

LCB File No. T029-02

**ADOPTED TEMPORARY REGULATION OF THE
NEVADA TAX COMMISSION**

Filed with the Secretary of State on 12/12/2002

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

AUTHORITY: NRS 360.090, 360.250

GENERAL PROVISIONS

Chapter 361 of NAC is hereby amended by adding thereto a new section to read as follows:

PART C. Definitions. As used in this chapter, unless the context otherwise requires:

Section 1. "Appraiser" means any employee or independent contractor of the State or any of its political subdivisions, who estimates value used as a basis for property taxation. The appraiser exercises judgment using appraisal skills and knowledge to arrive at an estimate of value. Designation as an appraiser may be distinguished from other job skills and knowledge such as data collection or manipulation of computer programs in which the purpose is to collect and organize data but not to render an opinion of value.

Sec. 2. "Board" means the Appraiser Certification Board created pursuant to NRS 361.221.

Sec. 3. "Certification" means a designation by the Department authorizing an individual to perform the duties or exercise the authority of a property tax appraiser.

Sec. 4. "Commission" means the Nevada Tax Commission.

Sec. 5. "Contact hours" means the hours approved by the Board for credit toward continuing education requirements.

Sec. 6. "Department" means the Department of Taxation.

Sec. 7. "Independent Contractor" means an appraiser not otherwise employed by the State or one of its political subdivisions who is authorized to perform the duties of an appraiser for property tax purposes upon recommendation of the Board and approval by the Department.

Sec. 8. "Real Property Certification" means a designation conferred by the Department to an individual who has demonstrated competency in the area of real property valuation pursuant to these regulations. Such certification limits the designee thereof to the valuation of real property.

Sec. 9. "Personal Property Certification" means a designation conferred by the Department to an individual who has demonstrated competency in the area of personal property valuation pursuant to these regulations. Such certification limits the designee thereof to the valuation of personal property.

APPRAISER CERTIFICATION

PART D. Temporary Certification and Appraiser Certification Requirements.

Section 1. Only those individuals newly hired by the state or any of its political subdivisions may apply to the Department for temporary certification.

(a.) The application must be on a form approved by the Department and must include at a minimum the individual's name, business mailing address, business phone number, verification of employment by the department, the assessor or his representative, and a request to take the appraiser's certificate examination.

(b) The Department shall issue a temporary certificate within 30 days of receipt of the request and shall provide a list of available dates and locations at which the appraiser's certificate examination will be offered.

(c) The application must be accompanied by the statement relating to payment of child support required by NRS 361.2225.

Sec. 2. An individual seeking appraiser certification by the Department must demonstrate to the Board he is employed by the state or one of its political subdivisions, and he is competent to perform the duties of an appraiser for purposes of the taxation of property.

(a) A demonstration of competency must include successfully passing a comprehensive examination administered by the Department on the technical, legal and administrative aspects of the appraisal and assessment process. The examination includes a general knowledge section and a specific knowledge section.

I. Earning a professional designation from one of the appraisal organizations of the Appraisal Foundation may be substituted for the specific knowledge section of the comprehensive examination. Professional designations may include, but are not limited to:

- I. MAI – Member Appraisal Institute*
- II. CAE – Certified Assessment Evaluator*
- III. SRPA – Senior Real Property Appraiser*
- IV. SREA – Senior Real Estate Analyst*
- V. RM – Residential Demonstration Member*
- VI. RES – Residential Evaluation Specialist*
- VII. SRA – Senior Residential Appraiser*
- VIII. PPS – Personal Property Specialist*

(b.) In the event the professional designation submitted by the individual specializes in either real property appraisal or personal property appraisal, but not both, the appraiser certification granted by the Department must be consistent with the subject matter of the professional designation.

Sec. 3. Prior to issuing a certificate, the Department shall obtain the statement relating to payment of child support from each applicant pursuant to NRS 361.2225 and shall verify the individual is employed by the state or one of its political subdivisions.

Sec. 4. Upon receiving the child support statement showing the applicant is in compliance with the court order or plan approved by the District Attorney, the Department shall issue a certificate showing the name of the individual, the date of certification, whether the certification is for real or personal property or both, and signed by an appropriate representative of the Department.

PART E. Appraiser certification for independent contractors

Section 1. Independent contractors must annually renew the application for appraiser certification.

(a.) The application must be on a form approved by the Department and must include at a minimum the individual's name, business mailing address, business phone number and sponsoring tax agency. In the event the certification examination has been taken within the previous three years and successfully passed, independent contractors may request the Board waive any further testing requirements by so stating on the form.

(b.) The application must be accompanied by the statement relating to payment of child support required by NRS 361.2225.

Sec. 2. In addition to the requirements of Section 1, independent contractors must provide the Board with the following information:

(a.) A resume with documentation of appraiser experience, education and current professional designations or certificates which he holds; and

(b.) Not less than two names of reference.

Sec. 3. The Board may investigate the resume and character of work provided by independent contractors with any and all previous employers or clients listed on the application.

Sec. 4. Temporary certification is not available to independent contractors.

Sec. 5. The Department must notify all independent contractors who fail to annually reapply that certification may be suspended. In the event no response is received from the independent contractor within 30 days from the date the notice was mailed, the Department will forward the name of the individual to the Board to consider whether his certificate should be suspended.

Sec. 6. Before an independent contractor's certificate is renewed, the independent contractor must show proof that they have been employed by the State or any of its political subdivisions within the past 12 months or anticipate being retained within the upcoming 12 months. There will be a fee of \$25.00 charged annually for the renewal of the independent contractor's certificate.

PART F. Appraiser Certification Examination Requirements; Contents; Administration; Fees

Section 1. The appraiser certification examination must contain a general knowledge section. At a minimum, the general knowledge examination must test the applicant on his knowledge and understanding of:

- (a.) Land description and use classifications;*
- (b.) Principles and concepts of appraisal;*
- (c.) Nevada statutes and administrative code; and*
- (d.) Principles of property tax administration.*

Sec. 2. The appraiser certification examination must also contain a special knowledge section concentrating in either real property appraisal concepts or personal property appraisal concepts. The special knowledge examination must test the applicant on his knowledge and understanding of at least one of the following:

- (a.) Real property appraisal concepts and principles, including but not limited to:
 - I. Land and land identification;*
 - II. Approaches to value;*
 - III. Depreciation; and*
 - IV. Mass appraisal.**
- (b.) Personal property appraisal concepts and principles, including but not limited to:
 - I. Terminology;*
 - II. Approaches to value;*
 - III. Depreciation; and*
 - IV. Analysis of financial data.**

Sec. 3. In order to demonstrate competency by examination, the individual must receive a passing grade of 70 percent or better on each section, including the general knowledge section and either the real property or personal property section.

(a.) In the event the individual fails to pass one or more sections of the examination, he may request to retake that section of the examination. Failing one section of the examination does not require retaking the other sections. Credit is awarded for any part successfully passed.

(b.) The Department must mail examination results to the individual within fourteen (14) days following completion of the examination.

(c.) Individuals failing to pass one or more sections of the examination may request information from the Department about the general subject area(s) in which incorrect answers were given. Individuals may not review the completed examination booklet or answer sheet once they are returned to the Department for grading.

(d.) Challenges to the content of the certification examination or validity and correction of any question or answer must be directed to the Board in writing and postmarked not later than ten calendar days following receipt of examination results. Challenges containing mere statements of conclusion, belief or preference will not be considered.

Sec. 4. The Department must administer the examination a minimum of three times annually. The examination must be offered at least once annually at both northern and southern Nevada locations.

(a.) County assessors may request in writing additional examination times and locations. The Department may consider the request when at least five applicants are available to take

the test and provided the Department budget is adequate to support additional examination times and locations.

Sec. 5. The Department, in consultation with the Board, may revise and update examinations at any time, as necessary. Revisions may be outsourced to a contractor specializing in the development of examinations pursuant to NRS 361.221 (4) or may be performed in-house.

Sec. 6. The Department will charge a reasonable examination fee of not less than \$25.00 for each section of the examination taken by an individual. A reasonable fee of not less than \$25.00 will also be charged for each section taken for re-examination. Certification may be withheld by the Department until the fee has been satisfied.

CONTINUING EDUCATION REQUIREMENTS

PART G. Contact Hours of Education; Criteria for determining hours earned; Carrying credits forward.

Section 1. A contact hour of education means one hour in attendance at an approved education program. Unless otherwise noted on certificates of completion, the Department, in consultation with the Board, may award contact hours to individuals completing approved courses as follows:

(a.) Individuals completing full week courses with four days of instruction and a test on the morning of the fifth day may earn thirty-six (36) contact hours;

(b.) Individuals completing one, two, three, and four day courses may earn eight (8) contact hours per day;

(c.) Individuals completing two week courses with five days of instruction the first week and four and one-half days of instruction the second week may earn seventy-six (76) contact hours;

(d.) Individuals completing university or college courses may earn twelve (12) contact hours for each one (1) semester credit earned;

(e.) In the event the individual fails to pass a course examination, if any, the individual may earn half credit for a full week, or eighteen (18) hours; or four hours for each full day in attendance, provided that the individual can document attendance at the course. Individuals attending courses or seminars having no course examination may earn contact hours at the rates prescribed in (a) and (b) in this section;

(f.) In the event the individual fails to pass a course examination and thereafter successfully retakes the examination, the individual may earn the remaining half credit for the week or the day(s) not previously awarded;

(g.) No credit may be earned for any portion of a real estate or appraisal course in which the primary objective of the course is to prepare the student to take and pass a real estate or appraisal examination for licensing;

(h.) No credit may be earned for any portion of a university or college course in which a failing grade is earned or the individual has withdrawn from the class;

(i.) Individuals who instruct courses approved by the Board may earn contact hours equal to the actual hours spent lecturing or working in a group teaching situation. Credit may not be earned for time spent on course preparation, grading, or assisting students on projects or

assignments outside the class. Credit may be earned for only one presentation of each educational program per year.

Sec. 2. On or before July 1 each year, individuals desiring consideration of continuing education credit hours toward the initial 180 hours, shall document in writing the course and program hours taken since July 1 of the prior year to the Department. Documentation must include at a minimum a certificate of attendance showing the name of the individual, course name, instructor or the sponsoring organization's representative signature, and dates of attendance. Transcripts of grades, if any, from the sponsoring organization, must also be submitted. For university or college courses, a certified transcript may be accepted in lieu of a certificate of attendance.

Sec. 3. The Department, in consultation with the Board, may consider granting full credit for courses previously taken when the following conditions exist:

- (a.) Three (3) years have passed since the course was last attended; or*
- (b.) No other training is available to comply with the 36 contact hour requirement.*

Sec. 4. A minimum of thirty-six (36) contact hours must be earned each fiscal year until a total of 180 hours including 4 hours of Uniform Standards of Professional Appraisal Practice (USPAP) is accumulated. Hours of education earned prior to certification shall be applied to the 36-hour requirement to a maximum of 180 hours. Thereafter, thirty-six (36) contact hours must be earned during every five-year period.

(a.) In the event more than thirty-six hours are earned in any one fiscal year prior to accumulating 180 hours, the Department must carry forward such excess hours earned and apply those hours to the training requirements of the following three years. For example, if an individual earns one hundred and eight (108) hours in one year, the thirty-six hour requirement for the first, second, and third years are met.

(b.) In the event more than thirty-six hours are earned in any five-year period after the initial 180 hour requirement is met, only thirty-six contact hours will be awarded for purposes of meeting continuing education requirements. There will be no carry forward of excess hours.

(c.) It is the responsibility of each appraiser to retain continuing education certificates as described in Section 2 above and present them to the Appraiser Certification Board prior to July 1 of the fiscal year in which the education is due.

Sec. 5. The Department must notify all certified appraisers, including independent contractors, who fail to meet continuing education requirements that certification may be suspended. In the event no response is received from the individual so notified within 30 days from the date the notice was mailed, the Department will forward the name of the individual to the Board to consider at the next regularly scheduled meeting whether his certificate should be suspended.

PART H. Criteria for determining approved coursework; process for approval

Section 1. The Department may only award contact hours earned in courses approved by the Board. The Board shall review courses and may grant approval based on one or more of the following criteria:

(a.) Course subject matter is relevant to understanding and applying the standards of appraisal practice set by the International Association of Assessment Officers or other member organizations of the Appraisal Foundation. Course contents must be evaluated for correctness, applicability to appraisal for property tax purposes, and attention to current appraisal issues and trends;

(b.) Course subject matter is relevant to understanding the application of Nevada statutes, administrative code, and Department policies and standards, including but not limited to appraisal and assessment practices; real estate, water, and mining law; and administrative procedures;

(c.) Course subject matter is relevant to understanding the concepts and applications of mass appraisal, including but not limited to, the application of technology, such as GIS mapping systems and computer automated mass appraisal (CAMA) systems;

(d.) Course subject matter is relevant to understanding the concepts and applications of appraisal of centrally-assessed properties, including but not limited to, principles of accounting and finance.

Sec. 2. Individuals desiring credit for courses not already approved must apply to the Board for approval prior to the course being taken. Information from the sponsoring organization must be submitted and must contain at a minimum the name and address of the sponsoring organization; a list of the instructors and evidence of their qualifications; and a syllabus of the course indicating coursework and books to be used.

Sec. 3. The Department must provide a list of all courses, workshops, and seminars approved by the Board to county assessors. The list may be provided to other persons upon written request. The list must be updated at a minimum once every three years.

PART I. Continuing Education Records: Maintenance and Application

Section 1. The Department must maintain continuing education records for all individuals currently in the employ of the state or its political subdivisions. Continuing education records for independent contractors and former employees of the state or its political subdivisions, must be retained by the Department for a minimum of ten years.

Sec. 2. The continuing education records for each individual are considered confidential and must not be revealed to persons other than Department staff, Board members, and the individual's employer, unless prior written approval is provided by the individual. Individuals may request copies of transcripts at no charge, provided the request is in writing.

SUSPENSION OR REVOCATION OF CERTIFICATION

PART J. Suspension of certification; reasons for suspension; reinstatement.

Section 1. For purposes of this section, suspension of certification means the Department temporarily withdraws the real or personal property certifications, or both, previously granted to an individual. The individual may not render an opinion of value of such property but may continue to collect data for purposes of establishing value by other certified appraisers.

(a.) Certification may be suspended by the Department for the following reasons:

I. The individual fails to meet continuing education requirements as required by NRS 361.223 and this chapter;

II. Independent contractors fail to annually renew the application for certification as required by this chapter;

III. The individual fails to pay child support or comply with certain subpoenas or warrants pursuant to NRS 361.2226.

(b.) If suspension is a result of failure to meet continuing education requirements or failure to annually renew the application pursuant to (1) (a) (I) and (II) above, the Department shall deem the certificate issued to that person to be suspended at the end of the 30th day after the Board recommends suspension. Suspension as a result of (1)(a) (III) above shall be invoked pursuant to NRS 361.2226 without consultation from the Board.

I. The Board must consider suspending certification at a hearing noticed pursuant to the provisions of NRS 241.034.

(c.) Suspension resulting from failure to meet continuing education requirements may be reversed by the Department, and the appraiser certificate reinstated, when the individual has fulfilled continuing education requirements and has received Board approval to lift the suspension.

(d.) Suspension resulting from failure by independent contractors to annually renew their application may be reversed by the Department, and the appraiser certificate reinstated, when the individual has fulfilled the requirements for the renewal of application and has received Board approval to lift the suspension.

(e.) Suspension resulting from failure to pay child support or comply with certain subpoenas or warrants may be reversed by the Department, and the appraiser certificate reinstated, upon fulfillment of the requirements of NRS 361.2226 (2).

PART K. Revocation of certification; reasons for revocation; reinstatement.

Section 1. For purposes of this section, revocation of certification means the Department withdraws the real or personal property certifications, or both, previously granted to an individual. The individual may not render an opinion of value of such property but may continue to collect data for purposes of establishing value by other certified appraisers.

(a.) Certification may be revoked by the Department for the following reasons:

I. The individual fails to meet continuing education requirements as required by NRS 361.223 and this chapter;

II. Independent contractors or their employees fail to annually renew the application for certification as required by this chapter;

III. The certificate has been suspended by the Department for more than one year from the anniversary of the date the suspension was first issued; or

IV. The individual engages in unethical professional conduct, including but not limited to:

- a. Making public statements, written or oral, that are untrue or intended to mislead or deceive the public in the course of performing professional duties;*
- b. Engaging in appraisal or assessment-related assignments in which the individual has, or may reasonably be considered by the public as having, a conflict of interest;*
- c. Accepting appraisal or assessment-related assignments which are contingent upon or influenced by any condition that could impair the individual's objectivity; and*
- d. Failure to perform the duties of an appraiser in accordance with applicable laws and regulations and the Uniform Standards of Professional Appraisal Practice (USPAP).*

(b.) The Department shall deem the certification revoked at the end of the 30th day after the Board recommends revocation.

I. The Board must consider revoking certification at a hearing noticed pursuant to the provisions of NRS 241.034.

II. Contact hours previously earned must be recognized before determining whether continuing education requirements have been met.

(c.) In the event certification is revoked pursuant to Section (1) (a) (I-III) above, certification may be reinstated by demonstrating competency as provided in this chapter and fulfilling the requirements of continuing education provided in NRS 361.223 and this chapter.

(d.) In the event certification is revoked pursuant to Section (1) (a) (IV) above, no application for certification shall be reviewed or accepted by the department until at least 3 years from the date of such revocation has passed.

(e.) After 3 years have passed, the department may accept an application for certification. An applicant must:

I. Demonstrate competency as provided in this chapter;

II. Fulfill the requirements of continuing education provided in NRS 361.223 and this chapter;

III. Provide the board with a resume documenting appraiser experience, education and current professional designations or certificates which he holds; and not less than two names of reference.

i. The Board may investigate the resume and character of work provided by the applicant with any and all previous employers or clients listed on the application.

(f.) The Board may recommend certification be reinstated by the department upon a finding that the applicant has fulfilled the requirements of section e above and there have been no further examples of unethical conduct during the intervening three years since revocation.

PART L. Appeal from a decision to suspend or revoke certification

Section 1. The decision of the Department to suspend, revoke, or reinstate certification may be appealed to the Nevada Tax Commission pursuant to the provisions of NRS 360.245.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. T029-02

The Nevada Tax Commission adopted temporary regulations pertaining to Chapter 361, temporarily assigned to Part A (Low income housing); Part B (Standard prewritten computer programs ineligible for exemption as intangible personal property); Parts C through L (appraiser certification); and to Chapter 361A, Parts A through G (valuation of agricultural lands), of the Nevada Administrative Code on September 9, 2002. A copy of the regulations as adopted is attached hereto.

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>
7-12-02	Workshop	7-30-02	385	291
8-06-02	Workshop	8-21-02	591	497
8-08-02	Hearing	9-09-02	465	371

The mailing list included the interested parties list maintained by the Department, as well as centrally assessed taxpayers, mine operators, agricultural organizations, low-income housing organizations, and officials of local jurisdictions subject to these regulations.

Several oral and written comments were received, particularly with regard to new proposed language on the eligibility of computer software for designation as intangible personal property; the exemption of low income housing; appraiser certification; and the valuation of agricultural lands. A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 687-4841 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at mmjacobs@govmail.state.nv.us.

2. The number of persons who:

(a) Attended and testified at each workshop:

	<u>Attended</u>	<u>Testified</u>
July 30, 2002	11, including 1 NTC member	11
August 21, 2002	20	12

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

	<u>Attended</u>	<u>Testified</u>
9-09-02		
Members of the Commission	6	
Members of the public	3	9

(c) Submitted to the agency written comments: 8

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 75% to 85% of the notices were sent to individuals or associations representing business.

The Nevada Mining Association, Nevada Taxpayers Association, and certain individuals representing centrally assessed properties commented on portions of the regulations, particularly with regard to the NACs relating to the circumstances under which computer software may be considered to be intangible personal property. The Affordable Housing Resource Council and the Rural Community Assistance Corporation commented on the low-income housing regulations regarding the qualification of units for purposes of exemption. Members of the Nevada Assessors Association commented on all of the proposed language changes.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 687-4841 or by writing to the Committee on Local Government Finance, c/o Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at mmjacobs@govmail.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.

Two minor corrections were made to the new language in NAC 361, Part A(2)(c)(3)(I) and to NAC 361, Part A(2)(d), to correct references regarding low income housing. No other changes were made to NAC 361, Parts A. The reason for adopting the new language in NAC 361, Parts A regarding low-income housing is to fulfill the requirements of NRS 361.082 (3).

NAC 361, Part B regarding the eligibility of standard prewritten computer programs for exemption as intangible personal property, was adopted to clarify the criteria for exemption.

NAC 361, Parts C through L regarding appraiser certification and NAC 361A, Parts A through G regarding the valuation of agricultural lands, were adopted in their entirety. The reason for the adoption of new language in NAC, Parts C through L regarding appraiser certification is the recommendation of the Attorney General's office to require the Appraiser Certification Board to operate under regulations adopted by the Tax Commission instead of its own by-laws.

The reason for the adoption of NAC 361A, Parts A through G regarding the valuation of agricultural lands is to clarify the procedures for the designation of property as agricultural real property; to recognize the agricultural land classification system currently in place; to clarify the methodology for determining the value of agricultural use land and the process for determining when agricultural land is converted to a higher use; and to provide a method for calculating the deferred tax when a parcel is converted to a higher use.

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 efficient return and dissemination of information regarding the low-income housing exemption; the exemption of certain kinds of computer software as intangible personal property; and the agricultural lands deferment. The regulations also promote the certification of appraisers for property tax purposes, and identify the rights and responsibilities of the individuals applying for certification.

(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 appraisal, assessment, or exemption from taxation, of property, or with the certification of appraisers, for state property tax purposes with which these regulations comply.

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.