

**ADOPTED REGULATION OF THE
DEPARTMENT OF TAXATION**
LCB File No. R225-03

Effective February 18, 2004

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§ 1-12, NRS 361.7374.

Section 1. Chapter 361 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this regulation.

Sec. 2. 1. *The owner of a single-family residence who wishes to file a claim to postpone the payment of the property taxes accrued against his residence must file the claim with the county treasurer of the county in which the residence is located not later than 10 days after the date on which the last installment of those taxes is due for the current fiscal year. A claim:*

- (a) Must be filed for each fiscal year in which property taxes to be postponed are accrued.***
- (b) May not be filed for more than 3 consecutive fiscal years.***
- 2. A claim may not include a request to postpone the payment of any fees, special assessments, delinquent taxes, interest or other charges included on the tax bill for the residence.***
- 3. A claim must be filed on a form that has been approved by the Commission.***
- 4. A claim must contain:***
 - (a) The name, mailing address and daytime telephone number of the claimant.***
 - (b) The names and mailing addresses of all other owners of the residence.***

- (c) *The names and ages of all other members of the claimant's household and the relationship of each member to the claimant.*
- (d) *The street address of the residence and the parcel number or identification number assigned to the residence by the county assessor of the county in which the residence is located.*
- (e) *The length of time the claimant has occupied the residence.*
- (f) *The current assessed value of the residence.*
- (g) *A list of any other real property in this state owned by the claimant and a list of any other real property in this state owned by any other owner of the residence. Each list must include, without limitation:*
 - (1) *The county in which the real property is located;*
 - (2) *The street address of the real property;*
 - (3) *The parcel number or identification number assigned to the real property by the county assessor of the county in which the property is located; and*
 - (4) *The current assessed value of the real property.*
- (h) *A statement indicating whether or not the claimant or any other owner of the residence is the subject of any proceeding for bankruptcy and, if so, the name and social security number used to identify that owner for the proceeding.*
- (i) *A statement indicating that the residence is occupied by the claimant.*
- (j) *A statement indicating whether or not the claimant or any other owner of the residence owes delinquent property taxes on the residence for a year other than the year in which the claim is filed.*

(k) A description of the circumstances that were beyond the control of the claimant and caused the claimant to suffer severe economic hardship.

(l) The total annual income of the members of the claimant's household.

(m) The length of time the claimant expects the severe economic hardship to continue.

(n) A statement indicating whether or not the property taxes are paid by a mortgage company.

5. Except as otherwise provided in sections 3 to 12, inclusive, of this regulation, a claim must be accompanied by:

(a) A copy of the tax bill for the residence.

(b) A copy of the federal individual income tax return for the preceding taxable year for each owner of the residence and each member of the household. If an owner or member of the household did not file a federal individual income tax return, the claim must be accompanied by a copy of the most recent "Form W-2" received by the owner or member of the household from each of his employers and a copy of each "Form 1099" and each "Schedule K-1" received by the owner or member of the household in the taxable year in which the "Form W-2" was received. The county treasurer with whom the claim is filed may request a copy of any other supporting forms or schedules that are filed with the tax returns and are required to determine whether the claimant is eligible to postpone the payment of the property taxes.

(c) Evidence which indicates that the claimant has occupied the residence for the 6 months immediately preceding the filing of the claim. A driver's license is not sufficient evidence of occupancy. Such evidence:

(1) May include copies of utility bills for each month of the immediately preceding 6-month period.

(2) Must include the name of the claimant or another owner of the residence, the address of the residence and a date that can be used to determine whether the residence has been occupied by the claimant for the 6 months immediately preceding the filing of the claim.

(d) Documentation that describes the circumstances causing the severe economic hardship suffered by the claimant. Such documentation may include, without limitation, a statement from an attending physician describing the nature of an illness or injury and the estimated time needed for recovery or a letter indicating that the claimant's employment has been terminated.

6. The information required to be submitted with a claim pursuant to paragraphs (b) and (d) of subsection 5 shall be deemed to be confidential information for the purposes of NRS 361.7384.

Sec. 3. 1. Upon the receipt of a claim for the postponement of the payment of property tax, a county treasurer shall verify:

(a) The last known owner of record of the single-family residence for which the claim is made, by inspecting public records containing such information.

(b) The parcel number or identification number assigned to the residence by the county assessor of the county in which the residence is located, the land use and total assessed value of the residence, and whether the residence is on the secured or unsecured tax roll, by inspecting the records of the county assessor.

(c) Whether the claimant or any other owner of the residence is the subject of any proceeding in bankruptcy, by inspecting the records of the United States Bankruptcy Courts located in this state.

- (d) Whether the claimant or any other owner of the residence owes delinquent property taxes on the residence for a year other than the year in which the claim is filed.
- (e) The total assessed value of any other real property in this state owned by the claimant and the total assessed value of any other real property in this state owned by any other owner of the residence.
2. Based upon the information verified pursuant to subsection 1, the county treasurer shall determine whether:
- (a) The assessed value of the residence exceeds \$175,000.
- (b) The claimant or any other owner of the residence owns any other real property in this state that has an assessed value of more than \$30,000. For this purpose, the claimant or other owner may own multiple parcels of real property in this state so long as the total assessed value of all of his parcels, excluding the single-family residence that is the subject of the claim, does not exceed \$30,000.
- (c) The residence has been occupied by the claimant for the 6 months immediately preceding the filing of the claim.
- (d) The claimant or any other owner of the residence is the subject of any proceeding in bankruptcy.
- (e) Delinquent property taxes are owed on the residence for a year other than the year in which the claim is filed, including taxes owed because of any changes made to the boundary of the parcel or to the parcel map.
- (f) The total annual income of the members of the claimant's household is at or below the federally designated level signifying poverty. This determination must be based on income received for the 365 days immediately preceding the filing of the claim.

(g) *There is sufficient evidence to indicate that the claimant suffered a severe economic hardship that was caused by circumstances beyond his control.*

3. *The county treasurer shall deny the claim if he determines that the claimant does not comply with the requirements for eligibility set forth in NRS 361.7376.*

4. *If the county treasurer does not receive sufficient information to determine whether the claimant is eligible to postpone the payment of the property taxes accrued against the residence, the county treasurer shall:*

(a) Deny the claim until such time as the claimant provides sufficient information that indicates he is eligible to postpone the payment of those taxes; and

(b) Include in the notice of his decision a description of the additional information that is needed to approve the claim.

5. *If the county treasurer denies a claim pursuant to subsection 4, the claimant may request the county treasurer to reconsider his determination by submitting the additional information that is needed to approve the claim not later than May 30 of the current fiscal year.*

Sec. 4. 1. *The Department will annually provide to the county treasurers of this state the amount of income for the current fiscal year that is at or below the federally designated level signifying poverty, based on the guidelines established in the Federal Register by the Department of Health and Human Services pursuant to 42 U.S.C. § 9902(2).*

2. *Each county treasurer shall use the amount of income provided by the Department pursuant to subsection 1 to determine whether a claimant is eligible to postpone the payment of the property taxes accrued against his single-family residence.*

Sec. 5. A county treasurer may approve a claim to postpone the property taxes accrued against a mobile home or manufactured home if:

1. *That home is a single-family residence as defined in NRS 361.7372; and*
2. *The claimant is otherwise eligible to postpone the payment of those taxes.*

Sec. 6. A county treasurer may approve a claim to postpone the payment of the property taxes accrued against a single-family residence that is owned by a trust if:

1. *The claimant or any other owner of the residence is one of the trustors;*
2. *The claim is accompanied by a certificate of trust which indicates that the claimant or another owner of the residence is a trustor; and*
3. *The claimant is otherwise eligible to postpone the payment of those taxes.*

Sec. 7. 1. If a county treasurer approves a claim to postpone the payment of property taxes accrued against a single-family residence, he shall determine the amount of property tax that will be postponed and the period for which the property tax will be postponed based on the information contained in the claim.

2. *If the claimant is in arrears in the payment of any installment of the property taxes due for the current fiscal year, the county treasurer may postpone the payment of the taxes for the entire fiscal year or for any portion of that year.*
3. *The period for which property tax accrued in a fiscal year will be postponed may not exceed 1 year.*

Sec. 8. 1. The form for a certificate of eligibility prescribed by the Department will be:

- (a) *Submitted to the Commission for its approval.*
- (b) *Designed to comply with the recording requirements of the county recorders in this state.*

2. Except as otherwise provided in NRS 361.7386, information that is contained in or that accompanies a claim to postpone the payment of property taxes accrued against a single-family residence may not be included in a certificate of eligibility.

Sec. 9. 1. The recordation of a copy of a certificate of eligibility pursuant to NRS 361.7386 does not:

- (a) Confer upon the claimant a right to a refund of property taxes already paid.*
- (b) Waive the duties of the county treasurer of the county in which the single-family residence is located to:*
 - (1) Mail a notice of delinquency as required by NRS 361.5648; or*
 - (2) Issue a trustee's certificate as required by NRS 361.570.*
- (c) Change the date upon which the property taxes become delinquent or the period of redemption set forth in NRS 361.570.*

2. If a certificate of eligibility is filed, the county treasurer of the county in which the single-family residence is located may postpone the publication of the notice of delinquency required by NRS 361.565 during the period for which the payment of the property tax will be postponed. If the publication of the notice of delinquency is postponed, the county treasurer shall not charge the claimant with the cost of publication until such notice is published.

3. If the property taxes for a single-family residence for which a certificate of eligibility is recorded are paid by a mortgage company, the claimant is responsible for making arrangements with the mortgage company for the postponement of the payment of the taxes and for any adjustments that may be needed to an impound account for the payment of the taxes.

Sec. 10. *A statement of the total amount of property tax postponed that is provided pursuant to NRS 361.7392 must include:*

- 1. The total amount of taxes owed as of the date of the statement. This amount must include penalties incurred for the current fiscal year and before the period of postponement becomes effective.*
- 2. The total amount of interest accrued as of the date of the statement.*

Sec. 11. *If a claimant makes payments on the amount of property tax postponed before they become due and payable, the county treasurer of the county in which the single-family residence is located shall apply those payments to the taxes that have been postponed for the longest time.*

Sec. 12. *If a county treasurer determines that any person has willfully made a materially false statement or used any other fraudulent device to secure for himself or any other person the postponed payment of property tax pursuant to the provisions of NRS 361.736 to 361.7384, inclusive, the county treasurer shall refer the claim to the district attorney for prosecution.*

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R225-03

The Department of Taxation adopted regulation assigned LCB File No. R225-03, which pertain to chapter 361 of the Nevada Administrative Code on February 2, 2004.

Notice date: 12/30/2003

Hearing date: 2/2/2004

Date of adoption by agency: 2/2/2004

Filing date: 2/18/2004

INFORMATIONAL STATEMENT

- 1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

The Department of Taxation, as staff to the Nevada Tax Commission, solicited comment from the public by sending notices of workshops and hearings by electronic or regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/Hearing</u>	<u>Date</u>	<u># Notified</u>	<u>#Representing Bus.</u>
10-14-03	Workshop	10-29-03	288	167
10-14-03	Workshop	11-12-03	288	167
10-14-03	Workshop	11-19-03	288	167
12-30-03	Hearing	02-02-04	321	220

The mailing list included the interested parties list maintained by the Department, as well as officials of local jurisdictions subject to these regulations.

Many oral and written comments were received at the workshops, particularly with regard to new proposed language on the postponement of payment of property taxes. A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2041 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at **mmjacobs@tax.state.nv.us**.

- 2. The number of persons who:**

- (a) Attended and testified at each workshop:**

	<u>Attended</u>	<u>Testified</u>
October 29, 2003	18	13
November 12, 2003	13	10
November 19, 2003	12	10

(b) Attended and testified at the hearing on adoption:

	<u>Attended</u>	<u>Testified</u>
February 3, 2004		
Members of the Commission	6	1
Members of the public	60	2

(c) Submitted to the agency written comments:

- 3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

The regulations presented no reasonably foreseeable or anticipated adverse economic effects to businesses or to the general public, and none could be quantified. Nevertheless, approximately 60% of the notices were sent to individuals or associations representing business.

Members of the Nevada Treasurers Association commented on all of the proposed language changes during the workshop process. Members of the Tax Commission commented during the Adoption Hearing.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2041 or by writing to the Nevada Tax Commission, c/o Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at mmjacobs@tax.state.nv.us

- 4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The reason for the adoption of new language in LCB File No. R225-03 regarding postponement of payment of property taxes was the passage of statutes during the 72nd Session of the legislature creating the postponement program. The regulations implement the deferred payment of property taxes program by the Department of Taxation and local county treasurers, and also set forth and clarify various substantive and procedural matters in connection with the administration of the deferment program in this state.

One additional change was made during the adoption hearing on February 2, 2004 regarding the confidentiality of documentation.

- 5. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**

(a) Both adverse and beneficial effects; and

The adopted regulations present no reasonably foreseeable or anticipated adverse economic effects to businesses or to the general public. It is anticipated the regulations promote and enhance the ability of eligible participants to qualify for the postponement program.

(b) Both immediate and long-term effects.

The proposed regulations present no reasonably foreseeable or anticipated immediate or long-term economic effects to businesses or to the general public.

6. The estimated cost to the agency for enforcement of the adopted regulation.

The Department anticipates little, if any, additional cost to administer the regulations.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations that the adopted amendments duplicate.

8. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

There are no federal regulations regarding the postponement of payment of property taxes.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

These regulations do not provide or involve a new fee; therefore there is no total annual amount the Department expects to collect or use.