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Proposed Amendment to SB 71
Submitted by Associated General Contractors – Nevada Chapter
April 30, 2003

Section 1. Chapter 608 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a surety issues a surety bond pursuant to NRS 608.150 to guarantee the payment of the indebtedness incurred by a subcontractor or contractor for labor and for the requirements imposed by chapters 616A to 617, inclusive, of NRS, the surety must pay any claim against the surety bond or bring an action for interpleader in the manner provided by NRS 624.273 not later than 30 days after the date the surety receives the first claim *in writing* against the surety bond which is supported by objective evidence that reasonably supports the amount of the claim. Such objective evidence shall be deemed to include, without limitation:

- (a) A judgment in favor of the claimant which shows that the subcontractor or contractor incurred indebtedness for labor and for the requirements imposed by chapters 616A to 617, inclusive, of NRS in an amount equal to or exceeding the amount of the claim against the surety bond;
- (b) An audit or any other similar accounting report prepared by an accountant which shows that the subcontractor or contractor incurred indebtedness for labor and for the requirements imposed by chapters 616A to 617, inclusive, of NRS in an amount equal to or exceeding the amount of the claim against the surety bond; or
- (c) A written acknowledgment executed by the indebted subcontractor or contractor which shows that the subcontractor or contractor incurred indebtedness for labor and for the requirements imposed by chapters 616A to 617, inclusive, of NRS in an amount equal to or exceeding the amount of the claim against the surety bond.

2. If the surety receives any claim against the surety bond that satisfies the requirements of subsection 1 and *the surety is found by the court to have unreasonably and without justification failed [fails]* to either pay the claim or bring an action for interpleader within the time required by subsection 1, the surety is liable to the claimant for:

- (a) The amount of the claim;
- (b) Interest on the amount of the claim, at the rate set forth in NRS 17.130, beginning on the date that the surety first received the claim;
- (c) The actual costs incurred by the claimant to file and pursue the claim;
- (d) Reasonable attorney's fees incurred by the claimant *from the date in which the written demand was made to the surety pursuant to subsection 1(1)*; and
- (e) Any other amounts that the claimant is entitled to recover from the surety pursuant to any other statute, any court rule or the

common law.

3. The liability imposed on the surety pursuant to subsection 2 is not limited by the amount of the surety bond that was issued by the surety, and the claimant is entitled to recover from the surety all amounts set forth in subsection 2, regardless of whether those amounts exceed the amount of the surety bond.

4. If the surety receives any claim against the surety bond that satisfies the requirements of subsection 1 and the surety brings an action for interpleader within the time required by 3 subsection 1, the surety is entitled to deduct its costs of the action from its liability under the surety bond to the extent provided by NRS 624.273.