

**Amendment No. 1086**

Assembly Amendment to Senate Bill No. 434 First Reprint	(BDR 52-1103)
<b>Proposed by:</b> Committee on Commerce and Labor	
<b>Amendment Box:</b> Replaces Amendment No. 837.	
<b>Resolves Conflicts with:</b> N/A	
<b>Amends:</b> Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend sec. 7, page 7, line 2, by deleting “project.” and inserting:

“project ~~[.]~~ *or if the contractor builds a residential pool or spa as part of the original building plan pursuant to which the contractor builds a single-family residence on the premises.*”.

Amend sec. 13, page 12, by deleting line 11 and inserting:

“7. If a”.

Amend sec. 13, page 12, by deleting lines 15 through 17 and inserting:

“(a) ~~[Becomes licensed pursuant to this chapter on or after July 1, 2001;~~  
~~—(b)]~~ Is determined by the Board to have violated one or more of”.

Amend sec. 13, page 12, line 19, by deleting “(c)” and inserting “~~[(c)]~~ (b)”.

Amend sec. 13, page 12, line 25, by deleting “(d)” and inserting “~~[(d)]~~ (c)”.

Amend sec. 13, page 12, line 27, by deleting “contractor shall” and inserting:

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WLK/LJM

Date: 5/27/2005

S.B. No. 434—Revises provisions governing regulation of contractors.

***“Board may require the contractor ~~[shall]~~ to”.***

Amend sec. 13, page 12, by deleting lines 28 and 29 and inserting:

***“8. ~~[A]~~ If the Board requires a contractor described in subsection 7 to comply with the provisions of this subsection, the contractor shall, before commencing work”.***

Amend sec. 13, page 12, line 38, by deleting “A” and inserting:

***“~~[A]~~ Except as otherwise provided in this paragraph, a”.***

Amend sec. 13, page 13, by deleting lines 4 through 24 and inserting:

***“bond. In lieu of a performance or payment bond, the contractor may obtain an equivalent form of security approved by the Board.***

9. As used in this section, “substantiated claim for wages” has”.

Amend the bill as a whole by adding a new section designated sec. 13.5, following sec. 13, to read as follows:

***“Sec. 13.5.*** NRS 624.275 is hereby amended to read as follows:

624.275 1. With respect to a surety bond that a licensed contractor maintains in accordance with NRS 624.270 ~~[:]~~ ***or 624.276:***

(a) The surety shall give prompt notice to the Board of any claims paid against the bond of the licensed contractor.

(b) The surety may cancel the bond upon giving 60 days’ notice to the Board and to the contractor by certified mail.

2. Upon receipt by the Board of the notice described in paragraph (a) of subsection 1, the Board shall immediately notify the contractor who is the principal on the bond that his license will be

suspended or revoked unless he furnishes an equivalent bond or establishes an equivalent cash deposit before a date set by the Board.

3. Upon receipt by the Board of the notice described in paragraph (b) of subsection 1, the Board shall immediately notify the contractor who is the principal on the bond that his license will be suspended or revoked unless he furnishes an equivalent bond or establishes an equivalent cash deposit before the effective date of the cancellation.

4. The notice mailed to the contractor by the Board pursuant to subsection 2 or 3 must be addressed to his latest address of record in the office of the Board.

5. If the contractor does not comply with the requirements of the notice from the Board, his license must be suspended or revoked on the date:

(a) Set by the Board, if the notice was provided to the contractor pursuant to subsection 2; or

(b) The bond is cancelled, if the notice was provided to the contractor pursuant to subsection 3.”.

Amend sec. 14, page 13, line 31, by deleting “may,” and inserting “[~~may,~~] **shall,**”.

Amend sec. 14, page 13, by deleting lines 32 through 34 and inserting:

“or renewal of a license, require the applicant to [~~file~~] :

(a) ***File*** with the Board a bond ***solely*** for the protection of consumers in an amount fixed by the Board [~~1~~]; ***or***

(b) ***In lieu of filing a bond, establish with the Board a cash deposit as provided in this section.***”.

Amend sec. 14, page 13, line 39, by deleting “2” and inserting “[~~2~~] 5”.

Amend sec. 14, page 13, by deleting lines 40 through 42 and inserting:

***“3. After a contractor who performs work concerning a residential pool or spa 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 contractor of the requirements of subsection 1 if evidence supporting such relief is presented to the Board. The Board may at any time thereafter require the contractor to comply with subsection 1 if evidence is presented to the Board supporting this requirement.*

*4. If a licensee is relieved of the requirement of establishing a cash deposit pursuant to this section, the deposit may be withdrawn 2 years after such relief is granted, if there is no outstanding claim against it.*

*5. 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.*

*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 \$10,000 or more than \$400,000. 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.*

*7. A bond required pursuant to subsection 1 must be provided by a person whose long-term debt obligations are rated "A" or better by a nationally recognized rating agency. 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 624.2545 or 624.291.*

*8. Unless released earlier pursuant to subsection 3, 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.*

*9. Each bond or deposit required pursuant to this section must be in favor of the State of Nevada solely for the benefit of any consumer who entered into a contract with the contractor to perform work concerning a residential pool or spa and:*

*(a) Is damaged by failure of the contractor to perform the contract or to remove liens filed against the property; or*

*(b) Is injured by any unlawful act or omission of the contractor in the performance of a contract.*

*10. Any consumer claiming against the bond or deposit may bring an action in a court of competent jurisdiction on the bond or against the Board on the deposit for the amount of damage he has suffered to the extent covered by the bond or deposit.*

*11. If an action is commenced on the bond, the surety that executed the bond shall notify the Board of the action within 30 days after the date that:*

*(a) The surety is served with a complaint and summons; or*

*(b) The action is commenced,*

*↪ whichever occurs first.*

*12. A claim or action pursuant to this section must proceed and be administered in the manner provided pursuant to NRS 624.273 for a claim or action.*

*13. The Board shall adopt regulations necessary to carry out the provisions of this section, including, without limitation, regulations concerning:*

*(a) The determination of the amount of a bond pursuant to this section;*

*(b) The form of bond required pursuant to this section;*

*(c) The time within which an applicant or licensee must comply with the provisions of this section; and*

*(d) Procedures to contest the amount of a bond required pursuant to this section.*

*14. The Board shall immediately suspend the license of a contractor who fails to post the bond or provide the deposit required pursuant to this section. Failure by a licensee for 6 months to post the bond or provide the deposit required pursuant to this section constitutes grounds for disciplinary action.*

*15. As used in this section:*

*(a) "Consumer" means a natural person who:*

*(1) Owns a single-family residence; and*

*(2) Enters into a contract with a licensee to perform work concerning a residential pool or spa.*

*(b) "Work concerning a residential pool or spa" has the meaning ascribed to it in NRS 597.713."*

Amend the bill as a whole by adding a new section designated sec. 16, following sec. 15, to read as follows:

**"Sec. 16.** This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and
2. On July 1, 2005, for all other purposes."

Amend the title of the bill by deleting the tenth through thirteenth lines and inserting:

“spas; requiring contractors who perform work on residential pools and spas to provide a bond or cash deposit for the protection of consumers under certain circumstances; providing procedures for administering such bonds and cash deposits; revising provisions governing performance, payment and consumer protection bonds; providing penalties; and”.

**If this amendment is adopted, the Legislative  
Counsel's Digest will be changed to read as follows:**

**Legislative Counsel's Digest:**

Existing law regulates contractors who perform certain work on residential pools and spas. (NRS 597.713-597.7198) The type of work performed by a contractor that is subject to regulation is defined under existing law to include the construction, repair or maintenance of residential pools and spas. (NRS 597.713)

This bill expands the type of work performed by a contractor that is subject to regulation. Such work is defined under this bill to include the design, construction, repair, maintenance, restoration, alteration or improvement of residential pools and spas, as well as any consultation or supervision that a contractor performs concerning such work. This bill prohibits a person from performing or offering to perform, for a fee, any such work on residential pools or spas without the proper license or other authorization under state law.

This bill also requires the State Contractors' Board to adopt regulations establishing classifications of licensing that authorize contractors who perform work on residential pools and spas to install plumbing and gas lines in connection with that work. The regulations must establish the qualifications, training and examinations required to receive such classifications.

Under existing law, certain contractors who perform work on residential pools and spas must meet certain performance and payment bonding requirements before performing the work. The bonding requirements apply to any contractor who is licensed by the State Contractors' Board on or after July 1, 2001, and to other contractors who commit certain violations. (NRS 624.270)



Additionally, the Board may require a contractor who performs work on residential pools and spas to obtain an additional bond for the protection of consumers. (NRS 624.276)

This bill eliminates the requirement that a contractor who is licensed by the State Contractors' Board on or after July 1, 2001, must necessarily comply with the performance and payment bonding requirements which are specific to contractors who perform work on residential pools and spas.

This bill requires that a contractor who performs work on residential pools and spas must obtain an additional bond or provide a cash deposit for the protection of consumers. This bill provides for relief from this requirement for contractors who have been licensed in this State for at least 5 consecutive years. This bill also provides procedures for administering these bonds and deposits, including the resolution of claims against these bonds and deposits.