

SENATE BILL NO. 32—COMMITTEE ON COMMERCE AND LABOR

PREFILED JANUARY 25, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions concerning constructional defects and insurance for home protection. (BDR 3-22)

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 real property; revising certain provisions governing claims against contractors for constructional defects in residences; revising the statutes of limitation and statutes of repose relating to certain actions on real property; requiring specified disclosures on the sale of certain residences; revising certain provisions governing insurance for home protection; 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 thereto
2
3 the provisions set forth as sections 2 to 6, inclusive, of this act.
4 **Sec. 2.** *Except as otherwise provided in this section and NRS 40.670:*
5 **1.** *Notwithstanding the provisions of subsection 1 of NRS 40.680, a*
6 *claimant may commence an action in district court in a complex matter.*
7 *If the claimant commences an action in district court he shall:*
8 **(a)** *File and serve the summons and complaint as required by law;*
9 *and*
10 **(b)** *At the same time and in the same manner as the claimant serves*
11 *the summons and complaint upon the contractor, serve upon the*
12 *contractor a written notice specifying in reasonable detail the defects or*
13 *any damages or injuries to each residence that is the subject of the claim.*
14 *The notice must describe in reasonable detail each defect to the extent*
15 *known, the specific location of each defect to the extent known, and the*
16 *nature and extent that is known of the damage or injury resulting from*
17 *each defect. If an expert opinion has been rendered concerning the*

1 *existence or extent of the defects, a written copy of the opinion must*
2 *accompany the notice. An expert opinion that specifies each defect to the*
3 *extent known, the specific location of each defect to the extent known,*
4 *and the nature and extent that is known of the damage or injury*
5 *resulting from each defect, based on a representative sample of the*
6 *residences involved in the action, satisfies the requirements of this*
7 *section.*

8 *2. The contractor shall file and serve an answer to the complaint as*
9 *required by law.*

10 *3. Not later than 30 days after the date of service of the answer to the*
11 *complaint, the contractor and claimant shall meet to establish a schedule*
12 *for:*

13 *(a) The exchange of or reasonable access for the other party to all*
14 *relevant reports, photos, correspondence, plans, specifications,*
15 *warranties, contracts, subcontracts, work orders for repair, videotapes,*
16 *technical reports, soil and other engineering reports and other*
17 *documents or materials relating to the claim that are not privileged;*

18 *(b) The inspection of the residence that is the subject of the claim to*
19 *evaluate the defects set forth in the notice served pursuant to subsection*
20 *1; and*

21 *(c) The conduct of any tests that are reasonably necessary to*
22 *determine the nature and cause of a defect or any damage or injury, and*
23 *the nature and extent of repairs necessary to remedy a defect or any*
24 *damage or injury. The party conducting the test shall provide reasonable*
25 *notice of the test to all other parties and conduct the test at a reasonable*
26 *time.*

27 *4. At the meeting held pursuant to subsection 3, the claimant and*
28 *contractor shall:*

29 *(a) Determine a date by which each party must add any additional*
30 *parties to the complaint or file any third-party complaint against an*
31 *additional party who may be responsible for all or a portion of the defects*
32 *set forth in the notice served pursuant to subsection 1;*

33 *(b) Unless the claimant and contractor agree otherwise in writing,*
34 *select a mediator and proceed with mediation as provided in subsections*
35 *2 to 6, inclusive, of NRS 40.680; and*

36 *(c) If the claimant and contractor agree, select a special master and*
37 *jointly petition the court for his appointment pursuant to subsection 7.*

38 *5. Each party added to the complaint or against whom a third-party*
39 *complaint is filed pursuant to subsection 4 shall file and serve an answer*
40 *as required by law.*

41 *6. If the claimant or contractor adds a party to the complaint or files*
42 *a third-party complaint, then not later than 60 days after the date*
43 *determined pursuant to paragraph (a) of subsection 4, the contractor,*

1 *claimant and each party added to the complaint or against whom a*
2 *third-party complaint is filed shall meet to establish a schedule for the*
3 *activities set forth in paragraphs (a), (b) and (c) of subsection 3.*

4 *7. If a special master has not been appointed, the contractor,*
5 *claimant or a party added to the complaint or against whom a third-party*
6 *complaint is filed may petition the court for the appointment of a special*
7 *master at any time after the meeting held pursuant to subsection 3. The*
8 *special master may:*

9 *(a) Take any action set forth in subsection 4 of NRS 40.680;*

10 *(b) Exercise any power set forth in Rule 53 of the Nevada Rules of*
11 *Civil Procedure; and*

12 *(c) If the parties fail to establish a schedule or determine a date as*
13 *required in subsection 3, 4 or 6, establish the schedule or determine the*
14 *date.*

15 *8. Unless the mediation required pursuant to paragraph (b) of*
16 *subsection 4 is completed or the contractor and claimant have agreed in*
17 *writing not to mediate the claim pursuant to paragraph (b) of subsection*
18 *4, a party shall not propound interrogatories or requests for admission,*
19 *take a deposition or file a motion that is dispositive of the action except:*

20 *(a) Upon agreement of the parties; or*

21 *(b) With the prior approval of the court or special master.*

22 *9. If a residence that is the subject of the claim is covered by a*
23 *homeowner's warranty that is purchased by a claimant pursuant to NRS*
24 *690B.100 to 690B.180, inclusive, a claimant shall diligently pursue a*
25 *claim under the contract.*

26 *10. Unless the parties agree otherwise, not less than 45 days before*
27 *the date of the mediation pursuant to paragraph (b) of subsection 4 is*
28 *convened, the contractor shall make a written offer of settlement to the*
29 *claimant that meets the requirements set forth in subsection 3 of NRS*
30 *40.645.*

31 *11. If the claimant is a representative of a homeowner's association,*
32 *the association shall submit any offer of settlement made by the*
33 *contractor to each member of the association in writing not more than 30*
34 *days after the date the claimant receives the offer of settlement.*

35 *12. The claimant shall respond to the written offer of settlement*
36 *within 45 days after the offer is mailed to the claimant.*

37 **Sec. 3.** *Except as otherwise provided in NRS 40.670, if a contractor*
38 *receives written notice of a constructional defect that is not part of a*
39 *complex matter not more than 1 year after the close of escrow of the*
40 *initial purchase of the residence, the contractor shall make the repairs*
41 *within 45 days after the contractor receives the written notice unless*
42 *completion is delayed by the claimant or by other events beyond the*
43 *control of the contractor, or timely completion of repairs is not*

1 *reasonably possible. The contractor and claimant may agree in writing to*
2 *extend the period prescribed by this section. If the contractor fails to*
3 *comply with this section, he is immediately subject to discipline pursuant*
4 *to NRS 624.300.*

5 **Sec. 4.** *If, after complying with the procedural requirements of NRS*
6 *40.645 and 40.680, or section 2 of this act, a claimant proceeds with an*
7 *action for damages arising from a constructional defect:*

8 *1. The claimant and each contractor who is named in the original*
9 *complaint when the action is commenced are not required, while the*
10 *action is pending, to comply with the requirements of NRS 40.645 or*
11 *40.680, or section 2 of this act, for any constructional defect that the*
12 *claimant includes in an amended complaint, if the constructional defect:*

13 *(a) Is attributable, in whole or in part, to such a contractor;*

14 *(b) Is located on the same property described in the original*
15 *complaint; and*

16 *(c) Was not discovered before the action was commenced provided*
17 *that a good faith effort had been undertaken by the claimant.*

18 *2. The claimant is not required to give written notice of a defect*
19 *pursuant to subsection 1 of NRS 40.645 or subsection 1 of section 2 of*
20 *this act to any person who is joined to or intervenes in the action as a*
21 *party after it is commenced. If such a person becomes a party to the*
22 *action:*

23 *(a) For the purposes of subsection 1 of NRS 40.645 or subsection 1 of*
24 *section 2 of this act, the person shall be deemed to have been given notice*
25 *of the defect by the claimant on the date on which the person becomes a*
26 *party to the action; and*

27 *(b) The provisions of NRS 40.600 to 40.695, inclusive, and sections 2*
28 *to 6, inclusive, of this act apply to the person after that date.*

29 **Sec. 5.** *1. Notwithstanding the provisions of NRS 40.600 to 40.695,*
30 *inclusive, and sections 2, 3, 4 and 6 of this act, an action may not be*
31 *commenced against a subdivider or master developer for a constructional*
32 *defect in an appurtenance constructed on behalf of the subdivider or*
33 *master developer in a planned unit development, to the extent that the*
34 *appurtenance was constructed by or through a licensed contractor,*
35 *unless, after the claimant has made a good faith effort to obtain full*
36 *recovery from the contractors hired by the subdivider or master developer*
37 *to construct the appurtenance, the claimant has not obtained a full*
38 *recovery.*

39 *2. All statutes of limitation or repose applicable to a claim governed*
40 *by this section are tolled from the time the claimant notifies a contractor*
41 *hired by the subdivider or master developer of the claim until the earlier*
42 *of the date:*

1 (a) A court determines that the claimant cannot obtain a full recovery
2 against those contractors; or

3 (b) The claimant receives notice that those contractors are bankrupt,
4 insolvent or dissolved.

5 Tolling pursuant to this subsection applies only to the subdivider or
6 master developer. Notwithstanding any applicable statute of limitation or
7 repose, the claimant may commence an action against the subdivider or
8 master developer for the claim within 1 year after the end of the tolling
9 described in this subsection.

10 3. Nothing in this section prohibits the commencement of an action
11 against a subdivider or master developer for a constructional defect in a
12 residence sold, designed or constructed by or on behalf of the subdivider
13 or master developer.

14 4. As used in this section

15 (a) "Master developer" means a person who buys, sells, develops or
16 acts as a broker for a planned unit development pursuant to an
17 agreement for development of land entered into pursuant to NRS
18 278.0201.

19 (b) "Planned unit development" has the meaning ascribed to it in
20 NRS 278A.065.

21 (c) "Subdivider" has the meaning ascribed to it in NRS 278.0185.

22 **Sec. 6. 1.** If a claimant attempts to sell a residence that has been
23 the subject of a claim governed by NRS 40.600 to 40.695, inclusive, and
24 sections 2 to 6, inclusive, of this act, he shall disclose, in writing, to any
25 prospective purchaser of the residence, not less than 30 days before the
26 close of escrow for the sale of the residence or, if escrow is to close less
27 than 30 days after the execution of the sales agreement, then immediately
28 upon the execution of the sales agreement or, if a claim is initiated less
29 than 30 days before the close of escrow, within 24 hours after giving
30 written notice to the contractor pursuant to subsection 1 of NRS 40.645
31 or subsection 1 of section 2 of this act:

32 (a) All notices given by the claimant to the contractor pursuant to
33 NRS 40.600 to 40.695, inclusive, and sections 2 to 6, inclusive, of this act
34 that are related to the residence;

35 (b) All opinions the claimant has obtained from experts regarding a
36 constructional defect that has been the subject of the claim;

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

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

42 2. Before taking any action on a claim pursuant to NRS 40.600 to
43 40.695, inclusive, and sections 2 to 6, inclusive, of this act, the attorney

1 *for a claimant shall notify the claimant in writing of the provisions of*
2 *this section.*

3 **Sec. 7.** NRS 40.600 is hereby amended to read as follows:

4 40.600 As used in NRS 40.600 to 40.695, inclusive, *and sections 2 to*
5 *6, inclusive, of this act*, unless the context otherwise requires, the words
6 and terms defined in NRS 40.605 to 40.630, inclusive, have the meanings
7 ascribed to them in those sections.

8 **Sec. 8.** NRS 40.605 is hereby amended to read as follows:

9 40.605 **1.** “Appurtenance” means a structure, installation, facility ~~for~~
10 amenity *or other improvement* that is appurtenant to ~~fa residence,~~ *or*
11 *benefits one or more residences*, but is not a part of the dwelling unit. The
12 term includes, without limitation, the parcel of real property, recreational
13 facilities, golf courses, walls, sidewalks, driveways, landscaping, *common*
14 *elements and limited common elements other than those described in*
15 *NRS 116.2102*, and other structures, installations, facilities and amenities
16 associated with ~~fa residence,~~ *or benefiting one or more residences.*

17 **2.** As used in this section:

18 (a) “Common elements” has the meaning ascribed to it in NRS
19 116.110318.

20 (b) “Limited common element” has the meaning ascribed to it in NRS
21 116.110355.

22 **Sec. 9.** NRS 40.645 is hereby amended to read as follows:

23 40.645 Except as otherwise provided in this section and NRS 40.670:

24 **1.** ~~At~~ *For a claim that is not a complex matter, at* least 60 days
25 before a claimant commences an action against a contractor for damages
26 arising from a constructional defect, the claimant must give written notice
27 by certified mail, return receipt requested, to the contractor, at the
28 contractor’s last known address, specifying in reasonable detail the defects
29 or any damages or injuries to each residence ~~for each unit within a~~
30 ~~multiple-unit residence~~ that is the subject of the claim. The notice must
31 describe in reasonable detail the cause of the defects if the cause is known,
32 ~~and~~ the nature and extent that is known of the damage or injury resulting
33 from the defects ~~[- In a complex matter, an]~~ *and the location of each defect*
34 *within each residence to the extent known. An* expert opinion concerning
35 the cause of the defects and the nature and extent of the damage or injury
36 resulting from the defects based on a representative sample of the
37 residences ~~for of the units of each multiple-unit residence~~ involved in the
38 action satisfies the requirements of this section. During the 35-day period
39 after the contractor receives the notice, on his written request, the
40 contractor is entitled to inspect the property that is the subject of the claim
41 to determine the nature and cause of the defect, damage or injury and the
42 nature and extent of repairs necessary to remedy the defect. The contractor
43 shall, before making the inspection, provide reasonable notice of the

1 inspection and ~~{must}~~ *shall* make the inspection at a reasonable time. The
2 contractor may take reasonable steps to establish the existence of the
3 defect.

4 2. If ~~{the}~~ a residence *that is the subject of the claim* is covered by a
5 homeowner's warranty ~~{,}~~ *that is purchased by a claimant pursuant to*
6 *NRS 690B.100 to 690B.180, inclusive*, a claimant ~~{must}~~ *shall* diligently
7 pursue a claim under the ~~{warranty or}~~ contract.

8 3. Within 45 days after the contractor receives the notice, the
9 contractor may make a written offer of settlement to the claimant. The
10 offer:

11 (a) Must be served to the claimant by certified mail, return receipt
12 requested, at the claimant's last known address.

13 (b) Must respond to each constructional defect set forth in the claimant's
14 notice, and describe in reasonable detail the cause of the defect, if known,
15 the nature and extent of the damage or injury resulting from the defect, and,
16 unless the offer is limited to a proposal for monetary compensation, the
17 method, adequacy and estimated cost of the proposed repair.

18 (c) May include:

19 (1) A proposal for monetary compensation.

20 (2) If the contractor is licensed to make the repairs, an agreement by
21 the contractor to make the repairs.

22 (3) An agreement by the contractor to cause the repairs to be made, at
23 the contractor's expense, by another contractor who is licensed to make the
24 repairs, bonded and insured.

25 The repairs must be made within 45 days after the contractor receives
26 written notice of acceptance of the offer, unless completion is delayed by
27 the claimant or by other events beyond the control of the contractor. The
28 claimant and the contractor may agree in writing to extend the periods
29 prescribed by this section.

30 4. ~~{The periods provided in subsections 1 and 3 must be extended by~~
31 ~~60 days if the claim is a complex matter. The parties may stipulate to a~~
32 ~~further extension.~~

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

40 ~~{6.}~~ 5. If the claimant is a representative of a homeowner's association,
41 the association shall submit any offer of settlement made by the contractor
42 to each member of the association.

Sec. 10. NRS 40.650 is hereby amended to read as follows:

40.650 1. If a claimant unreasonably rejects a reasonable written offer of settlement made pursuant to NRS 40.645 *or section 2 of this act* or does not permit the contractor or independent contractor a reasonable opportunity to repair the defect pursuant to an accepted offer of settlement and thereafter commences an action governed by NRS 40.600 to 40.695, inclusive, *and sections 2 to 6, inclusive, of this act*, the court in which the action is commenced may:

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

(b) Award attorney's fees and costs to the contractor.

Any sums paid under a homeowner's warranty, other than sums paid in satisfaction of claims that are collateral to any coverage issued to or by the contractor, must be deducted from any recovery.

2. If a contractor fails to:

(a) Make an offer of settlement;

(b) Make a good faith response to the claim asserting no liability;

(c) Complete, in a good and workmanlike manner, the repairs specified in an accepted offer;

(d) Agree to a mediator or accept the appointment of a mediator pursuant to NRS 40.680 ~~or~~ *or subsection 4 of section 2 of this act*; or

(e) Participate in mediation, the limitations on damages and defenses to liability provided in NRS 40.600 to 40.695, inclusive, *and sections 2 to 6, inclusive, of this act* do not apply and the claimant may commence an action without satisfying any other requirement of NRS 40.600 to 40.695, inclusive ~~or~~ *, and sections 2 to 6, inclusive, of this act*.

3. If coverage under a homeowner's warranty is denied by an insurer in bad faith, the homeowner and the contractor have a right of action for the sums that would have been paid if coverage had been provided, plus reasonable attorney's fees and costs.

Sec. 11. NRS 40.660 is hereby amended to read as follows:

40.660 An offer of settlement that is not accepted within :

1. In a complex matter, 45 days; or

2. In a matter that is not a complex matter, 25 days ,

after the offer is received by the claimant is considered rejected if the offer contains a clear and understandable statement notifying the claimant of the consequences of his failure to respond or otherwise accept or reject the offer of settlement. An affidavit certifying rejection of an offer of settlement under this section may be filed with the court.

Sec. 12. NRS 40.685 is hereby amended to read as follows:

40.685 1. Except as otherwise provided in subsection 2, a written waiver or settlement agreement executed by a claimant after a contractor has corrected or otherwise repaired a constructional defect does not bar a

1 claim for the constructional defect if it is determined that the contractor
2 failed to correct or repair the defect properly.

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

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

7 (b) The claimant has provided the contractor with a written notice of the
8 defect pursuant to NRS 40.645 *or section 2 of this act* and a copy of the
9 expert's opinion; and

10 (c) The claimant and the contractor have complied with the
11 requirements for inspection and repair as provided in NRS 40.600 to
12 40.695, inclusive ~~[]~~, *and sections 2 to 6, inclusive, of this act.*

13 3. If a claimant does not prevail in any action which is not barred
14 pursuant to this section, the court may:

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

17 (b) Award attorney's fees and costs to the contractor.

18 **Sec. 13.** NRS 40.690 is hereby amended to read as follows:

19 40.690 1. A claim governed by NRS 40.600 to 40.695, inclusive,
20 *and sections 2 to 6, inclusive, of this act* may not be brought by a claimant
21 or contractor against ~~[any third parties, including]~~ a government,
22 governmental agency or political subdivision of a government, during the
23 period in which a claim for a constructional defect is being settled,
24 mediated or otherwise resolved pursuant to NRS 40.600 to 40.695,
25 inclusive ~~[]~~, *and sections 2 to 6, inclusive, of this act.* The settlement of
26 such a claim does not affect the rights or obligations ~~[of any person who is
27 not a party to the settlement, and the failure to reach such a settlement does
28 not affect the rights or obligations]~~ of the claimant or contractor in any
29 action brought by the claimant or contractor against a third party.

30 2. A contractor *or claimant* may require ~~[any third party except an
31 insurer, government, governmental agency or political subdivision of a
32 government]~~ *a party against whom the contractor or claimant asserts a
33 claim governed by NRS 40.600 to 40.695, inclusive, and sections 2 to 6,
34 inclusive, of this act* to appear and participate in proceedings *held* pursuant
35 to ~~[NRS 40.600 to 40.695, inclusive,]~~ *those sections* as if the ~~[third]~~ party
36 were a contractor ~~[]~~ *and the party requiring him to appear were a
37 claimant. The party must receive notice of the proceedings from the
38 contractor or claimant.*

39 **Sec. 14.** NRS 40.695 is hereby amended to read as follows:

40 40.695 1. ~~[All]~~ *Except as otherwise provided in subsection 2,*
41 statutes of limitation or repose applicable to a claim based on a
42 constructional defect governed by NRS 40.600 to 40.695, inclusive, *and*
43 *sections 2 to 6, inclusive, of this act* are tolled from the time notice of the

1 claim is given, until 30 days after mediation is concluded or waived in
2 writing pursuant to NRS 40.680 ~~to~~ *or subsection 4 of section 2 of this act.*

3 2. Tolling under this section applies ~~to~~ :

4 *(a) Only to a claim that is not a complex matter.*

5 *(b) To a third party regardless of whether the party is required to appear*
6 *in the proceeding.*

7 **Sec. 15.** Chapter 11 of NRS is hereby amended by adding thereto a
8 new section to read as follows:

9 *1. Except as otherwise provided in subsection 2, for the purposes of*
10 *this section and NRS 11.202 to 11.206, inclusive, the date of substantial*
11 *completion of an improvement to real property shall be deemed to be the*
12 *date on which:*

13 *(a) The final building inspection of the improvement is conducted;*

14 *(b) A notice of completion is issued for the improvement; or*

15 *(c) A certificate of occupancy is issued for the improvement,*
16 *whichever occurs later.*

17 *2. If none of the events described in subsection 1 occurs, the date of*
18 *substantial completion of an improvement to real property must be*
19 *determined by the rules of the common law.*

20 **Sec. 16.** NRS 11.203 is hereby amended to read as follows:

21 11.203 1. Except as otherwise provided in *this section and* NRS
22 11.202 ~~to~~ *and 11.206*, no action may be commenced against the owner,
23 occupier or any person performing or furnishing the design, planning,
24 supervision or observation of construction, or the construction of an
25 improvement to real property more than 10 years after the substantial
26 completion of such an improvement, for the recovery of damages for:

27 (a) Any deficiency in the design, planning, supervision or observation of
28 construction or the construction of such an improvement which is known or
29 through the use of reasonable diligence should have been known to him;

30 (b) Injury to real or personal property caused by any such deficiency; or

31 (c) Injury to or the wrongful death of a person caused by any such
32 deficiency.

33 2. Notwithstanding the provisions of NRS 11.190 ~~and subsection 1 of~~
34 ~~this section, where~~ *, if an* injury occurs in the ~~tenth~~ *10th* year after the
35 substantial completion of such an improvement, an action for damages for
36 injury to property or person, damages for wrongful death resulting from
37 such injury or damages for breach of contract may be commenced within 2
38 years after the date of such injury, irrespective of the date of death, but in
39 no event may an action be commenced more than 12 years after the
40 substantial completion of the improvement.

41 *3. The provisions of this section do not apply to a claim for*
42 *indemnity or contribution.*

1 **Sec. 17.** NRS 11.204 is hereby amended to read as follows:

2 11.204 1. Except as otherwise provided in *this section and* NRS
3 11.202 ~~[and 11.203,]~~, *11.203 and 11.206*, no action may be commenced
4 against the owner, occupier or any person performing or furnishing the
5 design, planning, supervision or observation of construction, or the
6 construction, of an improvement to real property more than 8 years after the
7 substantial completion of such an improvement, for the recovery of
8 damages for:

9 (a) Any latent deficiency in the design, planning, supervision or
10 observation of construction or the construction of such an improvement;

11 (b) Injury to real or personal property caused by any such deficiency; or

12 (c) Injury to or the wrongful death of a person caused by any such
13 deficiency.

14 2. Notwithstanding the provisions of NRS 11.190 ~~[and subsection 1 of~~
15 ~~this section, where]~~, *if an* injury occurs in the eighth year after the
16 substantial completion of such an improvement, an action for damages for
17 injury to property or person, damages for wrongful death resulting from
18 such injury or damages for breach of contract may be commenced within 2
19 years after the date of such injury, irrespective of the date of death, but in
20 no event may an action be commenced more than 10 years after the
21 substantial completion of the improvement.

22 3. *The provisions of this section do not apply to a claim for*
23 *indemnity or contribution.*

24 4. For the purposes of this section, "latent deficiency" means a
25 deficiency which is not apparent by reasonable inspection.

26 **Sec. 18.** NRS 11.205 is hereby amended to read as follows:

27 11.205 1. Except as otherwise provided in *this section and* NRS
28 11.202 ~~[and 11.203,]~~, *11.203 and 11.206*, no action may be commenced
29 against the owner, occupier or any person performing or furnishing the
30 design, planning, supervision or observation of construction, or the
31 construction of an improvement to real property more than 6 years after the
32 substantial completion of such an improvement, for the recovery of
33 damages for:

34 (a) Any patent deficiency in the design, planning, supervision or
35 observation of construction or the construction of such an improvement;

36 (b) Injury to real or personal property caused by any such deficiency; or

37 (c) Injury to or the wrongful death of a person caused by any such
38 deficiency.

39 2. Notwithstanding the provisions of NRS 11.190 ~~[and subsection 1 of~~
40 ~~this section, where]~~, *if an* injury occurs in the sixth year after the

41 substantial completion of such an improvement, an action for damages for
42 injury to property or person, damages for wrongful death resulting from

43 such injury or damages for breach of contract may be commenced within 2

1 years after the date of such injury, irrespective of the date of death, but in
2 no event may an action be commenced more than 8 years after the
3 substantial completion of the improvement.

4 **3. *The provisions of this section do not apply to a claim for***
5 ***indemnity or contribution.***

6 **4.** For the purposes of this section, “patent deficiency” means a
7 deficiency which is apparent by reasonable inspection.

8 **Sec. 19.** Chapter 113 of NRS is hereby amended by adding thereto a
9 new section to read as follows:

10 **1. *Upon signing a sales agreement with the initial purchaser of***
11 ***residential property that was not occupied by the purchaser for more***
12 ***than 120 days after substantial completion of the construction of the***
13 ***residential property, the seller shall:***

14 ***(a) Provide to the initial purchaser a copy of NRS 11.202 to 11.206,***
15 ***inclusive, and section 15 of this act and NRS 40.600 to 40.695, inclusive,***
16 ***and sections 2 to 6, inclusive, of this act;***

17 ***(b) Notify the initial purchaser of any soil report prepared for the***
18 ***residential property or for the subdivision in which the residential***
19 ***property is located; and***

20 ***(c) If requested in writing by the initial purchaser not later than 5***
21 ***days after signing the sales agreement, provide to the purchaser without***
22 ***cost each report described in paragraph (b) not later than 5 days after the***
23 ***seller receives the written request.***

24 **2. *Not later than 20 days after receipt of all reports pursuant to***
25 ***paragraph (c) of subsection 1, the initial purchaser may rescind the sales***
26 ***agreement.***

27 **3. *The initial purchaser may waive his right to rescind the sales***
28 ***agreement pursuant to subsection 2. Such a waiver is effective only if it is***
29 ***made in a written document that is signed by the purchaser and***
30 ***notarized.***

31 **Sec. 20.** NRS 113.100 is hereby amended to read as follows:

32 **113.100** As used in NRS 113.100 to 113.150, inclusive, ***and section***
33 ***19 of this act,*** unless the context otherwise requires:

34 **1. “Defect”** means a condition that materially affects the value or use
35 of residential property in an adverse manner.

36 **2. “Disclosure form”** means a form that complies with the regulations
37 adopted pursuant to NRS 113.120.

38 **3. “Dwelling unit”** means any building, structure or portion thereof
39 which is occupied as, or designed or intended for occupancy as, a residence
40 by one person who maintains a household or by two or more persons who
41 maintain a common household.

42 **4. “Residential property”** means any land in this state to which is
43 affixed not less than one nor more than four dwelling units.

1 5. "Seller" means a person who sells or intends to sell any residential
2 property.

3 **Sec. 21.** NRS 624.300 is hereby amended to read as follows:

4 624.300 1. Except as otherwise provided in subsection 6, the board
5 may:

6 (a) Suspend or revoke licenses already issued;

7 (b) Refuse renewals of licenses;

8 (c) Impose limits on the field, scope and monetary limit of the license;

9 (d) Impose an administrative fine of not more than \$10,000;

10 (e) Order the licensee to take action to correct a condition resulting from
11 an act which constitutes a cause for disciplinary action, at the licensee's
12 cost; or

13 (f) Reprimand or take other less severe disciplinary action, including,
14 without limitation, increasing the amount of the surety bond or cash deposit
15 of the licensee,
16 if the licensee commits any act which constitutes a cause for disciplinary
17 action.

18 2. If the board suspends or revokes the license of a contractor for
19 failure to establish financial responsibility, the board may, in addition to
20 any other conditions for reinstating or renewing the license, require that
21 each contract undertaken by the licensee for a period to be designated by
22 the board, not to exceed 12 months, be separately covered by a bond or
23 bonds approved by the board and conditioned upon the performance of and
24 the payment of labor and materials required by the contract.

25 3. If a licensee commits a fraudulent act which is a cause for
26 disciplinary action under NRS 624.3016, the correction of any condition
27 resulting from the act does not preclude the board from taking disciplinary
28 action.

29 4. If the board finds that a licensee has engaged in repeated acts that
30 would be cause for disciplinary action, the correction of any resulting
31 conditions does not preclude the board from taking disciplinary action
32 pursuant to this section.

33 5. The expiration of a license by operation of law or by order or
34 decision of the board or a court, or the voluntary surrender of a license by a
35 licensee, does not deprive the board of jurisdiction to proceed with any
36 investigation of, or action or disciplinary proceeding against, the licensee
37 or to render a decision suspending or revoking the license.

38 6. ~~{The}~~ *Except as otherwise provided in section 3 of this act, the*
39 board shall not take any disciplinary action pursuant to this section
40 regarding a constructional defect, as that term is defined in NRS 40.615,
41 during the period in which any claim arising out of that defect is being
42 settled, mediated or otherwise resolved pursuant to NRS 40.600 to 40.695,

1 inclusive, *and sections 2 to 6, inclusive, of this act*, unless the disciplinary
2 action is necessary to protect the public health or safety.

3 7. If discipline is imposed pursuant to this section, the costs of the
4 proceeding, including investigative costs and attorney's fees, may be
5 recovered by the board.

6 **Sec. 22.** NRS 690B.100 is hereby amended to read as follows:

7 690B.100 As used in NRS 690B.100 to 690B.180, inclusive, unless
8 the context otherwise requires:

9 1. "Home" means a structure used primarily for residential purposes
10 and includes ~~{a single-family dwelling, a}~~, *without limitation:*

11 (a) *A single-family dwelling;*

12 (b) *A unit in a multiple-family structure ~~{and a}~~;*

13 (c) *A mobile home ~~{,}~~; and*

14 (d) *The common elements of a common-interest community, as*
15 *defined in NRS 116.110318, and any appurtenance to the common*
16 *elements.*

17 2. "Insurance for home protection" means a contract of insurance,
18 which affords coverage over a specified term for a predetermined fee,
19 under which a person, other than the manufacturer, builder, seller or lessor
20 of the home, agrees to repair, replace or indemnify from the cost of repair
21 or replacement based upon the failure of any structure, component, system
22 or appliance of the home. The term does not include a contract which
23 insures against any consequential losses caused by the defects or failures.

24 **Sec. 23.** NRS 690B.140 is hereby amended to read as follows:

25 690B.140 An insurer who issues policies of insurance for home
26 protection, other than casualty insurance, may make investments in tangible
27 personal property for use in fulfilling its obligations to repair or replace
28 components, systems or appliances of the home under its contracts of
29 insurance for home protection, in an amount not to exceed ~~{25}~~ 50 percent
30 of its assets, as determined pursuant to NRS 681B.010, unless the
31 commissioner, whenever he deems it appropriate, waives this limitation by
32 regulation.

33 **Sec. 24.** NRS 690B.160 is hereby amended to read as follows:

34 690B.160 1. A contract of insurance for home protection must
35 specify:

36 (a) The structures, components, systems and appliances covered by the
37 provisions of the contract.

38 (b) Any exclusions from and limitations on coverage.

39 (c) The period during which the contract will be in effect, and the
40 renewal terms, if any.

41 (d) The services to be performed by the insurer and the terms and
42 conditions of his performance.

1 (e) The **copayment**, service fee or deductible charge, if any, to be
2 charged ~~{for his services.}~~ **to the insured.**

3 (f) All limitations regarding the performance of services, including any
4 restrictions as to the time during or geographical area within which services
5 may be requested or will be performed.

6 (g) That ~~{services will be performed upon a telephoned request to}~~ the
7 insurer **will commence an investigation of a claim upon a request from**
8 **the insured by telephone**, without any requirement that claim forms or
9 applications be filed before the ~~{performance of service.}~~ **commencement**
10 **of the investigation.**

11 (h) That services will be initiated by or under the direction of the insurer
12 within 48 hours after ~~{proper request is made for services.}~~ **the conclusion**
13 **of an investigation of a claim.**

14 (i) Other conditions and provisions pertaining to the coverage as
15 required by the insurance laws of this state or regulations adopted by the
16 commissioner.

17 2. Insurance for home protection may not be canceled during the term
18 for which it is issued, except:

19 (a) For nonpayment of the fee for the contract.

20 (b) For fraud or misrepresentation of facts material to the issuance or
21 renewal of the contract.

22 (c) Insurance which provides coverage before the home is sold if the
23 sale is not made. The cancellation must be made in accordance with the
24 contract provisions.

25 3. Insurance for home protection is not renewable unless its terms
26 provide otherwise.

27 **Sec. 25.** NRS 690B.180 is hereby amended to read as follows:

28 690B.180 An insurer who issues policies of insurance for home
29 protection, other than casualty insurance, shall not ~~{~~:

30 ~~—1. Engage in any business other than the furnishing of insurance for~~
31 ~~home protection.~~

32 ~~—2. Assume}~~ **assume** reinsurance from any other insurer.

33 **Sec. 26.** The amendatory provisions of this act do not apply to a claim
34 initiated or an action commenced pursuant to NRS 40.600 to 40.695,
35 inclusive, and sections 2 to 6, inclusive, of this act, unless the claim was
36 initiated or the action was commenced on or after July 1, 1999.

37 **Sec. 27.** This act becomes effective on July 1, 1999.