

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R075-13

September 19, 2013

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

AUTHORITY: §§1-8, NRS 360.090 and 360.250.

A REGULATION relating to taxation; establishing additional requirements for the assignment by a county treasurer of a tax lien against a parcel of real property located in the county; requiring the filing of an affidavit of authorization by the owner of the property as a condition of such an assignment and specifying the contents of the affidavit; requiring the county treasurer to verify certain information and providing for the denial of the assignment under specified conditions; establishing additional requirements for a certificate of assignment and the release of a tax lien by an assignee; and providing other matters properly relating thereto.

Section 1. Chapter 361 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 8, inclusive, of this regulation, unless the context otherwise requires:*

1. “Assignee” has the meaning ascribed to it in section 3 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1556 (NRS 361.7307).

2. “Tax lien” has the meaning ascribed to it in NRS 361.731, as amended by section 11 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1561.

Sec. 3. *1. An owner of a parcel of real property who wishes to authorize the county treasurer of the county in which the property is located to assign a tax lien on the property pursuant to section 4 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page*

1556 (NRS 361.7311), must file with the county treasurer an affidavit of authorization as provided in this section.

2. The affidavit of authorization must be made on a form approved by the Commission, comply with the requirements of subsection 3 of NRS 247.110 and include:

(a) The name, mailing address and daytime telephone number of the owner or an authorized agent of the owner;

(b) The name, mailing address and daytime telephone number of the assignee;

(c) The legal description of the property and, if the description is by metes and bounds, the name and address of the person who prepared the description;

(d) The street address of the property, if applicable, and the parcel number assigned to the property by the county assessor of the county in which the property is located;

(e) The total amount of the delinquent taxes assessed against the property and any applicable penalties, interest, fees and costs as of the date of the affidavit;

(f) Each tax year for which the taxes are delinquent;

(g) A statement authorizing the assignee to pay all delinquent taxes assessed against the property and any applicable penalties, interest, fees and costs imposed by any local taxing entity or its agent for each tax year specified in the affidavit;

(h) A statement authorizing the county treasurer:

(1) To certify that payment has been tendered on behalf of the owner of all delinquent taxes assessed against the property and any applicable penalties, interest, fees and costs; and

(2) To assign the tax lien on the property to the assignee; and

(i) The signature of the owner, acknowledged before a notary public.

3. The affidavit of authorization must be accompanied by a copy of the separate written agreement between the owner and the assignee required by subsection 2 of section 4 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1556 (NRS 361.7311).

Sec. 4. 1. Upon receipt of an affidavit of authorization pursuant to section 3 of this regulation, the county treasurer shall verify:

(a) The last known owner of record of the parcel of real property for which the affidavit is made, by inspecting public records containing such information;

(b) The parcel number or identification number assigned to the property by the county assessor of the county in which the property is located, and whether the property is on the secured or unsecured tax roll, by inspecting the records of the county assessor;

(c) Whether the owner is the subject of a pending proceeding in bankruptcy, by:

(1) Inspecting the records of the United States Bankruptcy Courts in this State; or

(2) Accepting an affidavit from the assignee, filed with the county treasurer concurrently with or within 30 days after the filing of the affidavit of authorization, stating that the assignee has inspected the records of the United States Bankruptcy Courts in this State and has found no record of such a proceeding;

(d) Whether the owner owes any delinquent taxes assessed against the property or any applicable penalties, interest, fees or costs for a tax year not specified in the affidavit of authorization;

(e) That the assignee has complied with the bonding requirements of NRS 361.7314, as amended by section 13 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1561, or is exempt from those requirements; and

(f) That the assignee has tendered the full amount of the delinquent taxes assessed against the property and any applicable penalties, interest, fees and costs as required by NRS 361.7312, as amended by section 12 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1561.

2. For any assignee who is not exempt from the bonding requirements of NRS 361.7314, as amended by section 13 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1561, the county treasurer may consider any reliable evidence that the assignee has complied with those requirements, including, without limitation:

(a) A copy of the bond posted by the assignee, certified by the surety or custodian of the bond to be a true and correct copy of the bond currently in force; or

(b) An affidavit of the assignee or an authorized representative of the assignee, filed with the county treasurer and attesting to compliance by the assignee with NRS 361.7314, as amended by section 13 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1561.

3. An affidavit of compliance filed pursuant to subsection 2 must be made on a form approved by the Commission, comply with the requirements of subsection 3 of NRS 247.110 and include:

(a) The name and mailing address of the assignee;

(b) If the affidavit is made by an authorized representative of the assignee, the name and job title of the affiant;

(c) A statement that the affiant is of sound mind, competent to make the affidavit, and that the statements in the affidavit are based on the affiant's personal knowledge of the records of the assignee;

(d) A statement that the assignee has posted and maintains a bond meeting the requirements of NRS 361.7314, as amended by section 13 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1561;

(e) A statement that true and correct copies of the bond and the annual statement most recently filed with the Secretary of State pursuant to NRS 361.7314, as amended by section 13 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1561, are attached to the affidavit; and

(f) The signature of the affiant, acknowledged before a notary public.

4. An affidavit of compliance filed pursuant to subsection 2 must be accompanied by copies of the bond posted by the assignee and the annual statement most recently filed with the Secretary of State pursuant to NRS 361.7314, as amended by section 13 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1561.

5. An assignee who claims to be exempt from the requirements of NRS 361.7314, as amended by section 13 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1561, because of a familial relationship with the owner must make and file with the country treasurer an affidavit of exemption. The affidavit of exemption must be made on a form approved by the Commission, comply with the requirements of subsection 3 of NRS 247.110 and include:

(a) The name and mailing address of the assignee;

(b) A statement that the assignee is exempt from the requirements of NRS 361.7314, as amended by section 13 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1561, because of the assignee's familial relationship with the owner;

(c) A statement of the nature of the relationship, showing that the assignee is related to the owner within the third degree of consanguinity;

(d) A statement that the assignee is of sound mind, competent to make the affidavit and that the statements in the affidavit are based on personal knowledge; and

(e) The signature of the assignee, acknowledged before a notary public.

Sec. 5. 1. *The county treasurer shall not issue a certificate of assignment of a tax lien if the county treasurer:*

(a) Is unable to verify the accuracy of any information included in the affidavit of authorization filed pursuant to section 3 of this regulation, or determines that any such information is inaccurate;

(b) Determines that the property is on the unsecured tax roll;

(c) Determines that the owner of the property:

(1) Is the subject of a pending proceeding in bankruptcy; or

(2) Owes delinquent taxes assessed against the property or applicable penalties, interest, fees or costs for a tax year not specified in the affidavit of authorization; or

(d) Determines that the owner or the assignee has not complied with any requirement of:

(1) NRS 361.731 to 361.733, inclusive, as amended by Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1556, and sections 2, 3 and 4 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1556; or

(2) Sections 2 to 8, inclusive, of this regulation.

2. *If, pursuant to subsection 1, the county treasurer is unable to issue a certificate of assignment, he or she shall give written notice of that fact to the owner of the property and the assignee. The notice must:*

(a) State the reason for the inability of the county treasurer to issue the certificate;

(b) Describe any additional document or information required to approve the assignment and state the date by which, pursuant to subsection 3, the document or information must be received by the county treasurer; and

(c) Be sent by first-class mail to the owner and assignee at the mailing addresses set forth in the affidavit of authorization.

3. If notice is given by the county treasurer pursuant to subsection 2 and the county treasurer does not, within 30 days after the date of the notice, receive from the owner or assignee:

(a) The additional document or information required to approve the assignment; or

(b) Any other evidence sufficient to show that the assignment complies with the requirements of NRS 361.731 to 361.733, inclusive, as amended by Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1556, and sections 2, 3 and 4 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1556, and sections 2 to 8, inclusive, of this regulation,

↪ as applicable, the assignment shall be deemed to be denied. The county treasurer shall give written notice of the denial in the manner provided for a notice given pursuant to subsection 2 and return to the assignee the documents received from the assignee and the payment tendered by the assignee.

Sec. 6. 1. If the assignment complies with the requirements of NRS 361.731 to 361.733, inclusive, as amended by Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1556, and sections 2, 3 and 4 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at

page 1556, and sections 2 to 8, inclusive, of this regulation, the county treasurer shall promptly issue a certificate of assignment of the tax lien to the assignee.

2. The certificate of assignment must be on a form approved by the Commission and must include, in addition to the information required by NRS 361.7318, as amended by section 15 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1563:

(a) The name and mailing address of the assignee;

(b) If the legal description of the property is by metes and bounds, the name and address of the person who prepared the description;

(c) The street address of the property, if applicable;

(d) The full amount of the delinquent taxes assessed against the property and any applicable penalties, interest, fees and costs;

(e) A statement certifying that the assignee has paid the amount described in paragraph (d);

(f) A statement that the county treasurer has duly received:

(1) An affidavit of authorization made by the owner of the property;

(2) A copy of the separate written agreement between the owner and the assignee; and

(3) A copy of the bond posted by the assignee, affidavit of compliance or affidavit of exemption, as applicable,

↪ and that a true and correct copy of each document so received is attached as an exhibit to the certificate; and

(g) A statement that in consideration of the receipt of the payment in full for the delinquent taxes assessed against the property and any applicable penalties, interest, fees and costs, the tax lien is assigned and transferred to the assignee.

3. *A true and correct copy of each of the documents described in paragraph (f) of subsection 2 and received by the county treasurer must be attached as an exhibit to the certificate.*

Sec. 7. *A certificate of assignment of a tax lien does not:*

1. *Entitle the assignee to the assignment of a tax lien for any future tax year;*
2. *Change the date upon which any unpaid taxes become delinquent; or*
3. *If delinquent taxes assessed against the property or any applicable penalties, interest, fees and costs are not paid:*

(a) Affect the duty of the county treasurer to:

(1) Mail notice of the delinquency pursuant to NRS 361.5648, as amended by section 5 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1557; or

(2) Make out a certificate to the county treasurer as trustee pursuant to NRS 361.570, as amended by section 6 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1558; or

(b) Change the period of redemption provided by NRS 361.570, as amended by section 6 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1558.

Sec. 8. *A release of a tax lien issued by an assignee to the owner of the property must be made on a form approved by the Commission, comply with the requirements of subsection 3 of NRS 247.110 and include, in addition to the information required by NRS 361.7326, as amended by section 19 of Senate Bill No. 301, chapter 331, Statutes of Nevada 2013, at page 1564:*

1. *The name and mailing address of the assignee;*
2. *The name and mailing address of the owner;*

3. *The date of issuance of the release;*
4. *The street address of the property, if applicable;*
5. *The name and address of the person who prepared the legal description of the property, if the description is by metes and bounds;*
6. *A statement that all right, title and interest of the assignee in the tax lien are released;*
and
7. *The signature of the assignee or a representative of the assignee, acknowledged before a notary public.*