

SENATE BILL NO. 216—SENATORS CARE AND O'DONNELL

FEBRUARY 20, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Makes changes concerning repair, restoration, improvement or construction of residential swimming pools and spas. (BDR 52-1037)

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

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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 contracts; enacting provisions governing the financing of the repair, restoration, improvement or construction of residential pools and spas; requiring the state contractors' board to designate an employee as ombudsman for residential swimming pools and spas and prescribing the duties of the ombudsman; 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 597 of NRS is hereby amended by adding thereto a  
2 new section to read as follows:  
3     1. *Before issuing, purchasing or acquiring a loan to finance the*  
4 *repair, restoration, improvement or construction of a residential pool or*  
5 *spa, regardless of use, a financial institution shall review the contract*  
6 *entered into by the owner and the contractor to ensure that the contract*  
7 *complies with the provisions of this section and NRS 597.713, 597.716*  
8 *and 597.719 and any regulations of the state contractors' board*  
9 *governing contracts for the construction of residential pools and spas. If*  
10 *the contract entered into by the owner and the contractor is later found to*  
11 *be void and unenforceable against the owner pursuant to subsection 4 of*  
12 *NRS 597.719 or any regulations of the state contractors' board*  
13 *governing contracts for the construction of residential pools and spas,*  
14 *the obligation of the owner to repay the loan is discharged.*  
15     2. *Before issuing, purchasing or acquiring a loan to finance the*  
16 *repair, restoration, improvement or construction of a residential pool or*  
17 *spa, regardless of use, a financial institution shall provide to the owner:*  
18     (a) *Written confirmation of financing for the maximum estimated*  
19 *construction cost of the residential pool or spa; and*  
20     (b) *Written notice of the terms and conditions of the loan for the*  
21 *maximum estimated construction cost of the residential pool or spa,*



1 *including, without limitation, the annual percentage rate, the finance*  
2 *charge, the amount financed, the total number of payments, the payment*  
3 *schedule and a description of the security interest to be taken by the*  
4 *financial institution.*

5 *3. An affiliate or associate of a contractor may not issue, purchase or*  
6 *acquire a loan to finance the repair, restoration, improvement or*  
7 *construction of a residential pool or spa, regardless of use.*

8 *4. A contract for the repair, restoration, improvement or construction*  
9 *of a residential pool or spa is not enforceable against the owner if:*

10 *(a) Obtaining a loan for all or a portion of the contract price is a*  
11 *condition precedent to the contract.*

12 *(b) The contractor provides financing or any other assistance to the*  
13 *owner in obtaining a loan.*

14 *(c) The contractor refers the owner to any person who may loan or*  
15 *arrange a loan for all or a portion of the contract price.*

16 *5. As used in this section:*

17 *(a) "Affiliate" means a person that directly, or indirectly through one*  
18 *or more intermediaries, is controlled by, or is under common control*  
19 *with, a specified person.*

20 *(b) "Associate," when used to indicate a relationship with any person,*  
21 *means:*

22 *(1) Any corporation or organization of which that person is an*  
23 *officer or partner or is, directly or indirectly, the beneficial owner of 10*  
24 *percent or more of any class of voting shares;*

25 *(2) Any trust or other estate in which that person has a substantial*  
26 *beneficial interest or as to which he serves as trustee or in a similar*  
27 *fiduciary capacity; or*

28 *(3) Any relative or spouse of that person, or any relative of the*  
29 *spouse.*

30 *(c) "Financial institution" means a bank, mortgage company, credit*  
31 *union, thrift company, or savings and loan association, or any subsidiary*  
32 *or affiliate of a bank, mortgage company, credit union, thrift company,*  
33 *or savings and loan association that is authorized to do business in this*  
34 *state.*

35 **Sec. 2.** NRS 597.713 is hereby amended to read as follows:

36 597.713 As used in this section and NRS 597.716 and 597.719, *and*  
37 *section 1 of this act*, "contractor" means a person licensed pursuant to the  
38 provisions of chapter 624 of NRS whose scope of work includes the  
39 construction, repair or maintenance of any residential swimming pool or  
40 spa, regardless of use, including the repair or replacement of existing  
41 equipment or the installation of new equipment, as necessary. The scope of  
42 such work includes layout, excavation, operation of construction pumps for  
43 removal of water, steelwork, construction of floors, installation of gunite,  
44 fiberglass, tile and coping, installation of all perimeter and filter piping,  
45 installation of all filter equipment and chemical feeders of any type,  
46 plastering of the interior, construction of decks, installation of housing for  
47 pool equipment and installation of packaged pool heaters.



1     **Sec. 3.** NRS 597.716 is hereby amended to read as follows:

2     597.716 1. A contractor who receives an initial payment of \$1,000 or  
3     10 percent of the aggregate contract price, whichever is less, for the repair,  
4     restoration, improvement or construction of a residential pool or spa shall  
5     start the work within 30 days after the date all necessary permits for the  
6     work, if any, are issued, unless the person who made the payment agrees in  
7     writing to a longer period to apply for the necessary permits or start the  
8     work or to longer periods for both.

9     2. A contractor who receives money for the repair, restoration,  
10    addition, improvement or construction of a residential pool or spa ~~must~~  
11    shall complete the work diligently and shall not refuse to perform any  
12    work for any 30-day period.

13    3. If satisfactory payment is made for any portion of the work  
14    performed, the contractor shall, before any further payment is made,  
15    furnish the owner a full and unconditional release from any claim of  
16    mechanic's lien for that portion of the work for which payment has been  
17    made.

18    4. The requirements of subsection 3 do not apply if the contract  
19    provides for the contractor to furnish a bond for payment and performance  
20    or joint control covering full performance and completion of the contract  
21    and the bond or joint control is furnished by the contractor.

22    5. An agreement or contract for the repair, restoration, improvement or  
23    construction of a residential pool or spa must contain a written statement  
24    explaining the rights of the customer under this section, NRS 597.713 and  
25    597.719, *and section 1 of this act* and other relevant statutes.

26    6. A contractor may require final payment for the final stage or phase  
27    of the construction of a residential pool or spa after the completion of the  
28    plastering and the final inspection by the local building department, unless  
29    any installation of equipment, decking or fencing that is required in the  
30    contract is not completed.

31    7. A violation of the provisions of this section by a contractor  
32    constitutes cause for disciplinary action pursuant to NRS 624.300.

33    **Sec. 4.** NRS 597.719 is hereby amended to read as follows:

34    597.719 1. A contract in an amount of more than \$1,000 entered into  
35    between a contractor and the owner of a single-family residence for the  
36    construction or alteration of a residential pool or spa must contain in  
37    writing at least the following information:

38    (a) The name of the contractor and his business address and license  
39    number;

40    (b) The name and mailing address of the owner and the address or legal  
41    description of the property;

42    (c) The date of execution of the contract;

43    (d) The estimated date of completion of all work to be performed under  
44    the contract;

45    (e) A description of the work to be performed under the contract;

46    (f) The total amount to be paid to the contractor by the owner for all  
47    work to be performed under the contract, including all applicable taxes;

48    (g) The amount of any advance deposit paid or promised to be paid to  
49    the contractor by the owner;



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1 (h) A statement that the contractor has provided the owner with the  
2 notice and informational form required by NRS 624.600;

3 (i) A statement that any additional work to be performed under the  
4 contract, whether or not pursuant to a change order, which will require the  
5 owner to pay additional money and any other change in the terms in the  
6 original contract must be agreed to in writing by the parties and  
7 incorporated into the original contract as a change order;

8 (j) A plan and scale drawing showing the shape, size, dimensions and  
9 the specifications for the construction and equipment for the residential  
10 pool or spa and for other home improvements, and a description of the  
11 work to be done, the materials to be used and the equipment to be installed,  
12 and the agreed consideration for the work; and

13 (k) The dollar amount of any progress payment and the stage of  
14 construction at which the contractor will be entitled to collect progress  
15 payments during the course of construction under the contract.

16 Except as otherwise provided in subsection 4, the contract may contain  
17 such other conditions, stipulations or provisions as to which the parties  
18 may agree.

19 2. The contract must contain, in close proximity to the signatures of  
20 the owner and the contractor, a notice stating that the owner has the right to  
21 request a bond for payment and performance.

22 3. At the time the owner signs the contract, the contractor shall furnish  
23 him a legible copy of all documents signed and a written and signed receipt  
24 for any money paid to the contractor by the owner. All written information  
25 provided in the contract must be printed in at least 10-point bold type.

26 4. A condition, stipulation or provision in a contract or other  
27 agreement that requires a person to waive any right provided by this  
28 section and NRS 597.713 and 597.716 *and section 1 of this act* or relieves  
29 a person of an obligation or liability imposed by those sections is void.  
30 Failure to comply with the requirements of this section and NRS 597.713  
31 and 597.716 *and section 1 of this act* renders a contract *void and*  
32 *unenforceable* ~~§~~ *against the owner.*

33 5. The contractor shall apply for and obtain all necessary permits.

34 **Sec. 5.** Chapter 624 of NRS is hereby amended by adding thereto a  
35 new section to read as follows:

36 *1. The board shall designate an employee as ombudsman for*  
37 *residential swimming pools and spas.*

38 *2. The ombudsman for residential swimming pools and spas shall:*

39 *(a) Assist homeowners, contractors and financial institutions to*  
40 *understand their rights and responsibilities as set forth in NRS 597.713,*  
41 *597.716 and 597.719, and section 1 of this act, and any regulations of the*  
42 *board governing contracts for the repair, restoration, improvement or*  
43 *construction of residential pools and spas.*

44 *(b) Notify the board if it appears that any person has engaged in any*  
45 *act or practice that constitutes a violation of any provision of NRS*  
46 *597.713, 597.716 or 597.719 or section 1 of this act or any regulations of*  
47 *the board governing contracts for the repair, restoration, improvement or*  
48 *construction of residential pools and spas.*



1     **Sec. 6.**   This act becomes effective upon passage and approval.

