

**ADOPTED REGULATION OF THE  
NEVADA TAX COMMISSION**

**LCB File No. R029-03**

Effective December 4, 2003

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

AUTHORITY: §1, NRS 360.090, 360.250 and 361.082.

**Section 1.** Chapter 361 of NAC is hereby amended by adding thereto a new section to read as follows:

*1. An owner of property who wishes to qualify the property for exempt status pursuant to NRS 361.082 must apply to the county assessor for the exemption not later than June 15 of each year. The application must be on a form approved by the Commission.*

*2. Except as otherwise provided in this section, an application for the exemption of property pursuant to NRS 361.082 must contain information showing:*

*(a) That the property is part of a qualified low-income housing project funded in part by federal money appropriated pursuant to 42 U.S.C. §§ 12701 et seq. for the year in which the exemption applies;*

*(b) That the property, including related facilities, has been occupied or used by qualified residents or will be used exclusively as low-income units as of June 15 of that year; and*

*(c) The total number of qualifying low-income units and the number of units rent-restricted and currently occupied by persons meeting the income limitation applicable under 26 U.S.C. § 42(g)(1).*

*3. The following additional documentation must also be attached to the application:*

*(a) Documentation showing the property is part of a qualified low-income housing project, including, without limitation:*

*(1) A declaration of restrictive covenants;*

*(2) A letter of verification from the appropriate housing agency in charge of dispensing federal funds which states that the project qualifies as a qualified low-income housing project and includes the type of federal funding granted, the date on which the funding was granted and the date of expiration of the funding; or*

*(3) Any other verification of the disbursement of federal funding and the date of the disbursement.*

*(b) Documentation showing the election of the taxpayer to qualify as a low-income housing project under the 20-50 test or the 40-60 test pursuant to 26 U.S.C. 42(g). Such documentation may include, without limitation, a copy of that portion of a federal income tax return claiming the federal tax credit.*

*(c) For an initial application, a copy of:*

*(1) The first quarter or annual status report for the project issued by the appropriate housing agency showing the number of units, the sizes of the units, the names of the tenants occupying those units, the sizes of the households living in those units, the actual amount of rent paid by the tenants of those units, the utility allowance, the annual household incomes of the tenants of those units and the rental activity for those units; and*

*(2) Area median income limits published each year by the Department of Housing and Urban Development used in the determination of eligibility for Section 8 subsidized rental housing which are incorporated in the income limits for the Home Investment Partnerships Program as of March 31st of the most current year.*

*4. Each owner of property who receives an exemption for low-cost housing shall annually file with the county assessor:*

*(a) A report that includes the information and documentation identified in subsections 2 and 3; or*

*(b) An affidavit providing that information on a form approved by the Commission.*

*5. An owner of property need not include on his renewal form the documentation and information described in paragraph (a) of subsection 2.*

*6. The owner of the property shall maintain accurate records in support of the information requested.*

*7. The county assessor shall disallow claims for exemption on any unit that:*

*(a) Is not rent-restricted; or*

*(b) Is not a part of a qualified low-income housing project funded in part by federal money appropriated pursuant to 42 U.S.C. §§ 12701 et seq. for the year in which the exemption is sought.*

*8. Any claim for exemption denied by the county assessor affecting the taxable value of the property may be appealed to the county board of equalization in accordance with NRS 361.345.*

*9. As used in this section:*

*(a) The “20-50 test” means a test that requires 20 percent or more of the residential units in the low-income housing project to be both rent-restricted and occupied by natural persons whose income is 50 percent or less of the area median gross income.*

*(b) The “40-60 test” means a test that requires 40 percent or more of the residential units in the low-income housing project to be both rent-restricted and occupied by natural persons whose income is 60 percent or less of the area median gross income.*

*(c) “Low-income unit” means any unit in a building that:*

*(1) Is rent-restricted pursuant to 26 U.S.C. § 42(g)(2);*

*(2) Is occupied by persons who meet the income limitations applicable under the 20-50 test or the 40-60 test, as appropriate; and*

*(3) Meets all other applicable exceptions and limits pursuant to 26 U.S.C. § 42(i)(3).*

*(d) “Qualified low-income housing project” means any project for residential rental property meeting the 20-50 test or the 40-60 test, whichever is elected by the taxpayer pursuant to 26 U.S.C. § 42.*

*(e) “Related facilities” means that part of qualified low-income housing occupied or used exclusively by persons with low incomes, including, without limitation, playgrounds, community rooms, the manager’s office and the low-income unit.*

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R029-03**

The Nevada Tax Commission adopted regulations assigned LCB File No. R029-03 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 low-income housing organizations and officials of local jurisdictions subject to these regulations.

No oral or written comments were received for the permanent regulations workshop, however several oral and written comments were received during the temporary regulatory process, particularly with regard to the exemption of low income housing. 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	24	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.

There were no comments during the permanent regulatory process, however, during the temporary regulatory process, 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 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](mailto: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.**

No changes were made to sections 1 and 2 regarding low income housing. The reason for adopting the new language regarding low-income housing is to fulfill the requirements of NRS 361.082 (3).

Section 3 of the permanent proposed regulations was not adopted. Section 3 contained regulations regarding the taxability of standard prewritten software programs. Section 3 was not adopted pending additional work to correlate the property tax treatment of software with the tax treatment for sales tax purposes.

**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.

**(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, 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.