respective rights and responsibilities of*
35 *homeowners, claimants, contractors, subcontractors, suppliers*
36 *and design professionals.*

37 2. *If a question or dispute is submitted to the State*
38 *Contractors' Board pursuant to this section, the State Contractors'*
39 *Board shall, pursuant to its regulations, rules and procedures,*
40 *respond to the question or investigate the dispute and render a*
41 *decision. Nothing in this section authorizes the State Contractors'*
42 *Board to require the owner of a residence or appurtenance to*
43 *participate in any administrative hearing which is held pursuant*
44 *to this section.*



1 3. Not later than 30 days after a question or dispute is
2 submitted to the State Contractors' Board pursuant to subsection
3 1, the State Contractors' Board shall respond to the question or
4 render its decision. The response or decision of the State
5 Contractors' Board:

6 (a) Is not binding and is not subject to judicial review pursuant
7 to the provisions of chapters 233B and 624 of NRS; and

8 (b) Is not admissible in any judicial or administrative
9 proceeding brought pursuant to the provisions of this chapter.

10 4. The provisions of this chapter do not preclude a claimant
11 or a contractor, subcontractor, supplier or design professional
12 from pursuing any remedy otherwise available from the State
13 Contractors' Board pursuant to the provisions of chapter 624 of
14 NRS concerning a constructional defect.

15 5. If an action for a constructional defect has been
16 commenced, the court shall not stay or delay any proceedings
17 before the court pending an answer to a question or decision
18 concerning a dispute submitted to the State Contractors' Board.

19 6. The State Contractors' Board shall adopt regulations
20 necessary to carry out the provisions of this section and may
21 charge and collect reasonable fees from licensees to cover the cost
22 of carrying out its duties pursuant to this section.

23 **Sec. 13. 1.** If a contractor, subcontractor, supplier or
24 design professional receives written notice of a constructional
25 defect, the contractor, subcontractor, supplier or design
26 professional may present the claim to an insurer which has issued
27 a policy of insurance that covers all or any portion of the business
28 of the contractor, subcontractor, supplier or design professional.

29 2. If the contractor, subcontractor, supplier or design
30 professional presents the claim to the insurer pursuant to this
31 section, the insurer:

32 (a) Must treat the claim as if a civil action has been brought
33 against the contractor, subcontractor, supplier or design
34 professional; and

35 (b) Must provide coverage to the extent available under the
36 policy of insurance as if a civil action has been brought against
37 the contractor, subcontractor, supplier or design professional.

38 3. A contractor, subcontractor, supplier or design
39 professional is not required to present a claim to the insurer
40 pursuant to this section, and the failure to present such a claim to
41 the insurer does not relieve the insurer of any duty under the
42 policy of insurance to the contractor, subcontractor, supplier or
43 design professional.

44 **Sec. 14. 1.** If a settlement conference is held concerning a
45 claim for a constructional defect, the special master, if any, or the



1 *judge presiding over the claim may order a representative of an*
2 *insurer of a party to attend the settlement conference. If a*
3 *representative of an insurer is ordered to attend the settlement*
4 *conference, the insurer shall ensure that the representative is*
5 *authorized, on behalf of the insurer, to:*

6 (a) *Bind the insurer to any settlement agreement relating to*
7 *the claim;*

8 (b) *Enter into any agreement relating to coverage that may be*
9 *available under the party's policy of insurance which is required*
10 *to carry out any settlement relating to the claim; and*

11 (c) *Commit for expenditure money or other assets available*
12 *under the party's policy of insurance.*

13 2. *If a representative of an insurer who is ordered to attend a*
14 *settlement conference pursuant to subsection 1 fails to attend the*
15 *settlement conference or attends but is substantially unprepared to*
16 *participate, or fails to participate in good faith, the special master*
17 *or the judge may, on his own motion or that of a party, issue any*
18 *order with regard thereto that is just under the circumstances.*

19 3. *In lieu of or in addition to any other sanction, the special*
20 *master or the judge may require the insurer to pay any reasonable*
21 *expenses or attorney's fees incurred by a party because of the*
22 *failure of the insurer or its representative to comply with the*
23 *provisions of this section or any order issued pursuant to this*
24 *section, unless the special master or the judge finds that the*
25 *failure to comply was substantially justified or that any other*
26 *circumstances make the award of such expenses or fees unjust.*

27 4. *Any insurer which conducts business in this state and*
28 *which insures a party against liability for the claim shall be*
29 *deemed to have consented to the jurisdiction of the special master*
30 *or the judge for the purposes of this section.*

31 5. *The authority conferred upon the special master or the*
32 *judge pursuant to this section is in addition to any other authority*
33 *conferred upon the special master or the judge pursuant to any*
34 *other statute or any court rule.*

35 **Sec. 15.** *Not later than 15 days before the commencement of*
36 *mediation required pursuant to NRS 40.680 and upon providing*
37 *15 days' notice, each party shall provide to the other party, or shall*
38 *make a reasonable effort to assist the other party to obtain, all*
39 *relevant reports, photos, correspondence, plans, specifications,*
40 *warranties, contracts, subcontracts, work orders for repair,*
41 *videotapes, technical reports, soil and other engineering reports*
42 *and other documents or materials relating to the claim that are not*
43 *privileged.*



1 **Sec. 16.** NRS 40.600 is hereby amended to read as follows:
2 40.600 As used in NRS 40.600 to 40.695, inclusive, *and*
3 *sections 2 to 15, inclusive, of this act*, unless the context otherwise
4 requires, the words and terms defined in NRS 40.605 to 40.630,
5 inclusive, *and sections 2 to 5, inclusive, of this act* have the
6 meanings ascribed to them in those sections.

7 **Sec. 17.** NRS 40.610 is hereby amended to read as follows:

8 40.610 “Claimant” means ~~an~~ :

9 1. An owner of a residence or appurtenance ~~or a~~ ;

10 2. A representative of a homeowner’s association that is
11 responsible for a residence or appurtenance and is acting within the
12 scope of his duties pursuant to chapter 116 or 117 of NRS ~~§~~; or

13 3. *Each owner of a residence or appurtenance to whom a*
14 *notice applies pursuant to subsection 4 of NRS 40.645.*

15 **Sec. 18.** NRS 40.615 is hereby amended to read as follows:

16 40.615 “Constructional defect” ~~includes~~ *means* a defect in
17 the design, construction, manufacture, repair or landscaping of a
18 new residence, of an alteration of or addition to an existing
19 residence, or of an appurtenance ~~[-. The term includes] and includes,~~
20 *without limitation, the design, construction, manufacture, repair*
21 *or landscaping of a new residence, of an alteration of or addition*
22 *to an existing residence, or of an appurtenance:*

23 1. *Which is done in violation of law, including, without*
24 *limitation, in violation of local codes or ordinances;*

25 2. *Which proximately causes* physical damage to the
26 residence, an appurtenance or the real property to which the
27 residence or appurtenance is affixed ~~[that is proximately caused by a~~
28 ~~constructional defect.]~~ ;

29 3. *Which is not completed in a good and workmanlike*
30 *manner in accordance with the generally accepted standard of*
31 *care in the industry for that type of design, construction,*
32 *manufacture, repair or landscaping; or*

33 4. *Which presents an unreasonable risk of injury to a person*
34 *or property.*

35 **Sec. 19.** NRS 40.635 is hereby amended to read as follows:

36 40.635 NRS 40.600 to 40.695, inclusive ~~§~~, *and sections 2 to*
37 *15, inclusive, of this act:*

38 1. Apply to any claim that arises before, on or after July 1,
39 1995, as the result of a constructional defect, except a claim for
40 personal injury or wrongful death, if the claim is the subject of an
41 action commenced on or after July 1, 1995.

42 2. Prevail over any conflicting law otherwise applicable to the
43 claim or cause of action.

44 3. Do not bar or limit any defense otherwise available , except
45 as otherwise provided in those sections.



1 4. Do not create a new theory upon which liability may be
2 based ~~[]~~, *except as otherwise provided in those sections.*

3 **Sec. 20.** NRS 40.645 is hereby amended to read as follows:
4 40.645 **1.** Except as otherwise provided in this section and
5 NRS 40.670, ~~[]~~:

6 ~~1. For a claim that is not a complex matter, at least 60 days]~~
7 before a claimant commences an action *or amends a complaint to*
8 *add a cause of action for a constructional defect* against a
9 contractor ~~[for damages arising from a constructional defect.]~~ ,
10 *subcontractor, supplier or design professional* the claimant ~~[must]~~
11 :

12 (a) *Must* give written notice by certified mail, return receipt
13 requested, to the contractor, at the contractor's ~~[last known address;~~
14 ~~specifying]~~ *address listed in the records of the State Contractors'*
15 *Board or in the records of the office of the county or city clerk or*
16 *at the contractor's last known address if his address is not listed in*
17 *those records; and*

18 (b) *May* give written notice by certified mail, return receipt
19 requested, to any subcontractor, supplier or design professional
20 known to the claimant who may be responsible for the
21 constructional defect, if the claimant knows that the contractor is
22 no longer licensed in this state or that he no longer acts as a
23 contractor in this state.

24 **2.** *The notice given pursuant to subsection 1 must:*
25 (a) *Include a statement that the notice is being given to satisfy*
26 *the requirements of this section;*

27 (b) *Specify* in reasonable detail the defects or any damages or
28 injuries to each residence or appurtenance that is the subject of the
29 claim ~~[The notice must describe]~~ ; *and*

30 (c) *Describe* in reasonable detail the cause of the defects if the
31 cause is known, the nature and extent that is known of the damage
32 or injury resulting from the defects and the location of each defect
33 within each residence or appurtenance to the extent known.

34 **3.** *Notice that includes an expert opinion concerning the*
35 *cause of the constructional defects and the nature and extent of*
36 *the damage or injury resulting from the defects which is based on*
37 *a valid and reliable representative sample of the components of the*
38 *residences or appurtenances may be used as notice of the common*
39 *constructional defects within the residences or appurtenances to*
40 *which the expert opinion applies.*

41 **4.** *Except as otherwise provided in subsection 5, one notice*
42 *may be sent relating to all similarly situated owners of residences*
43 *or appurtenances within a single development that allegedly have*
44 *common constructional defects if:*



1 (a) An expert opinion *is obtained* concerning the cause of the
2 *common constructional* defects and the nature and extent of the
3 damage or injury resulting from the *common constructional* defects
4 ;
5 (b) *That expert opinion concludes that* based on a *valid and*
6 *reliable* representative sample of the components of the residences
7 and appurtenances ~~involved~~ *included* in the ~~action satisfies the~~
8 ~~requirements of this section. During the 45 day period after the~~
9 ~~contractor receives the notice, on his written request, the contractor~~
10 ~~is entitled to inspect the property that is the subject of the claim to~~
11 ~~determine the nature and cause of the defect, damage or injury and~~
12 ~~the nature and extent of repairs necessary to remedy the defect. The~~
13 ~~contractor shall, before making the inspection, provide reasonable~~
14 ~~notice of the inspection and shall make the inspection at a~~
15 ~~reasonable time. The contractor may take reasonable steps to~~
16 ~~establish the existence of the defect.~~
17 ~~2. If a residence or appurtenance that is the subject of the claim~~
18 ~~is covered by a homeowner's warranty that is purchased by or on~~
19 ~~behalf of a claimant pursuant to NRS 690B.100 to 690B.180,~~
20 ~~inclusive, a claimant shall diligently pursue a claim under the~~
21 ~~contract.~~
22 ~~3. Within 60 days after the contractor receives the notice, the~~
23 ~~contractor shall make a written response to the claimant. The~~
24 ~~response:~~
25 ~~(a) Must be served to the claimant by certified mail, return~~
26 ~~receipt requested, at the claimant's last known address.~~
27 ~~(b) Must respond to each constructional defect set forth in the~~
28 ~~claimant's notice, and describe in reasonable detail the cause of the~~
29 ~~defect, if known, the nature and extent of the damage or injury~~
30 ~~resulting from the defect, and, unless the response is limited to a~~
31 ~~proposal for monetary compensation, the method, adequacy and~~
32 ~~estimated cost of any proposed repair.~~
33 ~~(c) May include:~~
34 ~~(1) A proposal for monetary compensation, which may~~
35 ~~include a contribution from a subcontractor.~~
36 ~~(2) If the contractor or his subcontractor is licensed to make~~
37 ~~the repairs, an agreement by the contractor or subcontractor to make~~
38 ~~the repairs.~~
39 ~~(3) An agreement by the contractor to cause the repairs to be~~
40 ~~made, at the contractor's expense, by another contractor who is~~
41 ~~licensed to make the repairs, bonded and insured.~~
42 ~~The repairs must be made within 45 days after the contractor~~
43 ~~receives written notice of acceptance of the response, unless~~
44 ~~completion is delayed by the claimant or by other events beyond the~~
45 ~~control of the contractor, or timely completion of the repairs is not~~



1 ~~reasonably possible. The claimant and the contractor may agree in~~
2 ~~writing to extend the periods prescribed by this section.~~

3 ~~—4. Not later than 15 days before the mediation required~~
4 ~~pursuant to NRS 40.680 and upon providing 15 days’ notice, each~~
5 ~~party shall provide the other party, or shall make a reasonable effort~~
6 ~~to assist the other party to obtain, all relevant reports, photos,~~
7 ~~correspondence, plans, specifications, warranties, contracts,~~
8 ~~subcontracts, work orders for repair, videotapes, technical reports,~~
9 ~~soil and other engineering reports and other documents or materials~~
10 ~~relating to the claim that are not privileged.~~

11 ~~5. If the claimant is a representative of a homeowner’s~~
12 ~~association, the association shall submit any response made by the~~
13 ~~contractor to each member of the association.~~

14 ~~—6. As used in this section, “subcontractor” means a contractor~~
15 ~~who performs work on behalf of another contractor in the~~
16 ~~construction of a residence or appurtenance.] notice, it is the~~
17 ~~opinion of the expert that those similarly situated residences and~~
18 ~~appurtenances may have such common constructional defects;~~
19 ~~and~~

20 *(c) A copy of the expert opinion is included with the notice.*

21 *5. A representative of a homeowner’s association may send*
22 *notice pursuant to this section on behalf of an association that is*
23 *responsible for a residence or appurtenance if the representative is*
24 *acting within the scope of his duties pursuant to chapter 116 or*
25 *117 of NRS.*

26 *6. Notice is not required pursuant to this section before*
27 *commencing an action if:*

28 *(a) The contractor, subcontractor, supplier or design*
29 *professional has filed an action against the claimant; or*

30 *(b) The claimant has filed a formal complaint with a law*
31 *enforcement agency against the contractor, subcontractor,*
32 *supplier or design professional for threatening to commit or*
33 *committing an act of violence or a criminal offense against the*
34 *claimant or the property of the claimant.*

35 **Sec. 21.** NRS 40.650 is hereby amended to read as follows:

36 40.650 1. If a claimant unreasonably rejects a reasonable
37 written offer of settlement made as part of a response ~~[made]~~
38 pursuant to ~~[NRS 40.645 or 40.682 or does not permit the contractor~~
39 ~~or independent contractor a reasonable opportunity to repair the~~
40 ~~defect pursuant to an accepted offer of settlement] paragraph (b) of~~
41 ~~subsection 2 of section 9 of this act~~ and thereafter commences an
42 action governed by NRS 40.600 to 40.695, inclusive, *and sections 2*
43 *to 15, inclusive, of this act*, the court in which the action is
44 commenced may:

45 (a) Deny the claimant’s attorney’s fees and costs; and



1 (b) Award attorney’s fees and costs to the contractor.
2 Any sums paid under a homeowner’s warranty, other than sums paid
3 in satisfaction of claims that are collateral to any coverage issued to
4 or by the contractor, must be deducted from any recovery.

5 2. If a contractor , *subcontractor, supplier or design*
6 *professional* fails to:

- 7 (a) *Comply with the provisions of section 9 of this act;*
- 8 (b) Make an offer of settlement;
- 9 ~~[(b)]~~ (c) Make a good faith response to the claim asserting no
10 liability;

11 ~~[(c) Complete, in a good and workmanlike manner, the repairs~~
12 ~~specified in an accepted offer;]~~

13 (d) Agree to a mediator or accept the appointment of a mediator
14 pursuant to NRS 40.680 ; ~~for subsection 4 of NRS 40.682;~~ or

15 (e) Participate in mediation,
16 the limitations on damages and defenses to liability provided in
17 NRS 40.600 to 40.695, inclusive, *and sections 2 to 15, inclusive, of*
18 *this act* do not apply and the claimant may commence an action *or*
19 *amend a complaint to add a cause of action for a constructional*
20 *defect* without satisfying any other requirement of NRS 40.600 to
21 40.695, inclusive ~~[-]~~, *and sections 2 to 15, inclusive, of this act.*

22 3. *If a residence or appurtenance that is the subject of the*
23 *claim is covered by a homeowner’s warranty that is purchased by*
24 *or on behalf of a claimant pursuant to NRS 690B.100 to*
25 *690B.180, inclusive, a claimant shall diligently pursue a claim*
26 *under the contract.* If coverage under a homeowner’s warranty is
27 denied by an insurer in bad faith, the homeowner and the contractor
28 , *subcontractor, supplier or design professional* have a right of
29 action for the sums that would have been paid if coverage had been
30 provided, plus reasonable attorney’s fees and costs.

31 4. *Nothing in this section prohibits an offer of judgment*
32 *pursuant to Rule 68 of the Nevada Rules of Civil Procedure or*
33 *NRS 17.115 if the offer of judgment includes all damages to which*
34 *the claimant is entitled pursuant to NRS 40.655.*

35 **Sec. 22.** NRS 40.655 is hereby amended to read as follows:

36 40.655 1. Except as otherwise provided in NRS 40.650, in a
37 claim governed by NRS 40.600 to 40.695, inclusive, *and sections 2*
38 *to 15, inclusive, of this act*, the claimant may recover only the
39 following damages to the extent proximately caused by a
40 constructional defect:

- 41 (a) Any reasonable attorney’s fees;
- 42 (b) The reasonable cost of any repairs already made that were
43 necessary and of any repairs yet to be made that are necessary to
44 cure any constructional defect that the contractor failed to cure and



1 the reasonable expenses of temporary housing reasonably necessary
2 during the repair;
3 (c) The reduction in market value of the residence or accessory
4 structure, if any, to the extent the reduction is because of structural
5 failure;
6 (d) The loss of the use of all or any part of the residence;
7 (e) The reasonable value of any other property damaged by the
8 constructional defect;
9 (f) Any additional costs reasonably incurred by the claimant,
10 including, but not limited to, any costs and fees incurred for the
11 retention of experts to:
12 (1) Ascertain the nature and extent of the constructional
13 defects;
14 (2) Evaluate appropriate corrective measures to estimate the
15 value of loss of use; and
16 (3) Estimate the value of loss of use, the cost of temporary
17 housing and the reduction of market value of the residence; and
18 (g) Any interest provided by statute.
19 2. The amount of any attorney's fees awarded pursuant to this
20 section must be approved by the court.
21 3. If a contractor complies with the provisions of NRS 40.600
22 to 40.695, inclusive, *and sections 2 to 15, inclusive, of this act*, the
23 claimant may not recover from the contractor, as a result of the
24 constructional defect, anything other than that which is provided
25 pursuant to NRS 40.600 to 40.695, inclusive ~~§~~, *and sections 2 to*
26 *15, inclusive, of this act.*
27 4. *This section must not be construed as impairing any*
28 *contractual rights between a contractor and a subcontractor,*
29 *supplier or design professional.*
30 5. As used in this section, "structural failure" means physical
31 damage to the load-bearing portion of a residence or appurtenance
32 caused by a failure of the load-bearing portion of the residence or
33 appurtenance.
34 **Sec. 23.** NRS 40.660 is hereby amended to read as follows:
35 40.660 An offer of settlement *made pursuant to paragraph (b)*
36 *of subsection 2 of section 9 of this act* that is not accepted within ~~§~~
37 ~~1. In a complex matter, 45 days; or~~
38 ~~2. In a matter that is not a complex matter, 25 days.]~~
39 *35 days* after the offer is received by the claimant is considered
40 rejected if the offer contains a clear and understandable statement
41 notifying the claimant of the consequences of his failure to respond
42 or otherwise accept or reject the offer of settlement. An affidavit
43 certifying rejection of an offer of settlement under this section may
44 be filed with the court.



1 **Sec. 24.** NRS 40.665 is hereby amended to read as follows:
2 40.665 In addition to any other method provided for settling a
3 claim pursuant to NRS 40.600 to 40.695, inclusive, *and sections 2*
4 *to 15, inclusive, of this act*, a contractor may, pursuant to a written
5 agreement entered into with a claimant, settle a claim by
6 repurchasing the claimant's residence and the real property upon
7 which it is located. The agreement may include provisions which
8 reimburse the claimant for:

9 1. The market value of the residence as if no constructional
10 defect existed, except that if a residence is less than 2 years of age
11 and was purchased from the contractor against whom the claim is
12 brought, the market value is the price at which the residence was
13 sold to the claimant;

14 2. The value of any improvements made to the property by a
15 person other than the contractor;

16 3. Reasonable attorney's fees and fees for experts; and

17 4. Any costs, including costs and expenses for moving and
18 costs, points and fees for loans.

19 Any offer of settlement made that includes the items listed in this
20 section shall be deemed reasonable for the purposes of subsection 1
21 of NRS 40.650.

22 **Sec. 25.** NRS 40.667 is hereby amended to read as follows:

23 40.667 1. Except as otherwise provided in subsection 2, a
24 written waiver or settlement agreement executed by a claimant after
25 a contractor has corrected or otherwise repaired a constructional
26 defect does not bar a claim for the constructional defect if it is
27 determined that the contractor failed to correct or repair the defect
28 properly.

29 2. The provisions of subsection 1 do not apply to any written
30 waiver or settlement agreement described in subsection 1, unless:

31 (a) The claimant has obtained the opinion of an expert
32 concerning the constructional defect;

33 (b) The claimant has provided the contractor with a written
34 notice of the defect pursuant to NRS 40.645 ~~for 40.682~~ and a copy
35 of the expert's opinion; and

36 (c) The claimant and the contractor have complied with the
37 requirements for inspection and repair as provided in NRS 40.600 to
38 40.695, inclusive ~~and~~, *and sections 2 to 15, inclusive, of this act.*

39 3. *The provisions of this section do not apply to repairs which*
40 *are made pursuant to an election to repair pursuant to section 9 of*
41 *this act.*

42 4. If a claimant does not prevail in any action which is not
43 barred pursuant to this section, the court may:

44 (a) Deny the claimant's attorney's fees, fees for an expert
45 witness or costs; and



1 (b) Award attorney's fees and costs to the contractor.
2 **Sec. 26.** NRS 40.670 is hereby amended to read as follows:
3 40.670 1. A contractor , *subcontractor, supplier or design*
4 *professional* who receives written notice of a constructional defect
5 resulting from work performed by the contractor , ~~[or his agent,~~
6 ~~employee or]~~ *subcontractor, supplier or design professional* which
7 creates an imminent threat to the health or safety of the inhabitants
8 of the residence shall take reasonable steps to cure the defect as
9 soon as practicable. The contractor , *subcontractor, supplier or*
10 *design professional* shall not cure the defect by making any repairs
11 for which he is not licensed or by causing any repairs to be made by
12 a person who is not licensed to make those repairs. If the contractor ,
13 *subcontractor, supplier or design professional* fails to cure the
14 defect in a reasonable time, the owner of the residence may have the
15 defect cured and may recover from the contractor , *subcontractor,*
16 *supplier or design professional* the reasonable cost of the repairs
17 plus reasonable attorney's fees and costs in addition to any other
18 damages recoverable under any other law.
19 2. A contractor , *subcontractor, supplier or design*
20 *professional* who does not cure a defect pursuant to this section
21 because he has determined, in good faith and after a reasonable
22 inspection, that there is not an imminent threat to the health or safety
23 of the inhabitants is not liable for attorney's fees and costs pursuant
24 to this section, except that if a building inspector, building official or
25 other similar authority employed by a governmental body with
26 jurisdiction certifies that there is an imminent threat to the health
27 and safety of the inhabitants of the residence, the contractor ,
28 *subcontractor, supplier or design professional* is subject to the
29 provisions of subsection 1.
30 **Sec. 27.** NRS 40.672 is hereby amended to read as follows:
31 40.672 Except as otherwise provided in NRS 40.670, if a
32 contractor , *subcontractor, supplier or design professional* receives
33 written notice of a constructional defect ~~[that is not part of a~~
34 ~~complex matter]~~ not more than 1 year after the close of escrow of
35 the initial purchase of the residence, the contractor , *subcontractor,*
36 *supplier or design professional* shall make the repairs within 45
37 days after ~~[the contractor receives]~~ *receiving* the written notice
38 unless completion is delayed by the claimant or by other events
39 beyond the control of the contractor, *subcontractor, supplier or*
40 *design professional*, or timely completion of repairs is not
41 reasonably possible. The contractor , *subcontractor, supplier or*
42 *design professional* and claimant may agree in writing to extend the
43 period prescribed by this section. If ~~[the]~~ *a contractor or*
44 *subcontractor* fails to comply with this section, he is immediately
45 subject to discipline pursuant to NRS 624.300.



1 **Sec. 28.** NRS 40.680 is hereby amended to read as follows:
2 40.680 1. Except as otherwise provided in this chapter,
3 before *a claimant commences* an action ~~[based on a claim governed~~
4 ~~by NRS 40.600 to 40.695, inclusive, may be commenced in court,]~~
5 *or amends a complaint to add a cause of action for a*
6 *constructional defect against a contractor, subcontractor, supplier*
7 *or design professional*, the matter must be submitted to mediation,
8 unless mediation is waived in writing by the contractor ,
9 *subcontractor, supplier or design professional* and the claimant.

10 2. The claimant and ~~[contractor]~~ *each party alleged to have*
11 *caused the constructional defect* must select a mediator by
12 agreement. If the claimant and ~~[contractor]~~ *the other parties* fail to
13 agree upon a mediator within ~~[45]~~ *20* days after a mediator is first
14 selected by the claimant, ~~[either]~~ *any* party may petition the
15 American Arbitration Association, the Nevada Arbitration
16 Association, Nevada Dispute Resolution Services or any other
17 mediation service acceptable to the parties for the appointment of a
18 mediator. A mediator so appointed may discover only those
19 documents or records which are necessary to conduct the mediation.
20 The mediator shall convene the mediation within ~~[60]~~ *30* days after
21 the matter is submitted to *him and shall complete the mediation*
22 *within 45 days after the matter is submitted to* him, unless the
23 parties agree to extend the time. ~~[Except in a complex matter, the~~
24 ~~claimant shall, before]~~

25 3. *Before* the mediation begins ~~[,]~~ :

26 (a) *The claimant shall* deposit \$50 with the mediation service ;
27 and ~~[the contractor]~~

28 (b) *Each other party* shall deposit with the mediation service ,
29 *in equal shares*, the remaining amount estimated by the mediation
30 service as necessary to pay the fees and expenses of the mediator for
31 the first session of mediation ~~[, and the contractor]~~ *and* shall deposit
32 additional amounts demanded by the mediation service as incurred
33 for that purpose. ~~[In a complex matter, each party shall share equally~~
34 ~~in the deposits estimated by the mediation service.]~~

35 4. Unless otherwise agreed, the total fees for each day of
36 mediation and the mediator must not exceed \$750 per day.

37 ~~[3.]~~ 5. If the parties do not reach an agreement concerning the
38 matter during mediation or if ~~[the contractor]~~ *any party who is*
39 *alleged to have caused the constructional defect* fails to pay the
40 required fees and appear, the claimant may commence ~~[his]~~ *an*
41 *action or amend a complaint to add a cause of action for the*
42 *constructional defect* in court and:

43 (a) The reasonable costs and fees of the mediation are
44 recoverable by the prevailing party as costs of the action.



1 (b) ~~{Either}~~ Any party may petition the court in which the action
2 is commenced for the appointment of a special master.
3 ~~{4}~~ 6. A special master appointed pursuant to subsection ~~{3}~~ 5
4 may:
5 (a) Review all pleadings, papers or documents filed with the
6 court concerning the action.
7 (b) Coordinate the discovery of any books, records, papers or
8 other documents by the parties, including the disclosure of witnesses
9 and the taking of the deposition of any party.
10 (c) Order any inspections on the site of the property by a party
11 and any consultants or experts of a party.
12 (d) Order settlement conferences and attendance at those
13 conferences by any representative of the insurer of a party.
14 (e) Require any attorney representing a party to provide
15 statements of legal and factual issues concerning the action.
16 (f) Refer to the judge who appointed him or to the presiding
17 judge of the court in which the action is commenced any matter
18 requiring assistance from the court.
19 The special master shall not, unless otherwise agreed by the parties,
20 personally conduct any settlement conferences or engage in any ex
21 parte meetings regarding the action.
22 ~~{5}~~ 7. Upon application by a party to the court in which the
23 action is commenced, any decision or other action taken by a special
24 master appointed pursuant to this section may be appealed to the
25 court for a decision.
26 ~~{6}~~ 8. A report issued by a mediator or special master that
27 indicates that ~~{either}~~ a party has failed to appear before him or to
28 mediate in good faith is admissible in the action, but a statement or
29 admission made by ~~{either}~~ a party in the course of mediation is not
30 admissible.
31 **Sec. 29.** NRS 40.688 is hereby amended to read as follows:
32 40.688 1. If a claimant attempts to sell a residence that is or
33 has been the subject of a claim governed by NRS 40.600 to 40.695,
34 inclusive, *and sections 2 to 15, inclusive, of this act*, he shall
35 disclose, in writing, to any prospective purchaser of the residence,
36 not less than 30 days before the close of escrow for the sale of
37 the residence or, if escrow is to close less than 30 days after the
38 execution of the sales agreement, then immediately upon the
39 execution of the sales agreement or, if a claim is initiated less than
40 30 days before the close of escrow, within 24 hours after giving
41 written notice to the contractor pursuant to ~~{subsection 1 of}~~ NRS
42 40.645 : ~~{or subsection 1 of NRS 40.682;}~~
43 (a) All notices given by the claimant to the contractor pursuant
44 to NRS 40.600 to 40.695, inclusive, *and sections 2 to 15, inclusive,*
45 *of this act* that are related to the residence;



1 (b) All opinions the claimant has obtained from experts
2 regarding a constructional defect that is or has been the subject of
3 the claim;

4 (c) The terms of any settlement, order or judgment relating to
5 the claim; and

6 (d) A detailed report of all repairs made to the residence by or
7 on behalf of the claimant as a result of a constructional defect that is
8 or has been the subject of the claim.

9 2. Before taking any action on a claim pursuant to NRS 40.600
10 to 40.695, inclusive, *and sections 2 to 15, inclusive, of this act*, the
11 attorney for a claimant shall notify the claimant in writing of the
12 provisions of this section.

13 **Sec. 30.** NRS 40.6882 is hereby amended to read as follows:
14 40.6882 ~~["Complainant"]~~ *As used in NRS 40.6884 and*
15 *40.6885, unless the context otherwise requires, "complainant"*
16 means a person who makes a claim or files an action against a
17 design professional pursuant to NRS 40.600 to 40.695, inclusive ~~["~~,
18 *and sections 2 to 15, inclusive, of this act.*

19 **Sec. 31.** NRS 40.692 is hereby amended to read as follows:
20 40.692 ~~["If, after complying with the procedural requirements of~~

21 ~~NRS 40.645 and 40.680, or NRS 40.682, a claimant proceeds with~~
22 ~~an action for damages arising from a constructional defect:~~

23 ~~— 1. The claimant and each contractor who is named in the~~
24 ~~original complaint when the action is commenced are not required,~~
25 ~~while the action is pending, to comply with the requirements of~~
26 ~~NRS 40.645 or 40.680, or NRS 40.682, for any constructional~~
27 ~~defect that the claimant includes in an amended complaint, if the~~
28 ~~constructional defect:~~

- 29 ~~— (a) Is attributable, in whole or in part, to such a contractor;~~
- 30 ~~— (b) Is located on the same property described in the original~~
31 ~~complaint; and~~
- 32 ~~— (c) Was not discovered before the action was commenced~~
33 ~~provided that a good faith effort had been undertaken by the~~
34 ~~claimant.~~

35 ~~— 2. The~~ A claimant *who commences an action for a*
36 *constructional defect* is not required to give written notice of a
37 defect pursuant to ~~[subsection 1 of NRS 40.645 or subsection 1 of~~
38 ~~NRS 40.682]~~ *NRS 40.645* to any person who ~~[is joined to or]~~
39 intervenes in the action as a party after it is commenced. If such a
40 person becomes a party to the action:

41 ~~[(a)]~~ *1.* For the purposes of ~~[subsection 1 of NRS 40.645 or~~
42 ~~subsection 1 of NRS 40.682,]~~ *NRS 40.645*, the person shall be
43 deemed to have been given notice of the defect by the claimant on
44 the date on which the person becomes a party to the action; and



1 ~~[(b)]~~ 2. The provisions of NRS 40.600 to 40.695, inclusive,
2 *and sections 2 to 15, inclusive, of this act* apply to the person after
3 that date.

4 **Sec. 32.** NRS 40.695 is hereby amended to read as follows:
5 40.695 1. Except as otherwise provided in subsection 2,
6 statutes of limitation or repose applicable to a claim based on a
7 constructional defect governed by NRS 40.600 to 40.695, inclusive,
8 *and sections 2 to 15, inclusive, of this act* are tolled from the time
9 notice of the claim is given, until 30 days after mediation is
10 concluded or waived in writing pursuant to NRS 40.680 . ~~for~~
11 ~~subsection 4 of NRS 40.682.~~

12 2. Tolling under this section applies ~~to~~
13 ~~—(a) Only to a claim that is not a complex matter.~~
14 ~~—(b) To~~ to a third party regardless of whether the party is
15 required to appear in the proceeding.

16 **Sec. 33.** NRS 40.613, 40.682, 40.6881 and 40.6883 are hereby
17 repealed.

18 **Sec. 34.** The amendatory provisions of this act apply only to
19 claim for a constructional defect that arises before, on or after
20 August 1, 2003, unless the claimant:

21 1. Has commenced an action concerning the claim in
22 accordance with NRS 40.600 to 40.695, inclusive, before August 1,
23 2003; or

24 2. Has given notice of the claim to the contractor,
25 subcontractor, supplier or design professional pursuant to NRS
26 40.600 to 40.695, inclusive, before August 1, 2003, including notice
27 on behalf of named and unnamed claimants.

28 **Sec. 35.** 1. This section and section 12 of this act become
29 effective upon passage and approval for the purpose of adopting
30 regulations and on August 1, 2003, for all other purposes.

31 2. Sections 1 to 11, inclusive, and 13 to 34, inclusive, of this
32 act become effective on August 1, 2003.

LEADLINES OF REPEALED SECTIONS

40.613 “Complex matter” defined.

40.682 Complex matters: Written notice by claimant; procedural requirements; additional parties and third-party complaints; mediation; appointment of special master; limitation on certain pretrial procedures; pursuit of claim under warranty; written response by contractor.

40.6881 Definitions.



40.6883 “Design professional” defined.

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