

**PROPOSED REGULATION OF THE
DEPARTMENT OF TAXATION**

LCB File No. R075-13

August, 2013

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

AUTHORITY: §§ 1-12, NRS 360.090, NRS 360.250, SB 301

A REGULATION relating to the procedures to be used by a county treasurer to assign a tax lien against a parcel of real property if an assignment is authorized by an agreement between the owner of the property and the assignee; and providing other matters properly relating thereto.

Section 1. Chapter 361 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

Sec. 2. 1. *The owner of property against which any taxes assessed are delinquent and who wishes to authorize the county treasurer of the county in which the property is located to assign to an assignee the tax lien on the property, must file an affidavit of authorization on a form that has been approved by the Commission.*

2. An affidavit authorizing the tax lien assignment must be designed to comply with the recording requirements of the county recorders in this state and contain:

(a) The name, mailing address and daytime telephone number of the property owner or his authorized agent.

(b) The name, mailing address and daytime telephone number of the assignee.

(c) The legal description of the subject property;

(d) The name and address of the person who prepared the legal description, if the description is a metes and bounds description;

(e) The street address of the property, if applicable, and the parcel number assigned to the property by the county assessor of the county in which the property is located.

(f) The current full amount of taxes, penalties, and interest owed.

(g) Each year for which the taxes are delinquent.

(h) A statement authorizing the assignee to pay all taxes due on the real property, including all penalties, interest, fees, and costs imposed by any and all local taxing entities or their agents for the tax years listed on the affidavit.

(i) A statement authorizing the county treasurer to certify that payment for all taxes, penalties, interest, fees, and costs on the subject property has been tendered on behalf of the owner and to assign the tax lien on the subject property to the designated assignee.

(j) The signature of the property owner or owners, if applicable, as acknowledged by a notary public.

5. The affidavit must be accompanied by a copy of the separate written agreement between the owner and the assignee providing the terms of the redemption of the tax lien.

Sec. 3. 1. Upon the receipt of an affidavit authorizing the tax lien assignment, a county treasurer shall verify:

(a) The last known owner of record of the property for which the affidavit is made, by inspecting public records containing such information.

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

(c) Whether the owner or owners of the property are the subjects of any proceeding in bankruptcy, by:

I. Direct inspection of the records of the United States Bankruptcy Courts located in this state; or

II. Accepting an affidavit from the assignee within thirty (30) days of filing the affidavit of authorization stating that the assignee has inspected the records of the United States Bankruptcy Courts located in this state and has found no record of such proceeding.

(d) Whether the owner or owners, as applicable, owe delinquent property taxes on the subject property for a year other than the years listed on the affidavit.

(e) Whether the assignee has posted and maintains the bond required by NRS 361.7314 in the penal sum required by that section, or an affidavit showing that the assignee is exempt from posting a bond.

(f) Whether the assignee has tendered the full amount of the delinquent taxes assessed against the property and any applicable penalties, interest, fees and costs pursuant to the requirements of NRS 361.7312(1)(b).

2. The treasurer may consider evidence that the assignee has posted and maintains the bond required by NRS 361.7314 such as:

(a) A certified copy of the bond from the surety; or

(b) An affidavit of bond posting compliance.

3. An assignee who files an affidavit of bond posting compliance must do so on a form approved by the Commission.

4. An affidavit of bond posting compliance must be designed to comply with the recording requirements of the county recorders in this state and contain:

(a) The name and mailing address of the assignee.

(b) The name and job title of the affiant.

(c) A statement that the affiant is of sound mind, capable of making the affidavit, and the statements therein are based on personal knowledge of the account records maintained by the tax lien assignee.

(d) A statement that the assignee has posted and maintains a bond as required by NRS 361.7314 in the amount of \$500,000 to indemnify any real property owner in the State of Nevada with respect to tax liens assigned to the assignee if a real property owner is determined to have suffered damage as a result of assignee's wrongful failure or refusal to perform its contractual obligations.

(e) A statement that a copy of the bond is attached to the affidavit and the written statement submitted annually to the Secretary of State.

(f) The signature of the affiant, as acknowledged by a notary public.

5. An assignee who is not required to post a bond required by NRS 361.7314 may submit an affidavit of exemption from posting bond. The affidavit of exemption must be filed on a form approved by the Commission.

6. An affidavit of exemption from posting bond must be designed to comply with the recording requirements of the county recorders in this state and contain:

(a) The name and mailing address of the assignee.

(b) The name and relationship of the affiant to the property owner.

(c) A statement that the affiant is of sound mind, capable of making the affidavit, and the statements therein are based on personal knowledge of the familial relationship of the assignee to the property owner.

(d) A statement that the assignee is exempt from the requirements of NRS 361.7314 based on a familial relationship within the third degree of consanguinity to the owner of the real property that is the subject of the assignment.

(e) The signature of the affiant, as acknowledged by a notary public.

Sec. 4. *1. Based upon the information verified pursuant to subsection 1 of Section 3 of these regulations, the county treasurer shall assign a tax lien against a parcel of real property upon which the taxes are delinquent to the assignee designated in the property owner's affidavit on a form approved by the Commission.*

2. A certificate of assignment of property tax lien made by a county treasurer must contain:

(a) The name of the property owner.

(b) The name and mailing address of the assignee.

(c) The legal description of the subject property;

(d) The name and address of the person who prepared the legal description, if the description is a metes and bounds description;

(e) The street address of the property, if applicable, and the parcel number assigned to the property by the county assessor of the county in which the property is located.

(f) The current full amount of taxes, penalties, interest, costs and fees owed and paid for the tax lien.

(g) Each year for which the delinquent taxes were assessed and for which the assignee proposes to pay the outstanding amount.

(h) A statement by the county treasurer certifying that the assignee has paid the amount listed on the certificate for the assignment of the property tax lien on the subject property; that

the treasurer has received copies of the property owner's affidavit authorizing the tax lien assignment, the agreement between the property owner and assignee, and the assignee's affidavit of bond compliance or affidavit of exemption, as applicable; and the same are attached as exhibits.

(i) A statement by the county treasurer that in consideration of receipt of the payment in full for delinquent taxes, penalties, interest, costs, and fees, that the property tax lien is assigned and transferred to the assignee.

(j) A statement that the amount indicated on the certificate bears interest at the rate established in the agreement between the property owner and the assignee.

3. The county treasurer shall not certify the assignment of the tax lien if he determines that the property owner or assignee has not complied with the requirements set forth in Statutes of Nevada, Chapter ? (SB 301, Section 4); and NRS 361.7312 through NRS 361.7316.

4. If the county treasurer does not receive sufficient information to determine whether the tax lien may be assigned, the county treasurer shall:

(a) Deny the tax lien assignment until such time as the property owner or assignee provides sufficient information that conforms with the requirements of Statutes of Nevada, Chapter ? (SB 301, Section 4); and NRS 361.7312 through NRS 361.7316; and

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

5. If the county treasurer denies an assignment pursuant to subsection 4, the property owner or assignee may request the county treasurer to reconsider his determination by submitting the additional information that is needed to approve the assignment.

6. If the county treasurer does not receive the additional information needed to approve the assignment within thirty (30) days from the notice of his decision to deny the assignment, the county treasurer shall return all paperwork and payment to the assignee.

Sec. 5. 1. The recordation of a copy of a certificate of assignment of property tax lien pursuant to NRS 361.7316 does not:

(a) Entitle the assignee to assignment of tax liens for future years;

(b) Waive the duties of the county treasurer of the county in which the subject property 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 for future assessed taxes.

(c) Change the date upon which property taxes become delinquent or the period of redemption set forth in NRS 361.570.

Sec. 6. 1. An assignee who files a release of tax lien with the office of the county recorder of the county in which the property is located, must do so on a form approved by the Commission.

2. A release of tax lien must be designed to comply with the recording requirements of the county recorders in this state and contain:

(a) The name and mailing address of the assignee.

(b) The date the release document is issued.

(c) The legal description of the subject property;

(d) The name and address of the person who prepared the legal description, if the description is a metes and bounds description;

(e) The street address of the property, if applicable, and the parcel number assigned to the property by the county assessor of the county in which the property is located.

(f) Each year for which the delinquent taxes have been paid.

(g) The name and mailing address of the property owner.

(h) The recording information for the certificate of assignment of tax lien issued by the treasurer and the agreement between the property owner and the assignee.

(i) A statement that the rights, title and interest in the property tax lien on the subject property as recorded in the certificate of assignment of property tax lien is released and the date the property owner redeemed the assigned tax lien.

(j) The signature of the assignee or assignee's representative as acknowledged by a notary public.