

**ADOPTED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R028-03

Effective December 4, 2003

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

AUTHORITY: §§1-22, NRS 360.090 and 361.221.

Section 1. Chapter 361 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 22, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 22, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 11, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. 1. *“Appraiser” means an employee of or an independent contractor with the State of Nevada or any of its political subdivisions who exercises judgment using his skills and knowledge of property appraisal to estimate the value of property for the purpose of taxation.*

2. The term does not include a person who only collects data or manipulates computer programs to collect and organize data but does not render an estimate of the value of property.

Sec. 4. *“Appraiser’s certificate” means a certificate issued by the Department that authorizes a person to perform the duties of an appraiser.*

Sec. 5. *“Appraiser’s certificate examination” means a comprehensive examination administered by the Department which covers the technical, legal and administrative aspects of the appraisal and assessment of property and which consists of a section that tests general knowledge and a section that tests specific knowledge.*

Sec. 6. *“Approved education course” means a course of continuing education approved by the Department. The term includes, without limitation, classes, workshops and seminars.*

Sec. 7. *“Board” means the “Appraiser’s Certification Board” established by NRS 361.221.*

Sec. 8. *“Contact hour” means 1 hour of credit toward continuing education requirements awarded by the Department for attendance at or instruction of an approved education course.*

Sec. 9. *“Independent contractor” means a person who contracts with, but is not otherwise employed by, the State of Nevada or any of its political subdivisions to perform the duties of an appraiser.*

Sec. 10. *“Personal property appraiser’s certificate” means an appraiser’s certificate that authorizes a person to perform the duties of an appraiser with respect to personal property only.*

Sec. 11. *“Real property appraiser’s certificate” means an appraiser’s certificate that authorizes a person to perform the duties of an appraiser with respect to real property only.*

Sec. 12. *1. A person who is newly employed as an appraiser by the State of Nevada or any of its political subdivisions may apply to the Department for a temporary appraiser’s certificate.*

2. The application must satisfy the requirements of NRS 361.2224 and 361.2225, be on a form approved by the Department and include:

(a) The name of the applicant;

(b) The mailing address and telephone number of the place of employment of the applicant;

(c) Verification of the employment of the applicant; and

(d) Such other information as the Department may require.

3. The Department will provide each applicant with a list of the dates on which and the locations at which the appraiser's certificate examination will be offered.

4. The Department will issue a temporary appraiser's certificate to a qualified applicant within 30 days after receiving the application. The certificate must include the name of the person to whom and the date on which it is issued, designate whether the holder is authorized to appraise real property or personal property, or both, and be signed by an authorized representative of the Department.

Sec. 13. 1. *A person who is employed as an appraiser by the State of Nevada or any of its political subdivisions may apply to the Department for an appraiser's certificate.*

2. The application must satisfy the requirements of NRS 361.2224 and 361.2225, be on a form approved by the Department and include:

(a) The name of the applicant;

(b) The mailing address and telephone number of the place of employment of the applicant;

(c) Verification of the employment of the applicant; and

(d) Such other information as the Department may require.

3. Except as otherwise provided in subsection 4, to be eligible for an appraiser's certificate, the applicant must pass the appraiser's certificate examination.

4. An applicant who submits proof satisfactory to the Department that he has earned a professional designation from any of the member organizations of the Appraisal Foundation

is not required to take the section of the appraiser's certificate examination that tests specific knowledge. Such professional designations include, without limitation:

- (a) Member, Appraisal Institute (MAI).*
- (b) Certified Assessment Evaluator (CAE).*
- (c) Senior Real Property Appraiser (SRPA).*
- (d) Senior Real Estate Analyst (SREA).*
- (e) Residential Member (RM).*
- (f) Residential Evaluation Specialist (RES).*
- (g) Senior Residential Appraiser (SRA).*
- (h) Personal Property Specialist (PPS).*

5. If an applicant, pursuant to subsection 4, submits proof of a professional designation that signifies specialization in the appraisal of real property or personal property, but not both, the Department, if it issues an appraiser's certificate to the applicant, will issue a real property appraiser's certificate or a personal property appraiser's certificate, as applicable.

Sec. 14. 1. *A person who wishes to perform the duties of an appraiser as an independent contractor with the State of Nevada or any of its political subdivisions may apply to the Department for an independent contractor's appraiser's certificate.*

2. The application must satisfy the requirements of NRS 361.2224 and 361.2225, be on a form approved by the Department and include:

- (a) The name of the applicant;*
- (b) The mailing address and telephone number of the applicant; and*
- (c) Such other information as the Department may require.*

3. In addition to the requirements of subsection 2, the applicant must provide the Department with the resume of the applicant which documents his education, his experience as an appraiser and any professional designations or certificates he holds, and which contains the names of at least two personal references. The Department may investigate the truthfulness of the information and representations set forth in the resume.

4. Except as otherwise provided in subsection 5, to be eligible for an independent contractor's appraiser's certificate, the applicant must pass the appraiser's certificate examination.

5. An applicant who submits proof satisfactory to the Department that he has earned a professional designation from any of the member organizations of the Appraisal Foundation is not required to take the section of the appraiser's certificate examination that tests specific knowledge. Such professional designations include, without limitation:

(a) Member, Appraisal Institute (MAI).

(b) Certified Assessment Evaluator (CAE).

(c) Senior Real Property Appraiser (SRPA).

(d) Senior Real Estate Analyst (SREA).

(e) Residential Member (RM).

(f) Residential Evaluation Specialist (RES).

(g) Senior Residential Appraiser (SRA).

(h) Personal Property Specialist (PPS).

6. If an applicant, pursuant to subsection 5, submits proof of a professional designation that signifies specialization in the appraisal of real property or personal property, but not both,

the Department, if it issues an appraiser's certificate to the applicant, will issue a real property appraiser's certificate or a personal property appraiser's certificate, as applicable.

Sec. 15. 1. *An independent contractor's appraiser's certificate must be renewed annually.*

2. Except as otherwise provided in subsection 3, an application for renewal must be made in the same manner as, and is subject to the same requirements applicable to, an initial application as set forth in section 14 of this regulation.

3. The Department will waive the examination requirement for renewal if the applicant for renewal has satisfied the requirements for continuing education set forth in this chapter and NRS 361.223 and requests on the application for renewal that the examination requirement be waived.

4. Before an independent contractor's appraiser's certificate is renewed, the independent contractor must present proof satisfactory to the Department that he has contracted with the State of Nevada or any of its political subdivisions as an independent contractor within the immediately preceding 12 months, or that he has a reasonable expectation of so contracting within the next following 12 months.

Sec. 16. 1. *The Department will offer the appraiser's certificate examination at least once each quarter. At least one administration of the examination each year must be at a location in northern Nevada and at least one administration of the examination each year must be at a location in southern Nevada. A county assessor may submit to the Department a written request for an additional examination time and location. The Department will consider such a request if the budget of the Department is adequate to support the additional examination time and location.*

2. The section of the appraiser's certificate examination that tests general knowledge must, without limitation, test the knowledge and understanding of an applicant concerning:

- (a) Land description and land use classifications;*
- (b) Principles and concepts of the appraisal of property;*
- (c) Relevant statutes and regulations of this state; and*
- (d) Principles of property tax administration.*

3. The section of the appraiser's certificate examination that tests specific knowledge must, without limitation, test the knowledge and understanding of an applicant concerning either:

(a) Principles and concepts of the appraisal of real property, which must include, without limitation:

- (1) Land and land identification;*
- (2) Approaches to estimating the value of real property;*
- (3) Depreciation of real property; and*
- (4) Mass appraisal; or*

(b) Principles and concepts of the appraisal of personal property, which must include, without limitation:

- (1) Terminology;*
- (2) Approaches to estimating the value of personal property;*
- (3) Depreciation of personal property; and*
- (4) Analysis of financial data.*

4. *To pass the appraiser's certificate examination, an applicant must receive a score of at least 70 percent on each section. The Department will mail to an applicant the results of his examination within 14 days after he completes the examination.*

5. *An applicant will be given credit for each section of the examination that he passes. If an applicant passes only one section of the examination, he may make a written request to the Department to retake the section that he did not pass.*

6. *An applicant who fails a section of the examination may request information from the Department concerning the general subject areas in that section which the applicant answered incorrectly. An applicant is not entitled to review his completed examination booklet or answer sheet after it is submitted for grading.*

7. *An applicant must direct any challenge to the content of the examination or to the validity and correctness of any question or answer to the Board. The challenge must be in writing and be postmarked not later than 10 calendar days after the receipt by the applicant of the results of the examination. The Board will not consider challenges containing mere statements of conclusion, belief or preference.*

8. *The Department, in consultation with the Board, may revise and update the examination at any time. The revising and updating of the examination may be performed by the personnel of the Department, or the Department may contract with a natural person or entity that specializes in the development of such examinations to revise and update the examination.*

9. *An applicant must submit to the Department a fee of \$25 for each section of the examination that the applicant wishes to take or retake.*

Sec. 17. 1. The Department, in consultation with the Board, will determine the appropriate number of contact hours to be awarded for each approved education course. The Department will award the appropriate number of contact hours to persons who complete approved education courses and provide documentation to the Department as required by subsection 2. Unless otherwise noted on the certificate of completion for an approved course of education, contact hours may be awarded as follows:

(a) If a person completes an approved education course that consists of 4 days of instruction or less, the Department may award the person 8 contact hours for each day of the course.

(b) If a person completes an approved education course that consists of 4 days of instruction and an examination on the fifth day, the Department may award the person 36 contact hours.

(c) If a person completes an approved education course that consists of 5 days of instruction the first week and 4 1/2 days of instruction the second week, the Department may award the person 76 contact hours.

(d) If a person completes an approved education course offered by a university or community college, the Department may award the person 12 contact hours for each semester credit earned.

(e) If an approved education course includes an examination for the course and a person completes the instruction for the course but fails to pass the examination, the Department may award the person one-half of the contact hours that he would have been awarded had he passed the examination. If the person did not complete the instruction for the course the Department may award the person 4 contact hours for each full day of instruction that he

completed if the person provides evidence satisfactory to the Department of his attendance at the course. If a person who is awarded contact hours pursuant to this paragraph subsequently passes the examination for the course, the Department may award the person a number of contact hours equal to the total contact hours approved for the course minus contact hours previously awarded to the person for the course pursuant to this paragraph.

(f) The Department will not award any contact hours for the completion of any portion of a course in real estate or the appraisal of property if the primary objective of the course is to prepare those persons taking the course to take and pass an examination for licensure in real estate or the appraisal of property.

(g) The Department will not award any contact hours for any portion of a course at a university or community college if the person taking the course does not earn a passing grade or withdraws from the course.

(h) If a person instructs an approved education course, the Department may award the person a number of contact hours equal to the number of hours the person spent lecturing during the course or teaching as part of a group. The Department will not award contact hours:

(1) For any time the person spent on preparing for the course, grading students, or assisting students on projects or assignments outside of class; or

(2) For teaching the same course more than once in a 12-month period.

2. A person who holds an appraiser's certificate and for whom the annual training requirement has not been waived pursuant to NRS 361.223 shall, on or before July 1 of each year, provide written documentation to the Department of each approved education course he has taken, and the total contact hours he has earned, since July 1 of the previous year. The

documentation for each course must include, without limitation, a certificate of attendance that shows the name of the person, the name of the course, the signature of the instructor of the course or the authorized representative of the organization that sponsored the course, and the dates of the person's attendance at the course. A transcript of grades, if any, from the organization that sponsored the course must also be submitted. If the course was taken at a university or community college, a certified transcript may be submitted in lieu of a certificate of attendance.

3. The Department, in consultation with the Board, may consider granting a person full credit towards the annual training requirement of 36 contact hours set forth in NRS 361.223 for approved education courses previously taken if:

(a) The person makes a request to the Department for such credit;

(b) At least 3 years have elapsed since the person last attended the course;

(c) The person has not previously received contact hours for the course; and

(d) No other training is available to enable the person to comply with the annual training requirement of 36 contact hours.

4. To qualify for a waiver of the annual training requirement pursuant to paragraph (b) of subsection 2 of NRS 361.223, a person who holds an appraiser's certificate must complete as part of the 180 contact hours of accepted training required by that paragraph at least 4 hours of training in ethical and professional standards.

5. If a person for whom the annual training requirement has been waived pursuant to NRS 361.223 accumulates more than 36 contact hours during any 5-year period thereafter, the excess contact hours will not be carried forward.

6. The Department will notify each person who holds an appraiser's certificate and who has not satisfied the continuing education requirements for a fiscal year or a 5-year period, as applicable, that the appraiser's certificate is subject to suspension or revocation pursuant to NRS 361.224. The notice will be sent by United States mail at least 60 days before the end of the fiscal year or 5-year period to the address of the person as listed in the files of the Department. If the Department does not receive a response to the notice within 30 days after mailing, the Department will forward the matter to the Board for consideration at its next regularly scheduled meeting. The Board will review the matter and provide its recommendation to the Department concerning whether the appraiser's certificate should be suspended or revoked.

Sec. 18. 1. The Board will review courses of continuing education and may recommend the approval of such a course by the Department if the Board determines that:

(a) After evaluating the contents of the course for correctness, applicability to appraisal for property tax purposes and relevance to current issues and trends concerning appraisal, the subject matter of the course is relevant to understanding and applying the standards established by the International Association of Assessing Officers or any other member organization of the Appraisal Foundation;

(b) The subject matter of the course is relevant to understanding:

(1) The application of the statutes and regulations of this state;

(2) The published appraisal and assessment standards of the Department;

(3) Laws relating to real estate, water and mining; or

(4) Administrative procedures;

(c) The subject matter of the course is relevant to understanding the concepts and applications of mass appraisal, including, without limitation, the application of technology such as geographic information systems (GIS) mapping and computer automated mass appraisal systems; or

(d) The subject matter of the course is relevant to understanding the concepts and applications of the appraisal of centrally assessed properties, including, without limitation, principles of accounting and finance.

2. A person who wishes to receive contact hours for a course of continuing education that has not been approved by the Department must apply to the Department for such approval before taking the course. The application must be in writing and include, without limitation, the name and address of the organization that is sponsoring the course, a list of the instructors of the course and their qualifications, and a syllabus of the course that indicates the coursework and the books to be used in the course.

3. The Department will provide a list of all approved educational courses to the assessor of each county, and may provide the list to any other person who requests it in writing. The Department will update the list at least every 3 years.

Sec. 19. *1. The Department will maintain current records of continuing education for each person employed as an appraiser by this state or a political subdivision of this state.*

2. The Department will maintain for not less than 10 years records of continuing education for each independent contractor and each person formerly employed as an appraiser by this state or a political subdivision of this state.

3. The records of continuing education for each person are confidential and must not be made available to any person other than the staff of the Department, the members of the

Board or the employer of the person to whom the records pertain, unless the person to whom the records pertain has provided prior written authorization to the Department.

4. A person may request in writing a copy of the transcript of his records of continuing education. The Department will provide such a transcript at no charge.

Sec. 20. 1. *The Department may suspend the appraiser's certificate of a person under any of the following circumstances:*

(a) Upon the recommendation of the Board if the person fails to satisfy the requirements for continuing education set forth in this chapter and NRS 361.223. The Department may, upon the recommendation of the Board, reinstate the appraiser's certificate if the person subsequently satisfies the requirements for continuing education.

(b) Upon the recommendation of the Board if the person is an independent contractor and he fails to renew his appraiser's certificate annually as required by this chapter. The Department may, upon the recommendation of the Board, reinstate the appraiser's certificate if the person subsequently satisfies the requirements for renewing his appraiser's certificate.

(c) In accordance with the provisions of subsection 1 of NRS 361.2226. The Department may reinstate the appraiser's certificate in accordance with the provisions of subsection 2 of NRS 361.2226.

2. The Board may not recommend the suspension of an appraiser's certificate except after a meeting noticed in accordance with NRS 241.034.

3. A person whose appraiser's certificate is suspended by the Department shall not render an opinion concerning the value of property but may collect data for use by certified appraisers to establish value.

Sec. 21. 1. The Department may, upon the recommendation of the Board, revoke the appraiser's certificate of a person under any of the following circumstances:

(a) The person fails to satisfy the requirements for continuing education set forth in this chapter and NRS 361.223. The Department may, upon the recommendation of the Board, reinstate the appraiser's certificate if the person subsequently satisfies the requirements for continuing education and passes the appraiser's certificate examination.

(b) The person is an independent contractor and he fails to renew his appraiser's certificate annually as required by this chapter. The Department may, upon the recommendation of the Board, reinstate the appraiser's certificate if the person subsequently satisfies the requirements for renewing his appraiser's certificate and passes the appraiser's certificate examination.

(c) The person's appraiser's certificate has been suspended for a period of more than 1 year. The Department may, upon the recommendation of the Board, reinstate the appraiser's certificate if the person passes the appraiser's certificate examination.

(d) The person engages in unethical professional conduct, including, without limitation:

(1) Making oral or written public statements in the course of performing duties as an appraiser that are untrue or intended to mislead or deceive the public.

(2) Engaging in activities relating to the appraisal or assessment of property if the person has, or may reasonably be considered by the public as having, a conflict of interest with regard to that property.

(3) Accepting assignments relating to the appraisal or assessment of property which are contingent on or influenced by any condition that could impair the objectivity of the person.

(4) Failing to perform the duties of an appraiser in accordance with applicable statutes and regulations.

2. If the appraiser's certificate of a person is revoked pursuant to paragraph (d) of subsection 1:

(a) The Department will not accept or review an application for an appraiser's certificate from that person within 3 years after the date of the revocation.

(b) If the person files an application for an appraiser's certificate after the expiration of the 3-year period, the applicant must:

(1) Provide the Department with the resume of the applicant which documents his education, his experience as an appraiser and any professional designations or certificates he holds, and which contains the names of at least two personal references. The Department may investigate the truthfulness of the information and representations set forth in the resume.

(2) Pass the appraiser's certificate examination.

(c) The Board may recommend that the application for an appraiser's certificate filed by the person pursuant to paragraph (b) be approved if the Board finds that the person has satisfied the requirements of paragraph (b) and that the person has not engaged in unethical professional conduct as described in paragraph (d) of subsection 1 at any time since the revocation of his appraiser's certificate.

3. The Board may not recommend the revocation of an appraiser's certificate except after a meeting noticed in accordance with NRS 241.034.

4. A person whose appraiser's certificate is revoked by the Department shall not render an opinion concerning the value of property but may collect data for use by certified appraisers to establish value.

Sec. 22. *A decision of the Department to suspend or revoke an appraiser's certificate may be appealed to the Commission pursuant to the provisions of NRS 360.245.*

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R028-03**

The Department of Taxation adopted regulations assigned LCB File No. R028-03 which pertain to chapter 361 of the Nevada Administrative Code on September 9, 2003.

Notice date: 8/6/2003
Hearing date: 9/9/2003

Date of adoption by agency: 9/9/2003
Filing date: 12/4/2003

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>
8/6/03	Workshop	8/25/03	394	251
8/6/03	Hearing	9/09/03	394	251

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

Several oral comments were received, particularly with regard to new proposed language on appraiser certification. 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@tax.state.nv.us.

- 2. The number of persons who:**

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

	<u>Attended</u>	<u>Testified</u>
August 25, 2003		6

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

	<u>Attended</u>	<u>Testified</u>
September 9, 2003		
Members of the Commission		5
Members of the public	7	1

(c) Submitted to the agency written comments: 0

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.

Members of the Nevada Assessors 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) 687-4841 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@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.

The reason for the adoption of new language in LCB File No. R028-03 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.

One additional change was made during the adoption hearing on September 9, 2003.

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 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 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.