

(REPRINTED WITH ADOPTED AMENDMENTS)
THIRD REPRINT A.B. 133

ASSEMBLY BILL NO. 133—ASSEMBLYMAN DINI

FEBRUARY 14, 2001

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning construction, constructional defects and common-interest communities. (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 a contractor to provide notice concerning constructional defects to a subcontractor, supplier or design professional and allow the subcontractor, supplier or design professional to make repairs before commencing an action against the subcontractor, supplier or design professional; requiring an affidavit in support of an action for professional negligence against a design professional; imposing certain restrictions to prevent property managers from being encouraged to file a claim for a constructional defect; requiring a contractor to provide certain information to the initial purchaser of a residence; revising the provisions governing commencement of certain civil actions by the association of a common-interest community; requiring the governing body of each city and county to require a geotechnical report as a condition to obtaining a building permit and additional information concerning a completed project; 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 to 11, inclusive, of this act.
3 **Sec. 2.** *“Design professional” means a person who holds a*
4 *professional license or certificate issued pursuant to chapter 623, 623A*
5 *or 625 of NRS.*
6 **Sec. 3.** *“Subcontractor” means a contractor who performs work on*
7 *behalf of another contractor in the construction of a residence or*
8 *appurtenance.*
9 **Sec. 4.** *“Supplier” means a person who provides materials,*
10 *equipment or other supplies for the construction of a residence or*
11 *appurtenance.*



1 **Sec. 5.** *Except as otherwise provided in NRS 40.670 and subsection*
2 *1 of section 9 of this act:*

3 1. *Before a claimant may commence an action against a contractor*
4 *for damages arising from a constructional defect, the claimant must give*
5 *written notice by certified mail, return receipt requested, to the*
6 *contractor, at the contractor's last address listed in the records of the*
7 *state contractors' board, or at the contractor's last known address if his*
8 *address is not listed in the records of the state contractors' board,*
9 *specifying in reasonable detail the defects or any damages or injuries to*
10 *each residence or appurtenance that is the subject of the claim. The*
11 *notice must describe in reasonable detail the cause of the defects if the*
12 *cause is known, the nature and extent that is known of the damage or*
13 *injury resulting from the defects and the location of each defect within*
14 *each residence or appurtenance to the extent known.*

15 2. *Within 15 days after receiving a notice pursuant to subsection 1, a*
16 *contractor shall forward a copy of the notice by certified mail, return*
17 *receipt requested, to each subcontractor, supplier and design*
18 *professional who the contractor reasonably believes is responsible for a*
19 *defect specified in the notice and include with the copy of the notice the*
20 *specific defect for which the contractor believes the subcontractor,*
21 *supplier or design professional is responsible.*

22 3. *The claimant shall, upon reasonable notice, allow the contractor*
23 *and a subcontractor, supplier or design professional who received the*
24 *notice pursuant to subsection 2 to access the residence or appurtenance*
25 *that is the subject of the notice to determine the nature and extent of a*
26 *defect and the nature and extent of repairs necessary to remedy the*
27 *defect.*

28 4. *Within 15 days after a subcontractor, supplier or design*
29 *professional receives a copy of a notice pursuant to subsection 2, he shall*
30 *provide the contractor with a statement indicating:*

31 (a) *Whether the subcontractor, supplier or design professional will*
32 *repair the defect for which the contractor believes the subcontractor,*
33 *supplier or design professional is responsible; and*

34 (b) *If the subcontractor, supplier or design professional decides to*
35 *repair the defect, an estimate of the length of time required for the repair,*
36 *and at least two proposed dates on and times at which the subcontractor,*
37 *supplier or design professional can begin making the repair.*

38 5. *An alleged constructional defect which is discovered after an*
39 *action pursuant to NRS 40.600 to 40.695, inclusive, and sections 2 to 11,*
40 *inclusive, of this act, has been commenced may not be alleged in an*
41 *amended pleading until the contractor, subcontractor, supplier or design*
42 *professional who performed the original construction which is alleged to*
43 *be a constructional defect has been given:*

44 (a) *Written notice in the manner required by this section; and*

45 (b) *A reasonable opportunity to repair the alleged constructional*
46 *defect in the manner provided in section 6 of this act.*

47 6. *A court shall dismiss an action commenced against a contractor,*
48 *subcontractor, supplier or design professional by a claimant who has*
49 *failed to comply with the requirements of this section.*



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1 **Sec. 6.** *Except as otherwise provided in NRS 40.670:*

2 1. *Except as otherwise provided in NRS 40.672, a contractor who*
3 *receives notice of a constructional defect pursuant to subsection 1 of*
4 *section 5 of this act may make the repairs necessary to remedy the defects*
5 *and repair any damage or injury to the residence or appurtenance*
6 *described in the notice or arrange to have such repairs made by a*
7 *subcontractor, supplier or design professional to whom the contractor*
8 *forwarded notice of the defect pursuant to subsection 2 of section 5 of*
9 *this act. The contractor shall ensure that any such repairs are completed*
10 *within a reasonable time, but in any event:*

11 (a) *If the constructional defect is not part of a complex matter, not*
12 *later than 45 days after receiving the notice; or*

13 (b) *If the constructional defect is part of a complex matter, not later*
14 *than 90 days after receiving the notice,*
15 *unless the claimant and the contractor negotiate in good faith and agree*
16 *in writing to extend reasonably the time for completing the repairs in*
17 *which case the repairs must be completed not later than the time set forth*
18 *in the agreement.*

19 2. *In making repairs pursuant to subsection 1, the contractor or a*
20 *subcontractor, supplier or design professional who is responsible for*
21 *making the repairs shall:*

22 (a) *Make the repairs at reasonable times that are agreed to in advance*
23 *by the claimant, or by the owner of the residence or appurtenance if the*
24 *claimant is a representative of a homeowner's association;*

25 (b) *Ensure that all of the work to make the repairs is completed by*
26 *contractors and subcontractors who are properly licensed, bonded and*
27 *insured;*

28 (c) *Take any action necessary to prevent a mechanic's lien from being*
29 *obtained on the property of the claimant on which the repairs are being*
30 *made, to remove such a mechanic's lien if one is obtained, and to*
31 *indemnify the claimant against any expenses incurred by the claimant*
32 *concerning such a mechanic's lien; and*

33 (d) *Provide to the claimant a written report of each repair made, the*
34 *method used to make the repair and the parts replaced in making such*
35 *repairs within 10 days after the repairs are made.*

36 3. *The claimant shall allow the contractor and a subcontractor,*
37 *supplier or design professional who is responsible for making repairs*
38 *pursuant to subsection 1 a reasonable opportunity to make repairs*
39 *pursuant to subsection 1. A court shall dismiss an action commenced*
40 *against a contractor, subcontractor, supplier or design professional by a*
41 *claimant who has failed to comply with the requirements of this*
42 *subsection.*

43 4. *If the claimant is not satisfied with the repairs made pursuant to*
44 *subsection 1 or NRS 40.672 or the contractor does not make the repairs*
45 *or have the repairs made within the time set forth in subsection 1 or*
46 *within the time agreed to in writing by the claimant and the contractor,*
47 *the claimant may commence an action governed by NRS 40.600 to*
48 *40.695, inclusive, and sections 2 to 11, inclusive, of this act against the*
49 *contractor for a constructional defect or any damages or injuries that*



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1 *were specified in the notice provided to the contractor pursuant to section*
2 *5 of this act. A claimant who is not satisfied with the repairs is required*
3 *to give additional notice pursuant to NRS 40.645 or 40.682 before*
4 *commencing such an action.*

5 *Sec. 7. 1. Except as otherwise provided in subsection 3, a*
6 *contractor who does not provide a subcontractor, supplier or design*
7 *professional with notice of a constructional defect pursuant to subsection*
8 *2 of section 5 of this act who the contractor reasonably believes is*
9 *responsible for a defect specified in the notice provided to the contractor*
10 *pursuant to subsection 1 of section 5 of this act, may not recover*
11 *attorney's fees, costs, fees for expert witnesses or fees for consultants*
12 *from the subcontractor, supplier or design professional that are incurred*
13 *by the contractor in defending an action against the contractor for the*
14 *constructional defect pursuant to NRS 40.600 to 40.695, inclusive, and*
15 *sections 2 to 11, inclusive, of this act.*

16 *2. Except as otherwise provided in subsection 3, after a claimant files*
17 *a claim against a contractor that is governed by NRS 40.600 to 40.695,*
18 *inclusive, and sections 2 to 11, inclusive, of this act, a subcontractor,*
19 *supplier or design professional who is responsible for a constructional*
20 *defect involved in the claim and who did not receive notice of the defect*
21 *pursuant to subsection 2 of section 5 of this act or who received notice*
22 *pursuant to subsection 4 may present directly to the claimant an offer to*
23 *repair the defect. If the claimant accepts the offer, the subcontractor,*
24 *supplier or design professional repairs the defect to the satisfaction of the*
25 *claimant and the claimant provides a statement in writing to the*
26 *subcontractor, supplier or design professional indicating that the defect*
27 *was repaired to his satisfaction, the contractor against whom the claim*
28 *was filed may not pursue any claim related to the defect that was repaired*
29 *against the subcontractor, supplier or design professional who repaired*
30 *the defect.*

31 *3. Except as otherwise provided in subsection 4, the provisions of this*
32 *section do not apply to a contractor who did not give notice of the*
33 *constructional defect to the subcontractor, supplier or design*
34 *professional if the contractor could not, after a good faith effort, identify*
35 *the subcontractor, supplier or design professional who may have been*
36 *responsible for the defect within the time set forth for providing a notice*
37 *to the subcontractor, supplier or design professional.*

38 *4. If, after the expiration of the time set forth for a contractor to*
39 *provide a notice to a subcontractor, supplier or design professional*
40 *pursuant to section 5 of this act, a contractor identifies a subcontractor,*
41 *supplier or design professional who the contractor was not, after a good*
42 *faith effort, previously able to identify and who may be responsible for a*
43 *constructional defect alleged by the claimant, the contractor shall, before*
44 *commencing an action against such a subcontractor, supplier or design*
45 *professional:*

46 *(a) Provide notice to the subcontractor, supplier or design*
47 *professional in the manner provided in subsection 2 of section 5 of this*
48 *act; and*



- 1 (b) Allow a reasonable opportunity for the subcontractor, supplier or
2 design professional to make repairs to the alleged constructional defect.
- 3 5. Subject to the provisions of subsection 2, the claimant shall allow
4 a subcontractor, supplier or design professional notified pursuant to
5 subsection 4 a reasonable opportunity to make repairs.
- 6 6. A court shall dismiss an action commenced against a
7 subcontractor, supplier or design professional by a contractor who has
8 failed to comply with the requirements of subsection 4.
- 9 **Sec. 8.** 1. A contractor, subcontractor, supplier or design
10 professional who receives notice of a constructional defect pursuant to
11 section 5 or 7 of this act may present the notice to an insurer who issued
12 a policy of insurance covering all or part of the conduct or business of
13 the contractor, subcontractor, supplier or design professional.
- 14 2. A notice provided to an insurer pursuant to subsection 1:
15 (a) Constitutes the making of a claim under the policy by the
16 contractor, subcontractor, supplier or design professional; and
17 (b) Requires the contractor, subcontractor, supplier or design
18 professional and the insurer to perform any obligations or duties
19 required by the policy upon the making of a claim.
- 20 **Sec. 9.** 1. A claimant is not required to provide a contractor with
21 notice pursuant to section 5 of this act before commencing an action
22 against the contractor for damages arising from a constructional defect
23 if:
24 (a) The contractor has threatened or initiated legal proceedings
25 against the claimant at any time;
26 (b) The claimant has been sued by a third party or the contractor in
27 connection with or resulting from a constructional defect and the
28 claimant is filing a third-party complaint or cross-complaint against the
29 contractor concerning that constructional defect; or
30 (c) The contractor has threatened to commit or committed an act of
31 violence or a criminal offense against the claimant or the property of the
32 claimant, or the claimant has a reasonable belief that the contractor
33 intends to commit an act of violence or a criminal offense against the
34 claimant or the property of the claimant.
- 35 2. Nothing in sections 5 to 9, inclusive, of this act affects the ability
36 of a claimant, contractor, subcontractor, supplier or design professional
37 to pursue any remedy available through the state contractors' board
38 pursuant to chapter 624 of NRS.
- 39 **Sec. 10.** 1. Except as otherwise provided in subsection 2, in an
40 action pursuant to NRS 40.600 to 40.695, inclusive, and sections 2 to 11,
41 inclusive, of this act for the professional negligence of a design
42 professional or a person primarily engaged in the practice of
43 professional engineering, land surveying, architecture or landscape
44 architecture, concurrently with the service of the first pleading in an
45 action, the attorney for the complainant shall file an affidavit with the
46 court stating that the attorney:
47 (a) Has reviewed the facts of the case;
48 (b) Has consulted with an expert;



- 1 (c) Reasonably believes the expert who was consulted is
2 knowledgeable in the relevant discipline involved in the action; and
3 (d) Has concluded on the basis of his review and the consultation with
4 the expert that the action has a reasonable basis in law and fact.
- 5 2. The attorney for the complainant may file the affidavit required
6 pursuant to subsection 1 at a later time if he could not consult with an
7 expert and prepare the affidavit before filing the action without causing
8 the action to be impaired or barred by the statute of limitations or repose,
9 or other limitations prescribed by law. If the attorney must submit the
10 affidavit late, he shall file an affidavit concurrently with the service of
11 the first pleading in the action stating his reason for failing to comply
12 with subsection 1 and the attorney shall consult with an expert and file
13 the affidavit required pursuant to subsection 1 not later than 45 days
14 after filing the action.
- 15 3. In addition to the statement included in the affidavit pursuant to
16 subsection 1, a report must be attached to the affidavit. Except as
17 otherwise provided in subsection 4, the report must be prepared by the
18 expert consulted by the attorney and include, without limitation:
- 19 (a) The resumé of the expert;
20 (b) A statement that the expert is experienced in each discipline which
21 is the subject of the report;
22 (c) A copy of each nonprivileged document reviewed by the expert in
23 preparing his report, including, without limitation, each record, report
24 and related document that the expert has determined is relevant to the
25 allegations of negligent conduct that are the basis for the action;
26 (d) The conclusions of the expert and the basis for the conclusions;
27 and
28 (e) A statement that the expert has concluded that there is a
29 reasonable basis for filing the action.
- 30 4. In an action brought by a claimant in which an affidavit is
31 required to be filed pursuant to subsection 1:
- 32 (a) The report required pursuant to subsection 3 is not required to
33 include the information set forth in paragraphs (c) and (d) of subsection
34 3 if the claimant or his attorney files an affidavit, at the time that the
35 affidavit is filed pursuant to subsection 1, stating that he made
36 reasonable efforts to obtain the nonprivileged documents described in
37 paragraph (c) of subsection 3, but was unable to obtain such documents
38 before filing the action;
- 39 (b) The claimant or his attorney shall amend the report required
40 pursuant to subsection 3 to include any documents and information
41 required pursuant to paragraph (c) or (d) of subsection 3 as soon as
42 reasonably practicable after receiving the document or information; and
43 (c) The court may dismiss the action if the claimant and his attorney
44 fail to comply with the requirements of paragraph (b).
- 45 5. An expert consulted by an attorney to prepare an affidavit
46 pursuant to this section must not be a party to the action.
- 47 6. As used in this section, “expert” means a person who is licensed in
48 a state to engage in the practice of professional engineering, land
49 surveying, architecture or landscape architecture.



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- 1 **Sec. 11.** 1. *The court shall dismiss an action filed pursuant to NRS*
2 *40.600 to 40.695, inclusive, and sections 2 to 11, inclusive, of this act for*
3 *the professional negligence of a design professional or a person*
4 *primarily engaged in the practice of professional engineering, land*
5 *surveying, architecture or landscape architecture if the attorney for a*
6 *complainant fails to:*
7 (a) *File an affidavit required pursuant to section 10 of this act;*
8 (b) *File a report required pursuant to subsection 3 of section 10 of this*
9 *act; or*
10 (c) *Name the expert consulted in the affidavit required pursuant to*
11 *subsection 1 of section 10 of this act.*
12 2. *The fact that an attorney for a complainant has complied or failed*
13 *to comply with the provisions of section 10 of this act is admissible in the*
14 *action.*
15 **Sec. 12.** NRS 40.600 is hereby amended to read as follows:
16 40.600 As used in NRS 40.600 to 40.695, inclusive, *and sections 2 to*
17 *11, inclusive, of this act*, unless the context otherwise requires, the words
18 and terms defined in NRS 40.605 to 40.630, inclusive, *and sections 2 to*
19 *11, inclusive, of this act* have the meanings ascribed to them in those
20 sections.
21 **Sec. 13.** NRS 40.645 is hereby amended to read as follows:
22 40.645 Except as otherwise provided in this section and NRS 40.670:
23 1. For a claim that is not a complex matter, *if a contractor does not*
24 *take action to make repairs or attempt to make repairs pursuant to*
25 *subsection 1 of section 6 of this act within the time set forth in subsection*
26 *1 of section 6 of this act or within the time agreed to in writing by the*
27 *claimant and the contractor*, at least 60 days before a claimant commences
28 an action against a contractor for damages arising from a constructional
29 defect, the claimant must give written notice by certified mail, return
30 receipt requested, to the contractor, at the contractor's last known address,
31 specifying in reasonable detail the defects or any damages or injuries to
32 each residence or appurtenance that is the subject of the claim. The notice
33 must describe in reasonable detail the cause of the defects if the cause is
34 known, the nature and extent that is known of the damage or injury
35 resulting from the defects and the location of each defect within each
36 residence or appurtenance to the extent known. An expert opinion
37 concerning the cause of the defects and the nature and extent of the damage
38 or injury resulting from the defects based on a representative sample of the
39 components of the residences and appurtenances involved in the action
40 satisfies the requirements of this section. During the 45-day period after the
41 contractor receives the notice, on his written request, the contractor is
42 entitled to inspect the property that is the subject of the claim to determine
43 the nature and cause of the defect, damage or injury and the nature and
44 extent of repairs necessary to remedy the defect. The contractor shall,
45 before making the inspection, provide reasonable notice of the inspection
46 and shall make the inspection at a reasonable time. The contractor may
47 take reasonable steps to establish the existence of the defect.
48 2. If a residence or appurtenance that is the subject of the claim is
49 covered by a homeowner's warranty that is purchased by or on behalf of a



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

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

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

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

14 (c) May include ~~+~~:

15 ~~—(1) A~~ *a* proposal for monetary compensation, which may include a
16 contribution from a subcontractor.

17 ~~{(2) If the contractor or his subcontractor is licensed to make the~~
18 ~~repairs, an agreement by the contractor or subcontractor to make the~~
19 ~~repairs.~~

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

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

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

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

39 ~~{6. As used in this section, "subcontractor" means a contractor who~~
40 ~~performs work on behalf of another contractor in the construction of a~~
41 ~~residence or appurtenance.}~~

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

43 40.650 1. If a claimant unreasonably rejects a reasonable written
44 offer of settlement made as part of a response made pursuant to NRS
45 40.645 or 40.682 or does not permit the contractor or independent
46 contractor a reasonable opportunity to repair the defect pursuant to ~~{an~~
47 ~~accepted offer of settlement}~~ *section 6 of this act* and thereafter
48 commences an action governed by NRS 40.600 to 40.695, inclusive, *and*



1 *sections 2 to 11, inclusive, of this act*, the court in which the action is
2 commenced may:
3 (a) Deny the claimant's attorney's fees and costs; and
4 (b) Award attorney's fees and costs to the contractor.
5 Any sums paid under a homeowner's warranty, other than sums paid in
6 satisfaction of claims that are collateral to any coverage issued to or by the
7 contractor, must be deducted from any recovery.
8 2. If a contractor fails to:
9 (a) Make an offer of settlement;
10 (b) Make a good faith response to the claim asserting no liability;
11 (c) Complete, in a good and workmanlike manner, the repairs ~~specified~~
12 ~~in an accepted offer;~~ *he makes pursuant to section 6 of this act;*
13 (d) Agree to a mediator or accept the appointment of a mediator
14 pursuant to NRS 40.680 or subsection 4 of NRS 40.682; or
15 (e) Participate in mediation,
16 the limitations on damages and defenses to liability provided in NRS
17 40.600 to 40.695, inclusive, *and sections 2 to 11, inclusive, of this act* do
18 not apply and the claimant may commence an action without satisfying any
19 other requirement of NRS 40.600 to 40.695, inclusive ~~H~~, *and sections 2*
20 *to 11, inclusive, of this act.*
21 3. If coverage under a homeowner's warranty is denied by an insurer
22 in bad faith, the homeowner and the contractor have a right of action for
23 the sums that would have been paid if coverage had been provided, plus
24 reasonable attorney's fees and costs.
25 **Sec. 15.** NRS 40.667 is hereby amended to read as follows:
26 40.667 1. Except as otherwise provided in subsection 2, a written
27 waiver or settlement agreement executed by a claimant after a contractor
28 has corrected or otherwise repaired a constructional defect does not bar a
29 claim for the constructional defect if it is determined that the contractor
30 failed to correct or repair the defect properly.
31 2. The provisions of subsection 1 do not apply to any written waiver or
32 settlement agreement described in subsection 1, unless:
33 (a) The claimant has obtained the opinion of an expert concerning the
34 constructional defect;
35 (b) The claimant has provided the contractor with a written notice of the
36 defect pursuant to NRS 40.645 ~~for 40.682~~, *40.682 or section 5 of this act*
37 and a copy of the expert's opinion; and
38 (c) The claimant and the contractor have complied with the
39 requirements for inspection and repair as provided in NRS 40.600 to
40 40.695, inclusive ~~H~~, *and sections 2 to 11, inclusive, of this act.*
41 3. If a claimant does not prevail in any action which is not barred
42 pursuant to this section, the court may:
43 (a) Deny the claimant's attorney's fees, fees for an expert witness or
44 costs; and
45 (b) Award attorney's fees and costs to the contractor.
46 **Sec. 16.** NRS 40.682 is hereby amended to read as follows:
47 40.682 Except as otherwise provided in this section and NRS 40.670:



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- 1 1. Notwithstanding the provisions of subsection 1 of NRS 40.680, a
2 claimant may commence an action in district court in a complex matter. If
3 the claimant commences an action in district court he shall:
- 4 (a) File and serve the summons and complaint as required by law; and
5 (b) ~~1A1~~ *If a contractor does not take action to make repairs or attempt*
6 *to make repairs pursuant to subsection 1 of section 6 of this act within*
7 *the time set forth in subsection 1 of section 6 of this act or within the time*
8 *agreed to in writing by the claimant and the contractor,* at the same time
9 and in the same manner as the claimant serves the summons and complaint
10 upon the contractor, serve upon the contractor a written notice specifying
11 in reasonable detail, to the extent known, the defects and any damages or
12 injuries to each residence or appurtenance that is the subject of the claim.
13 The notice must describe in reasonable detail each defect, the specific
14 location of each defect, and the nature and extent that is known of the
15 damage or injury resulting from each defect. If an expert opinion has been
16 rendered concerning the existence or extent of the defects, a written copy
17 of the opinion must accompany the notice. An expert opinion that specifies
18 each defect to the extent known, the specific location of each defect to the
19 extent known, and the nature and extent that is known of the damage or
20 injury resulting from each defect, based on a valid and reliable
21 representative sample of the residences and appurtenances involved in the
22 action, satisfies the requirements of this section.
- 23 2. The contractor shall file and serve an answer to the complaint as
24 required by law.
- 25 3. Not later than 30 days after the date of service of the answer to the
26 complaint, the contractor and claimant shall meet to establish a schedule
27 for:
- 28 (a) The exchange of or reasonable access for the other party to all
29 relevant reports, photos, correspondence, plans, specifications, warranties,
30 contracts, subcontracts, work orders for repair, videotapes, technical
31 reports, soil and other engineering reports and other documents or
32 materials relating to the claim that are not privileged;
- 33 (b) The inspection of the residence or appurtenance that is the subject of
34 the claim to evaluate the defects set forth in the notice served pursuant to
35 subsection 1; and
- 36 (c) The conduct of any tests that are reasonably necessary to determine
37 the nature and cause of a defect or any damage or injury, and the nature
38 and extent of repairs necessary to remedy a defect or any damage or injury.
39 The party conducting the test shall provide reasonable notice of the test to
40 all other parties and conduct the test at a reasonable time.
- 41 4. At the meeting held pursuant to subsection 3, the claimant and
42 contractor shall:
- 43 (a) Establish a schedule for the addition of any additional parties to the
44 complaint or to file any third-party complaint against an additional party
45 who may be responsible for all or a portion of the defects set forth in the
46 notice served pursuant to subsection 1;
- 47 (b) Unless the claimant and contractor agree otherwise in writing, select
48 a mediator and proceed with mediation as provided in subsections 2 to 6,
49 inclusive, of NRS 40.680; and



* A B 1 3 3 R 3 *

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

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

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

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

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

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

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

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

28 (a) Upon agreement of the parties; or

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

30 9. If a residence or appurtenance that is the subject of the claim is
31 covered by a homeowner's warranty that is purchased by or on behalf of a
32 claimant pursuant to NRS 690B.100 to 690B.180, inclusive, a claimant
33 shall diligently pursue a claim under the contract.

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

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

42 12. The claimant shall respond to the written response of the contractor
43 within 45 days after the response of the contractor is mailed to the
44 claimant.

45 **Sec. 17.** NRS 40.688 is hereby amended to read as follows:

46 40.688 1. If a claimant attempts to sell a residence that is or has been
47 the subject of a claim governed by NRS 40.600 to 40.695, inclusive, *and*
48 *sections 2 to 11, inclusive, of this act or the subject of a notice given*
49 *pursuant to section 5 of this act*, he shall disclose, in writing, to any



* A B 1 3 3 R 3 *

1 prospective purchaser of the residence, not less than 30 days before the
2 close of escrow for the sale of the residence or, if escrow is to close less
3 than 30 days after the execution of the sales agreement, then immediately
4 upon the execution of the sales agreement or, if a claim is initiated *or a*
5 *notice is given* less than 30 days before the close of escrow, within 24
6 hours after giving written notice to the contractor pursuant to *section 5 of*
7 *this act*, subsection 1 of NRS 40.645 or subsection 1 of NRS 40.682:
8 (a) All notices given by the claimant to the contractor pursuant to NRS
9 40.600 to 40.695, inclusive, *and sections 2 to 11, inclusive, of this act* that
10 are related to the residence;
11 (b) All opinions the claimant has obtained from experts regarding a
12 constructional defect that is or has been the subject of the claim;
13 (c) The terms of any settlement, order or judgment relating to the claim;
14 and
15 (d) A detailed report of all repairs made to the residence by or on behalf
16 of the claimant as a result of a constructional defect that is or has been the
17 subject of the claim.
18 2. Before taking any action on a claim pursuant to NRS 40.600 to
19 40.695, inclusive, *and sections 2 to 11, inclusive, of this act or giving*
20 *notice pursuant to section 5 of this act*, the attorney for a claimant shall
21 notify the claimant in writing of the provisions of this section.
22 **Sec. 18.** NRS 40.692 is hereby amended to read as follows:
23 40.692 ~~HF~~ *Except as otherwise provided in sections 5 and 7 of this*
24 *act, if* after complying with the procedural requirements of *sections 5 and*
25 *7 of this act and* NRS 40.645 and 40.680, or NRS 40.682, a claimant
26 proceeds with an action for damages arising from a constructional defect:
27 1. The claimant and each contractor who is named in the original
28 complaint when the action is commenced are not required, while the action
29 is pending, to comply with the requirements of *sections 5 and 7 of this act*,
30 NRS 40.645 or 40.680, or NRS 40.682, for any constructional defect that
31 the claimant includes in an amended complaint, if the constructional
32 defect:
33 (a) Is attributable, in whole or in part, to such a contractor;
34 (b) Is located on the same property described in the original complaint;
35 and
36 (c) Was not discovered before the action was commenced provided that
37 a good faith effort had been undertaken by the claimant.
38 2. The claimant is not required to give written notice of a defect
39 pursuant to subsection 1 of NRS 40.645 or subsection 1 of NRS 40.682 to
40 any person who is joined to or intervenes in the action as a party after it is
41 commenced. If such a person becomes a party to the action:
42 (a) For the purposes of subsection 1 of NRS 40.645 or subsection 1 of
43 NRS 40.682, the person shall be deemed to have been given notice of the
44 defect by the claimant on the date on which the person becomes a party to
45 the action; and
46 (b) The provisions of NRS 40.600 to 40.695, inclusive, apply to the
47 person after that date.



* A B 1 3 3 R 3 *

1 **Sec. 19.** NRS 40.695 is hereby amended to read as follows:
2 40.695 1. Except as otherwise provided in subsection 2, statutes of
3 limitation or repose applicable to a claim based on a constructional defect
4 governed by NRS 40.600 to 40.695, inclusive, *and sections 2 to 11,*
5 ~~inclusive, of this act~~ are tolled from the time notice of the claim is given ~~to~~
6 ~~or notice of a defect, damage or injury is given pursuant to section 5 of~~
7 ~~this act~~, until 30 days after mediation is concluded or waived in writing
8 pursuant to NRS 40.680 or subsection 4 of NRS 40.682.

9 2. Tolling under this section applies ~~to~~
10 ~~—(a) Only to a claim that is not a complex matter.~~
11 ~~—(b) To~~ to a third party regardless of whether the party is required to
12 appear in the proceeding.

13 **Sec. 20.** Chapter 113 of NRS is hereby amended by adding thereto a
14 new section to read as follows:

15 1. *Each contractor who develops, constructs or landscapes a new*
16 *residence shall, within 30 days after the close of escrow of the initial*
17 *purchase of the residence, provide in writing to the initial purchaser of*
18 *the residence:*

19 (a) *The name, license number, business address and telephone*
20 *number of each subcontractor who performed any work related to the*
21 *development, construction or landscaping of the residence; and*

22 (b) *A brief description so the work performed by each subcontractor*
23 *identified pursuant to paragraph (a).*

24 2. *As used in this section, "subcontractor" has the meaning ascribed*
25 *to it in section 3 of this act.*

26 **Sec. 21.** Chapter 116 of NRS is hereby amended by adding thereto the
27 provisions set forth as sections 22 to 25, inclusive, of this act.

28 **Sec. 22.** 1. *A person shall not provide or offer to provide anything*
29 *of monetary value to a property manager of an association or to a*
30 *member or officer of an executive board to induce the property manager,*
31 *member or officer to encourage or discourage the association to file a*
32 *claim for damages arising from a constructional defect.*

33 2. *A property manager shall not accept anything of value given to*
34 *him in exchange for encouraging or discouraging the association that he*
35 *manages to file a claim for damages arising from a constructional defect.*

36 3. *A member or officer of an executive board shall not accept*
37 *anything of value given to him in exchange for encouraging or*
38 *discouraging the association of which he is a member or officer of the*
39 *executive board to file a claim for damages arising from a constructional*
40 *defect.*

41 4. *If a property manager violates the provisions of this section:*

42 (a) *The real estate division of the department of business and industry*
43 *shall suspend or revoke his permit to engage in property management*
44 *issued pursuant to chapter 645 of NRS, if he has been issued such a*
45 *permit; and*

46 (b) *The real estate commission shall suspend or revoke his certificate*
47 *issued pursuant to NRS 116.31139, if he has been issued such a*
48 *certificate.*



* A B 1 3 3 R 3 *

- 1 5. If a member or officer of an executive board violates the
2 provisions of this section, the executive board shall remove the officer or
3 member from the board.
- 4 6. Any person who willfully violates the provisions of this section is
5 guilty of a misdemeanor.
- 6 7. As used in this section, “constructional defect” has the meaning
7 ascribed to it in NRS 40.615.
- 8 **Sec. 23.** 1. An association may bring an action to recover damages
9 resulting from constructional defects in any of the units, common
10 elements or limited common elements of the common-interest
11 community, or submit such a claim to mediation pursuant to NRS
12 40.680, only:
- 13 (a) If the association first obtains the written approval of each unit’s
14 owner whose unit or interest in the common elements or limited common
15 elements will be the subject of the action or claim;
- 16 (b) Upon a vote of the units’ owners to which at least a majority of the
17 votes of the members of the association are allocated; and
- 18 (c) Upon a vote of the executive board of the association.
- 19 2. If an action is brought by an association to recover damages
20 resulting from constructional defects in any of the units, common
21 elements or limited common elements of the common-interest
22 community, or such a claim is submitted to mediation pursuant to NRS
23 40.680, the attorney representing the association shall provide to the
24 executive board of the association and to each unit’s owner a statement
25 that includes, in reasonable detail:
- 26 (a) The defects and damages or injuries to the units, common
27 elements or limited common elements;
- 28 (b) The cause of the defects, if the cause is known;
- 29 (c) The nature and the extent that is known of the damage or injury
30 resulting from the defects;
- 31 (d) The location of each defect within the units, common elements or
32 limited common elements, if known;
- 33 (e) A reasonable estimate of the cost of the action or mediation,
34 including reasonable attorney’s fees;
- 35 (f) An explanation of the potential benefits of the action or mediation
36 and the potential adverse consequences if the association does not
37 commence the action or submit the claim to mediation or if the outcome
38 is not favorable to the association; and
- 39 (g) All disclosures that are required to be made upon the sale of the
40 property.
- 41 3. An association or an attorney for an association shall not employ
42 a person to perform destructive tests to determine any damage or injury
43 to a unit, common element or limited common element caused by a
44 constructional defect unless:
- 45 (a) The person is licensed as a contractor pursuant to chapter 624 of
46 NRS;
- 47 (b) The association has obtained the prior written approval of each
48 unit’s owner whose unit or interest in the common element or limited
49 common element will be affected by such testing;



* A B 1 3 3 R 3 *

1 (c) The person has provided a written schedule for repairs;
2 (d) The person is required to repair all damage resulting from such
3 tests in accordance with state laws and local ordinances relating thereto;
4 and

5 (e) The association or the person so employed obtains all permits
6 required to conduct such tests and to repair any damage resulting from
7 such tests.

8 4. As used in this section, "constructional defect" has the meaning
9 ascribed to it in NRS 40.615.

10 **Sec. 24.** 1. Except as otherwise provided in subsection 2 and
11 section 23 of this act, an association may commence a civil action only
12 upon a vote or written agreement of the owners of the units to which at
13 least a majority of the votes of the members of the association are
14 allocated. In such a case, the association shall provide written notice to
15 the owner of each unit of the meeting at which the commencement of a
16 civil action is to be considered or action is to be taken within 21 calendar
17 days before the meeting.

18 2. The provisions of subsection 1 do not apply to a civil action that is
19 commenced:

20 (a) By an association for a time-share project governed by the
21 provisions of chapter 119A of NRS;

22 (b) To enforce the payment of an assessment;

23 (c) To enforce the declaration, bylaws or rules of the association;

24 (d) To proceed with a counterclaim; or

25 (e) To enforce or rescind a contract to which the association is a
26 party.

27 **Sec. 25.** 1. Notwithstanding any other provision of this chapter, the
28 executive board of an association may, without giving notice to the units'
29 owners, employ a contractor licensed pursuant to the provisions of
30 chapter 624 of NRS and such other persons as are necessary to make
31 such repairs to a unit or common element within the common-interest
32 community as are required to protect the health, safety and welfare of the
33 units' owners.

34 2. If the governing documents of the association require such action
35 to be taken at a meeting of the executive board of the association, the
36 executive board shall, within 90 days after employing any person
37 pursuant to subsection 1, provide written notice to the units' owners of its
38 action and include the action on the agenda of its next regularly
39 scheduled meeting.

40 **Sec. 26.** NRS 116.1203 is hereby amended to read as follows:

41 116.1203 1. Except as otherwise provided in subsection 2, if a
42 planned community contains no more than 12 units and is not subject to
43 any developmental rights, it is subject only to NRS 116.1105, 116.1106
44 and 116.1107 unless the declaration provides that this entire chapter is
45 applicable.

46 2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138,
47 NRS 116.3101 to 116.3119, inclusive, and section 14 of *Assembly Bill No.*
48 *621 of this session and sections 22 to 25, inclusive, of* this act and
49 116.110305 to 116.110393, inclusive, to the extent necessary in construing



* A B 1 3 3 R 3 *

1 any of those sections, apply to a residential planned community containing
2 more than six units.

3 **Sec. 27.** NRS 116.31139 is hereby amended to read as follows:

4 116.31139 1. An association may employ a person engaged in
5 property management for the common-interest community.

6 2. Except as otherwise provided in this section, a person engaged in
7 property management for a common-interest community must:

8 (a) Hold a permit to engage in property management that is issued
9 pursuant to the provisions of chapter 645 of NRS; or

10 (b) Hold a certificate issued by the real estate commission pursuant to
11 subsection 3.

12 3. The real estate commission shall provide by regulation for the
13 issuance of certificates for the management of common-interest
14 communities to persons who are not otherwise authorized to engage in
15 property management pursuant to the provisions of chapter 645 of NRS.
16 The regulations:

17 (a) Must establish the qualifications for the issuance of such a
18 certificate, including the education and experience required to obtain such
19 a certificate;

20 (b) May require applicants to pass an examination in order to obtain a
21 certificate;

22 (c) Must establish standards of practice for persons engaged in property
23 management for a common-interest community;

24 (d) Must establish the grounds for initiating disciplinary action against a
25 person to whom a certificate has been issued, including, without limitation,
26 the grounds for placing conditions, limitations or restrictions on a
27 certificate and for the suspension or revocation of a certificate; and

28 (e) Must establish rules of practice and procedure for conducting
29 disciplinary hearings.

30 The real estate division of the department of business and industry may
31 investigate the property managers to whom certificates have been issued to
32 ensure their compliance with *section 22 of this act and* the standards of
33 practice adopted pursuant to this subsection and collect a fee for the
34 issuance of a certificate by the commission in an amount not to exceed the
35 administrative costs of issuing the certificate.

36 4. The provisions of subsection 2 do not apply to:

37 (a) A person who is engaged in property management for a common-
38 interest community on October 1, 1999, and is granted an exemption from
39 the requirements of subsection 2 by the administrator upon demonstration
40 that he is qualified and competent to engage in property management for a
41 common-interest community.

42 (b) A financial institution.

43 (c) An attorney licensed to practice in this state.

44 (d) A trustee.

45 (e) An employee of a corporation who manages only the property of the
46 corporation.

47 (f) A declarant.

48 (g) A receiver.



* A B 1 3 3 R 3 *

1 5. As used in this section, "property management" means the physical,
2 administrative or financial maintenance and management of real property,
3 or the supervision of those activities for a fee, commission or other
4 compensation or valuable consideration.

5 **Sec. 28.** NRS 116.3115 is hereby amended to read as follows:

6 116.3115 1. Until the association makes an assessment for common
7 expenses, the declarant shall pay all common expenses. After an
8 assessment has been made by the association, assessments must be made at
9 least annually, based on a budget adopted at least annually by the
10 association in accordance with the requirements set forth in NRS
11 116.31151. Except for an association for a time-share project governed by
12 the provisions of chapter 119A of NRS, and unless the declaration imposes
13 more stringent standards, the budget must include a budget for the daily
14 operation of the association and the money for the reserve required by
15 paragraph (b) of subsection 2.

16 2. Except for assessments under subsections 4 to 7, inclusive:

17 (a) All common expenses, including a reserve, must be assessed against
18 all the units in accordance with the allocations set forth in the declaration
19 pursuant to subsections 1 and 2 of NRS 116.2107.

20 (b) The association shall establish an adequate reserve, funded on a
21 reasonable basis, for the repair, replacement and restoration of the major
22 components of the common elements. The reserve may be used only for
23 those purposes, including, without limitation, repairing, replacing and
24 restoring roofs, roads and sidewalks, and must not be used for daily
25 maintenance.

26 3. Any past due assessment for common expenses or installment
27 thereof bears interest at the rate established by the association not
28 exceeding 18 percent per year.

29 4. To the extent required by the declaration:

30 (a) Any common expense associated with the maintenance, repair,
31 restoration or replacement of a limited common element must be assessed
32 against the units to which that limited common element is assigned,
33 equally, or in any other proportion the declaration provides;

34 (b) Any common expense or portion thereof benefiting fewer than all of
35 the units must be assessed exclusively against the units benefited; and

36 (c) The costs of insurance must be assessed in proportion to risk and the
37 costs of utilities must be assessed in proportion to usage.

38 5. Assessments to pay a judgment against the association may be made
39 only against the units in the common-interest community at the time the
40 judgment was entered, in proportion to their liabilities for common
41 expenses.

42 6. If any common expense is caused by the misconduct of any unit's
43 owner, the association may assess that expense exclusively against his unit.

44 7. The association of a common-interest community created before
45 January 1, 1992, is not required to make an assessment against a vacant lot
46 located within the community that is owned by the declarant.

47 8. If liabilities for common expenses are reallocated, assessments for
48 common expenses and any installment thereof not yet due must be
49 recalculated in accordance with the reallocated liabilities.



* A B 1 3 3 R 3 *

1 9. The association shall provide written notice to the owner of each
2 unit of a meeting at which an assessment for a capital improvement ~~for the~~
3 ~~commencement of a civil action~~ is to be considered or action is to be taken
4 on such an assessment at least 21 calendar days before the meeting.
5 ~~[Except as otherwise provided in this subsection, the association may~~
6 ~~commence a civil action only upon a vote or written agreement of the~~
7 ~~owners of units to which at least a majority of the votes of the members of~~
8 ~~the association are allocated. The provisions of this subsection do not apply~~
9 ~~to a civil action that is commenced:~~
10 ~~— (a) By an association for a time share project governed by the~~
11 ~~provisions of chapter 119A of NRS;~~
12 ~~— (b) To enforce the payment of an assessment;~~
13 ~~— (c) To enforce the declaration, bylaws or rules of the association;~~
14 ~~— (d) To proceed with a counterclaim; or~~
15 ~~— (e) To protect the health, safety and welfare of the members of the~~
16 ~~association. If a civil action is commenced pursuant to this paragraph~~
17 ~~without the required vote or agreement, the action must be ratified within~~
18 ~~90 days after the commencement of the action by a vote or written~~
19 ~~agreement of the owners of the units to which at least a majority of votes of~~
20 ~~the members of the association are allocated. If the association, after~~
21 ~~making a good faith effort, cannot obtain the required vote or agreement to~~
22 ~~commence or ratify such a civil action, the association may thereafter seek~~
23 ~~to dismiss the action without prejudice for that reason only if a vote or~~
24 ~~written agreement of the owners of the units to which at least a majority of~~
25 ~~votes of the members of the association are allocated was obtained at the~~
26 ~~time the approval to commence or ratify the action was sought.~~
27 ~~— 10. At least 10 days before an association commences or seeks to~~
28 ~~ratify the commencement of a civil action, the association shall provide a~~
29 ~~written statement to all units' owners that includes:~~
30 ~~— (a) A reasonable estimate of the costs of the civil action, including~~
31 ~~reasonable attorney's fees;~~
32 ~~— (b) An explanation of the potential benefits of the civil action and the~~
33 ~~potential adverse consequences if the association does not commence the~~
34 ~~action or if the outcome of the action is not favorable to the association;~~
35 ~~and~~
36 ~~— (c) All disclosures that are required to be made upon the sale of the~~
37 ~~property.~~
38 ~~— 11. No person other than a unit's owner may request the dismissal of a~~
39 ~~civil action commenced by the association on the ground that the~~
40 ~~association failed to comply with any provision of this section.]~~
41 **Sec. 29.** NRS 119A.165 is hereby amended to read as follows:
42 119A.165 1. If a matter governed by this chapter is also governed by
43 chapter 116 of NRS, compliance with the provisions of chapter 116 of
44 NRS governing the matter which are in addition to or different from the
45 provisions in this chapter governing the same matter is not required. In the
46 event of a conflict between provisions of this chapter and chapter 116 of
47 NRS, the provisions of this chapter prevail.
48 2. Without limiting the generality of subsection 1, the provisions of
49 NRS 116.11145, 116.12065, 116.3103, 116.31031, 116.31034, 116.3106,



1 116.31065, 116.3108 to 116.311, inclusive, 116.31139, 116.31145 to
2 116.31158, inclusive, 116.31162, 116.31175, 116.31177, 116.41095 and
3 116.4117 *and section 22 of this act* do not apply to a time share or a time-
4 share project.

5 **Sec. 30.** Chapter 278 of NRS is hereby amended by adding thereto the
6 provisions set forth as sections 31 and 32 of this act.

7 **Sec. 31. 1.** *Except as otherwise provided in this subsection, the*
8 *governing body of each city and county shall not accept an application*
9 *for a building permit for a project that includes the construction of new*
10 *footings or a new foundation for a structure or that requires excavation*
11 *or embankment of more than 5,000 cubic yards of earth, unless the*
12 *application is submitted with a geotechnical report. The governing body*
13 *may waive the requirement of the geotechnical report for any project*
14 *other than a project involving a residential dwelling unit.*

15 **2.** *The geotechnical report required pursuant to subsection 1 must*
16 *include:*

17 *(a) Information concerning the soil and geology of the site where the*
18 *project will be carried out;*

19 *(b) Information concerning the ground water on the site where the*
20 *project will be carried out and the potential that the ground water may*
21 *adversely affect the foundation of the project;*

22 *(c) A written statement from the architect, civil engineer or structural*
23 *engineer who was responsible for the design of the project verifying that*
24 *the design of the project is compatible with the geotechnical conditions*
25 *described in paragraphs (a) and (b);*

26 *(d) A written statement from a geotechnical engineer who has*
27 *reviewed the plans for the grading and foundation of the project*
28 *verifying that the project is geotechnically in compliance with the*
29 *geotechnical conditions of the site as described in paragraphs (a) and*
30 *(b); and*

31 *(e) Any other information required by the governing body.*

32 **3.** *The governing body of each city and county shall require by*
33 *ordinance the submission of a final report concerning grading of the*
34 *property, the elevation of the finished floor and the drainage on the*
35 *property for each construction project for which a geotechnical report is*
36 *required pursuant to subsection 1.*

37 **4.** *The ordinance adopted pursuant to subsection 3 must require:*

38 *(a) The final report concerning grading of the property to include*
39 *certification that the grading and the excavating or embanking work*
40 *complies with the requirements set forth in the geotechnical report*
41 *completed pursuant to subsection 1 and any supplements or addenda to*
42 *the report;*

43 *(b) The final report concerning the elevation of the finished floor to*
44 *include certification that the lowest elevation of the finished floor of the*
45 *project that is habitable complies with the plans for the project that were*
46 *approved by the governing body; and*

47 *(c) The final report concerning the drainage on the property to*
48 *include:*



1 (1) *A statement that the conditions of the drainage system on the*
2 *site of the project at the completion of the project complies with the plan*
3 *for drainage or the plan for the plot and grading that was approved by*
4 *the governing body; and*

5 (2) *If the plans for the project that were approved by the governing*
6 *body required a drainage system or facilities, structures or devices for*
7 *drainage that were designed by an engineer, verification from a civil*
8 *engineer that the drainage system and any facilities, structures or devices*
9 *for drainage were installed and constructed in compliance with those*
10 *plans. Devices for drainage include, without limitation, detention of*
11 *drainage on the site, drainage from one lot to another lot and devices for*
12 *conveying drainage.*

13 5. *The governing body of each city and county shall adopt an*
14 *ordinance that requires a developer to provide a person who purchases a*
15 *completed construction project described in subsection 1 with a written*
16 *report concerning the applicable building codes and regulations and any*
17 *recommendations of a geotechnical engineer and a civil engineer*
18 *concerning the use of the project. The ordinance must provide that this*
19 *report is part of the sales documents that must be acknowledged by the*
20 *buyer.*

21 6. *As used in this section, “residential dwelling unit” has the*
22 *meaning ascribed to it in NRS 278.4977.*

23 **Sec. 32.** *The governing body of each city and county shall adopt*
24 *ordinances to ensure the prevention and mitigation of harm to a building*
25 *or structure caused by water that is standing under the building or*
26 *structure.*

27 **Sec. 33.** NRS 278.010 is hereby amended to read as follows:

28 278.010 As used in NRS 278.010 to 278.630, inclusive, *and sections*
29 *31 and 32 of this act*, unless the context otherwise requires, the words and
30 terms defined in NRS 278.0105 to 278.0195, inclusive, have the meanings
31 ascribed to them in those sections.

32 **Sec. 34.** The amendatory provisions of this act do not apply to a claim
33 initiated or an action commenced pursuant to NRS 40.600 to 40.695,
34 inclusive, and sections 2 to 11, inclusive, of this act, unless the claim was
35 initiated or the action was commenced on or after the effective date of this
36 act.

37 **Sec. 35.** This act becomes effective upon passage and approval.

