

ASSEMBLY BILL NO. 634—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF CONTRACTORS' BOARD)

MARCH 22, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions governing contractors. (BDR 54-762)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

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

AN ACT relating to contractors; providing for the establishment of an investigations office by the state contractors' board and prescribing its duties; making various changes regarding the procedures and grounds for taking and the scope of disciplinary action against a contractor; requiring annual reports by the state contractors' board; making various changes concerning constructional fraud, proceedings of the board, the prerequisites to obtaining and maintaining a license, the enforcement of licensing requirements and the imposition of administrative and criminal penalties for violations; providing additional administrative and criminal penalties; 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 624 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 12, inclusive, of this act.
3 **Sec. 2. 1. *The board shall:***
4 ***(a) Establish an investigations office to enforce the provisions of this***
5 ***chapter. The investigations office must include a special investigations***
6 ***unit consisting of criminal investigators and a compliance investigations***
7 ***unit consisting of compliance investigators.***
8 ***(b) Adopt regulations setting forth the qualifications required for***
9 ***investigators employed to carry out this section.***
10 **2. As used in this section, "criminal investigator" means a person**
11 **authorized to perform the duties set forth in subsection 2 of NRS**
12 **624.115.**

1 **Sec. 3. 1. The investigations office of the board shall:**

2 **(a) Upon the receipt of a complaint against a licensee, initiate an**
3 **investigation of the complaint.**

4 **(b) Within 10 days after receiving such a complaint, notify the**
5 **licensee and, if known, the person making the complaint of the initiation**
6 **of the investigation, and provide a copy of the complaint to the licensee.**

7 **(c) Upon the completion of its investigation of a complaint, provide**
8 **the licensee and, if known, the person making the complaint with written**
9 **notification of any action taken on the complaint and the reasons for**
10 **taking that action.**

11 **2. The investigations office of the board may attempt to resolve the**
12 **complaint by:**

13 **(a) Meeting and conferring with the licensee and the person making**
14 **the complaint; and**

15 **(b) Requesting the licensee to provide appropriate relief.**

16 **3. If the subject matter of the complaint is not within the jurisdiction**
17 **of the board, or if the board or the investigations office is unable to**
18 **resolve the complaint after exhausting all reasonable remedies and**
19 **methods of resolution, the board or its designee shall:**

20 **(a) Forward the complaint, together with any evidence or other**
21 **information in the possession of the board concerning the complaint, to**
22 **any public or private agency which, in the opinion of the board, would be**
23 **effective in resolving the complaint; and**

24 **(b) Notify the person making the complaint of its action pursuant to**
25 **paragraph (a) and of any other procedures which may be available to**
26 **resolve the complaint.**

27 **Sec. 4. 1. If the board or its designee, based upon a preponderance**
28 **of the evidence, has reason to believe that a licensee or applicant for a**
29 **contractor's license has committed an act which constitutes a cause for**
30 **disciplinary action pursuant to NRS 624.300, the board or its designee,**
31 **as appropriate, may issue or authorize the issuance of a written**
32 **administrative citation to the licensee or applicant. A citation issued**
33 **pursuant to this section may include, without limitation:**

34 **(a) An order to take action to correct a condition resulting from an act**
35 **that constitutes a cause for disciplinary action, at the licensee's or**
36 **applicant's cost;**

37 **(b) An order to pay an administrative fine; and**

38 **(c) An order to reimburse the board for the amount of the expenses**
39 **incurred to investigate the complaint.**

40 **2. If a written citation issued pursuant to subsection 1 includes an**
41 **order to take action to correct a condition resulting from an act that**
42 **constitutes a cause for disciplinary action, the citation must state the time**
43 **permitted for compliance, which must be not less than 15 business days**

1 *after the date the licensee or applicant receives the citation, and*
2 *specifically describe the action required to be taken.*

3 **Sec. 5.** *The board shall adopt regulations concerning the:*

- 4 *1. Form of a written citation issued pursuant to section 4 of this act;*
- 5 *2. Time required for a licensee or applicant for a license to correct a*
6 *condition resulting from an act that constitutes a cause for disciplinary*
7 *action if he is so ordered pursuant to section 4 of this act; and*
- 8 *3. Imposition of an administrative fine pursuant to the provisions of*
9 *this chapter. The board must consider:*

- 10 *(a) The gravity of the violation;*
- 11 *(b) The good faith of the licensee; and*
- 12 *(c) Any history of previous violations of the provisions of this chapter*
13 *by the licensee.*

14 **Sec. 6.** *1. A licensee or applicant for a contractor's license who is*
15 *issued a written citation pursuant to section 4 of this act may contest the*
16 *citation within 15 business days after the date on which the citation is*
17 *served on the licensee or applicant.*

18 *2. A licensee or applicant for a contractor's license may contest,*
19 *without limitation:*

- 20 *(a) The facts forming the basis for the determination that the licensee*
21 *or applicant has committed an act which constitutes a cause for*
22 *disciplinary action;*
- 23 *(b) The time allowed to take any corrective action ordered;*
- 24 *(c) The amount of any administrative fine ordered;*
- 25 *(d) The amount of any order to reimburse the board for the expenses*
26 *incurred to investigate the licensee or applicant; and*
- 27 *(e) Whether any corrective action described in the citation is*
28 *reasonable.*

29 *3. If a licensee or applicant for a contractor's license does not*
30 *contest a citation issued pursuant to section 4 of this act within 15*
31 *business days after the date on which the citation is served on the*
32 *licensee or applicant, or on or before such later date as specified by the*
33 *board pursuant to subsection 4, the citation shall be deemed a final order*
34 *of the board and not subject to review by any court or agency.*

35 *4. The board may, for good cause shown, extend the time to contest a*
36 *citation issued pursuant to section 4 of this act.*

37 *5. For the purposes of this section, a citation shall be deemed to have*
38 *been served on a licensee or an applicant on:*

- 39 *(a) The date on which the citation is personally delivered to the*
40 *licensee or applicant; or*
- 41 *(b) If the citation is mailed, the date on which the citation is mailed by*
42 *certified mail to the last known business or residential address of the*
43 *licensee or applicant.*

1 **Sec. 7.** *If a licensee or applicant for a contractor's license contests a*
2 *citation issued pursuant to section 4 of this act or order to correct a*
3 *violation of the provisions of this chapter within 15 business days after he*
4 *receives the citation or order, or on or before such later date as specified*
5 *by the board pursuant to subsection 4 of section 6 of this act, the board*
6 *shall hold a hearing pursuant to NRS 624.310.*

7 **Sec. 8.** 1. *On or before September 1 of each even-numbered year,*
8 *the board or its designee shall:*

9 (a) *Review the complaints received by the board to ascertain whether*
10 *there are any similarities or common trends among any of those*
11 *complaints;*

12 (b) *Prepare a written summary that identifies potential difficulties in*
13 *the regulation of contractors and the protection of the public pursuant to*
14 *this chapter; and*

15 (c) *Report any findings and recommendations for legislation to:*

16 (1) *The governor; and*

17 (2) *The director of the legislative counsel bureau for transmittal to*
18 *the next regular session of the legislature.*

19 2. *The board shall take such action as is necessary to keep the public*
20 *informed of its activities pursuant to this section.*

21 **Sec. 9.** *A licensee or an applicant for a contractor's license must*
22 *prove his financial responsibility by demonstrating that his past and*
23 *current financial solvency and expectations for financial solvency in the*
24 *future are such as to provide the board with a reasonable expectation*
25 *that the licensee or applicant can successfully do business as a contractor*
26 *without jeopardy to the public health, safety and welfare.*

27 **Sec. 10.** *The following acts or omissions, among others, constitute*
28 *cause for disciplinary action pursuant to NRS 624.300:*

29 1. *Contracting, offering to contract or submitting a bid as a*
30 *contractor if the contractor's license has been suspended or revoked*
31 *pursuant to NRS 624.300.*

32 2. *Failure to comply with a written citation issued pursuant to section*
33 *4 of this act within the time permitted for compliance set forth in the*
34 *citation, or, if a hearing is held pursuant to NRS 624.310, within 15*
35 *business days after the hearing.*

36 3. *Except as otherwise provided in subsection 2, failure to pay an*
37 *administrative fine imposed pursuant to this chapter within 30 days after:*

38 (a) *Receiving notice of the imposition of the fine; or*

39 (b) *The final administrative or judicial decision affirming the*
40 *imposition of the fine,*
41 *whichever occurs later.*

42 4. *The suspension, revocation or other disciplinary action taken by*
43 *another state against a contractor based on a license issued by that state*

1 *if the contractor is licensed in this state or applies for a license in this*
2 *state. A certified copy of the suspension, revocation or other disciplinary*
3 *action taken by another state against a contractor based on a license*
4 *issued by that state is conclusive evidence of that action.*

5 *5. Failure or refusal to respond to a written request from the board*
6 *or its designee to cooperate in the investigation of a complaint.*

7 *6. Failure or refusal to comply with a written request by the board or*
8 *its designee for information or records, or obstructing or delaying the*
9 *providing of such information or records.*

10 **Sec. 11.** *A complaint against a licensee for the commission of any*
11 *act or omission that constitutes cause for disciplinary action pursuant to*
12 *NRS 624.300 must be filed in writing with the board within 4 years after*
13 *the act or omission.*

14 **Sec. 12. 1.** *Except as otherwise provided in this chapter, any*
15 *person other than an applicant for a contractor's license who takes an*
16 *examination of the board on behalf of the applicant, is guilty of a*
17 *misdemeanor.*

18 *2. Any person who, without the authorization of the board, provides*
19 *any portion of an examination of the board to another person, is guilty of*
20 *a misdemeanor.*

21 **Sec. 13.** NRS 624.115 is hereby amended to read as follows:

22 624.115 1. The board may employ attorneys, investigators and other
23 professional consultants and clerical personnel necessary to the discharge
24 of its duties.

25 2. The board may require *criminal* investigators who are employed by
26 the board *pursuant to section 2 of this act* to ~~locate persons who:~~
27 ~~—(a)—~~:

28 *(a) Conduct a background investigation of a licensee or an applicant*
29 *for a contractor's license;*

30 *(b) Locate and identify persons who:*

31 *(1) Engage in the business or act in the capacity of a contractor within*
32 *this state* ~~;~~ ~~or~~

33 ~~—(b)—~~ *in violation of the provisions of this chapter;*

34 *(2) Submit bids on jobs situated within this state* ~~;~~ *in violation of*
35 ~~[NRS 624.230.]~~ *the provisions of this chapter; or*

36 *(3) Otherwise violate the provisions of this chapter or the*
37 *regulations adopted pursuant to this chapter; and*

38 *(c) Issue a written misdemeanor citation pursuant to NRS 171.1773 to*
39 *a person who violates a provision of this chapter that is punishable as a*
40 *misdemeanor. A criminal investigator may request any constable, sheriff*
41 *or other peace officer to assist him in the issuance of such a citation.*

1 **Sec. 14.** NRS 624.165 is hereby amended to read as follows:

2 624.165 1. The board ~~{may:}~~ **shall:**

3 (a) Designate one or more of its employees for the investigation of
4 constructional fraud;

5 (b) Cooperate with other local, state or federal investigative and law
6 enforcement agencies, and the attorney general;

7 (c) Assist the attorney general or any official of an investigative or a law
8 enforcement agency of this state, any other state or the Federal Government
9 who requests assistance in investigating any act of constructional fraud; and

10 (d) Furnish to those officials any information ~~{,not otherwise~~
11 ~~confidential,}~~ concerning its investigation or report on any act of
12 constructional fraud.

13 2. *The board may obtain records of a law enforcement agency or any*
14 *other agency that maintains records of criminal history, including,*
15 *without limitation, records of:*

16 *(a) Arrests;*

17 *(b) Guilty pleas;*

18 *(c) Sentencing;*

19 *(d) Probation;*

20 *(e) Parole;*

21 *(f) Bail;*

22 *(g) Complaints; and*

23 *(h) Final dispositions,*

24 *for the investigation of constructional fraud.*

25 3. For the purposes of this section, constructional fraud occurs if a
26 person engaged in construction knowingly:

27 (a) Misapplies money under the circumstances described in NRS
28 205.310;

29 (b) Obtains money, property or labor by false pretense as described in
30 NRS 205.380;

31 (c) Receives payments and fails to state his own true name, or states a
32 false name, *contractor's license number*, address or telephone number of
33 the person offering a service; ~~{or}~~

34 (d) *Commits any act of theft, forgery, fraud or embezzlement, in*
35 *connection with a construction project, that violates a criminal statute of*
36 *this state;*

37 (e) *Acts as a contractor without:*

38 (1) *Possessing a contractor's license issued pursuant to this*
39 *chapter; or*

40 (2) *Possessing any other license required by this state or a political*
41 *subdivision of this state; or*

42 (f) *Otherwise fails to disclose a material fact.*

1 **Sec. 15.** NRS 624.170 is hereby amended to read as follows:

2 624.170 1. Any member of the board or the executive officer may
3 take testimony and proofs concerning all matters within the jurisdiction of
4 the board.

5 2. The board or any member thereof, or the executive officer, may:

6 (a) Administer oaths.

7 (b) Certify to all official acts.

8 (c) Issue subpoenas for *the* attendance of witnesses and the production
9 of *records*, books and papers in connection with any hearing ~~{before the~~
10 ~~board or any investigation by the board of an unlicensed contractor.}~~,
11 *investigation or other proceeding of the board.*

12 **Sec. 16.** NRS 624.190 is hereby amended to read as follows:

13 624.190 1. The district court in and for the county in which any
14 hearing, ~~{or}~~ investigation *or other proceeding* is held by the board may
15 compel the attendance of witnesses, the giving of testimony and the
16 production of *records*, books and papers as required by any subpoena
17 issued by the board or the executive officer.

18 2. In case of the refusal of any witness to attend or testify or produce
19 any ~~{papers}~~ *items* required by the subpoena, the board may report to the
20 district court in and for the county in which the hearing, ~~{or}~~ investigation
21 *or other proceeding* will be held by petition, setting forth that:

22 (a) Due notice has been given of the time and place of attendance of the
23 witness or the production of the *records*, books or papers;

24 (b) The witness has been subpoenaed in the manner prescribed in this
25 chapter; and

26 (c) The witness has failed and refused to attend or produce the ~~{papers}~~
27 *items* required by subpoena before the board in the cause or proceeding
28 named in the subpoena, or has refused to answer questions propounded to
29 him in the course of the hearing ~~{or investigation.}~~, *investigation or other*
30 *proceeding*,

31 and ask an order of the court compelling the witness to attend and testify or
32 produce the *records*, books or papers before the board.

33 3. The court, upon petition of the board, shall enter an order directing
34 the witness to appear before the court at a time and place to be fixed by the
35 court in the order, the time to be not more than 10 days after the date of the
36 order, and then and there show cause why he has not attended or testified or
37 produced the *records*, books or papers before the board. A certified copy of
38 the order must be served upon the witness.

39 4. If it appears to the court that the subpoena was regularly issued by
40 the board or the executive officer, the court shall thereupon enter an order
41 that the witness appear before the board at the time and place fixed in the
42 order and testify or produce the required *records*, books or papers. Upon

1 failure to obey the order , the witness must be dealt with as for contempt of
2 court.

3 **Sec. 17.** NRS 624.200 is hereby amended to read as follows:

4 624.200 The board may in any hearing , ~~for~~ investigation *or other*
5 *proceeding* before it cause the depositions of witnesses residing within or
6 without the state to be taken in the manner prescribed by the Nevada Rules
7 of Civil Procedure for like depositions in civil actions in the district courts
8 of this state, and to that end may compel the attendance of witnesses and
9 the production of *records*, books and papers.

10 **Sec. 18.** NRS 624.210 is hereby amended to read as follows:

11 624.210 Any party to any hearing , ~~for~~ investigation *or other*
12 *proceeding* before the board has the right to the attendance of witnesses in
13 his behalf at the hearing , ~~for~~ investigation *or other proceeding* or upon
14 deposition as set forth in this chapter upon making a request therefor to the
15 board and designating the person sought to be subpoenaed.

16 **Sec. 19.** NRS 624.220 is hereby amended to read as follows:

17 624.220 1. The board may adopt regulations necessary to effect the
18 classification and subclassification of contractors in a manner consistent
19 with established usage and procedure as found in the construction business,
20 and may limit the field and scope of the operations of a licensed contractor
21 to those in which he is classified and qualified to engage as defined by NRS
22 624.215 and the regulations of the board.

23 2. The board may limit the field and scope of the operations of a
24 licensed contractor by establishing a monetary limit on a contractor's
25 license, and the limit must be the maximum contract a licensed contractor
26 may undertake on one or more construction contracts on a single
27 construction site or subdivision site for a single client. The board may take
28 any other action designed to limit the field and scope of the operations of a
29 contractor as may be necessary to protect the health, safety and general
30 welfare of the public. The limit, if any, must be determined after
31 consideration of the factors set forth in NRS 624.260, 624.263 and 624.265
32 ~~for~~ *and section 9 of this act.*

33 3. Nothing contained in this section prohibits a specialty contractor
34 from taking and executing a contract involving the use of two or more
35 crafts or trades, if the performance of the work in the crafts or trades, other
36 than in which he is licensed, is incidental and supplemental to the
37 performance of work in the craft for which the specialty contractor is
38 licensed.

39 **Sec. 20.** NRS 624.230 is hereby amended to read as follows:

40 624.230 1. It is unlawful for any person or combination of persons
41 to:

42 (a) Engage in the business or act in the capacity of a contractor within
43 this state;

or

(b) Submit a bid on a job situated within this state, without having ~~{a}~~ **an active** license therefor as provided in this chapter, unless that person or combination of persons is exempted from licensure ~~{as provided in this chapter.}~~ **pursuant to NRS 624.330.**

2. The district attorneys in this state shall prosecute all violations of this section which occur in their respective counties, unless the violations are prosecuted by the attorney general. Upon the request of the board, the attorney general shall prosecute any violation of this section in lieu of prosecution by the district attorney.

3. In addition to any other penalty imposed pursuant to this chapter, a person who is convicted of violating subsection 1 may be required to pay:

(a) Court costs and the costs of prosecution;

(b) Reasonable costs of the investigation of the violation to the board;

(c) Damages he caused as a result of the violation up to the amount of his pecuniary gain from the violation; or

(d) Any combination of paragraphs (a), (b) and (c).

4. ~~{Any bid submitted by a person who is neither licensed nor exempted from licensure as provided in this chapter at the time the bid is submitted is void.}~~ **If a person submits a bid or enters into a contract in violation of subsection 1, the bid or contract shall be deemed void ab initio.**

Sec. 21. NRS 624.250 is hereby amended to read as follows:

624.250 1. To obtain **or renew** a license, an applicant must submit to the board an application in writing containing ~~{the}~~ :

(a) **The** statement that the applicant desires the issuance of a license under the terms of this chapter.

(b) **The street address or other physical location of the applicant's place of business.**

(c) **The name of a person physically located in this state for service of process on the applicant.**

(d) **The street address or other physical location in this state and, if different, the mailing address, for service of process on the applicant.**

(e) **The names and physical and mailing addresses of any owners, partners, officers, directors, members and managerial personnel of the applicant.**

(f) **Any information requested by the board to ascertain the background, financial responsibility, experience, knowledge and qualifications of the applicant.**

2. The application must be:

(a) Made on a form prescribed by the board in accordance with the rules and regulations adopted by the board.

(b) Accompanied by the fee fixed by this chapter.

1 3. If the applicant is a natural person, the application must include the
2 social security number of the applicant.

3 **Sec. 22.** NRS 624.260 is hereby amended to read as follows:

4 624.260 1. The board shall require *a licensee or an applicant for a*
5 *contractor's license* to show such a degree of experience, financial
6 responsibility and such general knowledge of the building, safety, health
7 and lien laws of the State of Nevada and the ~~rudimentary~~ *administrative*
8 principles of the contracting business as the board deems necessary for the
9 safety and protection of the public.

10 2. An applicant may qualify in regard to his experience and knowledge
11 in the following ways:

12 (a) If a natural person, he may qualify by personal appearance or by the
13 appearance of his responsible managing employee.

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

17 3. The natural person qualifying on behalf of another natural person or
18 firm under paragraphs (a) and (b) of subsection 2 must prove that he is a
19 bona fide member or employee of that person or firm and when his
20 principal or employer is actively engaged as a contractor shall exercise
21 authority in connection with his principal or employer's contracting
22 business in the following manner:

23 (a) To make technical and administrative decisions;

24 (b) To hire, superintend, promote, transfer, lay off, discipline or
25 discharge other employees and to direct them, either by himself or through
26 others, or effectively to recommend such action on behalf of his principal
27 or employer; and

28 (c) To devote himself solely to his principal or employer's business and
29 not to take any other employment which would conflict with his duties
30 under this subsection.

31 4. A natural person may not qualify on behalf of another for more than
32 one active license unless:

33 (a) One person owns at least 25 percent of each licensee for which he
34 qualifies; or

35 (b) One licensee owns at least 25 percent of the other licensee.

36 **Sec. 23.** NRS 624.263 is hereby amended to read as follows:

37 624.263 1. ~~For the purposes of this chapter, financial responsibility~~
38 ~~means a past and present business record of solvency. If the applicant or~~
39 ~~contractor is a corporation, its~~ *The financial responsibility of a licensee or*
40 *an applicant for a contractor's license* must be established independently
41 of and without reliance on ~~the assets of its officers, directors or~~
42 ~~stockholders,~~ *any assets or guarantees of any owners or managing*
43 *officers of the licensee or applicant,* but the financial responsibility of ~~its~~

~~officers and directors~~ **any owners or managing officers of the licensee or applicant** may be inquired into and considered as a criterion in determining the ~~the corporation's financial responsibility.~~ **financial responsibility of the licensee or applicant.**

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

- (a) Net worth.
- (b) Amount of liquid assets.
- (c) Prior payment and credit records.
- (d) Previous business experience.
- (e) Prior and pending lawsuits.
- (f) Prior and pending liens.
- (g) Adverse judgments.
- (h) Conviction of a felony or crime involving moral turpitude.
- (i) Prior suspension or revocation of a contractor's license in Nevada or elsewhere.
- (j) 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.
- (k) Form of business organization (corporate or otherwise).
- (l) Information obtained from confidential financial references and credit reports.
- (m) Reputation for honesty and integrity of the applicant or contractor or any officer, director, associate or partner thereof.

3. A licensed contractor shall, as soon as it is reasonably practicable, notify the board in writing upon the filing of a petition or application relating to the contractor that initiates any proceeding, appointment or assignment set forth in paragraph (j) of subsection 2. The written notice must be accompanied by:

- (a) A copy of the petition or application filed with the court; and
- (b) A copy of any order of the court which is relevant to the financial responsibility of the contractor, including any order appointing a trustee, receiver or assignee.

4. Before issuing a license to an applicant who will engage in residential construction or renewing the license of a contractor who engages in residential construction, the board shall require the applicant

1 *or licensee to establish his financial responsibility by submitting to the*
2 *board:*

3 *(a) A financial statement prepared by a certified public accountant*
4 *who is licensed pursuant to the provisions of chapter 628 of NRS; and*

5 *(b) A statement setting forth the number of building permits issued to*
6 *and construction projects completed by the licensee during the*
7 *immediately preceding year and any other information required by the*
8 *board. The statement submitted pursuant to this paragraph must be*
9 *provided on a form approved by the board.*

10 *5. In addition to the requirements set forth in subsection 4, the board*
11 *may require a licensee to establish his financial responsibility at any*
12 *time.*

13 *6. An applicant for an initial contractor's license or a licensee*
14 *applying for the renewal of a contractor's license has the burden of*
15 *demonstrating his financial responsibility to the board.*

16 **Sec. 24.** NRS 624.265 is hereby amended to read as follows:

17 624.265 **1.** An applicant for a contractor's license and each officer,
18 director, partner and associate thereof ~~{shall}~~ **must** possess good character.
19 Lack of character may be established by showing that the applicant or any
20 officer, director, partner or associate thereof has:

21 ~~{1.}~~ **(a)** Committed any act which, if committed by any licensed
22 contractor, would be grounds for the suspension or revocation of a
23 contractor's license;

24 ~~{2.}~~ **(b)** A bad reputation for honesty and integrity;

25 ~~{3.}~~ **(c)** Entered a plea of *nolo contendere*, guilty or guilty but mentally
26 ill to, been found guilty of or been convicted of a ~~{felony or crime~~
27 ~~involving moral turpitude}~~ **crime** arising out of, in connection with or
28 related to the activities of such person in such a manner as to demonstrate
29 his unfitness to act as a contractor, and the time for appeal has elapsed or
30 the judgment of conviction has been affirmed on appeal; or

31 ~~{4.}~~ **(d)** Had a license revoked for reasons that would preclude the
32 granting of a license for which the application has been made.

33 **2.** *Upon the request of the board, an applicant for a contractor's*
34 *license, and any officer, director, partner or associate of the applicant,*
35 *must submit to the board completed fingerprint cards and a form*
36 *authorizing an investigation of the applicant's background and the*
37 *submission of his fingerprints to the central repository for Nevada*
38 *records of criminal history and the Federal Bureau of Investigation. The*
39 *fingerprint cards and authorization form submitted must be those that*
40 *are provided to the applicant by the board. The applicant's fingerprints*
41 *may be taken by an agent of the board or an agency of law enforcement.*

42 **3.** *The board shall keep the results of the investigation confidential*
43 *and not subject to inspection by the general public.*

1 **4. The board shall establish by regulation the fee for processing the**
2 **fingerprints to be paid by the applicant. The fee must not exceed the sum**
3 **of the amounts charged by the central repository for Nevada records of**
4 **criminal history and the Federal Bureau of Investigation for processing**
5 **the fingerprints.**

6 **5. The board may obtain records of a law enforcement agency or any**
7 **other agency that maintains records of criminal history, including,**
8 **without limitation, records of:**

9 **(a) Arrests;**

10 **(b) Guilty pleas;**

11 **(c) Sentencing;**

12 **(d) Probation;**

13 **(e) Parole;**

14 **(f) Bail;**

15 **(g) Complaints; and**

16 **(h) Final dispositions,**

17 **for the investigation of a licensee or an applicant for a contractor's**
18 **license.**

19 **Sec. 25.** NRS 624.273 is hereby amended to read as follows:

20 624.273 1. Each bond or deposit required by NRS 624.270 must be
21 in favor of the State of Nevada for the benefit of any person who:

22 (a) As owner of the property to be improved entered into a construction
23 contract with the contractor and is damaged by failure of the contractor to
24 perform the contract or to remove liens filed against the property;

25 (b) As an employee of the contractor performed labor on or about the
26 site of the construction covered by the contract;

27 (c) As a supplier or materialman furnished materials or equipment for
28 the construction covered by the contract; or

29 (d) Is injured by any unlawful act or omission of the contractor in the
30 performance of a contract.

31 2. Any person claiming against the bond or deposit may bring an action
32 in a court of competent jurisdiction on the bond or against the board on the
33 deposit for the amount of damage he has suffered to the extent covered by
34 the bond or deposit. ~~[A person who brings action on a bond shall notify the~~

35 ~~board in writing upon filing the action.]~~ No action may be commenced on
36 the bond or deposit 2 years after the commission of the act on which the
37 action is based. **If an action is commenced on the bond, the surety that**
38 **executed the bond shall notify the board of the action within 30 days**
39 **after the date that:**

40 **(a) The surety is served with a complaint and summons; or**

41 **(b) The action is commenced,**

42 **whichever**

occurs

first.

1 3. Upon receiving a request from a person for whose benefit a bond or
2 deposit is required, the board shall notify him that:

3 (a) A bond is in effect or that a deposit has been made, and the amount
4 of either;

5 (b) There is an action against a bond, if that is the case, and the court,
6 the title and number of the action and the amount sought by the plaintiff;
7 and

8 (c) There is an action against the board, if that is the case, and the
9 amount sought by the plaintiff.

10 4. If a surety, or in the case of a deposit, the board, desires to make
11 payment without awaiting court action, the amount of the bond or deposit
12 must be reduced to the extent of any payment made by the surety or the
13 board in good faith under the bond or deposit. Any payment must be based
14 on written claims received by the surety or board before the court action.

15 5. The surety or the board may bring an action for interpleader against
16 all claimants upon the bond or deposit. If it does so, it must publish notice
17 of the action at least once each week for 2 weeks in a newspaper of general
18 circulation in the county where the contractor has his principal place of
19 business. The surety ~~for the board~~ is entitled to deduct its costs of the
20 action, including ~~attorney's fees and~~ publication, from its liability under
21 the bond . ~~for~~ *The board is entitled to deduct its costs of the action,*
22 *including attorney's fees and publication,* from the deposit.

23 6. A claim of any employee of the contractor for labor is a preferred
24 claim against a bond or deposit. If any bond or deposit is insufficient to pay
25 all claims for labor in full, the sum recovered must be distributed among all
26 claimants for labor in proportion to the amounts of their respective claims.
27 Partial payment of claims is not full payment, and the claimants may bring
28 actions against the contractor for the unpaid balances.

29 7. Claims, other than claims for labor, against a bond or deposit have
30 equal priority, except where otherwise provided by law, and if the bond or
31 deposit is insufficient to pay all of those claims in full, they must be paid
32 pro rata. Partial payment of claims is not full payment, and the claimants
33 may bring actions against the contractor for the unpaid balances.

34 ***8. The board may not claim against the bond or deposit required***
35 ***pursuant to NRS 624.270 for the payment of an administrative fine***
36 ***imposed for a violation of the provisions of this chapter.***

37 **Sec. 25.5.** NRS 624.275 is hereby amended to read as follows:

38 624.275 1. ~~The~~ ***With respect to a surety bond that a licensed***
39 ***contractor maintains in accordance with NRS 624.270:***

40 ***(a) The surety shall give prompt notice to the board of any claims paid***
41 ***against the bond of the licensed contractor.***

42 ***(b) The*** surety may cancel the bond upon giving 60 days' notice to the
43 board and to the contractor by certified mail.

1 **2. Upon receipt by the board of the notice described in paragraph (a)**
2 **of subsection 1, the board shall immediately notify the contractor who is**
3 **the principal on the bond that his license will be suspended or revoked**
4 **unless he furnishes an equivalent bond or establishes an equivalent cash**
5 **deposit before a date set by the board.**

6 **3. Upon receipt by the board of the notice ~~1~~ described in paragraph**
7 **(b) of subsection 1, the board shall immediately notify the contractor who**
8 **is the principal on the bond that his license will be suspended or revoked**
9 **unless he furnishes an equivalent bond or establishes an equivalent cash**
10 **deposit before the effective date of the cancellation.**

11 **4. The notice mailed to the contractor by the board pursuant to**
12 **subsection 2 or 3 must be ~~1~~by certified mail addressed to his latest address**
13 **of record in the office of the board.**

14 ~~2.~~ **5. If the contractor does not comply with the requirements of the**
15 **notice from the board, his license must be suspended or revoked on the date**
16 **~~the~~:**

17 **(a) Set by the board, if the notice was provided to the contractor**
18 **pursuant to subsection 2; or**

19 **(b) The bond is canceled ~~1~~, if the notice was provided to the**
20 **contractor pursuant to subsection 3.**

21 **Sec. 26.** NRS 624.283 is hereby amended to read as follows:

22 624.283 1. Each license issued under the provisions of this chapter
23 expires 1 year after the date on which it is issued, except that the board may
24 by regulation prescribe shorter or longer periods and prorated fees to
25 establish a system of staggered renewals. Any license which is not renewed
26 on or before the date for renewal is automatically suspended.

27 2. A license may be renewed by submitting to the board:

28 (a) An application for renewal;

29 (b) The statement required pursuant to NRS 624.268 if the holder of the
30 license is a natural person; and

31 (c) The fee for renewal fixed by the board.

32 3. The board may require ~~the~~ a licensee to ~~submit~~ **demonstrate his**
33 **financial responsibility** at any time ~~1~~ **through the submission of:**

34 **(a) A financial statement that is prepared by ~~1~~an independent**
35 **certified public accountant ~~1, if the board believes that:~~**

36 ~~—(a) The licensee did not pay an undisputed debt;~~

37 ~~—(b) The licensee has violated or may be violating a provision of chapter~~
38 ~~624 of NRS or a regulation adopted pursuant thereto; or~~

39 ~~—(c) The licensee's financial responsibility may be impaired.] ; and~~

40 **(b) If the licensee performs residential construction, such additional**
41 **documentation as the board deems appropriate.**

42 4. If a license is automatically suspended pursuant to subsection 1, the
43 licensee may have his license reinstated upon filing an application for

1 renewal within 6 months after the date of suspension and paying, in
2 addition to the fee for renewal, a fee for reinstatement fixed by the board, if
3 he is otherwise in good standing and there are no complaints pending
4 against him. If he is otherwise not in good standing or there is a complaint
5 pending, the board shall require him to provide a current financial
6 statement prepared by ~~an~~ *an independent* certified public accountant or
7 establish other conditions for reinstatement. If the licensee is a natural
8 person, his application for renewal must be accompanied by the statement
9 required pursuant to NRS 624.268. A license which is not reinstated within
10 6 months after it is automatically suspended may be canceled by the board,
11 and a new license may be issued only upon application for an original
12 contractor's license.

13 **Sec. 27.** NRS 624.295 is hereby amended to read as follows:

14 624.295 If a member of the board becomes aware that any one or a
15 combination of the grounds for initiating disciplinary action may exist as to
16 a contractor in this state, the member of the board may inform the executive
17 ~~director~~ *officer* of the board of the allegations. The executive ~~director,~~
18 *officer*, upon receiving such information shall take such actions as he
19 deems appropriate under the circumstances.

20 **Sec. 28.** NRS 624.300 is hereby amended to read as follows:

21 624.300 1. Except as otherwise provided in subsection ~~6,~~ *3*, the
22 board may:

- 23 (a) Suspend or revoke licenses already issued;
- 24 (b) Refuse renewals of licenses;
- 25 (c) Impose limits on the field, scope and monetary limit of the license;
- 26 (d) Impose an administrative fine of not more than \$10,000;
- 27 (e) Order the licensee to take action to correct a condition resulting from
28 an act which constitutes a cause for disciplinary action, at the licensee's
29 cost ~~to~~, *that may consist of requiring the licensee to:*

- 30 *(1) Perform the corrective work himself;*
- 31 *(2) Hire and pay another licensee to perform the corrective work;*
- 32 *or*

- 33 *(3) Pay to the owner of the construction project a specified sum to*
34 *correct the condition;* or

- 35 (f) Reprimand or take other less severe disciplinary action, including,
36 without limitation, increasing the amount of the surety bond or cash deposit
37 of the licensee,
38 if the licensee commits any act which constitutes a cause for disciplinary
39 action.

40 2. If the board suspends or revokes the license of a contractor for
41 failure to establish financial responsibility, the board may, in addition to
42 any other conditions for reinstating or renewing the license, require that
43 each contract undertaken by the licensee for a period to be designated by

1 the board, not to exceed 12 months, be separately covered by a bond or
2 bonds approved by the board and conditioned upon the performance of and
3 the payment of labor and materials required by the contract.

4 **3. *If a licensee violates the provisions of NRS 624.3014 or subsection***
5 ***3 of NRS 624.3015, the board may impose an administrative fine of not***
6 ***more than \$20,000.***

7 **4.** If a licensee commits a fraudulent act which is a cause for
8 disciplinary action under NRS 624.3016, the correction of any condition
9 resulting from the act does not preclude the board from taking disciplinary
10 action.

11 ~~[4.]~~ **5.** If the board finds that a licensee has engaged in repeated acts
12 that would be cause for disciplinary action, the correction of any resulting
13 conditions does not preclude the board from taking disciplinary action
14 pursuant to this section.

15 ~~[5.]~~ **6.** The expiration of a license by operation of law or by order or
16 decision of the board or a court, or the voluntary surrender of a license by a
17 licensee, does not deprive the board of jurisdiction to proceed with any
18 investigation of, or action or disciplinary proceeding against, the licensee
19 or to render a decision suspending or revoking the license.

20 ~~[6.—The board shall not take any disciplinary action pursuant to this~~
21 ~~section regarding a constructional defect, as that term is defined in NRS~~
22 ~~40.615, during the period in which any claim arising out of that defect is~~
23 ~~being settled, mediated or otherwise resolved pursuant to NRS 40.600 to~~
24 ~~40.695, inclusive, unless the disciplinary action is necessary to protect the~~
25 ~~public health or safety.]~~

26 **7.** If discipline is imposed pursuant to this section, ***including any***
27 ***discipline imposed pursuant to a stipulated settlement,*** the costs of the
28 proceeding, including investigative costs and attorney's fees, may be
29 recovered by the board.

30 **Sec. 29.** NRS 624.301 is hereby amended to read as follows:

31 **624.301** The following acts, among others, constitute cause for
32 disciplinary action under NRS 624.300:

33 **1.** Abandonment without legal excuse of any construction project or
34 operation engaged in or undertaken by the licensee as a contractor.

35 **2. *Abandonment of a construction project when the percentage of***
36 ***the project completed is less than the percentage of the total price of the***
37 ***contract paid to the contractor at the time of abandonment, unless the***
38 ***contractor is entitled to retain the amount paid pursuant to the terms of***
39 ***the contract or the contractor refunds the excessive amount paid within***
40 ***30 days after the abandonment of the project.***

41 **3.** Failure in a material respect on the part of a licensee to complete any
42 construction project or operation for the price stated in the contract for the
43 project or operation or any modification of the contract.

1 ~~[3.]~~ 4. Willful failure or refusal without legal excuse on the part of a
2 licensee as a contractor to prosecute a construction project or operation
3 with reasonable diligence, thereby causing material injury to another.

4 ~~[4.]~~ 5. Willful failure or refusal without legal excuse on the part of a
5 licensee to comply with the terms of a construction contract or written
6 warranty, thereby causing material injury to another.

7 **Sec. 30.** NRS 624.3011 is hereby amended to read as follows:

8 624.3011 1. The following acts, among others, constitute cause for
9 disciplinary action under NRS 624.300:

10 (a) Willful and prejudicial departure from or disregard of plans or
11 specifications in any material respect without the consent of the owner or
12 his authorized representative and the person entitled to have the particular
13 construction project or operation completed in accordance with the plans
14 and specifications.

15 (b) ~~[Failure to respond to a claim arising out of a constructional defect,~~
16 ~~as that term is defined in NRS 40.615.~~

17 ~~—(c)]~~ Willful or deliberate disregard and violation of:

18 (1) The building laws of the state or of any political subdivision
19 thereof.

20 (2) The safety laws or labor laws of the state.

21 (3) Any provision of the Nevada health and safety laws or the
22 regulations adopted thereunder relating to the digging, boring or drilling of
23 water wells.

24 (4) The laws of this state regarding industrial insurance.

25 2. If a contractor performs construction without obtaining any
26 necessary building permit, there is a rebuttable presumption that the
27 contractor willfully and deliberately violated the building laws of this state
28 or of its political subdivisions. ~~[The board shall not require the contractor~~
29 ~~to obtain that permit more than 90 days after the construction is~~
30 ~~completed.]~~

31 **Sec. 31.** NRS 624.3012 is hereby amended to read as follows:

32 624.3012 The following acts, among others, constitute cause for
33 disciplinary action under NRS 624.300:

34 1. Diversion of ~~[funds]~~ **money** or property received for **the** completion
35 of a specific construction project or operation or for a specified purpose in
36 the completion of any construction project or operation to any other
37 construction project or operation, obligation or purpose.

38 2. Willful or deliberate failure by any licensee or agent or officer
39 thereof to pay any ~~[moneys]~~ **money** when due for any materials or services
40 rendered in connection with his operations as a contractor, when he has the
41 capacity to pay or when he has received sufficient ~~[funds]~~ **money** therefor
42 as payment for the particular construction work, project or operation for
43 which the services or materials were rendered or purchased, or the false

1 denial of any such amount due or the validity of the claim thereof with
2 intent to secure a discount upon such indebtedness or with intent to injure,
3 delay or defraud the person to whom such indebtedness is due.

4 **3. Failure to obtain the discharge or release of any lien recorded**
5 **against the property to be improved by a construction project for the**
6 **price of any materials or services rendered to the project by order of the**
7 **contractor, when the contractor has received sufficient money therefor as**
8 **payment for the project, within 75 days after the recording of the lien.**

9 **Sec. 32.** NRS 624.3013 is hereby amended to read as follows:

10 624.3013 The following acts, among others, constitute cause for
11 disciplinary action pursuant to NRS 624.300:

12 1. Failure to keep records showing all contracts, documents, receipts
13 and disbursements by a licensee of all of his transactions as a contractor
14 and to keep them open for inspection by the board or executive officer for a
15 period of not less than 3 years after the completion of any construction
16 project or operation to which the records refer.

17 2. Misrepresentation of a material fact by an applicant or licensee ~~in~~
18 ~~obtaining a license, or~~ in connection with any information or evidence
19 furnished the board in connection with official matters of the board.

20 3. Failure to establish financial responsibility pursuant to NRS
21 624.220, 624.260, 624.263 and 624.265 **and section 9 of this act** at the
22 time of renewal of the license or at any other time when required by the
23 board.

24 4. Failure to keep in force the bond or cash deposit pursuant to NRS
25 624.270 for the full period required by the board.

26 5. Failure in any material respect to comply with the provisions of this
27 chapter or the regulations of the board.

28 **Sec. 33.** NRS 624.3016 is hereby amended to read as follows:

29 624.3016 The following acts or omissions, among others, constitute
30 cause for disciplinary action under NRS 624.300:

31 1. Any fraudulent or deceitful act **committed in the capacity** of a
32 contractor. ~~[whereby substantial injury is sustained by another.]~~

33 2. A conviction of a **violation of section 12 of this act or a** felony or a
34 crime involving moral turpitude.

35 3. Knowingly making a false statement in or relating to the recording
36 of a notice of lien pursuant to the provisions of NRS 108.226.

37 4. Failure to give a notice required by NRS 108.245 or 108.246.

38 5. Failure to comply with NRS 597.713, 597.716 or 597.719 ~~H~~ **or any**
39 **regulations of the board governing contracts for the construction of**
40 **residential pools and spas.**

41 **6. Failure to comply with NRS 624.321.**

42 **7. Misrepresentation or the omission of a material fact, or the**
43 **commission of any other fraudulent or deceitful act, to obtain a license.**

1 **Sec. 34.** NRS 624.307 is hereby amended to read as follows:

2 624.307 1. It is unlawful for any person, including a person exempt
3 under NRS 624.330, to advertise as a contractor unless he has a valid
4 license in the appropriate classification established by NRS 624.215 and
5 624.220.

6 2. As used in this section, "advertising" includes , but is not limited to ,
7 the issuance of any sign, card or device or by the permitting or allowing of
8 any sign or marking on a motor vehicle, in any building, structure,
9 newspaper, magazine or airway transmission , *on the Internet* or in any
10 directory under the listing of contractor with or without any limiting
11 qualifications.

12 3. All advertising by a licensed contractor must include *the name of*
13 *his company and* the number of his license.

14 **Sec. 35.** NRS 624.360 is hereby amended to read as follows:

15 624.360 1. ~~Any person violating any of the provisions of this~~
16 ~~chapter.~~ *It is unlawful for a person to commit any act or omission*
17 *described in subsection 2 of NRS 624.3013, NRS 624.3014 or subsection*
18 *1, 3 or 7 of NRS 624.3016.*

19 2. *Any person who violates subsection 1, subsection 1 of NRS*
20 *624.230 or NRS 624.290, 624.305 or 624.307:*

21 (a) For a first offense, is guilty of a misdemeanor and shall be punished
22 by a fine of not ~~less than \$500 nor~~ more than \$1,000, and may be further
23 punished by imprisonment in the county jail for not more than 6 months .
24 ~~;~~ ~~or~~

25 (b) For the second ~~for subsequent~~ offense, is guilty of a gross
26 misdemeanor and shall be punished by a fine of not less than ~~\$1,000~~
27 *\$2,000* nor more than ~~\$2,000,~~ *\$4,000*, and may be further punished by
28 imprisonment in the county jail for not more than 1 year.

29 (c) *For the third or subsequent offense, is guilty of a class E felony*
30 *and shall be punished by a fine of not less than \$5,000 nor more than*
31 *\$10,000 and may be further punished by imprisonment in the state prison*
32 *for not less than 1 year and not more than 4 years.*

33 ~~2.~~ 3. Imposition of ~~the~~ a penalty provided for in this section is not
34 precluded by any disciplinary action taken by the board against a contractor
35 pursuant to the provisions of NRS 624.300 to 624.305, inclusive ~~;~~ , *and*
36 *section 10 of this act.*

37 **Sec. 36.** NRS 171.17751 is hereby amended to read as follows:

38 171.17751 1. Any board of county commissioners or governing body
39 of a city may designate the chief officer of the organized fire department or
40 any employees designated by him, and certain of its inspectors of solid
41 waste management, building, housing and licensing inspectors, zoning
42 enforcement officers, parking enforcement officers, animal control officers,
43 traffic engineers, and marshals and park rangers of units of specialized law

1 enforcement established pursuant to NRS 280.125, to prepare, sign and
2 serve written citations on persons accused of violating a county or city
3 ordinance.

4 2. The state health officer and the health officer of each county, district
5 and city may designate certain of his employees to prepare, sign and serve
6 written citations on persons accused of violating any law, ordinance or
7 regulation of a board of health that relates to public health.

8 3. The chief of the manufactured housing division of the department of
9 business and industry may designate certain of his employees to prepare,
10 sign and serve written citations on persons accused of violating any law or
11 regulation of the division relating to the provisions of chapters 118B, 461,
12 461A and 489 of NRS.

13 4. The state contractors' board may designate certain of its employees
14 to prepare, sign and serve written citations on persons ~~accused of violating~~
15 ~~NRS 624.230.~~ **pursuant to subsection 2 of NRS 624.115.**

16 5. An employee designated pursuant to this section:

17 (a) May exercise the authority to prepare, sign and serve citations only
18 within the field of enforcement in which he works;

19 (b) May, if he is employed by a city or county, prepare, sign and serve a
20 citation only to enforce an ordinance of the city or county by which he is
21 employed; and

22 (c) Shall comply with the provisions of NRS 171.1773.

23 **Sec. 37.** NRS 278.610 is hereby amended to read as follows:

24 278.610 1. Except as otherwise provided in subsection 3, after the
25 establishment of the position of building inspector and the filling of the
26 position as provided in NRS 278.570, it is unlawful to erect, construct,
27 reconstruct, alter or change the use of any building or other structure within
28 the territory covered by the building code or zoning regulations without
29 obtaining a building permit from the building inspector.

30 2. The building inspector shall not issue any permit unless the plans of
31 and for the proposed erection, construction, reconstruction, alteration or
32 use fully conform to all building code and zoning regulations then in effect.

33 3. The provisions of subsection 1 do not apply to a school district to
34 which the state public works board has delegated its powers and duties
35 under NRS 393.110.

36 4. A building inspector shall not issue a building permit to a person
37 acting for another unless the applicant proves to the satisfaction of the
38 building inspector that he is licensed as a contractor for that work pursuant
39 to the provisions of ~~[NRS 624.230 to 624.320, inclusive.]~~ **chapter 624 of**
40 **NRS.**

1 **Sec. 38.** NRS 289.300 is hereby amended to read as follows:
2 289.300 **1.** A person employed as an investigator by the private
3 investigator's licensing board pursuant to NRS 648.025 has the powers of a
4 peace officer.
5 **2.** *A person employed as a criminal investigator by the state*
6 *contractors' board pursuant to section 2 of this act has the powers of a*
7 *peace officer to carry out his duties pursuant to subsection 2 of NRS*
8 *624.115, for the limited purpose of obtaining and exchanging*
9 *information on persons who hold a contractor's license or are applying*
10 *for a contractor's license.*
11 **Sec. 39.** The amendatory provisions of this act do not apply to
12 offenses that were committed before October 1, 1999.

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