

LCB File No. R124-04

PROPOSED REGULATION OF THE HOUSING DIVISION OF THE  
DEPARTMENT OF BUSINESS AND INDUSTRY

NAC CHAPTER 319

~~[-]~~ Material to be deleted

*Material to be added*

NAC 319.996 is hereby amended to read as follows:

1. Except as otherwise provided in this section, tax credits awarded to a project that is financed by 50 percent or more of the proceeds of tax-exempt bonds are governed by the provisions of NAC 319.951 to 319.998, inclusive.

2. The provisions of NAC 319.972 to 319.978, inclusive, 319.980, 319.981, 319.988, 319.990, 319.991 and 319.992 do not apply to tax credits awarded to a project specified in subsection 1.

3. An application for tax credits for a project specified in subsection 1 must be completed and will be evaluated in connection with the application for the financing of any bonds for that project.

4. For the purposes of subsection 2 of NAC 319.987, if the developer's fee for a project specified in subsection 1 ~~[-]~~

~~—(a) [-] is collectible within 5 years after the completion of the project, the developer's fee for the project must not exceed 15 percent of the total amount of the costs of the project, excluding the developer's fee. [-; or~~

~~—(b) Is collectible 5 years or more after the project is completed, the developer's fee for that project must not exceed 20 percent of the total amount of the costs of the project, excluding the developer's fee.]~~

NAC 319.712 is hereby amended as follows:

The Division shall not submit a project to the State Board of Finance for approval unless the Division determines that:

1. The project has binding commitments on either the mortgage or bonds, as required, from a credit enhancer who *has a credit rating of at least AA/Aa and* has been approved by the Division;

2. If tax-credit equity is to be part of the total financing, the project has binding commitments from the tax-credit equity investor; and

3. Sources of funding for the proposed project have all been identified and are adequate to fund the project to completion.

NAC 319.7125 is hereby amended as follows:

To receive financing from the Division for a project, the sponsor must:

1. Pay the application fee described in NAC 319.700;

2. Prove to the satisfaction of the Division that the project will comply with the provisions of NAC 319.600 to 319.790, inclusive; and

3. Submit the following documents, as applicable, to the Division:

- (a) A binding letter of commitment from a credit enhancer which is rated AA/Aa or AAA/Aaa and which covers the principal of and interest on the bonds through the earlier of:
- (1) The maturity of the proposed bond issue; or
  - (2) A mandatory tender or redemption date;
- (b) If tax-credit equity is to be used as a source of funding for the project, a binding letter of commitment from the tax-credit syndicator verifying the amount and timing of money from the sale of tax credits less all associated fees;
- (c) A document describing:
- (1) The proposed final sources and uses of funds for the project, including, without limitation, net bond proceeds, tax-credit equity, grants and any subordinated debt; and
  - (2) The proposed draw schedule for use of bond proceeds;
- (d) The partnership agreement or articles of incorporation of the sponsor;
- (e) The certificate of registration issued by the Secretary of State pursuant to NRS 86.551 or 88.580, as applicable, for the sponsor;
- (f) The articles of organization and any resolutions or operating agreements that establish the authority of a person to sign documents associated with the financing of the project;
- (g) A written contract to purchase or option to purchase the property on which the project is to be built, or a title report showing ownership of the property on which the project is to be built;
- (h) A title report for the site of the project that includes a list of all exceptions and a pro forma American Land Title Association policy to be issued to the lending organization;
- (i) A copy of the most recent Phase I Environmental Report, that is less than 12 months old, for the site of the project;
- (j) A copy of the most recent geotechnical report, that is less than 12 months old, for the site of the project;
- (k) A copy of a certified appraisal of the site of the project that is approved by the credit enhancer *or is performed by a certified Nevada appraiser*;
- (l) A copy of a certified “as-built” survey of the site of the project which is American Land Title Association qualified and which shows the project in its proper place on the site and all exceptions to title;
- (m) A copy of any development agreement with the owner of the proposed project;
- (n) A copy of any management agreement to be used for the proposed project;
- (o) A copy of any general contractor’s agreement between the sponsor and the proposed general contractor for the project;
- (p) A parcel map of the site of the project that is recorded with the county recorder;
- (q) If the site of the project is located on a flood zone as designated by the Federal Emergency Management Agency, a map that shows the bounds of the flood zone, the property on which the project is to be located and the project; ~~and~~
- (r) A copy of the zoning restrictions on the site of the project showing that the applicable zoning laws and regulations allow for the development of the project on the site; ~~and~~
- (s) A completed energy audit or energy report from a Division-approved energy efficiency specialist detailing the required energy efficiency components that must be installed and used in the construction or rehabilitation of the project;*
- (t) A physical capital needs assessment for any acquisition/rehabilitation project that is more than ten years old;*

**NAC 319.722 is hereby amended as follows:**

1. The maximum amount of proforma profit and overhead for a developer on a project is 15 percent of the ~~{appraised value of the project}~~ *total amount of the costs of the project, excluding the developer's profit*. The profit must be paid as follows:

- (a) Ten percent paid on the basis of percentage of completion of the improvements;
- (b) Ten percent paid on the date the construction loan converts to a permanent loan; and
- (c) Eighty percent paid from cash flows after payment of debt service for senior projects and funded repair and replacement reserves.

2. The maximum interest rate on a deferred note is limited to the amount needed to maintain the present value of the amount of the developer's fee that remains unpaid.

**NAC 319.790 is hereby amended to read as follows:**

1. The Division will determine the maximum levels of income and other requirements for eligible tenants after considering:

- (a) The median income of residents of each county in the State;
- (b) The requirements and standards, including maximum levels of income, of applicable federal and state statutes and regulations;
- (c) The size of the tenant's family; and
- (d) Any other factor which it deems relevant.

2. A family's financial eligibility is determined by the family's verified gross income, including:

- (a) Salary or wages;
- (b) Income from overtime;
- (c) Tips;
- (d) Income from part-time employment;
- (e) Bonuses;
- (f) Dividends;
- (g) Interest;
- (h) Royalties;
- (i) Pensions;
- (j) Compensation received from the Veterans' Administration;
- (k) Net rental income;
- (l) Alimony;
- (m) Payments for child support;
- (n) Public assistance;
- (o) Compensation for disability;
- (p) Payments received from social security;
- (q) Compensation for unemployment;
- (r) Military allowances;
- (s) Income received from business activities or investments; and
- (t) Income received from trusts.

*3. On a case by case basis, and with appropriate documentation, the Division may allow a tenant or family who may not meet the requirements of an eligible tenant or eligible family, to remain as a tenant in a project financed by the Division, if the circumstances and legal precedent justify the tenant or family to remain as an eligible tenant or eligible family in the project. The determination of eligibility is in the sole discretion of the Administrator.*