
SENATE BILL NO. 191—SENATOR SCHNEIDER

MARCH 17, 2005

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning actions against certain design professionals for constructional defects in nonresidential buildings or structures. (BDR 3-897)

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 an affidavit and report by an expert in support of an action against certain design professionals concerning a constructional defect in a nonresidential building or structure; requiring a court to dismiss such an action if the attorney filing the action fails to file the affidavit or report or fails to name the expert consulted in the affidavit; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires an attorney who files a civil action against certain design
2 professionals for a constructional defect in a residence on behalf of the plaintiff to
3 file an affidavit with the court at the same time the attorney serves the first pleading
4 in the action. The affidavit must state that the attorney has reviewed the facts of the
5 case, has consulted with an expert who the attorney believes is knowledgeable in
6 the discipline relevant to the action, and has concluded that the action has a
7 reasonable basis in law and fact. In addition to the affidavit, the attorney must
8 submit a report prepared by the expert that includes, among other things, the
9 expert’s resume, a copy of each nonprivileged document reviewed by the expert in
10 preparing the report, the expert’s conclusions and a statement that the expert has
11 concluded that there is a reasonable basis for filing the action. (NRS 40.6884) If the
12 attorney fails to file the affidavit or report or fails to name in the affidavit the expert
13 consulted, the court is required to dismiss the action. (NRS 40.6885)



14 This bill makes those provisions governing actions against design professionals
15 for constructional defects in residences apply to actions against design
16 professionals for constructional defects affecting nonresidential buildings and
17 structures.

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 a new section to read as follows:

3 *The provisions of NRS 40.6884 and 40.6885 apply to any*
4 *action based upon a constructional defect affecting a*
5 *nonresidential building or structure that is commenced against a*
6 *design professional or a person primarily engaged in the practice*
7 *of professional engineering, land surveying, architecture or*
8 *landscape architecture.*

9 **Sec. 2.** The provisions of this act apply to a claim initiated or
10 an action commenced on or after October 1, 2005.

