

SENATE BILL NO. 32—COMMITTEE ON COMMERCE AND LABOR

PREFILED JANUARY 25, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions concerning contractors. (BDR 54-22)

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

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

AN ACT relating to contractors; repealing the provisions which relieve a licensee from filing a bond or establishing a cash deposit under certain circumstances; shortening the period during which certain licenses may be reinstated; increasing the penalty for a violation of certain provisions governing contractors; requiring certain contractors to provide homeowners' warranties; 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.** NRS 624.270 is hereby amended to read as follows:
- 2 624.270 1. Before issuing a contractor's license to any applicant, the
- 3 board shall require that the applicant:
- 4 (a) File with the board a surety bond in a form acceptable to the board
- 5 executed by the contractor as principal with a corporation authorized to
- 6 transact surety business in the State of Nevada as surety; or
- 7 (b) In lieu of ~~such a~~ ***the*** bond, establish with the board a cash deposit as
- 8 provided in this section.
- 9 2. Before granting renewal of a contractor's license to any applicant,
- 10 the board shall require that the applicant file with the board satisfactory
- 11 evidence that his surety bond or cash deposit is in full force . ~~[-, unless the~~
- 12 ~~applicant has been relieved of the requirement as provided in this section.]~~
- 13 3. ~~[-Failure]~~ ***The failure*** of an applicant or licensee to file or maintain in
- 14 full force the required bond or to establish the required cash deposit
- 15 constitutes cause for the board to deny, revoke, suspend or refuse to renew a
- 16 license.

1 4. Except as otherwise provided in subsection ~~{6,}~~ 5, the amount of each
2 bond or cash deposit required by this section must be fixed by the board
3 with reference to the contractor's financial and professional responsibility
4 and the magnitude of his operations, but must be not less than \$1,000 or
5 more than \$100,000. The bond must be continuous in form and must be
6 conditioned that the total aggregate liability of the surety for all claims is
7 limited to the face amount of the bond irrespective of the number of years
8 the bond is in force. The board may increase or reduce the amount of any
9 bond or cash deposit if evidence supporting such a change in the amount is
10 presented to the board at the time application is made for renewal of a
11 license or at any hearing conducted pursuant to NRS 624.310. ~~{Unless~~
12 ~~released earlier pursuant to subsection 5, any}~~ **Any** cash deposit may be
13 withdrawn 2 years after termination of the license in connection with which
14 it was established, or 2 years after completion of all work authorized by the
15 board after termination of the license, whichever occurs later, if there is no
16 outstanding claim against it.

17 5. ~~{After a licensee has acted in the capacity of a licensed contractor in~~
18 ~~the State of Nevada for not less than 5 consecutive years, the board may~~
19 ~~relieve the licensee of the requirement of filing a bond or establishing a cash~~
20 ~~deposit if evidence supporting such relief is presented to the board. The~~
21 ~~board may at any time thereafter require the licensee to file a new bond or~~
22 ~~establish a new cash deposit as provided in subsection 4 if evidence is~~
23 ~~presented to the board supporting this requirement or, pursuant to~~
24 ~~subsection 6, after notification of a final written decision by the labor~~
25 ~~commissioner. If a licensee is relieved of the requirement of establishing a~~
26 ~~cash deposit, the deposit may be withdrawn 2 years after such relief is~~
27 ~~granted, if there is no outstanding claim against it.~~

28 ~~—6.~~ If the board is notified by the labor commissioner pursuant to NRS
29 607.165 that three substantiated claims for wages have been filed against a
30 contractor within a 2-year period, the board shall require the contractor to
31 file a bond or establish a cash deposit in an amount fixed by the board. The
32 contractor shall maintain the bond or cash deposit for the period required by
33 the board.

34 ~~{7.}~~ 6. As used in this section, "substantiated claims for wages" has the
35 meaning ascribed to it in NRS 607.165.

36 **Sec. 2.** NRS 624.283 is hereby amended to read as follows:

37 624.283 1. Each license issued under the provisions of this chapter
38 expires 1 year after the date on which it is issued, except that the board may
39 by regulation prescribe shorter or longer periods and prorated fees to
40 establish a system of staggered renewals. Any license which is not renewed
41 on or before the date for renewal is automatically suspended.

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

43 (a) An application for renewal;

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

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

4 3. The board may require the licensee to submit at any time a financial
5 statement that is prepared by a certified public accountant, if the board
6 believes that:

7 (a) The licensee did not pay an undisputed debt;

8 (b) The licensee has violated or may be violating a provision of chapter
9 624 of NRS or a regulation adopted pursuant thereto; or

10 (c) The licensee's financial responsibility may be impaired.

11 4. If a license is automatically suspended pursuant to subsection 1, the
12 licensee may have his license reinstated upon filing an application for
13 renewal within ~~6 months~~ **45 days** after the date of suspension and paying,
14 in addition to the fee for renewal, a fee for reinstatement fixed by the board,
15 if he is otherwise in good standing and there are no complaints pending
16 against him. If he is otherwise not in good standing or there is a complaint
17 pending, the board shall require him to provide a current financial statement
18 prepared by a certified public accountant or establish other conditions for
19 reinstatement. If the licensee is a natural person, his application for renewal
20 must be accompanied by the statement required pursuant to NRS 624.268.

21 A license which is not reinstated within ~~6 months~~ **45 days** after it is
22 automatically suspended may be canceled by the board, and a new license
23 may be issued only upon application for an original contractor's license.

24 **Sec. 3.** NRS 624.360 is hereby amended to read as follows:

25 624.360 1. Any person violating any of the provisions of this chapter
26 ~~is~~:

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

30 ~~—(b) For the second or subsequent offense,] is guilty of a gross~~
31 ~~misdemeanor and shall be punished by a fine of not less than \$1,000 nor~~
32 ~~more than \$2,000, and may be further punished by imprisonment in the~~
33 ~~county jail for not more than 1 year.~~

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

37 **Sec. 4.** Chapter 40 of NRS is hereby amended by adding thereto a new
38 section to read as follows:

39 **1. Except as otherwise provided in NRS 116.4113 and 116.4114, each**
40 **contractor who develops or constructs a new residence shall, if the**
41 **residence is sold to a person other than the contractor, provide a written**
42 **homeowner's warranty for that residence. The warranty must state that**

1 *the contractor will repair or replace, without cost to the person to whom*
2 *the residence is sold:*

3 *(a) Any constructional defect in the residence, other than a defect*
4 *specified in paragraph (b), occurring within 1 year after a certificate of*
5 *occupancy is issued for the residence; and*

6 *(b) Any defect in a structural component of the residence occurring*
7 *within 10 years after a certificate of occupancy is issued for the residence.*
8 *As used in this paragraph, "structural component" means the foundation,*
9 *floors, walls, roof trusses or rafters of a residence.*

10 **2. A sale or other conveyance of a residence for which a**
11 **homeowner's warranty is provided pursuant to the provisions of this**
12 **section does not extinguish, modify or limit that warranty.**

13 **Sec. 5.** NRS 40.600 is hereby amended to read as follows:

14 40.600 As used in NRS 40.600 to 40.695, inclusive, **and section 4 of**
15 **this act**, unless the context otherwise requires, the words and terms defined
16 in NRS 40.605 to 40.630, inclusive, have the meanings ascribed to them in
17 those sections.

18 **Sec. 6.** NRS 607.165 is hereby amended to read as follows:

19 607.165 1. The labor commissioner shall notify the state contractors'
20 board after three substantiated claims for wages have been filed against a
21 contractor within a 2-year period. The notification must include a copy of
22 the final written decision of the labor commissioner with regard to each
23 ~~{such claim.}~~ **of those claims.**

24 2. The labor commissioner may recommend to the state contractors'
25 board the amount of the bond or cash deposit that a contractor should be
26 required to file or establish pursuant to subsection ~~{6}~~ 5 of NRS 624.270.

27 3. As used in this section:

28 (a) "Contractor" has the meaning ascribed to it in NRS 624.020.

29 (b) "Substantiated claims for wages" means claims for wages against a
30 contractor that the labor commissioner determines to be valid after
31 providing notice and conducting a hearing pursuant to the provisions of this
32 chapter.

33 **Sec. 7.** The amendatory provisions of this act do not apply to offenses
34 that are committed before October 1, 1999.