

**ADOPTED REGULATION OF THE HOUSING DIVISION OF
THE DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R136-03

Effective November 26, 2003

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

AUTHORITY: §1, NRS 319.140; §§2-14, NRS 319.140, 319.145 and 319.210; §§15 and 17, NRS 319.140 and 319.210; §16, NRS 319.140, 319.210 and section 8 of Assembly Bill No. 490 of the 72nd Session of the Nevada Legislature, chapter 516, Statutes of Nevada 2003, at page 3537.

Section 1. Chapter 319 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 14, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 12, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Area median purchase price” means 95 percent of the median purchase price for a single-family residence in the area in which the residence is located, as established by the United States Department of Housing and Urban Development.*

Sec. 4. *“Deferred loan agreement” means an agreement that:*

- 1. Evidences a deferred mortgage loan issued to an eligible applicant; and*
- 2. Is secured by a second deed of trust.*

Sec. 5. *“Deferred loan program for down payments or closing costs” means each program administered by the Division for which the Division uses money received from the United States Department of Housing and Urban Development pursuant to the HOME Investment Partnerships Act, 42 U.S.C. §§ 12701 et seq., to finance deferred mortgage loans.*

Sec. 6. *“Deferred mortgage loan” means a loan, the repayment of which is deferred, that is:*

- 1. Made to an eligible applicant for the payment of the down payment or the closing costs, or both, for an eligible residence;*
- 2. Evidenced by a deferred loan agreement; and*
- 3. Secured by a second deed of trust.*

Sec. 7. *“Eligible applicant” means a person who:*

- 1. Desires to obtain financing for the down payment or the closing costs, or both, for an eligible residence; and*
- 2. Meets the criteria set forth in section 13 of this regulation.*

Sec. 8. *“Eligible residence” means a residence that:*

- 1. Is a single-family residence constructed after 1978;*
- 2. Meets the criteria for a principal residence set forth in 26 C.F.R. § 6a.103A-2(d)(3);*
- 3. Has a value that does not exceed the area median purchase price;*
- 4. Has not been occupied by a tenant, other than the eligible applicant, during the 6 months immediately preceding the date on which the eligible applicant applied for the deferred mortgage loan;*
- 5. Meets the criteria for underwriting applied by the Federal Housing Administration or the Department of Veterans Affairs, depending on which entity insures or guarantees the mortgage loan; and*
- 6. Is not located in a designated runway clear zone or clear zone, as defined in 24 C.F.R. § 51.301(d).*

Sec. 9. *“Household income”:*

1. Means the income of the mortgagor and of any other person who will be living in the eligible residence and who is at least 18 years of age; and

2. Must be determined in accordance with the provisions of 42 U.S.C. § 1437f and the regulations adopted pursuant thereto concerning determination of income.

Sec. 10. *“Median family income” means the percentage of median family income as prescribed by the HOME Investment Partnerships Act, 42 U.S.C. §§ 12701 et seq., adjusted for household size, which is established for each area of this state by the United States Department of Housing and Urban Development.*

Sec. 11. *“Participating lending institution” has the meaning ascribed to it in NAC 319.415.*

Sec. 12. *“Second deed of trust” means an instrument, including, without limitation, a deed of trust, mortgage deed or other mortgage, that secures a deferred mortgage loan and a deferred loan agreement and creates a second lien, which is junior to a first lien, on a fee interest in real property located within this state.*

Sec. 13. *An eligible applicant must:*

1. Have obtained or be in the process of obtaining a mortgage loan for the purchase of an eligible residence pursuant to a program administered by the Division pursuant to NAC 319.300 to 319.489, inclusive;

2. Submit a completed application for a mortgage loan pursuant to NAC 319.300 to NAC 319.489, inclusive, to a participating lending institution indicating his desire to be considered for a deferred mortgage loan;

3. Have a household income of not more than the median family income;

4. *After paying closing costs for the eligible residence, have not more than \$5,000 in liquid assets in his possession;*
5. *Contribute a minimum cash investment of \$500;*
6. *Meet the criteria for underwriting applied by the Federal Housing Administration or the Department of Veterans Affairs, depending on which entity insures or guarantees the mortgage loan; and*
7. *Have completed a training course on the purchase of a home approved by the:*
 - (a) *Entity that insures or guarantees the mortgage loan; or*
 - (b) *Division, if the entity described in paragraph (a) has not approved such a course.*

Sec. 14. *Each deferred mortgage loan financed by the Division must:*

1. *Be of an amount that:*
 - (a) *Does not reduce the ratio of mortgage payment to income of the eligible applicant, calculated as prescribed by the Federal Housing Administration, below 29 percent; or*
 - (b) *Does not reduce the ratio of total fixed payment to income of the eligible applicant, calculated as prescribed by the Department of Veterans Affairs, below 41 percent;*
2. *Not provide for money to be used for any purpose other than the down payment or the closing costs, or both;*
3. *Not provide to the eligible applicant at closing any cash refund that is \$50 or more;*
4. *Not create a ratio of combined loan to value, including the mortgage loan and the deferred mortgage loan, exceeding 100 percent; and*
5. *Meet the applicable requirements of the HOME Investment Partnerships Act, 42 U.S.C. §§ 12701 et seq.*

Sec. 15. NAC 319.420 is hereby amended to read as follows:

319.420 “Program” means each program administered by the Division pursuant to which the Division ~~issues bonds and uses the proceeds of the bonds to~~ *finances the* purchase of mortgage loans from participating lending institutions.

Sec. 16. NAC 319.463 is hereby amended to read as follows:

319.463 1. To be eligible to participate in a program, a lending institution must:

- (a) Have a net worth of at least \$500,000;
- (b) Maintain at least one office within this state that originates loans and deeds of trusts;
- (c) Customarily engage in originating or servicing loans and deeds of trusts, or in originating and servicing loans and deeds of trusts;
- (d) Be qualified to do business in this state;
- (e) Be licensed as required by applicable law;
- (f) Be authorized to commence business under a certificate issued by the Commissioner of Financial Institutions ~~or~~ *or the Commissioner of Mortgage Lending*, if required by law;
- (g) Be in good standing with the federal, state or local regulatory agency having jurisdiction; and
- (h) Be a mortgagee approved by the Federal Housing Administration and the Department of Veterans Affairs, or be a seller or servicer of mortgage loans to and for the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

2. The Division will issue a notice of acceptance to each eligible lending institution which applies and is accepted by the Division to participate in a program.

Sec. 17. NAC 319.545 is hereby amended to read as follows:

319.545 1. The Division will determine annually the ~~f~~

~~—(a) Amount~~ *amount* of money that is available for each program to purchase second mortgage loans for down payments or closing costs. ~~}; and~~

~~—(b) Number of participating lending institutions necessary to administer that program.]~~

2. To select the participating lending institutions that will participate in a program to purchase second mortgage loans for down payments or closing costs, the Division will:

(a) Verify the status of the lending institution as a participating lending institution;

(b) Consider the ~~level and~~ quality of participation of the participating lending institution in a program administered by the Division pursuant to NAC 319.300 to 319.489, inclusive; *and*

(c) Consider the extent of previous participation, if any, of the participating lending institution in a program *which is administered by the Division* to purchase second mortgage loans for down payments or closing costs. ~~}; and~~

~~—(d) Consider the locations of the participating lending institutions.]~~

3. The Division will issue a notice of acceptance to each ~~participating~~ lending institution that is selected by the Division to participate as a qualified participating lending institution in a program to purchase second mortgage loans for down payments or closing costs.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R136-03

The Housing Division of the Department of Business and Industry adopted regulations assigned LCB File No. R136-03 which pertain to chapter 319 of the Nevada Administrative Code on October 21, 2003.

Notice date: 9/9/2003
Hearing date: 10/15/2003

Date of adoption by agency: 10/21/2003
Filing date: 11/26/2003

INFORMATIONAL STATEMENT

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

The Notice of Intent to Adopt Regulations and Notice of Workshop were posted at all Nevada County libraries, the State Library, and at the Division's offices in Carson City and Las Vegas. The posting occurred more than 30 days prior to the hearing/workshop. There was no public response or comments to the proposed regulations.

- 2. The number of persons who:**
- | | |
|--|----------|
| (a) Attended each hearing: | 3 |
| (b) Testified at each hearing: | 0 |
| (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.**

Comments were solicited from affected businesses by the posting of the Notices as described in #1 above. No comments were received by the Division, either written or at the hearing. As no comments were received, no summary is available.

- 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 regulation was adopted with some minor technical changes, after the Legislative Counsel Bureau had reviewed it.

- 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**
(b) Both immediate and long-term effects.

- (a) No beneficial or adverse economic effect on any business will occur.
- (b) There are no immediate or long-term effects of the regulations on any business.

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

There is no additional cost to the Division for enforcement of the regulations.

7. A description of any regulations of other state or governmental 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.

No other state or government agency regulations are duplicated by the proposed regulations of the Division.

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

The regulation does not contain any provisions more stringent than a federal regulation.

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.

No new fee or increase in an existing fee is provided for by the regulations.