

Amendment No. 604

Assembly Amendment to Assembly Bill No. 440 Proposed by: Assembly Committee on Judiciary Amendment Box: Replaces Amendment No. 399. Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	(BDR 3-1108)
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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"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.



ASSEMBLY BILL NO. 440—COMMITTEE ON JUDICIARY

MARCH 25, 2019

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to ~~home warranties;~~ construction.
(BDR ~~2-1108~~) 54-1108)

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 ~~real property;~~ construction; requiring a ~~contractor~~ licensee who builds a new , single-family residence to provide to the purchaser of the residence a disclosure containing certain information and a ~~new home~~ builder's warranty that meets certain criteria; revising provisions relating to the acts or omissions that constitute cause for disciplinary action by the State Contractors' Board; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that certain acts or omissions constitute cause for disciplinary action by the State Contractors' Board. (NRS 624.301, 624.3016) Section 1 of this bill requires a ~~contractor~~ licensee who builds a new , single-family residence to provide to the purchaser of ~~a~~ the new residence a disclosure containing certain information and a ~~new home~~ builder's warranty that meets certain criteria. ~~Sections 2-4 of this bill make conforming changes.~~ Section 1.7 of this bill provides that the failure of a licensee to comply with section 1 or with the requirement to notify an owner about the Residential Construction Recovery Fund constitutes cause for disciplinary action by the Board. Section 1.3 of this bill revises the elements of certain acts that constitute cause for such disciplinary action by the Board.

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

Section 1. Chapter ~~409~~ 624 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A ~~contractor~~ licensee who completes construction of a new , single-family residence shall provide to the purchaser of the residence ~~a new home~~ :

(a) A separate, single-page disclosure describing the rights of the purchaser under this chapter, including, without limitation, the right to file a complaint pursuant to NRS 624.480 seeking recovery from the account established pursuant to NRS 624.470; and

(b) A builder's warranty that meets the requirements of this section.

2. A ~~new home~~ builder's warranty provided by a ~~contractor~~ licensee pursuant to this section must:

(a) Be in writing.

(b) Be valid for a period of at least 1 year ~~after~~ from the date of ~~final completion of construction~~ occupancy of the residence ~~for~~

~~(b) Offer coverage for all:~~

~~(1) Defective systems, workmanship, materials, plumbing, electrical and mechanical systems, appliances, fixtures and equipment; and~~

~~(2) Structural defects.~~

~~3. A contractor who constructs a new residence remains liable to the purchaser of a residence to perform all necessary repairs and corrections to the residence in accordance with the terms of the contract until coverage under the new home warranty begins upon final completion of construction.~~

~~4. As used in this section, "final completion of construction" means the purchaser of the residence has notified the contractor, in writing, that:~~

~~(a) There are no items in the residence to be repaired or corrected; or~~

~~(b) If the purchaser has provided to the contractor a list or description of all items in the residence to be repaired or corrected, often referred to as a punch list, all items on the list have been repaired or corrected to the satisfaction of the purchaser, by the purchaser of the residence or the date that title to the residence transfers to the purchaser, whichever is earlier, except that the period of validity of the builder's warranty must be extended beyond the 1-year period, if necessary, for any claim submitted to the licensee in writing during the 1-year period until the claim has been resolved or the item requiring repair has been reasonably repaired. For the purposes of this paragraph, "reasonably repaired" means repaired consistent with the performance standards set forth in the builder's warranty or, if there are no applicable performance standards set forth in the builder's warranty, commensurate with standards of the trade that are in general effect at the time of completion of construction.~~

(c) Contain terms that include, without limitation, warranting all home systems, workmanship, materials, plumbing, electrical and mechanical systems, appliances installed by contractors, fixtures, equipment and structural components, unless a separate warranty is provided by the manufacturer or installer of such a product, component or system.

(d) Be transferable to a subsequent purchaser of the residence.

(e) Not be deemed, construed or interpreted to constitute a waiver or release of any other warranty from the licensee provided by contract or otherwise available under the laws of this State.

3. A licensee who fails to comply with this section:

(a) Commits an act or omission that constitutes cause for disciplinary action as provided in subsection 12 of NRS 624.3016;

(b) May be subject to a written administrative citation as provided in NRS 624.341; and

(c) If the failure arises out of being nonresponsive to a reasonable claim under the builder's warranty, in addition to any other disciplinary action imposed by the Board, may be ordered by the Board to reimburse the purchaser for any costs or expenses incurred by the purchaser for hiring another licensee to repair the item at issue or resolve the claim.

Sec. 1.3. NRS 624.301 is hereby amended to read as follows:

624.301 The following acts, among others, constitute cause for disciplinary action under NRS 624.300:

1. Abandonment without legal excuse of any construction project or operation ~~engaged in or undertaken by the licensee as a contractor.~~

2. Abandonment of a construction project when the percentage of the project completed is less than the percentage of the total price of the contract paid to the contractor at the time of abandonment, unless the contractor is entitled to retain the amount paid pursuant to the terms of the contract or the contractor refunds the excessive amount paid within 30 days after the abandonment of the project.

3. Failure in a material respect ~~for the part of a licensee~~ to complete any construction project or operation for the price stated in the contract for the project or operation or any modification of the contract.

4. ~~Willful failure~~ **Failure** or refusal without legal excuse ~~for the part of a licensee as a contractor~~ to prosecute a construction project or operation with reasonable diligence. ~~for thereby causing material injury to another.~~

5. ~~Willful failure~~ **Failure** or refusal without legal excuse on the part of a licensee to comply with the terms of a construction contract or written warranty. ~~for thereby causing material injury to another.~~

Sec. 1.7. NRS 624.3016 is hereby amended to read as follows:

624.3016 The following acts or omissions, among others, constitute cause for disciplinary action under NRS 624.300:

1. Any fraudulent or deceitful act committed in the capacity of a contractor, including, without limitation, misrepresentation or the omission of a material fact.

2. A conviction of a violation of NRS 624.730, or a conviction in this State or any other jurisdiction of a felony relating to the practice of a contractor or a crime involving moral turpitude.

3. Knowingly making a false statement in or relating to the recording of a notice of lien pursuant to the provisions of NRS 108.226.

4. Failure to give a notice required by NRS 108.227, 108.245, ~~for~~ 108.246 ~~or 624.520.~~

5. Failure to comply with NRS 624.920, 624.930, 624.935 or 624.940 or any regulations of the Board governing contracts for work concerning residential pools and spas.

6. Failure to comply with NRS 624.600.

7. Misrepresentation or the omission of a material fact, or the commission of any other fraudulent or deceitful act, to obtain a license.

8. Failure to pay an assessment required pursuant to NRS 624.470.

9. Failure to file a certified payroll report that is required for a contract for a public work.

10. Knowingly submitting false information in an application for qualification or a certified payroll report that is required for a contract for a public work.

11. Failure to notify the Board of a conviction or entry of a plea of guilty, guilty but mentally ill or nolo contendere pursuant to NRS 624.266.

12. Failure to comply with section 1 of this act.

Sec. 2. [NRS 40.600 is hereby amended to read as follows:

~~40.600 As used in NRS 40.600 to 40.605, inclusive, and section 1 of this act, unless the context otherwise requires, the words and terms defined in NRS 40.603 to 40.634, inclusive, have the meanings ascribed to them in those sections.]~~
(Deleted by amendment.)

Sec. 3. [NRS 40.625 is hereby amended to read as follows:

~~40.625 "Homeowner's warranty" means a warranty or policy of insurance:~~

~~1. Issued or purchased by or on behalf of a contractor for the protection of a claimant [;], including, without limitation, a new home warranty provided pursuant to section 1 of this act; or~~

~~2. Purchased by or on behalf of a claimant pursuant to NRS 690B.100 to 690B.180, inclusive.~~

~~➤ The term includes a warranty contract issued by a risk retention group that operates in compliance with chapter 695E of NRS and insures all or any part of the liability of a contractor for the cost to repair a constructional defect in a residence.]~~

(Deleted by amendment.)

Sec. 4. ~~[NRS 40.625 is hereby amended to read as follows:~~

~~40.635 NRS 40.600 to 40.695, inclusive [-], and section 1 of this act:~~

~~1. Apply to any claim that arises before, on or after July 1, 1995, as the result of a constructional defect, except a claim for personal injury or wrongful death, if the claim is the subject of an action commenced on or after July 1, 1995.~~

~~2. Prevail over any conflicting law otherwise applicable to the claim or cause of action.~~

~~3. Do not bar or limit any defense otherwise available, except as otherwise provided in those sections.~~

~~4. Do not create a new theory upon which liability may be based, except as otherwise provided in those sections.] **(Deleted by amendment.)**~~