

Amendment No. 419

Senate Amendment to Senate Bill No. 151

(BDR 54-702)

Proposed by: Senate Committee on Commerce and Labor**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~orange double underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold dashed underlining*** is newly added transitory language.

DP/WLK



Date: 4/17/2009

S.B. No. 151—Provides for the payment of certain claims from the Recovery Fund of the State Contractors' Board. (BDR 54-702)



SENATE BILL NO. 151—SENATOR CARLTON

FEBRUARY 19, 2009

Referred to Committee on Commerce and Labor

SUMMARY—Provides for the payment of certain claims from the Recovery Fund of the State Contractors' Board. (BDR 54-702)

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 contractors; providing for the payment of claims from the Recovery Fund of the State Contractors' Board under certain circumstances to an owner who has paid a subcontractor or materialman to obtain the release of a lien on his property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 4 of this bill ~~require~~ **authorize** the State Contractors' Board to suspend or revoke the license of a residential contractor when the Recovery Fund reimburses a property owner who must pay a subcontractor or materialman to obtain the release of a lien on the property after the residential contractor has not paid the subcontractor or materialman money received for the work or materials rendered. (NRS 624.3012, 624.530) **Section 4** also ~~requires~~ **authorizes** the Board not to issue a license to, or renew or reinstate a license of, a residential contractor so disciplined.

Section 2 of this bill expands the definition of an "injured person," for the purposes of eligibility to make a claim against the Recovery Fund, to include an owner who is required to pay a second time to obtain the release of a lien recorded against his property for the value of work or materials rendered for a construction project on the property when a contractor has previously received payment for the work or materials and has, in turn, failed to pay for the work or materials. (NRS 624.420)

Section 3 of this bill revises provisions relating to the authorized use of the money in the Recovery Fund to authorize the payment of claims made by "injured persons" as defined in **section 2**. (NRS 624.470)

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

Section 1. NRS 624.3012 is hereby amended to read as follows:
624.3012 The following acts, among others, constitute cause for disciplinary action under NRS 624.300:

1. Diversion of money or property received for the completion of a specific construction project or operation or for a specified purpose in the completion of any

1 construction project or operation to any other construction project or operation,
2 obligation or purpose.

3 2. Willful or deliberate failure by any licensee or agent or officer thereof to
4 pay any money when due for any materials or services rendered in connection with
5 his operations as a contractor, when he has the capacity to pay or when he has
6 received sufficient money therefor as payment for the particular construction work,
7 project or operation for which the services or materials were rendered or purchased
8 ~~. for the~~

9 3. ~~The false denial by any licensee or agent or officer thereof of any such~~
10 ~~amount due , or the validity of the claim thereof , for any materials or services~~
11 ~~rendered in connection with his operations as a contractor, when he has the~~
12 ~~capacity to pay or when he has received sufficient money therefor as payment for~~
13 ~~the particular construction work, project or operation for which the services or~~
14 ~~materials were rendered or purchased,~~ with intent to secure a discount upon such
15 indebtedness or with intent to injure, delay or defraud the person to whom such
16 indebtedness is due.

17 ~~3.4~~ 4. Failure to obtain the discharge or release of any lien recorded against
18 the property to be improved by a construction project for the price of any materials
19 or services rendered to the project by order of the contractor, when the contractor
20 has received sufficient money therefor as payment for the project, within 75 days
21 after the recording of the lien.

22 Sec. 2. NRS 624.420 is hereby amended to read as follows:

23 624.420 "Injured person" means an owner who ~~has~~:

24 1. ~~Is~~ damaged by the failure of a residential contractor to perform qualified
25 services adequately ~~for~~; or

26 2. ~~Pays to obtain a release of a lien:~~

27 (a) ~~Which is recorded:~~

28 (1) ~~For the value of any materials or services rendered in connection~~
29 ~~with a construction project; and~~

30 (2) ~~Against property to be improved by the project; and~~

31 (b) ~~When a licensee or agent or officer thereof:~~

32 (1) ~~Willfully or deliberately fails to pay any money when due for the~~
33 ~~materials or services; and~~

34 (2) ~~Has received sufficient money as payment for the materials or~~
35 ~~services.~~

36 Sec. 3. NRS 624.470 is hereby amended to read as follows:

37 624.470 1. Except as otherwise provided in subsection 3, in addition to the
38 fee for a license required pursuant to NRS 624.280, a residential contractor shall
39 pay to the Board an assessment not to exceed the following amount, if the monetary
40 limit on his license is:

41
42 Not more than \$1,000,000\$200 per biennium
43 More than \$1,000,000 but limited500 per biennium
44 Unlimited.....1,000 per biennium
45

46 2. The Board shall administer and account separately for the money received
47 from the assessments collected pursuant to subsection 1. The Board may refer to the
48 money in the account as the "Recovery Fund."

49 3. The Board shall reduce the amount of the assessments collected pursuant to
50 subsection 1 when the balance in the account reaches 150 percent of the largest
51 balance in the account during the previous fiscal year.

52 4. Except as otherwise provided in NRS 624.540, the money in the account
53 must be used to pay claims made by ~~owners who are damaged by the failure of a~~

1 ~~residential contractor to perform qualified services adequately,} injured persons,~~ as
2 provided in NRS 624.400 to 624.560, inclusive.

3 **Sec. 4.** NRS 624.530 is hereby amended to read as follows:

4 624.530 **1.** The provisions of NRS 624.400 to 624.560, inclusive, do not
5 limit the authority of the Board to take disciplinary action against a residential
6 contractor.

7 **2.** *If the Board or its designee finds that an owner recovered from the*
8 *account an amount paid by the owner to obtain a release of a lien recorded*
9 *against property to be improved by a construction project as a result of a*
10 *residential contractor's act or omission as described in subsection 2 of NRS*
11 *624.3012, in addition to any disciplinary action that the Board takes against the*
12 *residential contractor pursuant to subsection 1, the Board ~~shall~~ may:*

13 (a) *Suspend or revoke the license of the residential contractor; and*

14 (b) *Prohibit the issuance, reinstatement or renewal of a license to the*
15 *residential contractor and any officer, director, associate or partner thereof,*
16 *unless the residential contractor or any officer, director, associate or partner*
17 *thereof repays to the account or the owner, or both, as appropriate, any amount*
18 *paid out of the account or by the owner as a result of the act or omission of the*
19 *residential contractor.*