

Chapter 361 of NAC

LCB File No. E003-05

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

(Effective for 120 days after May 27, 2005)

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

AUTHORITY: Chapter 20, Statutes of Nevada 2005, Sections 3, 3.5, 4, 5, 8, and 9.

GENERAL PROVISIONS

Section 1. *Duties of the county assessor, Department of Taxation, and county tax receiver.*

1. *A county assessor (assessor) shall, prior to turning the roll over to the tax receiver each year:*

(a) Determine whether the property is a primary single family residence of the owner and is eligible for a partial abatement of the property taxes accrued against the single-family residence pursuant to Chapter 20, Statutes of Nevada 2005, Section 3.0;

(b) Determine whether the property is a residential rental dwelling eligible for a partial abatement of the property taxes accrued against the rental residential dwelling pursuant to Chapter 20, Statutes of Nevada 2005, Section 3.5;

(c) Determine whether a parcel or other taxable unit of property is eligible for a partial abatement of the property taxes accrued against the parcel or taxable unit of property as provided in Chapter 20, Statutes of Nevada 2005, Section 4; and

(d) Determine whether a parcel or other taxable unit of property is not eligible for a partial abatement pursuant to Chapter 20, Statutes of Nevada 2005, Sections 3, 3.5, or 4.

2. *For property valued in accordance with NRS 361.320, NRS 361.323, or NRS 362.100(1)(b), the Department of Taxation (Department) shall, prior to turning the roll over to the tax receiver each year:*

(a) Determine whether a parcel or other taxable unit of property is eligible for a partial abatement of the property taxes accrued against the parcel or taxable unit of property as provided in Chapter 20, Statutes of Nevada 2005, Section 4; and

(b) Determine whether a parcel or other taxable unit of property is not eligible for a partial abatement pursuant to Chapter 20, Statutes of Nevada 2005, Section 4.

3. *The assessor shall be the custodian of the claims for partial abatement of primary single family residences and eligible rental residential dwellings and shall indicate each property for which he has received a claim for partial abatement. For purposes of the abatement, the assessor may change the roll no later than June 30 each year to indicate the property is eligible for the abatement. The tax receiver shall calculate and apply the appropriate amount of partial abatement to each property on the tax roll which is marked as eligible for the primary residence abatement or the rental abatement. The tax receiver shall apply the general abatement to all other eligible property.*

(a) The Department shall provide the tax receivers in each county with the abatement percentage to be applied to property eligible for the general partial abatement. The Department shall calculate abatement percentage for each county based on the criteria required by chapter 20, Statutes of Nevada 2005, Section 4.

Sec. 2. *Process for qualifying eligible primary single-family residence; filing, form, contents and execution of claims; availability of forms.*

1. Each owner of a primary single-family residence may claim eligibility for partial abatement on a form provided by the county assessor of the county in which the property is located.

2. The assessor shall verify eligibility as necessary. The assessor must consider whether the property is otherwise eligible for the general abatement.

3. The form for claiming the primary single-family abatement may contain a statement which provides in all material respects that:

(a) The claimant is the owner of a primary single family residence exclusive of any other residence in Nevada;

(b) The property is not rented, leased or otherwise made available for exclusive occupancy by any person other than the owner of the residence and members of the family of the owner of the residence;

(c) The claimant agrees to notify the assessor if the property is no longer used as the primary single family residence; and

(d) The claim is affirmed and certified by the owner of the property under penalties provided by law.

4. The claim must be signed by:

(a) Any owner of the property of record;

(b) Any person of lawful age, authorized by an executed power of attorney to sign an application on behalf of any person described in paragraph (a);

(c) The guardian or conservator of any person described in paragraph (a) or the executor or administrator of such a person's estate.

5. Any changes in the claim for abatement occurring between April 6, 2005 and June 30, 2005 with regard to ownership or occupation of property existing on July 1, 2005, shall be reflected in the 2005-06 secured tax roll. Any changes in the ownership or occupation of property on the secured roll occurring after July 1, 2005 and before June 30, 2006 shall be reflected in the 2006-07 secured tax roll.

6. Any changes in the claim for abatement occurring between May 1, 2005 and April 30, 2006 with regard to ownership or occupation of property existing on July 1, 2005 and placed on the 2005-06 unsecured tax roll, shall be reflected on the 2005-06 unsecured tax roll. Any changes in the ownership or occupation of property on the unsecured roll occurring after April 30, 2006 and before May 1, 2007, shall be reflected in the 2006-07 unsecured tax roll.

Sec. 3. *Methodology for applying the primary single-family residence partial abatement for taxable unit with more than one single family residence.*

1. For the 2005-06 tax year only, when more than one single family residence exists on a single taxable unit, the entire taxable unit shall be presumed to be occupied exclusively by the owner if the owner claims the taxable unit as his primary residence, unless Section 4 of these regulations applies.

Sec. 4. Methodology for applying the primary single-family residence partial abatement for taxable units with a mixed use. For the 2005-06 tax year only, when a taxable unit of real property has a residential use and one or more other uses such as a commercial or agricultural use, and if the owner designates the taxable unit as the primary residence of the owner, the assessor may determine what portion of the taxable unit is occupied exclusively by the owner; what portion of the taxable unit is devoted to other uses; and apply the appropriate abatement to each portion of the taxable unit so occupied.

Sec. 5. Property used in the operation of a home business. A single-family residence which is used in the operation of a home business may consist of the residence and other improvements typically associated with the residence, such as, but not limited to, a detached garage.

Sec. 6. Process for qualifying eligible rental properties.

1. The assessor shall mail to all owners of residential rental property each year, a notice of the right to claim a partial abatement of property tax.

2. The claim must be filed annually with the county assessor of the county in which the claimant's rental unit is located no later than June 15th of each year.

3. A claim for partial abatement of property taxes of rental property must be accompanied by an affidavit stating that the rents received equal or are less than the final fair market rents published by the United States Department of Housing and Urban Development. In order for the assessor to compare the taxpayer's claim for partial abatement to the market rents published by the United States Department Of Housing And Urban Development, the taxpayer must also report the highest rent charged by the taxpayer for the period from March 31, 2004 to March 31, 2005.

4. The Department shall provide the assessor in each county with the final fair market rents published as of March 31 of the most current year by the Department of Housing and Urban Development, excluding USDA Standard Utility Allowance.

5. The county assessor shall determine whether property is eligible for the partial abatement by comparing the reported rental rate, less utilities if any are included in the rent, to the final fair market rents published as of March 31 of the most current year by the Department of Housing and Urban Development, excluding USDA Standard Utility Allowance.

6. The owner of the property shall maintain accurate records in support of the information requested. The information is subject to audit at any time by the county assessor.

7. The county assessor shall disallow claims for partial abatement of 3 % if any unit in which the rents received, less the utilities if any are included in the rent, exceed the final fair market rents published by the Department of Housing and Urban Development, excluding USDA Standard Utility Allowance .

8. Any claim for abatement denied by the county assessor may be appealed pursuant to the requirements of Chapter 20, Nevada Statutes 2005.

Sec. 7. Determination of unit of real or personal property and centrally-assessed property not eligible for the general abatement.

1. For the 2005-2006 tax year, the value allocated and apportioned to a taxing district shall be considered a unit of real or personal property.

2. For any interstate or intercounty company valued pursuant to NRS 361.320, property not eligible for the general abatement shall include, but is not limited to, the following:

- a.) Property of any company for which there was no allocation of value to, or apportionment of value within, Nevada for the prior year;*
- b.) Property classified as twelve-month construction work in progress; and*
- c.) Property identified in the current year Nevada book value or unadjusted Nevada value, as appropriate, unless it has already been reported by the taxpayer as twelve-month construction work in progress and the taxpayer certifies that capital expenditures are reported in construction work in progress prior to being transferred to plant in service.*

Sec. 8. *Calculation of the abatement. For purposes of comparison, the tax levy resulting prior to the application of all abatements and exemptions in the prior year must be compared to the tax levy resulting prior to the application of all abatements and exemptions in the current year.*

Sec. 9. *Calculation of the abatement as applied to property escaping taxation*

1. Property escaping taxation pursuant to NRS 361.325, 361.767 or 361.769 shall be considered to be new property for the first year in which it escaped taxation. For each year following the year of escaped taxation, the calculation of the abatement for assessments shall be made as if the property had been on the tax roll in the prior year.

2. For property overvalued or undervalued due to a clerical error as provided for in NRS 361.765, or an overassessment because of a factual error as provided for in NRS 361.768, the value may be readjusted and the abatement calculated against the readjusted value.

Sec. 10. *Calculation of the abatement when the tax district or tax entity is different than the prior year. The amount of partial abatement shall be calculated based on the levy for the immediately preceding fiscal year.*

Sec. 11. *Application of Recapture. For the purpose of carrying out the provisions of section 5 of chapter 20, Statutes of Nevada 2005, for the fiscal year beginning on July 1, 2005:*

1. A decrease in the taxable value of a parcel or other taxable unit of property may occur as a result of, without limitation, obsolescence or a change in the allocation ratio of centrally assessed property to the State of Nevada.

2. The tax receiver shall calculate the taxable value of a parcel or other taxable unit of property as of:

- (a) July 1, 2003;*
- (b) July 1, 2004; and*
- (c) July 1, 2005.*

3. The tax receiver shall apply the provisions of section 5 of chapter 20, Statutes of Nevada 2005, to a parcel or other taxable unit of property only if:

(a) the taxable value of the property on July 1, 2004, is at least 15 percent less than the taxable value of the property on July 1, 2003; and

(b) the taxable value of the property on July 1, 2005, is at least 15 percent greater than the taxable value of the property on July 1, 2004.

4. *If, pursuant to subsection 3, the tax receiver is required to apply the provisions of section 5 of Chapter 20, Statutes of Nevada 2005, to a parcel or other taxable unit of property, the tax receiver shall calculate:*

(a) The product of:

(1) the combined ad valorem tax rate for the fiscal year beginning on July 1, 2005, which applies to the area in which the property is located; and

(2) the difference between:

(i) the assessed value of the property on July 1, 2004; and

(ii) the assessed value of the property on July 1, 2003, or July 1, 2005, whichever is less;

(b) The product of:

(1) a factor determined by dividing the amount of the ad valorem tax liability of the property for the fiscal year beginning on July 1, 2005, after applying any partial abatement required by Chapter 20, Statutes of Nevada 2005, by the assessed value of the property on July 1, 2005; and

(2) the difference between:

(i) the assessed value of the property on July 1, 2004; and

(ii) the assessed value of the property on July 1, 2003, or July 1, 2005, whichever is less;

and

(c) The amount remaining after subtracting the amount determined pursuant to paragraph (b) from the amount determined pursuant to paragraph (a).

5. *If, pursuant to subsection 3, the tax receiver is required to apply the provisions of section 5 of Chapter 20, Statutes of Nevada 2005, to a parcel or other taxable unit of property, the tax receiver shall levy on the property for the fiscal year beginning on July 1, 2005, in addition to the amount of ad valorem taxes determined after applying any partial abatement required by Chapter 20, Statutes of Nevada 2005, one-third of the amount determined pursuant to paragraph (c) of subsection 4.*

Sec. 12. Summary reports of tax billings required. *The tax receiver shall send a summary report of the total amount billed for the 2005-2006 tax year by taxing entity to the Department of Taxation and each taxing entity no later than September 1, 2005. The summary report shall list:*

a.) The total number of parcels against which the primary single family abatement was applied, the total assessed value of those parcels, the tax rate, the total taxes otherwise due before application of the abatement for primary single family homes, the total amount of abatement applied, and the revised total taxes due;

b.) The total number of parcels against which the abatement for all other property was applied, the total assessed value of those parcels, the tax rate, the total taxes otherwise due before application of the abatement for all other property, the total amount of abatement applied, and the revised total taxes due; and

c.) The total number of parcels against which the abatement for rental property was applied, the total assessed value of those parcels, the tax rate, the total taxes otherwise due before application of the abatement for rental property, the total amount of abatement applied, and the revised total taxes due.

STATEMENT OF EMERGENCY

WHEREAS, the Nevada Tax Commission (Commission) convened public meetings on May 19 and 20, 2005 for the purpose of considering the adoption of the attached Emergency Regulation, which interprets and implements Chapter 20, Nevada Statutes for 2005, Sections 3, 3.5, 4, 5, 8 and 9 regarding organizational relationships and duties among agencies, such as, but not limited to, the agency responsible for the determination of eligible primary residences and rental properties subject to abatement; the process for qualifying eligible primary single-family residences and the process for qualifying eligible rental properties; the identification of real or personal property and centrally assessed property not eligible for general abatement(s); the appropriate method to calculate property tax abatements including the application of the recapture clause, of Section 5, Chapter 20, Statutes of Nevada 2005, and reporting requirements to be made by the tax receiver to the Department of Taxation and local government entities; and

WHEREAS, the Commission finds that an emergency exists insofar as:

1. Tax receivers must design, develop, and implement computer programs to reflect properties eligible for the appropriate abatement and to calculate the appropriate amount of taxes to be abated;
2. NRS 361.480 requires the tax receivers to provide each property owner a tax bill with additional information required by Chapter 20, Nevada Statutes 2005;
3. NRS 361.483 provides the first installment of taxes are due for property on the secured roll by August 15, 2005; and
4. Time is of the essence in providing a process to identify and calculate the appropriate abatement amount to be afforded each eligible taxpayer.

NOW, THEREFORE, the Commission hereby adopts the foregoing Emergency Regulation.

Dated this 24th day of May, 2005.

FOR THE COMMISSION:

CHARLES E. CHINNOCK
Executive Director
Nevada Department of Taxation

GOVERNOR'S ENDORSEMENT

I, Governor Kenny C. Guinn, endorse the Nevada Tax Commission Statement of Emergency.

Dated this 27th of May, 2005.

KENNY C. GUINN
Governor of the State of Nevada

NOTICE OF ADOPTION OF EMERGENCY REGULATION
LCB File No. E003-05

The Nevada Tax Commission (Commission) adopted emergency regulations to interpret and implement Chapter 20, Nevada Statutes for 2005, Sections 3, 3.5, 4, 5, 8 and 9 regarding organizational relationships and duties among agencies, such as, but not limited to, the agency responsible for the determination of eligible primary residences and rental properties subject to abatement; the process for qualifying eligible primary single-family residences and the process for qualifying eligible rental properties; and the identification of real or personal property and centrally assessed property not eligible for general abatement(s). Regulations also address various property tax abatement calculations including the application of the recapture clause, of Section 5, Chapter 20, Statutes of Nevada 2005, and summary reports of tax billings to be made by the tax receiver to the Department of Taxation and local government entities.

The amended regulations were adopted on May 19 and 20, 2005.

INFORMATIONAL STATEMENT

The following statement is submitted for amendments, additions and deletions, to Nevada Administrative Code (NAC) Chapter 354 and 361 adopted by the Nevada Tax Commission under the authority of Chapter 20, Nevada Statutes 2005, Sections 3, 3.5, 4, 5, 8 and 9.

- 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 (Commission), solicited comment from the public by sending notice of workshops and hearings by electronic or regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop</u>	<u>Number Notified</u>	<u>Representing Businesses</u>
May 6, 2005	NTC Workshop	May 13, 2005	630	233
May 6, 2005	NTC Hearing	May 19, 2005	630	233
May 19, 2005	NTC Hearing	May 20, 2005	630	233

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

Oral and written comments were received at the workshop and hearings of the Commission. A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2180 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at lheyman@tax.state.nv.us.

2. The number persons who:

(a) Attended and testified at each workshop:

<u>Date of Workshop</u>	<u>Attended</u>	<u>Testified</u>
May 13, 2005	33	14

(b) Attended and testified at each hearing:

<u>Date of Hearing</u>	<u>Commission/ Public Attended</u>	<u>Public Testified</u>
May 19, 2005	5 Commissioners/23	8
May 20, 2005	5 Commissioners/14	4

(c) Submitted to the agency written comments:

<u>Date of Hearing</u>	<u>Number Received</u>
May 13, 2005	3
May 19, 2005	2
May 20, 2005	

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 and interested businesses and persons, by notices posted at the Nevada State Library; various Department of Taxation locations throughout the state; and at the Main Public Libraries in counties where an office of the Department of Taxation is not located. Comments were also solicited by direct mail to local government officials and the interested parties list maintained by the Department. Approximately 37% of the approximately 630 direct mail notices were sent to individuals or associations representing business.

Officials of the Nevada Department of Taxation, several county tax assessors representing Carson City, Clark, Douglas, Elko, and Washoe Counties commented on some or all of the proposed language changes during the workshop process or 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) 684-2180 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at lheyman@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.

The emergency regulation was adopted with changes reflecting the verbal and written comments submitted to, or received by, the Department of Taxation. The Commission adopted the emergency regulation as revised in workshop and at the adoption hearing; and believed no changes other than those made were necessary.

- 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.**

The Commission has found that the regulations do not impose a direct and significant burden upon businesses and the public in Nevada. The emergency regulations are intended to interpret and implement Chapter 20, Nevada Statutes for 2005, Sections 3, 3.5, 4, 5, 8 and 9 regarding organizational relationships and duties among agencies, such as, but not limited to, the agency responsible for the determination of eligible primary residences and rental properties subject to abatement; the process for qualifying eligible primary single-family residences and the process for qualifying eligible rental properties; and the identification of real or personal property and centrally assessed property not eligible for general abatement(s). Regulations also address various property tax abatement calculations including the application of the recapture clause, of Section 5, Chapter 20, Statutes of Nevada 2005, and summary reports of tax billings to be made by the tax receiver to the Department of Taxation and local government entities.

The proposed regulations present no reasonably foreseeable or anticipated immediate or long-term negative economic effects to businesses or to the general public. The immediate and long-term effects of the regulation are to ensure public participation in the fee increase process.

- 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 proposed 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.**

The Commission is not aware of any provision in this regulation which is also governed by 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.**

The Commission is not aware of any provision in this regulation that provides for a new fee, or increases an existing fee.