

CHAPTER.....

AN ACT relating to contractors; creating a commission on construction education; creating a construction education account; authorizing the commission to grant money from the account for programs of construction education; requiring that certain fines received by the state contractors' board be credited to the construction education account; revising the exemptions from the provisions governing contractors; removing the requirement that the board require certain applicants for a contractor's license or a licensee to establish financial responsibility by submitting certain information; authorizing the board to require an applicant or licensee to establish financial responsibility; removing provisions that automatically require the board to hold a hearing if the board refuses to issue or renew a license; changing certain time requirements relating to hearings; requiring the board to send a certain notice to an applicant or licensee if the board denies an application for the issuance or renewal of a license; authorizing an applicant or licensee whose application for the issuance or renewal of a license is denied to request a hearing before the board; requiring the board to hold a hearing if it receives such a request; requiring the board to include certain information on an application for the issuance or renewal of a license; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 624 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. 1. *The commission on construction education is hereby created.*

2. The commission consists of one member who is a member of the board and six members appointed by the governor as follows:

(a) Four members who are representatives of the construction industry; and

(b) Two members who have knowledge of construction education programs.

3. Each member of the commission serves a term of 3 years.

4. The members of the commission who are appointed by the governor serve without compensation, per diem allowance or reimbursement for travel expenses. While engaged in the business of the commission, the member who is a member of the board shall receive from the board the same salary, per diem allowance and reimbursement for travel expenses he receives while engaged in the business of the board.

5. The commission shall review programs of education which relate to building construction and distribute grants from the construction education account created pursuant to section 3 of this act for programs that the commission determines qualify for such a grant.

6. The board may adopt regulations which establish the rules of procedure for meetings of the commission.

7. The commission shall adopt regulations providing:

(a) Procedures for applying for a grant of money from the construction education account;

(b) Procedures for reviewing an application for a grant from the construction education account; and

(c) Qualifications for receiving a grant from the construction education account.

Sec. 3. *1. There is hereby created a construction education account as a separate account within the state general fund.*

2. Money deposited in the fund must be used:

(a) Solely for the purposes of construction education and to pay the costs of the commission on construction education as described in accordance with subsection 3; and

(b) In addition to any other money provided for construction education from any other source.

3. The commission on construction education shall administer the construction education account and shall disburse the money in the account as follows:

(a) At least 95 percent of the money deposited in the account must be used to fund programs of education which relate to building construction and which the commission on construction education determines qualify for grants; and

(b) Not more than five percent of the money deposited in the account may be reserved for operating expenses incurred by the commission on construction education pursuant to this section.

4. The unexpended and unencumbered balance, if any, remaining in the construction education account at the end of each fiscal year, must remain in the account.

Sec. 4. *1. If the board denies an application for issuance or renewal of a license pursuant to this chapter, the board shall send by certified mail, return receipt requested, written notice of the denial to the most current address of the applicant set forth in the records of the board.*

2. A notice of denial must include, without limitation, a statement which explains that the applicant has a right to a hearing before the board if the applicant submits a written request for such a hearing to the board within 60 days after the notice of denial is sent to the address of the applicant pursuant to this section.

3. If an applicant who receives a notice of denial pursuant to this section desires to have the denial reviewed at a hearing before the board, he must submit a written request for a hearing before the board concerning the denial within 60 days after the notice of denial is sent to his address. If an applicant does not submit notice in accordance with this subsection, the applicant's right to a hearing shall be deemed to be waived.

4. Except as otherwise provided in this subsection, if the board receives notice from an applicant pursuant to subsection 3, the board shall hold a hearing on the decision to deny the application of the applicant within 90 days after the date the board receives notice pursuant to subsection 3. If an applicant requests a continuance and the board grants the continuance, the hearing required pursuant to this subsection may be held more than 90 days after the date the board receives notice pursuant to subsection 3.

Sec. 4.5. NRS 624.031 is hereby amended to read as follows:

624.031 ~~{This chapter does}~~ *The provisions of this chapter do* not apply to:

1. Work ~~{done}~~ *performed* exclusively by an authorized representative of the United States Government, the State of Nevada, or an incorporated city, county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this state.

2. An officer of a court when acting within the scope of his office.

3. Work ~~{done}~~ *performed* exclusively by a public utility operating pursuant to the regulations of the public utilities commission of Nevada on construction, maintenance and development work incidental to its ~~{own}~~ business.

4. An owner of property who is building or improving a residential structure on the property for his own occupancy and not intended for sale ~~{or lease}~~ *or lease, or the* offering for sale *or lease*, of the newly built structure within 1 year after its completion creates a rebuttable presumption for the purposes of this section that the building of the structure was performed with *the* intent to sell ~~{or lease that structure}~~ *that structure*. *An owner of property who requests an exemption pursuant to this subsection must apply to the board for the exemption. The board shall adopt regulations setting forth the requirements for granting the exemption.*

5. An owner of a complex containing not more than four condominiums, townhouses, apartments or cooperative units, the managing officer of the owner or an employee of the managing officer, who performs work to repair or maintain that property the value of which is less than \$500, including labor and materials, unless:

(a) A building permit is required to perform the work;

(b) The work is of a type performed by a plumbing, electrical, refrigeration, heating or air-conditioning contractor;

(c) The work is of a type performed by a contractor licensed in a classification prescribed by the board that significantly affects the health, safety and welfare of members of the general public;

(d) The work is performed as a part of a larger project:

(1) The value of which is \$500 or more; or

(2) For which contracts of less than \$500 have been awarded to evade the provisions of this chapter; or

(e) The work is performed by a person who is licensed pursuant to this chapter or by an employee of ~~{such a}~~ *that* person.

6. The sale or installation of any finished product, material or article of merchandise which is not ~~{actually}~~ fabricated into and does not become a permanent fixed part of the structure.

7. The construction, alteration, improvement or repair of personal property.

8. The construction, alteration, improvement or repair financed in whole or in part by the Federal Government and ~~{carried on}~~ *conducted* within the limits and boundaries of a site or reservation, the title of which rests in the Federal Government.

9. An owner of property, the primary use of which is as an agricultural or farming enterprise, building or improving a structure on the property for his ~~town~~ use or occupancy and not intended for sale or lease.

~~110. An owner of property who builds or improves a structure upon his property and who contracts solely with a managing contractor licensed pursuant to the provisions of this chapter for the building or improvement, if the owner is and remains financially responsible for the building or improving of all buildings and structures built by the owner upon his property pursuant to the exemption of this subsection.~~

Sec. 5. NRS 624.140 is hereby amended to read as follows:

624.140 1. Except as otherwise provided in subsection 3, if money becomes available from the operations of this chapter and payments made for licenses, the board may pay from that money:

(a) The expenses of the operations of this chapter, including the maintenance of offices.

(b) The salary of the executive officer who must be named by the board.

(c) A salary to each member of the board of not more than \$80 per day, as fixed by the board, while engaged in the business of the board.

(d) A per diem allowance and travel expenses for each member and employee of the board at a rate fixed by the board, while engaged in the business of the board. The rate must not exceed the rate provided for state officers and employees generally.

2. The board may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to this chapter, impose and collect fines therefor and deposit the money therefrom in banks, credit unions or savings and loan associations in this state.

3. ~~##~~ *Except as otherwise provided in NRS 624.520, if* a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 2, ~~and~~ the board ~~deposits the~~ *shall deposit any* money collected from the imposition of fines with the state treasurer for credit to the ~~state general fund, it may present a claim to the state board of examiners for recommendation to the interim finance committee if money is needed to pay attorney's fees or the costs of an investigation, or both.~~ *construction education account created pursuant to section 3 of this act.*

Sec. 6. NRS 624.250 is hereby amended to read as follows:

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

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

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

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

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

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

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

2. The application must be:

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

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

3. *The board shall include on an application form for the issuance or renewal of a license, a method for allowing an applicant to make a monetary contribution to the construction education account created pursuant to section 3 of this act. The application form must state in a clear and conspicuous manner that a contribution to the construction education account is voluntary and is in addition to any fees required for licensure. If the board receives a contribution from an applicant, the board shall deposit the contribution with the state treasurer for credit to the construction education account.*

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

Sec. 7. NRS 624.263 is hereby amended to read as follows:

624.263 1. The financial responsibility of a licensee or an applicant for a contractor's license must be established independently of and without reliance on any assets or guarantees of any owners or managing officers of the licensee or applicant, but the financial responsibility of any owners or managing officers of the licensee or applicant may be inquired into and considered as a criterion in determining the financial responsibility of the licensee or applicant.

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

(a) Net worth.

(b) Amount of liquid assets.

(c) Prior payment and credit records.

(d) Previous business experience.

(e) Prior and pending lawsuits.

(f) Prior and pending liens.

(g) Adverse judgments.

(h) Conviction of a felony or crime involving moral turpitude.

(i) Prior suspension or revocation of a contractor's license in Nevada or elsewhere.

(j) An adjudication of bankruptcy or any other proceeding under the federal bankruptcy laws, including:

(1) A composition, arrangement or reorganization proceeding;

(2) The appointment of a receiver of the property of the applicant or contractor or any officer, director, associate or partner thereof under the laws of this state or the United States; or

(3) The making of an assignment for the benefit of creditors.

(k) Form of business organization, ~~+~~ corporate or otherwise. ~~+~~

(l) Information obtained from confidential financial references and credit reports.

(m) Reputation for honesty and integrity of the applicant or contractor or any officer, director, associate or partner thereof.

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

(a) A copy of the petition or application filed with the court; and

(b) A copy of any order of the court which is relevant to the financial responsibility of the contractor, including any order appointing a trustee, receiver or assignee.

4. Before issuing a license to an applicant who will engage in residential construction or renewing the license of a contractor who engages in residential construction, the board ~~{shall}~~ *may* require the applicant or licensee to establish his financial responsibility by submitting to the board:

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

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

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

6. An applicant for an initial contractor's license or a licensee applying for the renewal of a contractor's license has the burden of demonstrating his financial responsibility to the board ~~H~~ , *if the board requests him to do so.*

Sec. 8. NRS 624.270 is hereby amended to read as follows:

624.270 1. Before issuing a contractor's license to any applicant, the board shall require that the applicant:

(a) File with the board a surety bond in a form acceptable to the board executed by the contractor as principal with a corporation authorized to transact surety business in the State of Nevada as surety; or

(b) In lieu of such a bond, establish with the board a cash deposit as provided in this section.

2. Before granting renewal of a contractor's license to any applicant, the board shall require that the applicant file with the board satisfactory evidence that his surety bond or cash deposit is in full force, unless the applicant has been relieved of the requirement as provided in this section.

3. Failure of an applicant or licensee to file or maintain in full force the required bond or to establish the required cash deposit constitutes cause for the board to deny, revoke, suspend or refuse to renew a license.

4. Except as otherwise provided in subsection 6, the amount of each bond or cash deposit required by this section must be fixed by the board with reference to the contractor's financial and professional responsibility and the magnitude of his operations, but must be not less than \$1,000 or more than \$100,000. The bond must be continuous in form and must be conditioned that the total aggregate liability of the surety for all claims is

limited to the face amount of the bond irrespective of the number of years the bond is in force. The board may increase or reduce the amount of any bond or cash deposit if evidence supporting such a change in the amount is presented to the board at the time application is made for renewal of a license or at any hearing conducted pursuant to NRS 624.291 ~~H~~ **or section 4 of this act.** Unless released earlier pursuant to subsection 5, any cash deposit may be withdrawn 2 years after termination of the license in connection with which it was established, or 2 years after completion of all work authorized by the board after termination of the license, whichever occurs later, if there is no outstanding claim against it.

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

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

7. As used in this section, "substantiated claims for wages" has the meaning ascribed to it in NRS 607.165.

Sec. 9. NRS 624.291 is hereby amended to read as follows:

624.291 1. Except as otherwise provided in subsection 4, if the board ~~{refuses to issue or renew a license,}~~ suspends or revokes a license, has probable cause to believe that a person has violated NRS 624.720 or imposes an administrative fine pursuant to NRS 624.710, the board shall hold a hearing. The time and place for the hearing must be fixed by the board, and notice of the time and place of the hearing must be personally served on the applicant or accused or mailed to the last known address of the applicant or accused at least ~~{30}~~ **21** days before the date fixed for the hearing.

2. The testimony taken pursuant to NRS 624.170 to 624.210, inclusive, must be considered a part of the record of the hearing before the board.

3. The hearing must be public if a request is made therefor.

4. The board may suspend the license of a contractor without a hearing if the board finds, based upon evidence in its possession, that the public health, safety or welfare imperatively requires summary suspension of the license of the contractor and incorporates that finding in its order. If the board summarily suspends the license of the contractor, the board must notify the contractor by certified mail. A hearing must be held within ~~{30}~~ **60** days after the suspension if the contractor submits a written request for

a hearing to the board within 20 days after the board summarily suspends his license.

Sec. 10. NRS 624.300 is hereby amended to read as follows:

624.300 1. Except as otherwise provided in subsection 3, the board may:

- (a) Suspend or revoke licenses already issued;
- (b) Refuse renewals of licenses;
- (c) Impose limits on the field, scope and monetary limit of the license;
- (d) Impose an administrative fine of not more than \$10,000;
- (e) Order a licensee to repay to the account established pursuant to NRS 624.470, any amount paid out of the account pursuant to NRS 624.510 as a result of an act or omission of that licensee;
- (f) Order the licensee to take action to correct a condition resulting from an act which constitutes a cause for disciplinary action, at the licensee's cost, that may consist of requiring the licensee to:
 - (1) Perform the corrective work himself;
 - (2) Hire and pay another licensee to perform the corrective work; or
 - (3) Pay to the owner of the construction project a specified sum to correct the condition; or
- (g) Reprimand or take other less severe disciplinary action, including, without limitation, increasing the amount of the surety bond or cash deposit of the licensee, if the licensee commits any act which constitutes a cause for disciplinary action.

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

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

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

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

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

7. If discipline is imposed pursuant to this section, including any discipline imposed pursuant to a stipulated settlement, the costs of the

proceeding, including investigative costs and attorney's fees, may be recovered by the board.

8. All fines collected pursuant to this section must be deposited with the state treasurer for credit to the construction education account created pursuant to section 3 of this act.

Sec. 11. NRS 624.710 is hereby amended to read as follows:

624.710 1. If any person violates the provisions of subsection 1 of NRS 624.700, the board may impose an administrative fine of not less than \$1,000 nor more than \$10,000 for each violation.

2. An administrative fine imposed pursuant to this section is in addition to any other penalty imposed pursuant to this chapter.

3. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the attorney general on behalf of the board.

4. All administrative fines collected pursuant to this section must be deposited with the state treasurer for credit to the construction education account created pursuant to section 3 of this act.

Sec. 12. This act becomes effective on July 1, 2001.