

# PROPOSED REGULATION OF THE DIRECTOR OF THE OFFICE OF ENERGY

## LCB File No. R081-11

October 10, 2011

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

AUTHORITY: §1, NRS 701A.110.

A REGULATION relating to energy-related tax incentives; revising provisions governing the abatement of certain rating systems applicable to applicants for partial abatements of certain property taxes for buildings or structures that meet certain standards under the LEED Green Building Rating System; and providing other matters properly relating thereto.

**Section 1.** NAC 701A.220 is hereby amended to read as follows:

NAC 701A.220 Application for partial tax abatement; notification by Director. (NRS 701A.110, § 15.5 of ch. 539, Stats. 2007)

1. A person who, with respect to a construction project involving a building or other structure, wishes to apply to the Director pursuant to this chapter and NRS 701A.110 for a partial tax abatement must, if the certification of the building or other structure will be based on LEED-NC or LEED-CS, submit an application to the Office of Energy on a form prescribed by the Director within 120 days after receiving local government approval of the construction project.

~~[(b) Will not be based on LEED-NC or LEED-CS, submit an application to the Office of Energy on a form prescribed by the Director within 120 days after registering the project with the U.S. Green Building Council.]~~

2. The application must include:

- (a) The name, address and telephone number of the applicant;
- (b) The name and address of the owner of the affected real property, if the applicant is not the owner;
- (c) The address of the real property;
- (d) The address of the board of county commissioners of the county in which the real property is located;
- (e) If the real property is located in a city, the name and address of the city manager and the address of the city council, if any, of that city;

(f) Any project title associated with the development or modification of the real property;

(g) For each building or other structure included within the construction project:

(1) The estimated gross square footage and number of floors of the building or other structure;

(2) The proposed use of the building or other structure;

(3) The estimated cost of the design and construction or retrofit, and maintenance and operation, of the building or other structure;

(4) The actual or estimated date of the start of the construction or retrofit;

(5) The expected date of occupancy of the building or other structure;

(6) If applicable, a copy of each executed preconstruction or construction contract the applicant is relying upon to qualify as a pre-2007 applicant;

(7) Proof that the building or other structure has been registered with the U.S. Green Building Council;

(8) The applicable LEED standard on which the certification of the building or other structure will be based;

(9) A statement containing the level and number of points of the applicable LEED standard at which the applicant expects the building or other structure to be certified, in the form of a checklist identifying the specific LEED credits that the project team intends to achieve;

(10) A statement whether any funding for the acquisition, design or construction of the building or other structure, and associated land, is being provided by a governmental entity in this State;

(11) A list of all sources of funding for the acquisition, design or construction of the building or other structure, and associated land, provided by a governmental entity in this State; and

(12) A statement whether the building or other structure is receiving or is expected to receive any other abatement or exemption pursuant to NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS from the taxes imposed on real property by chapter 361 of NRS;

(h) The name and contact information of the LEED accredited professional assigned to the design team for the project or other person designated as the contact person on the application;

(i) A statement whether the building or other structure, or any part thereof, is or is expected in the future to be exempt from the taxes imposed on real property by chapter 361 of NRS pursuant to any provision of law other than NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS;

(j) A list of any improvements in the project that are not expected to be considered for LEED certification;

(k) If the project is registered with the U.S. Green Building Council in a campus or multibuilding setting, a list of the buildings or other structures on the affected real property and the construction phases of each building or other structure;

(l) A copy of the local government approval of the construction project; and

(m) Any other information requested by the Director.

3. Upon receipt of all information required by this section, the Director will:

(a) Notify the applicant in writing acknowledging that the application has been received; and

(b) In accordance with the provisions of NRS 701A.110, forward a copy of the application and the written notification provided to the applicant to the:

(1) Chief of the Budget Division of the Department of Administration;

(2) Department of Taxation;

(3) County assessor;

(4) County treasurer;

(5) Board of county commissioners;

(6) City manager and city council, if any; and

(7) Commission on Economic Development.

4. The applicant must:

(a) Identify any information included in the application which the applicant considers to be confidential; and

(b) Promptly amend the application if there is a significant change in the scope of the project.

5. The Director will not accept an application pursuant to this section for a building or other structure that on the date the application is registered has been issued a certificate of occupancy and has been certified by the U.S. Green Building Council.

**Section 2: ADD NEW SECTION TO 701A**

*NAC 701A.225 Application for partial tax abatement; notification by Director. (NRS 701A.110)*

*1. A person who, with respect to a construction project involving a building or other structure, wishes to apply to the Director pursuant to this chapter and NRS 701A.110 for a partial tax abatement must, if the certification of the building or other structure will be based on LEED-EB, submit an application to the Office of Energy on a form prescribed by the Director within 120 days after registering the project with the U.S. Green Building Council.*

*2. The application must include:*

*(a) The name, address and telephone number of the applicant;*

*(b) The name and address of the owner of the affected real property, if the applicant is not the owner;*

*(c) The address of the real property;*

*(d) The address of the board of county commissioners of the county in which the real property is located;*

*(e) If the real property is located in a city, the name and address of the city manager and the address of the city council, if any, of that city;*

*(f) Any project title associated with the development or modification of the real property;*

*(g) For each building or other structure included within the construction project:*

*(1) The estimated gross square footage and number of floors of the building or other structure;*

*(2) The proposed use of the building or other structure;*

*(3) The estimated cost of the design and construction or retrofit, and maintenance and operation, of the building or other structure;*

*(4) The actual or estimated date of the start of the construction or retrofit;*

*(5) Proof that the building or other structure has been registered with the U.S. Green Building Council;*

*(6) The applicable LEED EB standard on which the certification of the building or other structure will be based;*

*(7) A statement containing the level and number of points of the applicable LEED EB standard at which the applicant expects the building or other structure to be certified, in the form of a checklist identifying the specific LEED EB credits that the project team intends to achieve;*

*(8) A statement whether any funding for the acquisition, design, construction, or retrofit of the building or other structure, and associated land, is being provided by a governmental entity in this State;*

*(9) A list of all sources of funding for the acquisition, design, construction, or retrofit of the building or other structure, and associated land, provided by a governmental entity in this State; and*

*(10) A statement whether the building or other structure is receiving or is expected to receive any other abatement or exemption pursuant to NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS from the taxes imposed on real property by chapter 361 of NRS;*

*(h) The name and contact information of the LEED accredited professional assigned to the design team for the project or other person designated as the contact person on the application;*

*(i) A statement whether the building or other structure, or any part thereof, is or is expected in the future to be exempt from the taxes imposed on real property by chapter 361 of NRS pursuant to any provision of law other than NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS;*

*(j) A list of any improvements in the project that are not expected to be considered for LEED certification;*

*(k) If the project is registered with the U.S. Green Building Council in a campus or multibuilding setting, a list of the buildings or other structures on the affected real property and the construction phases of each building or other structure;*

*(l) Proof that the manufacturer has located or is planning to locate a new manufacturing business in this State;*

*(b) is employing or will employ at least 25 full-time employees at the new manufacturing business in this State during the entire period in which the applicant will receive the tax abatement; and*

*(c) will pay an average hourly wage that will be paid by the manufacturer to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, excluding management and*

*administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.*

*(m) The applicant shall provide any other relevant information requested by the Director.*

*3. Upon receipt of all information required by this section, the Director will:*

*(a) Notify the applicant in writing acknowledging that the application has been received; and*

*(b) In accordance with the provisions of NRS 701A.110, forward a copy of the application and the written notification provided to the applicant to the:*

*(1) Chief of the Budget Division of the Department of Administration;*

*(2) Department of Taxation;*

*(3) County assessor;*

*(4) County treasurer;*

*(5) Board of county commissioners;*

*(6) City manager and city council, if any; and*

*(7) Commission on Economic Development.*

*4. The applicant must:*

*(a) Identify any information included in the application which the applicant considers to be confidential; and*

*(b) Promptly amend the application if there is a significant change in the scope of the project.*

*(1). If an application for a partial tax abatement is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the applicant must amend the application to include the change within 60 days after the occurrence of the change. If the applicant fails to amend the application in a timely manner, the Director may, without limitation:*

*(a) Allow a partial tax abatement of those portions of the project that were part of the original application, including timely amendments; or*

*(b) For good cause shown, extend the time within which to amend the application.*

*(2). Upon receipt of an amendment to an application for partial tax abatement, the Director will forward a copy of the amendment to the:*

*(a) Chief of the Budget Division of the Department of Administration;*

*(b) Department of Taxation;*

*(c) County assessor;*

*(d) County treasurer;*

*(e) Board of county commissioners;*

*(f) City manager and city council, if any; and*

*(g) Commission on Economic Development.*

*(3) “Significant change in the scope of the project” means:*

*(a) A change by more than 10 percent in the gross square footage of any building or other structure for which a partial tax abatement is sought;*

*(b) A change in the level of LEED certification being sought if the change will affect the amount of the partial tax abatement being sought; or*

*(c). Any other change, including, without limitation, any change in the square footage or estimated costs of any building or other structure for which a partial tax abatement is sought, which will change the amount of the partial tax abatement being sought by more than 10 percent, except that changes resulting from increases in square footage, costs or any other factor affecting the amount of the partial tax abatement relating to the project as represented in the application therefore, including any amendments or disputed claims with a contractor or supplier relating to those costs, will not be considered a significant change in the scope of the project until they are reasonably final and known to the owner.*

**Section 3:** Amend 701A.280 as follows:

**NAC 701A.280 Duration of partial tax abatement based upon number of points awarded for energy conservation by U.S. Green Building Council. (NRS 701A.110) For projects eligible under 701A.220,** if the Director issues a certificate of eligibility pursuant to [NAC 701A.240](#) for a building or other structure that meets the equivalent of the silver level or higher of the LEED Green Building Rating System adopted by the Director, the Director will set the duration of the partial tax abatement for the building or other structure, based upon the number of points awarded by the U.S. Green Building Council for energy conservation under the

LEED Green Building Rating System Energy and Atmosphere Credit 1 (Optimize Energy Performance), as provided in the following table:

LEED Certification Level	1-2 points for Energy Conservation from U.S.G.B.C.	3 points for Energy Conservation from U.S.G.B.C.	4 points for Energy Conservation from U.S.G.B.C.	5 points for Energy Conservation from U.S.G.B.C.	6 points for Energy Conservation from U.S.G.B.C.	7 points for Energy Conservation from U.S.G.B.C.	8-10 points for Energy Conservation from U.S.G.B.C.
Silver	No abatement	25 percent abatement for 5 years	25 percent abatement for 6 years	25 percent abatement for 7 years	25 percent abatement for 8 years	25 percent abatement for 9 years	25 percent abatement for 10 years
Gold	No abatement	25 percent abatement for 5 years	25 percent abatement for 6 years	30 percent abatement for 7 years	30 percent abatement for 8 years	30 percent abatement for 9 years	30 percent abatement for 10 years
Platinum	No abatement	25 percent abatement for 5 years	25 percent abatement for 6 years	30 percent abatement for 7 years	30 percent abatement for 8 years	30 percent abatement for 9 years	35 percent abatement for 10 years

**Section 4:** Add NAC 701A.285 as follows:

*NAC 701A.285 Duration and amount of partial tax abatement for LEED EB projects. For projects eligible under 701A.225, if the Director issues a certificate of eligibility pursuant to NAC 701A.240 for a building or other structure that meets the equivalent of the silver level or higher of the LEED EB Green Building Rating System adopted by the Director, the Director will set the duration of the partial tax abatement for the building or other structure to not exceed 1 year and in an annual amount that equals, for a building or other structure that meets the equivalent of:*

- 1. The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land;*
- 2. The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land;*
- 3. The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land;*