

**PROPOSED REGULATION OF THE
DIRECTOR OF THE OFFICE OF ENERGY**

LCB File No. R128-18

August 21, 2018

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

AUTHORITY: §§1, 2, 5 and 9-14, NRS 701A.110; §§3, 4, 6, 7 and 15, NRS 701A.100 and 701A.110; §8, NRS 701A.100.

A REGULATION relating to energy; revising provisions relating to the partial abatement of certain property taxes for certain buildings and structures which meet certain energy efficiency standards; revising the duties of the Director of the Office of Energy regarding the adoption of new energy efficiency standards; making various changes relating to the application procedures for and the provision of partial tax abatements based upon the use of energy; revising the fees to apply for a partial tax abatement; repealing provisions relating to pre-2007 applicants for certain partial tax abatements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Director of the Office of Energy to grant a partial abatement from the property taxes which would otherwise be owed on a building or structure that is determined to meet certain standards of energy efficiency. (NRS 701A.110) **Section 2** of this regulation provides that any building or other structure used principally as a parking facility is not eligible for this partial abatement of property taxes.

Existing law requires the Director to adopt a Green Building Rating System for the purpose of determining the eligibility of a building or other structure for the partial abatement of property taxes. (NRS 701A.100) Existing regulations adopt the LEED standard developed by the U.S. Green Building Council and the Green Globes standard developed by the Green Building Initiative. (NAC 701A.200, 701A.210) **Sections 3, 4 and 6** of this regulation eliminate the adoption of specific sets of standards within the LEED standard and Green Globes standard and instead adopt the entire set of standards developed by the U.S. Green Building Council or Green Building Initiative, as applicable. **Sections 7-9, 12, 13 and 15** of this regulation make conforming changes.

Existing regulations require a person who wishes to apply for a partial abatement of property taxes for a building or other structure that meets certain standards of energy efficiency to submit an application to the Office of Energy. (NAC 701A.220) **Section 9** of this regulation removes the requirement that certain information be included with the application and instead requires the applicant to provide such information and documentation as the Director of the

Office may require to determine the eligibility of the applicant for the partial tax abatement. **Section 9** also specifies that the Director will not accept an application for a partial tax abatement or will deny such an application under certain circumstances. **Section 7** of this regulation requires an applicant for a project submitted under the Green Globes standard to utilize a third-party assessor, assigned by the Green Building Initiative, to review and verify the information submitted by the applicant and approve the project. **Section 7** also removes certain language regarding the LEED standard which is duplicative of language in existing law.

Existing law authorizes the Director to charge and collect a fee from each applicant for a partial abatement of property taxes for a building or other structure that meets certain standards of energy efficiency. (NRS 701A.110) **Section 10** of this regulation removes the \$1,750 fee imposed under existing regulations and instead requires an applicant for a partial tax abatement to pay a fee to the Director in an amount established by the Director at the time the applicant submits: (1) a registration application; and (2) an application for a certificate of eligibility. The fee must not exceed the actual cost to the Office of reviewing these applications.

Existing regulations require an applicant for a partial tax abatement to submit certain proof of the eligibility of the building or structure for the abatement within 48 months after the applicant's initial application. (NAC 701A.240) **Section 11** of this regulation requires an applicant who has submitted a registration application for a partial tax abatement to also submit an application for a certificate of eligibility, along with certain information and documentation required by the Director within that time period. **Section 11** also removes the requirement that the Director provide to the Chief of the Budget Division of the Office of Finance and to the applicable board of county commissioners, city manager and city council a copy of the certificate of eligibility or certificate of ineligibility issued to an applicant for a partial tax abatement. Existing regulations provide that the Director will not issue a certificate of eligibility on or before March 31 of a fiscal year with respect to an application that is not submitted to the Director on or before February 1 of that fiscal year. (NAC 701A.240) **Section 11** provides that a certificate of eligibility will not be issued on or before March 31 if the application is not submitted on or before December 1 of that fiscal year. Finally, **section 11** provides that if an applicant has submitted a separate registration application for one or more buildings that are part of a single project, the energy score for each such building or other structure must not be an energy score for the entire project but must be the energy score for the building or other structure identified in the application.

Existing regulations authorize the Director to require an applicant who has been issued a certificate of eligibility to submit to the Director on an annual or other reasonable basis such information as the Director requires to determine whether the parcel on which the building or other structure is located is receiving another abatement from the taxes imposed on real property. (NAC 701A.260) **Section 12** of this regulation removes the authorization for the Director to require the submittal of such information and instead requires the applicant for a project to which a certificate of eligibility relates to submit to the Director, on an annual basis after the certificate of eligibility has been issued, a determination of eligibility form. **Section 12** requires the Director to provide an acknowledgment to the applicant and certain other persons and entities if the Director determines that the project continues to be eligible for the abatement. **Section 12** removes the requirement for the tax abatement coordinator for a building or other structure to submit to the Director certain information and documentation relating to the compliance of the

building or other structure with the LEED standard or the Green Globes standard, as applicable. Finally, **section 12** removes the requirement for the Director to send a copy of a certificate of termination or reduction of eligibility, if one is issued, to the Chief of the Budget Division of the Office of Finance and to the applicable board of county commissioners, city manager and city council.

Existing regulations provide the amount and the duration of a partial tax abatement based upon the LEED or Green Globes certification level of a project and the points earned by the project in the Optimize Energy Performance credit category for the LEED standard or the Energy Performance section for the Green Globes standard. (NAC 701A.280) **Section 13** of this regulation adjusts the number of points required for each abatement level under the Green Globes standard to correspond to the equivalent point level under the LEED standard. **Section 13** also adjusts the percentage of the abatement and the duration of the abatement granted at certain levels of certification or points attained by a project, including reducing the number of point categories available.

Existing law contains certain provisions which apply specifically to “pre-2007 applicants” who are defined as applicants for a partial tax abatement for a construction project that includes a building or other structure: (1) constructed pursuant to a contract executed prior to 2006; (2) for which a registration application was filed prior to the 2007 repeal of certain former regulations; or (3) for which an opinion letter was issued by the Department of Taxation prior to February 1, 2007. (NAC 701A.160, 701A.170, 701A.180, 701A.270, 701A.290) **Sections 14 and 15** of this regulation eliminate certain provisions related to these pre-2007 applicants.

Section 1. NAC 701A.010 is hereby amended to read as follows:

701A.010 As used in NAC 701A.010 to 701A.290, inclusive, unless the context otherwise requires, the words and terms defined in NAC ~~701A.020~~ **701A.030** to 701A.190, inclusive, have the meanings ascribed to them in those sections.

Sec. 2. NAC 701A.030 is hereby amended to read as follows:

701A.030 “Building or other structure” means an improvement on real property that is being considered for or has been granted certification by the U.S. Green Building Council or the Green Building Initiative. *The term does not include an improvement on real property the principal use of which is as a parking facility for vehicles.*

Sec. 3. NAC 701A.067 is hereby amended to read as follows:

701A.067 “Green Globes standard” means ~~{a standard for energy efficiency}~~ *the Green Globes Green Building standard* developed by the Green Building Initiative and adopted for use in this State by the Director pursuant to NAC ~~{701A.213.}~~ *701A.200.*

Sec. 4. NAC 701A.130 is hereby amended to read as follows:

701A.130 “LEED standard” means ~~{all versions of a specific rating system within}~~ the LEED Green Building ~~{Rating System, including, without limitation, LEED-NC, LEED-EB and LEED-CS.}~~ *standard developed by the U.S. Green Building Council and adopted for use in this State by the Director pursuant to NAC 701A.200.*

Sec. 5. NAC 701A.190 is hereby amended to read as follows:

701A.190 “Significant change in the scope of the project” means ~~{~~

- ~~—1.— 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;~~
- ~~—2.— A change in the level of certification under the applicable LEED standard or Green Globes standard being sought if the change will affect the amount of the partial tax abatement being sought; or~~
- ~~—3.— 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 therefor, 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.~~ *any change in the scope of a project which would result in a change in the duration or amount of the partial tax abatement being sought.*

Sec. 6. NAC 701A.200 is hereby amended to read as follows:

701A.200 1. ~~The~~ *Except as otherwise provided in NRS 701A.100, the* LEED Green Building ~~Rating System is~~ *standard and the Green Globes Green Building standard are hereby* adopted *by reference* for use in this State with regard to certain buildings or other structures for the purposes of determining eligibility for partial tax abatements ~~it~~ *pursuant to NRS 701A.110.*

2. ~~Except as otherwise provided in this subsection and NAC 701A.210:~~

~~(a) The Director hereby adopts by reference all versions of the following LEED standards:~~

~~(1) LEED-NC;~~

~~(2) LEED-EB; and~~

~~(3) LEED-CS.~~

~~(b)~~ If the U.S. Green Building Council adopts a new or updated version of ~~it~~ *the* LEED standard after December 4, 2007, the Director will determine whether the new or updated version is appropriate for use in this State and, if the Director determines that the new or updated version:

~~(1)~~ *(a)* Is appropriate for use in this State:

~~(1)~~ *(1)* The new or updated version becomes effective on such a date as may be determined by the Director; and

~~(2)~~ *(2)* The Director will post a notice of approval, a copy of the new or updated version and the effective date thereof at the State Library, Archives and Public Records and the Office of Energy, and on the Internet website of the Office of Energy; or

~~(2)~~ (b) Is not appropriate for use in this State, the version of the LEED standard that was most recently adopted by the Director or determined to be appropriate for use in this State pursuant to this subsection continues to be effective.

3. ~~The Director will review, evaluate and consider new and updated versions of LEED standards at least once each year.~~ *If the Green Building Initiative adopts a new or updated version of the Green Globes standard after June 23, 2014, the Director will determine whether the new or updated version is appropriate for use in this State and, if the Director determines that the new or updated version:*

(a) Is appropriate for use in this State:

(1) The new or updated version becomes effective on such a date as may be determined by the Director; and

(2) The Director will post a notice of approval and the effective date thereof at the State Library, Archives and Public Records and the Office of Energy, and on the Internet website of the Office of Energy; or

(b) Is not appropriate for use in this State, the version of the Green Globes standard that was most recently adopted by the Director or determined to be appropriate for use in this State pursuant to this subsection continues to be effective.

4. A copy of the LEED ~~Green Building Rating System~~ standard is available free of charge on the Internet website of the U.S. Green Building Council.

5. *A copy of the Green Globes standard is available free of charge on the Internet website of the Green Building Initiative.*

Sec. 7. NAC 701A.210 is hereby amended to read as follows:

701A.210 1. ~~{In accordance with the provisions of NRS 701A.100, the LEED Green Building Rating System adopted by the Director pursuant to NAC 701A.200:~~

~~—(a) Does not include any LEED standard:~~

~~——(1) That has not been included in the LEED Green Building Rating System for at least 2 years at the time the applicant provides proof to the Director pursuant to NAC 701A.240 and 701A.250 that the building or other structure meets the equivalent of the silver level or higher of the LEED Green Building Rating System adopted by the Director; or~~

~~——(2) For homes.~~

~~—(b) Shall be deemed to require a building or other structure to obtain:~~

~~——(1) At least 5 points in the Optimize Energy Performance credit to meet the equivalent of the silver level;~~

~~——(2) At least 7 points in the Optimize Energy Performance credit to meet the equivalent of the gold level; and~~

~~——(3) At least 11 points in the Optimize Energy Performance credit to meet the equivalent of the platinum level.~~

~~—2.} An applicant for a partial tax abatement must utilize an independent third-party ~~{commissioning}~~ firm to facilitate the fundamental building systems commissioning *report on a new construction project* or *an energy audit on an existing building* ~~{commissioning,}~~ *project*, as applicable . ~~{, required by the LEED Green Building Rating System Energy and Atmosphere Prerequisite 1.~~~~

~~—3. As used in this section, “home” has the meaning ascribed to it in NRS 701A.100.}~~

2. In addition to the requirements of subsection 1, if an applicant is seeking to qualify for a partial tax abatement under the Green Globes standard, the applicant must utilize a third-

party assessor, assigned by the Green Building Initiative, to review and verify the information submitted by the applicant and approve the project for the purpose of obtaining certification by the Green Building Initiative. The applicant must submit to the Director with the applicant's application for a certificate of eligibility submitted pursuant to NAC 701A.240 a copy of the report and findings of the assessor as the result of the assessment conducted pursuant to this subsection.

Sec. 8. NAC 701A.217 is hereby amended to read as follows:

701A.217 For the purposes of determining whether a building or other structure is eligible for a *partial* tax abatement pursuant to NRS 701A.110 and NAC 701A.010 to 701A.290, inclusive:

1. A rating of two globes under ~~the~~ *the* Green Globes standard shall be deemed to be equivalent to the silver level of the LEED ~~Green Building Rating System~~ *standard*.

2. A rating of three globes under ~~the~~ *the* Green Globes standard shall be deemed to be equivalent to the gold level of the LEED ~~Green Building Rating System~~ *standard*.

3. A rating of four globes under ~~the~~ *the* Green Globes standard shall be deemed to be equivalent to the platinum level of the LEED ~~Green Building Rating System~~ *standard*.

Sec. 9. NAC 701A.220 is hereby amended to read as follows:

701A.220 1. A person who, with respect to a *new* 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:~~
~~—(a) Will be based on LEED NC, LEED CS or GG NC,~~ *within 120 days after receiving local government approval of the new construction project*, submit ~~an application~~ to the Office of

Energy *a completed registration application* on a form prescribed by the Director ~~{within 120 days after receiving local government approval of the construction project; or~~

~~—(b) Will be based on a LEED standard other than LEED-NC or LEED-CS or based on GG-CIEB, 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 or the Green Building Initiative, as applicable.}~~ *and such documentation as the Director may require to determine whether the applicant is eligible for the partial tax abatement.*

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 or the Green Building Initiative, as applicable;~~
- ~~—— (8) The applicable LEED standard or Green Globes standard on which the certification of the building or other structure will be based;~~
- ~~—— (9) A statement containing the level or rating and number of points of the applicable LEED standard or Green Globes standard at which the applicant expects the building or other structure to be certified, in the form of a checklist identifying the specific credits or points that the project team intends to achieve under the applicable LEED standard or Green Globes standard;~~
- ~~—— (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, construction or renovation 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 professional accredited by the U.S. Green Building Council or the Green Building Initiative and 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 certification under the applicable LEED standard or Green Globes standard;~~

~~—(k) If the project is registered with the U.S. Green Building Council or the Green Building Initiative 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.~~ *A person who, with respect to a retrofit or improvement project involving an existing building or other structure, wishes to apply to the Director pursuant to this chapter and NRS 701A.110 for a partial tax abatement must, within 120 days after registering the project with the U.S. Green Building Council or the Green Building Initiative, as applicable, submit to the Office of Energy a completed registration application on a form prescribed by the Director and such documentation as the Director may require to determine whether the applicant is eligible for the partial tax abatement.*

3. Upon receipt of *the completed registration application and* all ~~information~~ *documentation* required ~~by this section,~~ *pursuant to subsection 1 or 2, as applicable,* 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 Office of Finance;~~

~~—(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) Office of Economic Development.~~ *persons and entities described in subparagraph (3) of paragraph (b) of subsection 1 of NRS 701A.110.*

4. ~~The~~ *In addition to any other requirement set forth in this section, the* applicant must:

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

(b) *If the applicant is applying for a partial tax abatement with respect to a retrofit or improvement project involving an existing building or other structure, submit with the registration application such information and documentation as is necessary to demonstrate that the building or other structure does not currently qualify for any level of certification under the LEED standard or the Green Globes standard; and*

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

5. The Director will not accept ~~an~~ *a registration* application pursuant to this section for a building or other structure that on the date the *registration* application is registered ~~has~~ :

(a) *Has* been issued a certificate of occupancy and has been certified by the U.S. Green Building Council or the Green Building Initiative ~~H~~; *or*

(b) *Qualifies for any level of certification under the LEED standard or the Green Globes standard.*

6. *The Director will not grant:*

(a) *More than one partial tax abatement per parcel;*

(b) *A partial tax abatement on a parcel which was previously subject to a partial tax abatement;*

(c) *More than one partial tax abatement on a building or other structure, even if the building or other structure occupies more than one parcel; and*

(d) *A partial tax abatement on a building or other structure which was previously subject to a partial tax abatement.*

7. *The Director may deny a registration application submitted pursuant to this section for any failure to comply with the provisions of this chapter.*

Sec. 10. NAC 701A.225 is hereby amended to read as follows:

701A.225 1. An applicant shall pay to the Director a fee in the amount ~~of \$1,750~~ *established by the Director* for the review and approval of ~~an~~ :

(a) *A registration* application submitted pursuant to NRS 701A.110 ~~H~~ *and NAC 701A.220;*
and

(b) *An application for a certificate of eligibility submitted pursuant to NAC 701A.240.*

2. An applicant shall pay the ~~{fee}~~ *fees required by subsection 1* concurrently with the submission of ~~{his or her}~~ *the applicable* application ~~{}~~ *or form*. The Director will not approve an application *or form* for which the fee has not been timely paid pursuant to this subsection.

~~{2.}~~ 3. The Director will ~~{review}~~ :

(a) Establish the amount of each fee required by subsection 1 in an amount that is sufficient to reimburse the actual cost to the Office of Energy of carrying out the duties described in subsection 1.

(b) Review each fee ~~{prescribed}~~ *required* by subsection 1 on or before December 31 of each even-numbered year to ensure that the amount of the fee reflects the actual cost to the Office of Energy in carrying out the duties described in subsection 1.

~~{3.}~~ 4. The fees collected pursuant to subsection 1 must be deposited by the Director into an interest-bearing account. The money deposited pursuant to this subsection and any interest earned on such money must be used only to pay the costs incurred by the Office of Energy in carrying out the duties described in subsection 1.

Sec. 11. NAC 701A.240 is hereby amended to read as follows:

701A.240 1. Within 48 months after ~~{an}~~ *a registration* application for a partial tax abatement is submitted to the Director pursuant to NAC 701A.220, or within such time as the Director, for good cause shown, extends the deadline, the applicant must submit to the Director:

(a) An application for a certificate of eligibility on a form prescribed by the Director. The application must be accompanied by:

(1) If the applicant is seeking a certificate of eligibility with respect to a retrofit or improvement project involving an existing building or other structure, all invoices reflecting the cost of improvements to the existing building or other structure;

(2) Proof that the building or other structure:

~~{(1)} (I)~~ Meets the silver level or higher of the LEED ~~{Green Building Rating System adopted by the Director pursuant to NAC 701A.200;}~~ *standard*; or

~~{(2)} (II)~~ Obtains a rating of two globes or higher under ~~{a}~~ *the* Green Globes standard ~~{adopted by the Director pursuant to NAC 701A.213; or}~~ ; *and*

(3) Such other documentation as the Director may require to determine whether the applicant is eligible for the partial tax abatement; or

(b) An application to extend the period for ~~{providing such proof.}~~ *submitting the information and documentation required by paragraph (a).*

2. If an applicant has not ~~{submitted the proof or an application for extension required by}~~ *complied with the requirement of* subsection 1, the Director will consider the application abandoned and notify the ~~{~~:

~~—(a) Applicant;~~

~~—(b) Chief of the Budget Division of the Office of Finance;~~

~~—(c) Department of Taxation;~~

~~—(d) County assessor;~~

~~—(e) County treasurer;~~

~~—(f) Board of county commissioners;~~

~~—(g) City manager and city council, if any; and~~

~~—(h) Office of Economic Development.}~~ *applicant and the persons and entities described in subparagraph (3) of paragraph (b) of subsection 1 of NRS 701A.110.*

3. *If an applicant submits a separate registration application pursuant to NAC 701A.220 for one or more buildings or other structures that are part of a single, cohesive property with a*

single shared primary function, the number of points awarded under the LEED standard or Green Globes standard, as applicable, to each building or other structure for which a separate registration application is submitted:

(a) Must be calculated using an energy score for that building or other structure; and

(b) Must not be calculated using an energy score for the entire project.

4. If the Director, after reviewing the ~~{proof}~~ *information and documentation* submitted by the applicant, ~~{pursuant to subsection 1,}~~ concludes that the building or other structure is eligible for a partial tax abatement, the Director will, not later than 120 days after receiving that ~~{proof,}~~ *information and documentation*, issue a certificate of eligibility for the abatement and provide a copy to the ~~†~~:

~~—(a) Applicant;~~

~~—(b) Chief of the Budget Division of the Office of Finance;~~

~~—(c) Department of Taxation;~~

~~—(d) County assessor;~~

~~—(e) County treasurer;~~

~~—(f) Board of county commissioners;~~

~~—(g) City manager and city council, if any; and~~

~~—(h) Office of Economic Development.~~

~~4.†~~ *applicant and the persons and entities described in subsection 3 of NRS 701A.110.*

5. The certificate of eligibility will include the duration and annual percentage of the partial tax abatement as provided in NAC 701A.280 and subsection 5 of NRS 701A.110, and identify each building or other structure to which the abatement should be applied. The Director may indicate that the abatement should be applied to an ancillary structure if the ancillary structure

was specified in the application. The Director will include as part of the certificate of eligibility his or her findings of fact, conclusions of law and order explaining the reasons for issuing the certificate.

~~{5.}~~ 6. If the Director, after reviewing the ~~{proof,}~~ *information and documentation* submitted by the applicant, ~~{pursuant to subsection 1,}~~ concludes that the building or other structure is not eligible for a partial tax abatement, the Director will, not later than 120 days after receiving that ~~{proof,}~~ *information and documentation*, issue a certificate of ineligibility for the abatement and provide a copy to the ~~{~~

~~—(a) Applicant;~~

~~—(b) Chief of the Budget Division of the Office of Finance;~~

~~—(c) Department of Taxation;~~

~~—(d) County assessor;~~

~~—(e) County treasurer;~~

~~—(f) Board of county commissioners;~~

~~—(g) City manager and city council, if any; and~~

~~—(h) Office of Economic Development.~~

~~{~~ *applicant and the persons and entities described in subsection 3 of NRS 701A.110.* The Director will include as part of the certificate of ineligibility his or her findings of fact, conclusions of law and order explaining the reasons for issuing the certificate of ineligibility.

~~{6.}~~ 7. If a certificate of eligibility is issued:

(a) On or after July 1 and on or before March 31 of a fiscal year, the abatement becomes effective on July 1 of the immediately following fiscal year. The Director will not issue a

certificate of eligibility on or before March 31 of a fiscal year with respect to an application that is not submitted to the Director on or before ~~February~~ *December* 1 of that fiscal year.

(b) On or after April 1 and on or before June 30 of a fiscal year, the abatement becomes effective on July 1 of the fiscal year next following the immediately following fiscal year.

~~7.~~ **8.** A certificate of eligibility or a certificate of ineligibility issued pursuant to this section is a final order of the Director for purposes of judicial review.

Sec. 12. NAC 701A.260 is hereby amended to read as follows:

701A.260 1. ~~The Director may require an applicant who has been issued~~ *After* a certificate of eligibility *has been issued* pursuant to NAC 701A.240 ~~for the tax abatement coordinator for a building or other structure to which the certificate of eligibility relates to submit to the Director on an annual or other reasonable basis such information as the Director requires to determine whether the parcel on which the building or other structure is located is receiving another 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.~~ *and until the term of the abatement expires, the owner of the building or other structure to which the certificate of eligibility relates shall annually, on or before the anniversary date of the issuance of the certificate of eligibility, submit to the Director a determination of eligibility form. The form must contain such information and be accompanied by such supporting documentation as the Director may require to determine whether the building or other structure to which the certificate of eligibility relates continues to be eligible for the partial tax abatement to which the certificate of eligibility relates.*

2. *If, after reviewing the information and documentation submitted pursuant to subsection 1, the Director determines that the building or other structure continues to qualify*

for the level of certification for which the partial tax abatement was issued, the Director will provide an acknowledgment of that continued qualification to the applicant and the persons and entities described in subsection 3 of NRS 701A.110.

3. After a certificate of eligibility has been issued pursuant to NAC 701A.240, the tax abatement coordinator for a building or other structure to which the certificate of eligibility relates †:

~~—(a) Shall:~~

~~—(1) shall:~~

(a) Notify the Director if the building or other structure is sold during the term of the partial tax abatement; and

~~(2) (b)~~ Provide the buyer of the building or other structure with written notice of the certificate of eligibility and a copy of the statutes and regulations regarding the owner's rights and responsibilities relating to the certificate of eligibility. †

~~—(b) Must submit to the Director as prescribed in subsection 3:~~

~~—(1) Documentation of energy performance which indicates the pertinent ENERGY STAR rating or equivalent ENERGY STAR rating, annual energy reduction, annual summer peak demand reduction and, if the applicant for that certificate of eligibility:~~

~~—(I) Qualified as a pre-2007 applicant, compliance with the requirements for the LEED Green Building Rating System Energy and Atmosphere Prerequisite 2 (Minimum Energy Performance); or~~

~~—(II) Did not qualify as a pre-2007 applicant, compliance with the requirements of the LEED Green Building Rating System or a Green Globes standard, as applicable;~~

~~—— (2) A summary of the annual utility bills, including the amount of cost and usage, for each type of energy used by the building or other structure;~~

~~—— (3) A summary of the annual water bills, including the amount of cost and usage, for the building or other structure; and~~

~~—— (4) Any other documentation that, in the judgment of the Director, demonstrates compliance with the LEED Green Building Rating System or a Green Globes standard, as applicable; and~~

~~—— (c) Must submit to the Director as prescribed in subsection 3 written recertification from a third party commissioning firm or third party assessor, as applicable, stating that the energy systems of the building or other structure are still operating in general compliance with the original project requirements, with particular focus and emphasis on certifying that the energy conservation measures upon which the original certificate of eligibility was based are still being achieved. The third party commissioning firm or third party assessor, as applicable, providing the recertification letter should typically be the same firm or assessor that provided the original fundamental building systems commissioning or assessment or existing building commissioning or assessment services on the project.~~

~~—— 3. The documentation required by:~~

~~—— (a) Paragraph (b) of subsection 2 must be submitted on or before March 15 of the third and each subsequent year after the certificate of eligibility was issued.~~

~~—— (b) Paragraph (c) of subsection 2 must be submitted within 60 days after the end of the:~~

~~—— (1) Third year after the certificate of eligibility was issued if the duration of the partial tax abatement is 5 or 6 years;~~

~~— (2) Third and fifth years after the certificate of eligibility was issued if the duration of the partial tax abatement is 7 or 8 years; and~~

~~— (3) Third, fifth and seventh years after the certificate of eligibility was issued if the duration of the partial tax abatement is 9 or 10 years.]~~

4. Upon determining that the parcel on which the building or other structure is located is receiving another 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, the Director will notify the owner of the building or other structure and the Department of Taxation in writing that the certificate of eligibility relating to the building or other structure has been suspended, and indicate the term of the suspension.

5. Upon determining that the building or other structure may have ceased to qualify for the level of certification for which the partial tax abatement was issued, or that the owner of the building or other structure may have failed to comply with any conditions imposed by the Director in issuing the partial tax abatement, the Director will notify the owner of the building or other structure of the findings of the Director and provide the owner a reasonable opportunity to cure any noncompliance issues included in the findings. If the owner fails to cure the noncompliance issues within the time or in accordance with the terms provided by the Director, the Director will issue a certificate of termination or reduction of eligibility, including his or her findings of fact, conclusions of law and order, which declares that the building or other structure has ceased to meet the standard upon which the certificate of eligibility was based, specifies the areas of noncompliance, and terminates the partial tax abatement or reduces the partial tax abatement to the level of certification for which the building or other structure qualifies. The Director will provide a copy of the certificate of termination or reduction of eligibility to the ~~†~~

- ~~—(a) Owner of the building or other structure;~~
- ~~—(b) Chief of the Budget Division of the Office of Finance;~~
- ~~—(c) Department of Taxation;~~
- ~~—(d) County assessor;~~
- ~~—(e) County treasurer;~~
- ~~—(f) Board of county commissioners;~~
- ~~—(g) City manager and city council, if any; and~~
- ~~—(h) Office of Economic Development.]~~ *owner of the building or other structure and the persons and entities described in paragraph (b) of subsection 7 of NRS 701A.110.*

6. A certificate of termination or reduction of eligibility issued pursuant to this section is a final order of the Director for purposes of judicial review.

7. For the purposes of this section:

(a) On or before the date of submission to the Director of proof that a building or other structure meets the equivalent of the silver level or higher of the LEED ~~{Green Building Rating System}~~ *standard* or the rating of two globes or higher under ~~{a}~~ *the* Green Globes standard, the applicant for a partial tax abatement shall designate a tax abatement coordinator for the building or other structure, and submit the name and address of the tax abatement coordinator to the Director; and

(b) Within 60 days after:

(1) The sale or other transfer of ownership of the building or other structure during the term of the partial tax abatement, the purchaser or other transferee shall designate a tax abatement coordinator for the building or other structure, and submit the name and address of the tax abatement coordinator to the Director; and

(2) The designation of any successor tax abatement coordinator for the building or other structure during the term of the partial tax abatement, the successor shall submit his or her name and address to the Director.

Sec. 13. NAC 701A.280 is hereby amended to read as follows:

701A.280 1. If the Director issues a certificate of eligibility pursuant to NAC 701A.240 for a building or other structure *that is registered with the Director as a new construction project and* that meets the equivalent of the silver level or higher under the LEED standard, ~~for LEED-NC or LEED-CS,~~ or ~~that meets~~ the equivalent of the rating of two globes or higher under the Green Globes standard, ~~for GG-NC,~~ 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 or Green Building Initiative, as applicable, for energy conservation in the Optimize Energy Performance credit or Energy Performance section under the ~~applicable~~ LEED standard or Green Globes standard, *as applicable*, as provided in the following table:

LEED or Green Globes Certification Level	5-6 points in the Optimize Energy Performance credit category (LEED) or 32-39 28-35 points in the Energy Performance section (Green Globes)	7-10 points in the Optimize Energy Performance credit category (LEED) or 40-55 36-51 points in the Energy Performance section (Green Globes)	11-12 11 or more points in the Optimize Energy Performance credit category (LEED) or 56-63 52 or more points in the Energy Performance section (Green Globes)	13-14 points in the Optimize Energy Performance credit category (LEED) or 64-71 points in the Energy Performance section (Green Globes)	15-16 points in the Optimize Energy Performance credit category (LEED) or 72-79 points in the Energy Performance section (Green Globes)	17-21 points in the Optimize Energy Performance credit category (LEED) or 80-100 points in the Energy Performance section (Green Globes)
Silver level or 2 globes	25 percent abatement for 5 3 years	25 percent abatement for 6 4 years	25 percent abatement for 7 5 years	25 percent abatement for 8 years	25 percent abatement for 9 years	25 percent abatement for 10 years
Gold level or 3 globes	25 30 percent abatement for 5 years	30 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 level or 4 globes	25 35 percent abatement for 5 7 years	30 35 percent abatement for 6 8 years	35 percent abatement for 7 9 years	35 percent abatement for 8 years	35 percent abatement for 9 years	35 percent abatement for 10 years

2. If the Director issues a certificate of eligibility pursuant to NAC 701A.240 for a building or other structure that *registered with the Director as a project for the retrofitting or improvement of an existing building and that* meets the equivalent of the silver level or higher under the LEED standard, ~~for LEED-EB,~~ or ~~that meets~~ the equivalent of the rating of two globes or higher under the Green Globes standard, ~~for GG-CIEB,~~ 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 or Green Building Initiative, as applicable, for energy conservation in the Optimize Energy Performance credit or Energy Performance section under the ~~applicable~~ LEED standard or Green Globes standard, *as applicable*, as provided in the following table:

LEED or Green Globes Certification Level	5-6 points in the Optimize Energy Performance credit category (LEED) or 32-39 points in the Energy Performance section (Green Globes)	7-10 points in the Optimize Energy Performance credit category (LEED) or 40-55 40-47 points in the Energy Performance section (Green Globes)	11-12 11 or more points in the Optimize Energy Performance credit category (LEED) or 56-63 48 or more points in the Energy Performance section (Green Globes)	13-14 points in the Optimize Energy Performance credit category (LEED) or 64-71 points in the Energy Performance section (Green Globes)	15-16 points in the Optimize Energy Performance credit category (LEED) or 72-79 points in the Energy Performance section (Green Globes)	17-21 points in the Optimize Energy Performance credit category (LEED) or 80-100 points in the Energy Performance section (Green Globes)
Silver level or 2 globes	25 percent abatement for 3 3 years	25 percent abatement for 3 3 years	25 percent abatement for 3 3 years	25 percent abatement for 5 years	25 percent abatement for 5 years	25 percent abatement for 5 years
Gold level or 3 globes	25 30 percent abatement for 3 4 years	30 percent abatement for 3 4 years	30 percent abatement for 3 4 years	30 percent abatement for 5 years	30 percent abatement for 5 years	30 percent abatement for 5 years
Platinum level or 4 globes	25 35 percent abatement for 5 years	30 35 percent abatement for 5 years	35 percent abatement for 5 years	35 percent abatement for 5 years	35 percent abatement for 5 years	35 percent abatement for 5 years

Sec. 14. NAC 701A.290 is hereby amended to read as follows:

701A.290 The Director may waive one or more of the requirements of NAC 701A.010 to 701A.290, inclusive, applicable to an applicant for a partial tax abatement if ~~it~~:

~~—1. The applicant would have been able to comply with the requirement on or after June 15, 2007, if the form for application pursuant to NAC 701A.010 to 701A.290, inclusive, had been available and the provisions of NAC 701A.010 to 701A.290, inclusive, had been effective on that date; and~~

~~—2. In~~, *in* the judgment of the Director, the failure to waive the requirement would produce an unjust result.

Sec. 15. NAC 701A.020, 701A.040, 701A.063, 701A.065, 701A.090, 701A.100, 701A.110, 701A.120, 701A.160, 701A.170, 701A.180, 701A.213, 701A.215, 701A.230, 701A.250 and 701A.270 are hereby repealed.

TEXT OF REPEALED SECTIONS

701A.020 “Applicable LEED standard” defined. (NRS 701A.110, § 15.5 of ch. 539, Stats. 2007)

“Applicable LEED standard” means the version of the LEED standard in effect at the time an applicant registers a project with the U.S. Green Building Council.

701A.040 “Construction contract” defined. (§ 15.5 of ch. 539, Stats. 2007)

“Construction contract” means a contract between an owner of real property or an affiliate or subsidiary of the owner, and a contractor or construction manager which:

1. Defines their respective roles and responsibilities for the construction of a project on the property;
2. Establishes the scope of work, the amount of money to be paid to the contractor or construction manager and the allowable time for the duration of the contract; and
3. Describes the terms and conditions of a construction project.

701A.063 “GG-CIEB” defined. (NRS 701A.100, 701A.110)

“GG-CIEB” means the Green Globes standard for Continual Improvement of Existing Buildings.

701A.065 “GG-NC” defined. (NRS 701A.100, 701A.110)

“GG-NC” means the Green Globes standard for New Construction.

701A.090 “LEED-CS” defined. (NRS 701A.110, § 15.5 of ch. 539, Stats. 2007)

“LEED-CS” means the LEED Green Building Rating System for Core and Shell Development.

701A.100 “LEED-EB” defined. (NRS 701A.110, § 15.5 of ch. 539, Stats. 2007)

“LEED-EB” means the LEED Green Building Rating System for Existing Buildings, Upgrades, Operations and Maintenance.

701A.110 “LEED Green Building Rating System” defined. (NRS 701A.110, § 15.5 of ch. 539, Stats. 2007)

“LEED Green Building Rating System” means those portions of the Leadership in Energy and Environmental Design Green Building Rating System developed by the U.S. Green Building Council that are adopted by the Director pursuant to NAC 701A.200.

701A.120 “LEED-NC” defined. (NRS 701A.110, § 15.5 of ch. 539, Stats. 2007)

“LEED-NC” means the LEED Green Building Rating System for New Construction & Major Renovations.

701A.160 “Pre-2007 applicant” defined. (§ 15.5 of ch. 539, Stats. 2007)

“Pre-2007 applicant” means an applicant for a partial tax abatement for a construction project that includes a building or other structure:

1. Which is constructed pursuant to a preconstruction or construction contract executed on or before December 31, 2005;
2. Which is part of a construction project for which the Office of Energy Project Registration Form was filed with and received by the Office of Energy pursuant to the provisions of former NAC 701.480; and
3. For which an opinion letter was issued by the Department of Taxation before February 1, 2007, stating that the project will qualify for a partial sales and use tax exemption under Assembly Bill No. 3 (Special Session 2005) if certain conditions are met.

701A.170 “Pre-2007 Green Building Rating System” defined. (§ 15.5 of ch. 539, Stats. 2007)

“Pre-2007 Green Building Rating System” means the LEED Green Building Rating System adopted by the Director pursuant to the provisions of former NRS 701.217, as that rating system existed before June 15, 2007, including the provisions of the regulations that are repealed by section 31 of this regulation.

701A.180 “Preconstruction contract” defined. (§ 15.5 of ch. 539, Stats. 2007)

“Preconstruction contract” means a written and executed agreement that:

1. Precedes the construction of or the execution of a construction contract for a project for which a partial tax abatement is sought;

2. Clearly indicates a commitment to construct the project; and
3. Is entered into to provide at least one of the following services relating to the construction

project:

- (a) Project financing;
- (b) Engineering;
- (c) Design;
- (d) Architecture;
- (e) Labor; or
- (f) Subcontracting.

701A.213 Green Globes standards: Adoption by reference; review and effect of new or updated standards. (NRS 701A.100, 701A.110)

1. Except as otherwise provided in this subsection and NAC 701A.215:

- (a) The Director hereby adopts for use in this State the following Green Globes standards

which are in effect on June 23, 2014:

- (1) GG-NC; and
- (2) GG-CIEB.

(b) If the Green Building Initiative adopts a new or updated Green Globes standard after June 23, 2014, the Director will determine whether the new or updated standard is appropriate for use in this State and, if the Director determines that the new or updated standard:

- (1) Is appropriate in this State:

(I) The new or updated standard becomes effective on such a date as may be determined by the Director; and

(II) The Director will post a notice of approval and the effective date thereof at the State Library, Archives and Public Records and the Office of Energy, and on the Internet website of the Office of Energy; or

(2) Is not appropriate in this State, the Green Globes standard that was most recently adopted by the Director or determined to be appropriate for use in this State pursuant to this subsection continues to be effective.

2. The Director will review, evaluate and consider any new and updated Green Globes standard at least once each year.

701A.215 Green Globes standards: Exclusions and modifications; use of third-party assessor by applicant for partial tax abatement. (NRS 701A.100, 701A.110)

1. In accordance with the provisions of NRS 701A.100, the Green Globes standards adopted pursuant to NAC 701A.213:

(a) Do not include any Green Globes standard:

(1) That has not been a Green Globes standard for at least 2 years at the time the applicant provides proof to the Director pursuant to NAC 701A.240 and 701A.250 that the building or other structure meets the equivalent of a rating of two globes or higher under the Green Globes standard; or

(2) For homes.

(b) Shall be deemed to require a building or other structure to obtain:

(1) At least 32 points for energy conservation under the Energy Performance standard of a Green Globes standard, to meet the equivalent of a rating of two globes;

(2) At least 40 points for energy conservation under the Energy Performance standard of a Green Globes standard, to meet the equivalent of a rating of three globes; and

(3) At least 56 points for energy conservation under the Energy Performance standard of a Green Globes standard, to meet the equivalent of a rating of four globes.

2. An applicant for a partial tax abatement:

(a) Must use a third-party assessor, assigned by the Green Building Initiative, to review and verify the information submitted by the applicant and approve the project for the purpose of obtaining certification by the Green Building Initiative.

(b) Shall submit to the Director with his or her application a copy of the report and findings of the assessor as the result of the assessment conducted pursuant to paragraph (a).

3. As used in this section, “home” has the meaning ascribed to it in NRS 701A.100.

701A.230 Amendment of application after significant change in scope of project. (NRS 701A.110, § 15.5 of ch. 539, Stats. 2007)

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 a partial tax abatement, the Director will forward a copy of the amendment to the:

(a) Chief of the Budget Division of the Office of Finance;

(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) Office of Economic Development.

701A.250 Required proof that building meets requirements of applicable standard; additional required documentation. (NRS 701A.110, § 15.5 of ch. 539, Stats. 2007)

1. Except as otherwise provided in subsection 2, the Director will accept as proof submitted pursuant to paragraph (a) of subsection 1 of NAC 701A.240:

(a) An original or certified copy of a letter from:

(1) The U.S. Green Building Council informing the applicant that the building or other structure meets the LEED silver level or higher; or

(2) The Green Building Initiative informing the applicant that the building or other structure qualifies for a rating of two globes or higher under a Green Globes standard;

(b) Official documentation issued by the U.S. Green Building Council or Green Building Initiative setting forth the number of points obtained by the building or other structure under the applicable LEED standard or Green Globes standard; or

(c) Any other information acceptable to the Director that, in the judgment of the Director, evidences compliance with the requirements of the LEED Green Building Rating System or a Green Globes standard, as applicable.

2. In addition to the documentation required by subsection 1, the proof submitted pursuant to this section must include:

(a) 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;

(b) 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;

(c) 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;

(d) An overall project narrative;

(e) The documentation submitted to the U.S. Green Building Council or Green Building Initiative, as applicable, to obtain points for water efficiency under the LEED Green Building Rating System or a Green Globes standard;

(f) For pre-2007 applicants:

(1) The documentation submitted to the U.S. Green Building Council to comply with the LEED Green Building Rating System Energy and Atmosphere Prerequisite 2 (Minimum Energy Performance); or

(2) Any documentation that, in the judgment of the Director, demonstrates the energy efficiencies achieved through compliance with the LEED Green Building Rating System Energy and Atmosphere Prerequisite 2 (Minimum Energy Performance); and

(g) For applicants other than pre-2007 applicants:

(1) The documentation submitted to the U.S. Green Building Council or Green Building Initiative, as applicable, to obtain points under the LEED Green Building Rating System or a Green Globes standard, including, without limitation, any pertinent information regarding general building energy model, energy performance, building energy performance baseline, baseline and proposed design input parameters, baseline performance, performance rating, percentage improvement and points achieved; or

(2) Any documentation that, in the judgment of the Director, demonstrates the energy efficiencies achieved through compliance with the LEED Green Building Rating System or a Green Globes standard, as applicable.

701A.270 Building included in construction project registered with Office of Energy before June 15, 2007: Submission and processing of application for partial tax abatement; provisions applicable to pre-2007 applicant. (NRS 701A.110, § 15.5 of ch. 539, Stats. 2007)

1. The owner of a building or other structure included in a construction project which was registered with the Office of Energy before June 15, 2007, for a partial tax abatement may submit an application to the Director pursuant to NAC 701A.220 upon providing proof to the Director that the owner qualifies as a pre-2007 applicant. Upon determining that the owner qualifies as a pre-2007 applicant, the Director will expedite the processing of the application and apply all the provisions of NAC 701A.010 to 701A.290, inclusive, except that:

(a) The owner is not required to submit the application within 120 days after receiving local government approval of the construction project or registering the project with the U.S. Green Building Council;

(b) The Director will base his or her determination of eligibility on the Pre-2007 Green Building Rating System;

(c) Any partial tax abatement will be:

(1) Based on the provisions of section 15.5 of chapter 539, Statutes of Nevada 2007; and

(2) Limited to any building or other structure that, in the judgment of the Director, is reasonably related to any preconstruction or construction contracts submitted as proof that the owner qualifies as a pre-2007 applicant; and

(d) For the purposes of NAC 701A.010 to 701A.290, inclusive, “funding” shall be deemed to mean any cash or cash equivalent, including any loan or bond, except a private activity bond.

2. The owner of a building or other structure included in a construction project which was registered with the Office of Energy before June 15, 2007, for a partial tax abatement that does not qualify as a pre-2007 applicant may submit an application to the Director pursuant to NAC 701A.220. The Director will expedite the processing of the application.