

(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT **A.B. 133**

ASSEMBLY BILL NO. 133—ASSEMBLYMAN DINI

FEBRUARY 14, 2001

Referred to Committee on Judiciary

SUMMARY—Revises various provisions regarding claims against contractors for constructional defects and against design professionals for professional negligence. (BDR 3-667)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

AN ACT relating to real property; requiring a claimant to provide notice concerning constructional defects to a contractor and allow the contractor to make repairs before commencing an action against the contractor; requiring an affidavit in support of an action for professional negligence against a design professional; 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 the provisions set forth as sections 2, 3 and 4 of this act.
3 **Sec. 2. *Except as otherwise provided in NRS 40.670:***
4 1. *Before a claimant may commence an action against a contractor*
5 *for damages arising from a constructional defect, the claimant must give*
6 *written notice by certified mail, return receipt requested, to the*
7 *contractor, at the contractor's last address listed in the records of the*
8 *state contractors' board, or at the contractor's last known address if his*
9 *address is not listed in the records of the state contractors' board,*
10 *specifying in reasonable detail the defects or any damages or injuries to*
11 *each residence or appurtenance that is the subject of the claim. The*
12 *notice must describe in reasonable detail the cause of the defects if the*
13 *cause is known, the nature and extent that is known of the damage or*
14 *injury resulting from the defects and the location of each defect within*
15 *each residence or appurtenance to the extent known. An expert opinion*
16 *concerning the cause of the defects and the nature and extent of the*
17 *damage or injury resulting from the defects based on a representative*
18 *sample of the components of the residences and appurtenances involved*
19 *in the action satisfies the requirements of this subsection.*



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1 2. Except as otherwise provided in NRS 40.672, a contractor who
2 receives notice of a constructional defect pursuant to subsection 1 may
3 make the repairs necessary to remedy the defects and repair any damage
4 or injury to the residence or appurtenance described in the notice. The
5 contractor shall complete any such repairs within a reasonable time, but
6 in any event:
7 (a) If the constructional defect is not part of a complex matter, not
8 later than 45 days after receiving the notice; or
9 (b) If the constructional defect is part of a complex matter, not later
10 than 90 days after receiving the notice,
11 unless the claimant and the contractor agree in writing to extend the time
12 for completing the repairs in which case the repairs must be completed
13 not later than the time set forth in the agreement.
14 3. In making repairs pursuant to subsection 2, the contractor shall:
15 (a) Make the repairs at reasonable times that are agreed to in advance
16 by the claimant, or by the owner of the residence or appurtenance if the
17 claimant is a representative of a homeowner's association;
18 (b) Ensure that all of the work to make the repairs is completed by
19 contractors and subcontractors who are properly licensed, bonded and
20 insured;
21 (c) Take any action necessary to prevent a mechanic's lien from being
22 obtained on the property of the claimant on which the repairs are being
23 made, to remove such a mechanic's lien if one is obtained, and to
24 indemnify the claimant against any expenses incurred by the claimant
25 concerning such a mechanic's lien; and
26 (d) Provide to the claimant a written report of each repair made, the
27 method used to make the repair and the parts replaced in making such
28 repairs.
29 4. The claimant shall allow the contractor a reasonable opportunity
30 to make repairs pursuant to subsection 2.
31 5. If the claimant is not satisfied with the repairs made pursuant to
32 subsection 2 or NRS 40.672 or the contractor does not make the repairs
33 within the time set forth in subsection 2 or within the time agreed to in
34 writing by the claimant and the contractor, the claimant may commence
35 an action governed by NRS 40.600 to 40.695, inclusive, against the
36 contractor for a constructional defect or any damages or injuries that
37 were specified in the notice provided to the contractor pursuant to
38 subsection 1.
39 6. If the contractor does not take action to make repairs or attempt to
40 make repairs described in subsection 2 within the time set forth in
41 subsection 2 or within the time agreed to in writing by the claimant and
42 the contractor, the contractor waives any other right that is provided by
43 contract, statute or warranty to compel the repair of a constructional
44 defect described in the notice.
45 7. Nothing in this section affects the ability of claimants to maintain
46 a class action for constructional defects against a contractor.
47 Sec. 3. 1. Except as otherwise provided in subsection 2, in an
48 action for the professional negligence of a design professional,
49 including, without limitation, an action filed pursuant to NRS 40.600 to



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1 40.695, inclusive, and sections 2, 3 and 4 of this act, concurrently with
2 the service of the first pleading in an action, the attorney for the
3 complainant shall file an affidavit with the court stating that the
4 attorney:

5 (a) Has reviewed the facts of the case;

6 (b) Has consulted with a design professional who practices in this
7 state or who teaches at an accredited college or university in this state in
8 a discipline relevant to the action and naming the design professional
9 consulted;

10 (c) Reasonably believes the design professional who was consulted is
11 knowledgeable in the relevant discipline involved in the action; and

12 (d) Has concluded on the basis of his review and the consultation with
13 the design professional that the action has a reasonable basis in law and
14 fact.

15 2. The attorney for the complainant may file the affidavit required
16 pursuant to subsection 1 at a later time if he could not consult with a
17 design professional and prepare the affidavit before filing the action
18 without causing the action to be impaired or barred by the statute of
19 limitations or repose. If the attorney must submit the affidavit late, he
20 shall file an affidavit concurrently with the service of the first pleading in
21 the action stating his reason for failing to comply with subsection 1 and
22 the attorney shall consult with a design professional and file the affidavit
23 required pursuant to subsection 1 not later than 45 days after filing the
24 action.

25 3. In addition to the statement included in the affidavit pursuant to
26 subsection 1, a report must be attached to the affidavit. Except as
27 otherwise provided in subsection 4, the report must be prepared by the
28 design professional consulted by the attorney and include, without
29 limitation:

30 (a) The resumé of the design professional;

31 (b) A statement that the design professional is licensed or registered in
32 this state and is experienced in each discipline which is the subject of the
33 report;

34 (c) A copy of each nonprivileged document reviewed by the design
35 professional in preparing his report, including, without limitation, each
36 record, report and related document that the design professional has
37 determined is relevant to the allegations of negligent conduct that are the
38 basis for the action;

39 (d) The conclusions of the design professional and the basis for the
40 conclusions; and

41 (e) A statement that the design professional has concluded that there
42 is a reasonable basis for filing the action.

43 4. In an action brought by a claimant in which an affidavit is
44 required to be filed pursuant to subsection 1:

45 (a) The report required pursuant to subsection 3 is not required to
46 include the information set forth in paragraphs (c) and (d) of subsection
47 3 if the claimant or his attorney files an affidavit, at the time that the
48 affidavit is filed pursuant to subsection 1, stating that he made
49 reasonable efforts to obtain the nonprivileged documents described in



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1 *paragraph (c) of subsection 3, but was unable to obtain such documents*
2 *before filing the action;*

3 *(b) The claimant or his attorney shall amend the report required*
4 *pursuant to subsection 3 to include any documents and information*
5 *required pursuant to paragraph (c) or (d) of subsection 3 as soon as*
6 *reasonably practicable after receiving the document or information; and*

7 *(c) The court may dismiss the action if the claimant and his attorney*
8 *fail to comply with the requirements of paragraph (b).*

9 *5. A complainant whose attorney files an affidavit pursuant to*
10 *subsection 1 who does not prevail in the action is liable for the*
11 *reasonable attorney's fees and costs of the design professional or the*
12 *partnership, corporation, limited-liability company or other form of*
13 *business organization or association that employed the design*
14 *professional against whom the action was brought from the time of the*
15 *filing of the statement.*

16 *6. A design professional consulted by an attorney to prepare an*
17 *affidavit pursuant to this section must not be a party to the action.*

18 *7. As used in this section, "design professional" means a person who*
19 *holds a professional license or certificate issued pursuant to chapter 623,*
20 *623A or 625 of NRS, or a person who is engaged in the practice of*
21 *professional engineering, land surveying, architecture or landscape*
22 *architecture.*

23 **Sec. 4. 1. The court shall dismiss an action for the professional**
24 **negligence of a design professional or of a partnership, corporation,**
25 **limited-liability company or other form of business organization or**
26 **association that employed a design professional at the times relevant to**
27 **the action if the attorney for a complainant fails to:**

28 *(a) File an affidavit required pursuant to section 3 of this act;*

29 *(b) File a report required pursuant to subsection 3 of section 3 of this*
30 *act; or*

31 *(c) Name the design professional consulted in the affidavit required*
32 *pursuant to subsection 1 of section 3 of this act.*

33 *2. The fact that an attorney for a complainant has complied or failed*
34 *to comply with the provisions of section 3 of this act is admissible in the*
35 *action.*

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

37 *40.600 As used in NRS 40.600 to 40.695, inclusive, and sections 2, 3*
38 *and 4 of this act, unless the context otherwise requires, the words and*
39 *terms defined in NRS 40.605 to 40.630, inclusive, have the meanings*
40 *ascribed to them in those sections.*

41 **Sec. 6. NRS 40.645 is hereby amended to read as follows:**

42 *40.645 Except as otherwise provided in this section and NRS 40.670:*

43 *1. For a claim that is not a complex matter, if a contractor does not*
44 *take action to make repairs or attempt to make repairs pursuant to*
45 *subsection 2 of section 2 of this act within the time set forth in subsection*
46 *2 of section 2 of this act or within the time agreed to in writing by the*
47 *claimant and the contractor, at least 60 days before a claimant commences*
48 *an action against a contractor for damages arising from a constructional*
49 *defect, the claimant must give written notice by certified mail, return*



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1 receipt requested, to the contractor, at the contractor's last known address,
2 specifying in reasonable detail the defects or any damages or injuries to
3 each residence or appurtenance that is the subject of the claim. The notice
4 must describe in reasonable detail the cause of the defects if the cause is
5 known, the nature and extent that is known of the damage or injury
6 resulting from the defects and the location of each defect within each
7 residence or appurtenance to the extent known. An expert opinion
8 concerning the cause of the defects and the nature and extent of the damage
9 or injury resulting from the defects based on a representative sample of the
10 components of the residences and appurtenances involved in the action
11 satisfies the requirements of this section. During the 45-day period after the
12 contractor receives the notice, on his written request, the contractor is
13 entitled to inspect the property that is the subject of the claim to determine
14 the nature and cause of the defect, damage or injury and the nature and
15 extent of repairs necessary to remedy the defect. The contractor shall,
16 before making the inspection, provide reasonable notice of the inspection
17 and shall make the inspection at a reasonable time. The contractor may
18 take reasonable steps to establish the existence of the defect.

19 2. If a residence or appurtenance that is the subject of the claim is
20 covered by a homeowner's warranty that is purchased by or on behalf of a
21 claimant pursuant to NRS 690B.100 to 690B.180, inclusive, a claimant
22 shall diligently pursue a claim under the contract.

23 3. Within 60 days after the contractor receives ~~{the notice,}~~ **notice**
24 **pursuant to subsection 1,** the contractor shall make a written response to
25 the claimant. The response:

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

28 (b) Must respond to each constructional defect set forth in the
29 claimant's notice, and describe in reasonable detail the cause of the defect,
30 if known, the nature and extent of the damage or injury resulting from the
31 defect, and, unless the response is limited to a proposal for monetary
32 compensation, the method, adequacy and estimated cost of any proposed
33 repair.

34 (c) May include ~~+~~
35 ~~(1) A~~ **a** proposal for monetary compensation, which may include a
36 contribution from a subcontractor.

37 ~~{(2) If the contractor or his subcontractor is licensed to make the~~
38 ~~repairs, an agreement by the contractor or subcontractor to make the~~
39 ~~repairs.~~

40 ~~(3) An agreement by the contractor to cause the repairs to be made, at~~
41 ~~the contractor's expense, by another contractor who is licensed to make the~~
42 ~~repairs, bonded and insured.~~

43 ~~The repairs must be made within 45 days after the contractor receives~~
44 ~~written notice of acceptance of the response, unless completion is delayed~~
45 ~~by the claimant or by other events beyond the control of the contractor, or~~
46 ~~timely completion of the repairs is not reasonably possible. The claimant~~
47 ~~and the contractor may agree in writing to extend the periods prescribed by~~
48 ~~this section.~~



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

8 5. If the claimant is a representative of a homeowner's association, the
9 association shall submit any response made by the contractor to each
10 member of the association.

11 6. As used in this section, "subcontractor" means a contractor who
12 performs work on behalf of another contractor in the construction of a
13 residence or appurtenance.

14 **Sec. 7.** NRS 40.650 is hereby amended to read as follows:

15 40.650 1. If a claimant unreasonably rejects a reasonable written
16 offer of settlement made as part of a response made pursuant to NRS
17 40.645 or 40.682 or does not permit the contractor or independent
18 contractor a reasonable opportunity to repair the defect pursuant to ~~an~~
19 ~~accepted offer of settlement~~ *section 2 of this act* and thereafter
20 commences an action governed by NRS 40.600 to 40.695, inclusive, the
21 court in which the action is commenced may:

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

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

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

27 2. If a contractor fails to:

28 (a) Make an offer of settlement;

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

30 (c) Complete, in a good and workmanlike manner, the repairs ~~specified~~
31 ~~in an accepted offer;~~ *he makes pursuant to section 2 of this act;*

32 (d) Agree to a mediator or accept the appointment of a mediator
33 pursuant to NRS 40.680 or subsection 4 of NRS 40.682; or

34 (e) Participate in mediation,

35 the limitations on damages and defenses to liability provided in NRS
36 40.600 to 40.695, inclusive, do not apply and the claimant may commence
37 an action without satisfying any other requirement of NRS 40.600 to
38 40.695, inclusive.

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

43 **Sec. 8.** NRS 40.667 is hereby amended to read as follows:

44 40.667 1. Except as otherwise provided in subsection 2, a written
45 waiver or settlement agreement executed by a claimant after a contractor
46 has corrected or otherwise repaired a constructional defect does not bar a
47 claim for the constructional defect if it is determined that the contractor
48 failed to correct or repair the defect properly.



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1 2. The provisions of subsection 1 do not apply to any written waiver or
2 settlement agreement described in subsection 1, unless:
3 (a) The claimant has obtained the opinion of an expert concerning the
4 constructional defect;
5 (b) The claimant has provided the contractor with a written notice of the
6 defect pursuant to NRS 40.645 ~~for 40.682~~, *40.682 or section 2 of this act*
7 and a copy of the expert's opinion; and
8 (c) The claimant and the contractor have complied with the
9 requirements for inspection and repair as provided in NRS 40.600 to
10 40.695, inclusive.
11 3. If a claimant does not prevail in any action which is not barred
12 pursuant to this section, the court may:
13 (a) Deny the claimant's attorney's fees, fees for an expert witness or
14 costs; and
15 (b) Award attorney's fees and costs to the contractor.
16 **Sec. 9.** NRS 40.682 is hereby amended to read as follows:
17 40.682 Except as otherwise provided in this section and NRS 40.670:
18 1. Notwithstanding the provisions of subsection 1 of NRS 40.680, a
19 claimant may commence an action in district court in a complex matter. If
20 the claimant commences an action in district court he shall:
21 (a) File and serve the summons and complaint as required by law; and
22 (b) ~~At~~ *If a contractor does not take action to make repairs or attempt*
23 *to make repairs pursuant to subsection 2 of section 2 of this act within*
24 *the time set forth in subsection 2 of section 2 of this act or within the time*
25 *agreed to in writing by the claimant and the contractor, at* the same time
26 and in the same manner as the claimant serves the summons and complaint
27 upon the contractor, serve upon the contractor a written notice specifying
28 in reasonable detail, to the extent known, the defects and any damages or
29 injuries to each residence or appurtenance that is the subject of the claim.
30 The notice must describe in reasonable detail each defect, the specific
31 location of each defect, and the nature and extent that is known of the
32 damage or injury resulting from each defect. If an expert opinion has been
33 rendered concerning the existence or extent of the defects, a written copy
34 of the opinion must accompany the notice. An expert opinion that specifies
35 each defect to the extent known, the specific location of each defect to the
36 extent known, and the nature and extent that is known of the damage or
37 injury resulting from each defect, based on a valid and reliable
38 representative sample of the residences and appurtenances involved in the
39 action, satisfies the requirements of this section.
40 2. The contractor shall file and serve an answer to the complaint as
41 required by law.
42 3. Not later than 30 days after the date of service of the answer to the
43 complaint, the contractor and claimant shall meet to establish a schedule
44 for:
45 (a) The exchange of or reasonable access for the other party to all
46 relevant reports, photos, correspondence, plans, specifications, warranties,
47 contracts, subcontracts, work orders for repair, videotapes, technical
48 reports, soil and other engineering reports and other documents or
49 materials relating to the claim that are not privileged;



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1 (b) The inspection of the residence or appurtenance that is the subject of
2 the claim to evaluate the defects set forth in the notice served pursuant to
3 subsection 1; and

4 (c) The conduct of any tests that are reasonably necessary to determine
5 the nature and cause of a defect or any damage or injury, and the nature
6 and extent of repairs necessary to remedy a defect or any damage or injury.
7 The party conducting the test shall provide reasonable notice of the test to
8 all other parties and conduct the test at a reasonable time.

9 4. At the meeting held pursuant to subsection 3, the claimant and
10 contractor shall:

11 (a) Establish a schedule for the addition of any additional parties to the
12 complaint or to file any third-party complaint against an additional party
13 who may be responsible for all or a portion of the defects set forth in the
14 notice served pursuant to subsection 1;

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

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

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

23 6. If the claimant or contractor adds a party to the complaint or files a
24 third-party complaint, then not later than 60 days after the date determined
25 pursuant to paragraph (a) of subsection 4, the contractor, claimant and each
26 party added to the complaint or against whom a third-party complaint is
27 filed shall meet to establish a schedule for the activities set forth in
28 paragraphs (a), (b) and (c) of subsection 3.

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

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

35 (b) Exercise any power set forth in Rule 53 of the Nevada Rules of Civil
36 Procedure; and

37 (c) Subject to the provisions of NRS 40.680, if the parties fail to
38 establish a schedule or determine a date as required in subsection 3, 4 or 6,
39 establish the schedule or determine the date.

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

45 (a) Upon agreement of the parties; or

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

47 9. If a residence or appurtenance that is the subject of the claim is
48 covered by a homeowner's warranty that is purchased by or on behalf of a



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1 claimant pursuant to NRS 690B.100 to 690B.180, inclusive, a claimant
2 shall diligently pursue a claim under the contract.

3 10. Unless the parties agree otherwise, not less than 60 days before the
4 date of the mediation pursuant to paragraph (b) of subsection 4 is
5 convened, the contractor shall make a written response to the claimant that
6 meets the requirements set forth in subsection 3 of NRS 40.645.

7 11. If the claimant is a representative of a homeowner's association,
8 the association shall submit any response made by the contractor to each
9 member of the association in writing not more than 30 days after the date
10 the claimant receives the response.

11 12. The claimant shall respond to the written response of the contractor
12 within 45 days after the response of the contractor is mailed to the
13 claimant.

14 **Sec. 10.** NRS 40.688 is hereby amended to read as follows:

15 40.688 1. If a claimant attempts to sell a residence that is or has been
16 the subject of a claim governed by NRS 40.600 to 40.695, inclusive, *or the*
17 *subject of a notice given pursuant to section 2 of this act*, he shall
18 disclose, in writing, to any prospective purchaser of the residence, not less
19 than 30 days before the close of escrow for the sale of the residence or, if
20 escrow is to close less than 30 days after the execution of the sales
21 agreement, then immediately upon the execution of the sales agreement or,
22 if a claim is initiated *or a notice is given* less than 30 days before the close
23 of escrow, within 24 hours after giving written notice to the contractor
24 pursuant to *section 2 of this act*, subsection 1 of NRS 40.645 or subsection
25 1 of NRS 40.682:

26 (a) All notices given by the claimant to the contractor pursuant to NRS
27 40.600 to 40.695, inclusive, that are related to the residence;

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

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

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

35 2. Before taking any action on a claim pursuant to NRS 40.600 to
36 40.695, inclusive, *or giving notice pursuant to section 2 of this act*, the
37 attorney for a claimant shall notify the claimant in writing of the provisions
38 of this section.

39 **Sec. 11.** NRS 40.692 is hereby amended to read as follows:

40 40.692 If, after complying with the procedural requirements of *section*
41 *2 of this act and* NRS 40.645 and 40.680, or NRS 40.682, a claimant
42 proceeds with an action for damages arising from a constructional defect:

43 1. The claimant and each contractor who is named in the original
44 complaint when the action is commenced are not required, while the action
45 is pending, to comply with the requirements of *section 2 of this act*, NRS
46 40.645 or 40.680, or NRS 40.682, for any constructional defect that the
47 claimant includes in an amended complaint, if the constructional defect:

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



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1 (b) Is located on the same property described in the original complaint;
2 and

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

5 2. The claimant is not required to give written notice of a defect
6 pursuant to subsection 1 of NRS 40.645 or subsection 1 of NRS 40.682 to
7 any person who is joined to or intervenes in the action as a party after it is
8 commenced. If such a person becomes a party to the action:

9 (a) For the purposes of subsection 1 of NRS 40.645 or subsection 1 of
10 NRS 40.682, the person shall be deemed to have been given notice of the
11 defect by the claimant on the date on which the person becomes a party to
12 the action; and

13 (b) The provisions of NRS 40.600 to 40.695, inclusive, apply to the
14 person after that date.

15 **Sec. 12.** NRS 40.695 is hereby amended to read as follows:

16 40.695 1. Except as otherwise provided in subsection 2, statutes of
17 limitation or repose applicable to a claim based on a constructional defect
18 governed by NRS 40.600 to 40.695, inclusive, are tolled from the time
19 notice of the claim is given ~~or~~ *or notice of a defect, damage or injury is*
20 *given pursuant to section 2 of this act*, until 30 days after mediation is
21 concluded or waived in writing pursuant to NRS 40.680 or subsection 4 of
22 NRS 40.682.

23 2. Tolling under this section applies:

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

25 (b) To a third party regardless of whether the party is required to appear
26 in the proceeding.

27 **Sec. 13.** The amendatory provisions of this act do not apply to a claim
28 initiated or an action commenced pursuant to NRS 40.600 to 40.695,
29 inclusive, and sections 2, 3 and 4 of this act, unless the claim was initiated
30 or the action was commenced on or after October 1, 2001.

